SEC. 102. (a) None of the funds appropriated by any provision described in subsection (b) shall be expended or obligated for any purpose specified in such provision unless such funds so expended or obligated are subject to audit by the Comptroller General of the United States.

(b) For purposes of subsection (a), any provision in title I of this Act following the provision relating to compensation of Members and preceding the heading "JOINT ITEMS" is a provision described in this subsection.

By Mr. KOSTMAYER:

Page 6, line 24, delete "$1,712,000" and insert in lieu thereof "$1,342,200".

Page 22, line 16, delete "$72,102,000" and insert in lieu thereof "$71,897,750".

Page 36, after line 17, insert the following new section:

"None of the funds appropriated in this act shall be used for the printing or purchase of either House wall calendars or U.S. Capitol Historical Society calendars to be distributed gratuitously from, or under the name of, offices of Members of the House of Representatives."

H.R. 7933

By Mr. WHALEN:

Page 58, immediately after line 7, insert the following new section:

SEC. 862. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly to Cuba.

SENATE—*Tuesday, June 28, 1977*

(Legislative day of Wednesday, May 18, 1977)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Thy word is a lamp unto my feet, and a light unto my path.—Psalms 119: 105.

Let us pray.

Eternal God, who at creation said, "Let there be light," and there was light, shed Thy light upon our pathway this day. We confess that often we are in the dark, that our sight is dim, our knowledge limited, our judgment fallible. But we would be as those who walk in the light of Thy presence.

O Lord, give us a great faith and great causes to live for. Amid the stress and strain of crowded hours, grant to us a quiet certitude and inner peace. As we hallow Thy name, so may we hallow our own, keeping our hearts pure, our honor bright, and our devotion to the Nation faithful and true.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 28, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, June 27, 1977, be approved.

The ACTING PRESIDENT pro tempore. The request having been made by the distinguished minority leader, there will be no objection.

Mr. BAKER. I thank the Chair.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader seek recognition under the standing order?

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

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senate under the order of yesterday will proceed to the consideration of morning business. Is there morning business to be transacted?

Do I hear a suggestion that a quorum is not present?

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

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMITTEE MEETINGS

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

Mr. BAKER. Mr. President, reserving the right to object, I wonder if the majority leader would consider a request to modify that so that all committees of the Senate could meet during the session of the Senate today, with the exception of the Judiciary Committee. I have an objection on my side to the Judiciary Committee meeting.

Mr. ROBERT C. BYRD. Mr. President, there being objection to the Judiciary Committee meeting today, I so modify my request.

The PRESIDING OFFICER. Without objection, the request, as modified, is agreed to.

Mr. BAKER. Mr. President, I thank the distinguished majority leader.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, which was referred to the Committee on Environment and Public Works.

MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7557) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MCFALL, Mr. STEED, Mr. KOCH, Mr. DUNCAN of Oregon, Mr. BENJAMIN, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. EVANS of Colorado, Mr. MAHON, Mr. CONTE, Mr. EDWARDS of Alabama, Mr. O'BRIEN, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

At 12:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed the following bill and joint resolution in which it requests the concurrence of the Senate:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes; and

H.J. Res. 525. A joint resolution to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes.

ENROLLED BILLS SIGNED

At 2:45 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the Speaker has signed the following enrolled bills:

H.R. 1437. An act for the relief of Soo Jin Lee.

H.R. 3838. An act for the relief of Tulsedei Zalim.

H.R. 4246. An act for the relief of Hee Kyung Yoo.

The enrolled bills were subsequently signed by the President p o tempore.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

EC-1568. A communication from the President of the United States transmitting, pursuant to law, a request for fiscal year 1978 appropriations in the amount of $82,717,000 for the Department of Transportation and $29,283,000 for the Federal contribution to the Washington Metropolitan Area Transit Authority (with accompanying papers); to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

With an amendment:

S. 1307. A bill to amend title 38 of the United States Code to deny veterans' benefits to certain individuals whose discharges from service during the Vietnam era under less than honorable conditions are administratively upgraded under temporarily revised standards to discharge under honorable conditions (title amendment) (Rept. No. 95-305).

By Mr. MUSKIE, from the Committee on the Budget:

Without amendment:

S. Res. 197. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1420 (Rept. No. 95-306).

S. Res. 199. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1341 (Rept. No. 95-307).

S. Res. 200. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6415, extending the Export-Import Bank Act of 1945, as amended (Rept. No. 95-308).

S. Res. 202. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1522 (Rept. No. 95-309).

S. Res. 204. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 9 (Rept. No. 95-310).

S. Res. 208. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 660 (Rept. No. 95-311).

S. Res. 209. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4992 (Rept. No. 95-312).

S. Res. 210. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4585 (Rept. No. 95-313).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

Esther Crane Wunnicke, of Alaska, to be a member of the Joint Federal-State Land Use Planning Commission for Alaska.

(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. TALMADGE, from the Committee on Agriculture, Nutrition, and Forestry:

Leland Earl Bartelt, of California, to be Administrator of the Federal Grain Inspection Service.

(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. EASTLAND, from the Committee on the Judiciary:

William T. Moore, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia.

William L. Harper, of Georgia, to be U.S. attorney for the northern district of Georgia.

(The above nominations were reported with the recommendation that they 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. SPARKMAN, from the Committee on Foreign Relations:

John Newhouse, of the District of Columbia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

Philip Mayer Kaiser, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

Leonard Woodcock, of Michigan, for the rank of Ambassador during the tenure of his service as Chief of the U.S. Liaison Office at Peking, People's Republic of China.

William J. vanden Heuvel, of New York, to be the representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

(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.)

POLITICAL CONTRIBUTIONS

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Philip M. Kaiser.

Post: Ambassador to Hungary.

Contributions, amount and date:

1. Self: See attached sheet.
2. Spouse: See attached sheet.
3. Children and spouses: Robert G. Kaiser and Hannah J. Kaiser; David E. Kaiser and Cathy Kaiser; and Charles R. Kaiser (bachelor).
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brothers and Spouses: Mr. Ben Kaiser and Mrs. Beryl Kaiser; Mr. Henry Kaiser and Dr. Paula Kaiser.
7. Sisters and spouses: Deceased.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them.* To the best of my knowledge, the information contained in this report is complete and accurate.

PHILIP M. KAISER.

PHILIP M. KAISER AND HANNAH E. G. KAISER

Donee, amount, and date:

Democratic Study Group, $125, May 1974.

Congressman John Brademas, $50, May 1974.

Congressmen Thompson and Brademas, $100, October 1974.

Loan to Democrats Abroad (U.K.), since converted to contribution, $200, January 1976.

Several contributions to Democrats Abroad and National Committee, $260 and $60, July-November 1976.

DAVID E. KAISER (SON)

Donee, amount, and date:

Democratic National Committee, $25, 1976.

Jimmy Carter campaign, $25, 1976.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Leonard Woodcock.

Contributions

1973:	
Committee for Good Government (UAW)	$98
Democratic Party of Michigan	100
1974:	
Committee for Good Government (UAW)	98
Democratic Party of Michigan	100
UAW-V-CAP	20
1975:	
Committee for Good Government (UAW)	95
Democratic Party of Michigan	100
1976:	
Committee for Good Government (UAW)	96
Democratic Party of Michigan	100
Democratic National Committee	600
Carter Campaign	200
Riegle for Senate	100
1977 (to date):	
Committee for Good Government (UAW)	36
Democratic Party of Michigan	100

POLITICAL CONTRIBUTIONS STATEMENT

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William J. vanden Heuvel.

Post: United States Ambassador to the European Office of the United Nations and other organizations.

Contributions and amount:

1. Self: See attached list—Addendum E.
2. Spouse: None.
3. Children and Spouses: None.
4. Parents: None.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: None.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

WILLIAM J. VANDEN HEUVEL.

ADDENDUM E

Nominee: William J. vanden Heuvel.

Post: United States Ambassador to the European Office of the United Nations and other organizations.

Report of Federal Campaign Contributions: January 1, 1977 through April 20, 1977

Donor, amount, date, and donee:

Self, $500, March 12, 1974, Democratic Congressional Dinner Committee.

Self, $500, February 26, 1975, Williams in 1976 (Senator Harrison Williams).

Self, $500, July 22, 1975, Committee to Reelect Edward Kennedy.

Self, $250, October 28, 1975, Jimmy Carter Presidential Campaign.

Self, $750, December 10, 1975, Jimmy Carter Presidential Campaign.

Self, $250, April 12, 1976, William Lehman Congressional Campaign Fund.

Self, $500, October 7, 1976, Senator John Tunney Campaign Committee.

Self, $500, October 21, 1976, Daniel P. Moynihan for Senate Committee.

Self, $100, November 9, 1976, Abzug for Senate.

BILL PLACED ON CALENDAR

The following bill was read twice by its title and ordered placed on the Calendar:

H.R. 6666. An act to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

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. CHURCH:

S. 1769. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings; to the Committee on Finance.

By Mr. LONG (for himself and Mr. PEARSON) (by request):

S. 1770. A bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SPARKMAN (by request):

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes; to the Committee on Foreign Relations.

By Mr. PEARSON:

S. 1772. A bill to amend title 39 of the United States Code to prohibit a reduction in the frequency of mail delivery service, to alter the organizational structure of the United States Postal Service, to revise the procedure for adjusting postal rates and services, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. CHAFEE):

S. 1773. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protection against discrimination in employment to individuals above age sixty-five, and to protect individuals covered by the Act from early mandatory retirement as required by certain seniority systems and employee benefit plans; to the Committee on Human Resources.

By Mr. NELSON (for himself and Mr. EASTLAND, Mr. CLARK, Mr. MCGOVERN, Mr. ZORINSKY, Mr. HATHAWAY, Mr. CHILES and Mr. HUMPHREY):

S. 1774. A bill to amend the Internal Revenue Code of 1954 to provide that the Federal excise tax on telephone service does not apply to amounts paid as State tax on the same service; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 1775. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans's Affairs.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with the above introduced bills and joint resolutions are printed at the conclusion of Senate proceedings today.)

ADDITIONAL COSPONSORS

S. 146

At the request of Mr. GOLDWATER, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 146, to amend the Social Security Act.

S. 551

At the request of Mr. HUMPHREY, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 551, a bill to provide grants to States for the payment of compensation to persons injured by certain criminal acts and commissions.

S. 1245

At the request of Mr. GRIFFIN, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1245, the Corrections Construction and Program Development Act of 1977.

S. 1307

At the request of Mr. CRANSTON, the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. STAFFORD), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Florida (Mr. STONE), the Senator from Nebraska (Mr. ZORINSKY), the Senator from New Hampshire (Mr. DURKIN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 1307, as reported from the Committee on Veterans' Affairs—with the amended title—a bill to deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of less than honorable discharges from service during the Vietnam era, and for other purposes.

S. 1554

At the request of Mr. KENNEDY, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1554, the Rail Rehabilitation Act.

S. 1651

At the request of Mr. ROTH (for Mr. BIDEN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Indiana (Mr. LUGAR), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1651, relating to equal protection under the Constitution.

S. 1675

At the request of Mr. HATHAWAY, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Iowa (Mr. CLARK), the Senator from Oregon (Mr. HATFIELD) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 1675, the Social Security Act Amendments of 1977.

SENATE JOINT RESOLUTION 17

At the request of Mr. ROTH, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 17, relating the rights of pupils in public schools.

AMENDMENTS SUBMITTED FOR PRINTING

MILITARY CONSTRUCTION APPROPRIATIONS, 1978—H.R. 7589

AMENDMENTS NOS. 474 AND 475

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

Mr. PROXMIRE submitted two amendments intended to be proposed by him to the bill (H.R. 7589) making appropriations for military construction by the Department of Defense for the fiscal year ending September 30, 1978, and for other purposes.

AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS, 1978—H.R. 7558

AMENDMENT NO. 476

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

Mr. SCOTT submitted an amendment intended to be proposed by him to the bill (H.R. 7558) making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1978, and for other purposes.

DEPARTMENT OF LABOR-HEW APPROPRIATIONS, 1978—H.R. 7555

AMENDMENT NO. 477

(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 to the bill (H.R. 7555), supra.

AMENDMENT NO. 478

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

Mr. CRANSTON (for himself, Mr. JAVITS, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

Mr. CRANSTON. Mr. President, I am submitting for printing the attached amendment. This amendment is cosponsored by Senators JAVITS, WILLIAMS, RANDOLPH, RIEGLE, PERCY, HUMPHREY, KENNEDY, HATHAWAY, and HASKELL.

It would add an additional $4.4 million to H.R. 7555, increasing the budget for the ACTION Agency from the Appropriations Committee recommendation of $117.26 million to $121.66 million. The additional money is targeted for two purposes:

First, $1.4 million, or the amount certified by the ACTION Agency Director to be needed, is earmarked to provide an increase in the VISTA stipened, end-of-service readjustment alowance, from the current $50 per month to $75 per month. This would correspond generally with the increase from $75 per month to $125 per month granted to Peace Corps volunteers since April 1, 1976. The authority for this increase is contained in section 5(b) of Public Law 94–130, which requires specific earmarks in the appropriate appropriations acts to effect the increase in order to protect program moneys from being used to finance a stipend increase and visa versa. Funds to increase the Peace Corps stipend were first provided in the fiscal year 1976 Foreign Assistance Appropriations Act (Public Law 94–330) and made retroactive to April 1, 1976.

Second, $3 million would be used to enable the ACTION Agency to fund three discretionary programs under its title I, part C special volunteer programs authority—namely, demonstration programs to assist displaced homemakers, to test the urban service corps concept, and to provide financial counseling serv-

ices to senior citizens on fixed incomes. An appropriation of $8 million in the part C programs is authorized. The committee bill provides for $2.5 million—the same amount appropriated for fiscal year 1977. The amendment would provide flexibility to the Agency in developing programs in these three areas of concern—all program directions supported by the new Agency Director and Deputy Director at their confirmation hearings earlier this year.

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

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

AMENDMENT NO. 478

On page 43, line 13, strike out "$117,260,000." and insert in lieu thereof "$121,660,000, of which $1,400,000 (or such other sum as may be certified by the Director of the Agency as necessary to carry out section 5 of Public Law 94-130) shall be used for carrying out section 5 of Public Law 94-130.".

AMENDMENT NO. 479

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

Mr. CRANSTON (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 7555), supra.

NOTICES OF HEARINGS

VETERANS' ADMINISTRATION PHYSICIAN AND DENTIST PAY COMPARABILITY ACT

Mr. CRANSTON. Mr. President, on July 1, 1977, at 9:30 a.m., in room 6202 of the Dirksen Senate Office Building, the Subcommittee on Health and Readjustment of the Senate Committee on Veterans' Affairs will hold public hearings on S. 1775, which I introduced today for the administration, a bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, and the implementation of that 1975 act. Additional information is available from Michael Burns of the Veterans' Affairs Committee staff at 224-0126, room 414, Russell Senate Office Building. Any person wishing to testify or submit a written statement should contact Mr. Burns.

ADDITIONAL STATEMENTS

(Additional statements are printed at the conclusion of Senate proceedings today.)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LABOR-HEW APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed, rather than at 10 a.m. this morning, to the consideration of the Labor-HEW appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The Senate resumed the consideration of the bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MAGNUSON. Mr. President, I ask unanimous consent that Warren Reid, of my staff, be granted the privileges of the floor during the consideration of the pending measure.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. 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. MAGNUSON. Mr. President, I understand that the pending order of business is the HEW appropriation bill. That has been laid down. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MAGNUSON. Mr. President, I wish to present the usual request: I ask unanimous consent that the committee amendments be agreed to en bloc; that the bill as thus amended be considered as original text for the purpose of further amendments; and that no points of order be considered to be waived.

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

Mr. MAGNUSON. Mr. President, the Labor-HEW appropriation bill, more than any other single piece of legislation, is directed to the needs of individual American citizens. It exists to meet the needs of the poor, the handicapped, the young, and the aged—people who ordinarily, through no fault of their own, cannot participate fully in our great society.

What we are recommending in this bill is not going to meet the total need, however, in any of the Labor-HEW programs. We are simply recommending what we know the country can afford to spend to improve the health, education, and welfare of the American people.

We have tried to restrain our impulse to meet all this country's human resource needs as soon as possible. We have increased funding for only the highest priority programs in this bill; that is, from the budget, and, in some cases, from the House amount.

Some will disagree with our recommendations. For some, the allocations to individual programs will be too high—while for others, the amounts will be too low.

In our deliberations, we reviewed every single account and every single program, and there are many. Where we found some wanting—either in proven successes or, at least, future promise—we have either curtailed spending or cut them out.

There are far too many programs in this measure that do have a solid record of achievement, and a goodly number that have great promise and reason for hope in the future.

We had to prune and pare out personal recommendations to what we felt was reasonable—to what we felt was prudent—to what we felt was more closely near that level of absolute necessity. In fact, we reviewed over 200 amendments suggested by Senators, Members of this body, which amounted to nearly $8 billion. Eight billion dollars was requested by Members of the U.S. Senate. I think we did a yeoman's job in looking over those items and not allowing them in the bill. Had we done so, the bill would have been $8 billion over any budget amount, or the House amount, too, in round figures.

(Mr. CRANSTON assumed the chair.)

Mr. MAGNUSON. The committee has included $6 billion for Labor Department programs. This is $433 million over the House and $425 million under the budget request. We are $13.7 billion below last year's level.

This sounds like an alarming figure, but it is due to the nonrecurring unemployment benefit costs and the fact that most of this year's public service jobs were funded out of the 1977 economic stimulus program in the supplemental bill and need not be included in this regular bill.

The big increases over the House are for employment and training programs, primarily summer youth jobs.

The unemployment rate has dropped from about 7.2 percent last year to 6.9 percent this year, but the unemployment rate—mark this, Mr. President—for youth is still nearly 20 percent. The unemployment rate for minority youth is almost twice that high. Nearly one out of two minority youth will be unemployed this year. Therefore, logically this is our highest priority target group for employment programs. What an enormous waste of manpower to have so many able-bodied individuals obliged to resort to just "hanging around" day after day because of a lack of employment opportunities! Our recommended appro-

priation of $893 million for summer youth employment programs would provide 1,500,000 summer jobs to needy youth. This is 420,000 more jobs than were provided last year.

Our other target group that we think is also being discriminated against in employment opportunities is senior citizens. We have increased the House allowance for community service employment for older Americans by $20 million, up to the budget request of $200 million. This will enable 50,000 unemployed low-income persons, 55 years of age or older, to be paid for community service activities during fiscal year 1979.

Our third major priority in the training and employment area is national training programs under title III of CETA for migrants, Indians, and veterans. We have raised the House allowance by $109 million to directly fund training for these groups rather than require the Secretary of Labor to deplete his discretionary funds.

There may be an amendment proposed sometime today to reduce the amount we have recommended for the Secretary of Labor in his discretionary funds. but we shall meet that amendment when we come to it.

Six point four billion dollars is in this bill for health.

This is $393 million over the House level and $900 million more than the President requested. It is only a 12-percent increase over the 1977 level.

We have targeted the health increases into research, services, and health training. All of these tie into a health care system which must be in place before we can even think about a national health insurance plan.

Another important area and reason for adding to the health funding level was prevention. Preventive medicine gets a lot of lipservice—but that is about all. We have tried to correct the serious funding shortfalls in many programs. Examples are genetics, immunizations, VD control, and health education.

While many people—including the administration—rightly talk about cost containment, we have done something about it. We have placed a priority on prevention. These are programs that can save untold millions in the future—not to mention the suffering we will avoid in the present.

Effective disease prevention must be based on thorough medical research. At the National Institutes of Health, our first link in the chain of prevention, we are funding research programs on hundreds of diseases, trying to find cures, treatments. and ways of wiping them out altogether. We have increased the President's budget request for NIH by $320 million and the House level by $154 million, up to a total of $2.9 billion.

Whatever dread disease that strikes fear into most every home and family—those victims look toward this bill and the biomedical research efforts that are underwritten by these funds for help.

(Mr. EASTLAND assumed the chair.)

Mr. MAGNUSON. Mr. President, in doing this, we have continued our high priority on research. We have also started to address the problem of an imbalance of funding—but this cannot be done overnight.

In the area of services, we have added $135 million for Public Health Service hospitals. Sixty million dollars of this is for construction and modernization. Most of these hospitals are located in what are called medically underserved areas. We think they should be taken advantage of as model medical centers, showing how to best reach out to urban communities in need of better medical care.

And this they are doing. The record is excellent. This is the kind of thing we have to be doing if we are serious about making some national health insurance plan work.

Increases were also allowed for such important service programs as the National Health Service Corps. These health professionals go to medically underserved areas and are doing more than anyone to solve the health care crisis. Funds were also added to check and screen many more children before they are too old—and it is too late to find diseases or take care of dental problems.

In other important service areas the committee has placed a priority on alternatives to abortions such as family planning programs; increased funds for women's alcohol programs; and initiation of the new genetic information and counseling program. This could be one of our best prevention programs ever—to avoid pregnancies where genetic and hereditary diseases are likely to occur.

While many people continue to talk about national health insurance—it is again this bill which will help to make it work. To do this, we need an adequate supply of health professionals—nurses, aides, doctors—to do the job right. With this in mind, $532 million has been allowed for health training. This is $200 million over the President's request. That seems like a lot, but it is $29 million less than the 1977 level. The President has proposed a phaseout of many training programs. They just cannot be turned on and off like a faucet. It takes 5, 7, or 10 years for training. Our figure just emphasizes the high priority we place on all training programs.

In summary, we are presenting you with what we feel is an adequate but not excessive health budget. It is geared to preventing illness before it happens and to laying the groundwork for a national health insurance system that will work and one of which we can all be proud.

This year we are recommending slightly over $10 billion for education programs.

That sounds, Mr. President, like a great deal of money—and it is. I can remember when Federal aid to education was a bad word around here, when we would not even dare speak about it. But we have established the principle of Federal aid to education, it is there, and it is working to the benefit of millions of students.

So we have recommended this year $10 billion for education programs.

This is only about 8 percent of the total education cost for elementary and secondary education in our Nation. It is still down that low.

This total is $24 million below the House and $1 billion above the President's budget. As I will point out later, the primary reason for the large difference between the committee recommendations for education and the budget requests is that the budget requests for two programs—and this is the problem in this whole bill when we deal with figures only, two programs under the budget—impact aid and direct student loans, were sent up unrealistically low.

I know that there is going to be every effort made, and we made every effort, to keep the total down. But if the budget were to be made up by the administration, say today or tomorrow, after what has happened—remember the present budget was made up many months ago—probably there would be what we would suggest, adequate amounts in impact aid, which is required by law—until we change the law we cannot change it here—and more money for direct loans.

Those two programs would probably make up the difference between comparisons of the budget request with the amount we recommended in the bill, and we would not be very far apart.

Now, for the programs which directly assist our elementary and secondary schools, we have included funds for several vital programs. For grants for the disadvantaged, or title I, as it is often called, the committee is recommending $2.8 billion. This is, by far, the largest program assisting our elementary and secondary students. And it helps those with the greatest need, the disadvantaged students, in private or public schools, who need special assistance to catch up with their fellow classmates.

The largest single increase over the budget in this bill is impact aid. The committee put in $852 million, which is slightly above the 1977 level; and this was put in under a formula that exists and that is the law of the land. It is an entitlement, and until a legislative committee changes the rules of eligibility, there is not much the Appropriations Committee can do.

Last year and in years before, we talked a great deal about impacted aid, about some parts of the program that seem to be inequitable, and that some school districts were taking undue advantage of it. The members of the Senate Legislative Committee involved in this matter piously said on the floor, "We will hold hearings. We promise you that we will do something about it." Another year has gone by, and nothing has been done. The law is still there.

The distinguished Senator from Massachusetts and I believe that the law should be changed in some respects. But in the meantime, impacted aid must be appropriated, and this is one of the problems that was not squarely faced by the administration in approving these budget requests.

Looking at it now, I am sure that if they were making up the budget today, they would put—almost be required to put—this amount in the budget. This is the amount we are talking about, where there is a difference between our recommendations, the budget, and the House

figure, although the House did, in this particular instance, put in more than was requested. But it is still that billion dollars over the President's budget in those two programs—impacted aid and direct student loans, which were zero when they came up. The budget included money for A students and attempted to cut out B students. It was zero for B students.

The largest single increase in this bill, therefore, is for impacted aid; and the committee put in, as I mentioned, $852 million, which is slightly above the 1977 mandated level.

These funds will provide assistance to over 4,300 school districts that are affected by the presence of children of Federal employees in their schools. Most of the time, these same school districts also are affected by large amounts of Federal property within their boundaries, on which taxes are not paid.

As I pointed out, while there are certain inequities in the present law, especially as it relates to so-called category B students—students whose parents work on Federal property but live in the community—the present law requires that we provide funds for B students, and the administration, as I said, recommended no funds for B students. I hope the administration will propose a reasonable legislative alternative before we consider the 1979 bill. Otherwise, there will just be that difference between what Congress has to do and what the Office of Management and Budget sends up.

The committee also provided an additional $20 million above the House for impacted aid construction. These additional funds will help provide suitable facilities for pupils in military base schools, and they are sorely needed. The program is long overdue. Many of those schools are in disrepair, and something should be done. It is a comparatively small amount, when we think about the total of impacted aid.

Another important area is emergency school aid. We believe, basically, that it is much better to take care of the problem of desegregation if it is done in a voluntary way and not forced by a court order. The purpose of emergency school aid is to try to work out these problems in those particular school districts, of which there are many in the United States. We are proposing a total of $324 million to help school desegregation across the Nation.

One of the most constructive ways of implementing desegregation is somewhat of a new idea, a sort of pilot operation in some areas, including my own area, the Seattle school district, and others, such as Cleveland, Houston, and Los Angeles. This is done with magnet schools. These schools, with their specially developed curricular programs, are designed to attract students of different racial backgrounds.

Magnet schools can become a valuable crisis prevention mechanism. The committee has recommended a total of $30 million for magnet schools, which is added into the $324 million, because it is firmly convinced of their value to the Nation's school desegregation program and that puts us $29.2 million above the budget request for that emergency school assistance program.

There is a large increase—$173 million more than last year—for the education of the handicapped. The major reason for this increase is the Education for All Handicapped Children Act, which greatly increases the Federal role in this area. I do not think that was considered when the budget was being made up. This is relatively new.

The Secretary of HEW, the House, and the committee all agree that the $642.4 million in this bill for education for the handicapped is needed and required to carry out the promise of free and accessible education for all handicapped children, but we do not yet cover them all. More needs to be done.

We are recommending $725.7 million for vocational and adult education. These funds reinforce the commitment of the Federal Government to a productive American labor force.

It has been said that anyone can find a good lawyer—well, not so much a good doctor, but a good lawyer—but it is pretty hard to find a good auto mechanic or carpenter. This appropriation means that they will be qualified for jobs, and the funds will help provide us with those qualified people in the crafts.

Libraries play a major role in our educational system. The cost of books and library materials has skyrocketed in recent years. As a result, the committee has proposed and we provide $180 million for school libraries; and, overall, the bill includes $267 million for library resources.

Higher education is another area of great interest to many of us. Those who have children enrolled in post-secondary education institutions know all too well that the costs of attending school are rising rapidly. This is why the major thrust of Federal involvement in this area goes to student assistance.

The committee is recommending $2 billion for basic educational opportunity grants, commonly known as BOG. These funds will provide for grants up to $1,600 per year. We started out with this program—because it had some hope of being a good program to aid students in higher education—with funding first the freshman class; next year we went to the sophomores; the next year to the juniors; and now this goes across the board to everyone in undergraduate school, academic or vocational.

We started out with grants of approximately $600 a year. Because of rising costs—tuition and otherwise—we raised it. We think $1,600 a year is a fair and equitable amount.

We are also recommending that part of the increase for BOG be used to assist middle and lower middle income students with their educational costs. We find volumes of evidence that the middle and lower middle income families have been left out of this program—too often left out.

These students are rapidly being priced out of the educational marketplace by these rising costs.

Another important student assistance program provides the other large increase over the President's education budget. I mentioned this before. This is the national direct student loan program. The committee and the House are recommending $310.5 million, the same as the 1977 level, for direct loans. The President's budget recommended zero. You add this to the impact aid for the B students, and the President, the budget and Congress are not far apart.

The direct loan program has long been a cornerstone of the student assistance programs. It has also been a high priority item in the Congress for years.

The committee is recommending $12.5 million to initiate the teacher centers program. This program will allow classroom teachers to establish inservice training programs which are designed specifically to meet their teaching needs. With the current surplus of teachers, the teacher centers' emphasis on providing inservice training is a most important part in our effort to provide a quality education for all students.

WELFARE

The administration's welfare estimates this year were greatly overstated. I do not point any fingers and I do not think it was necessarily their fault. It was a trend that has just begun to happen, but it is happening, and we have looked carefully at how much is currently being spent and at some of the program factors, and we have come up with much lower estimates.

In the medicaid program, for example, the States are right now spending at an annual level of $1 billion less than what we appropriated. We think that there is going to be at least $400 million left at the end of the year even if they pick up their rate of spending.

In welfare payments to poor families we expect a surplus at the end of this current fiscal year of $300 million. And in the Supplemental Security Income program of welfare payments to the aged, blind, and disabled even the administration has acknowledged a surplus of $500 million.

In addition to reducing our fiscal year 1978 new budget authority for these surplus fiscal year 1977 funds, we also need to reduce the 1978 estimate, which was at least as overstated as the administration's 1977 estimate.

All told, we would reduce the budget request for Aid for Dependent Children and Supplemental Security Income welfare payments and the medicaid estimate by a total of $1.8 billion. The House reduced medicaid by $352 million, so we would be making a further reduction below the House of $1.5 billion.

Regardless of program, regardless of whether it is controllable or uncontrollable—these are taxpayer dollars that we are dealing with. Where our best judgment told us that estimates presented to us were inflated—were too high—it was our responsibility, we cut them.

Those estimates were prepared for the President months ago—months before this President took office. We consulted with the Budget Committee, the Congressional Budget Office, the General Accounting Office, the Library of Congress—and the executive agencies—before we reached any final determination. These cuts are justified.

They all come up with practically the same figure and I think we were even

conservative in our cuts, which will bring down, regardless of dividing the controllables, the uncontrollables, the total amount of the bill, what we are going to take out of the taxpayers' till, and that is what we are here to do, if that is possible, and in this case it is not only possible but wise to make these reductions.

Now, for the Corporation for Public Broadcasting, which has been somewhat of a controversial subject in our committee and in the hearings, we spent a lot of time on it, and the committee is recommending $155 million for the Corporation for Public Broadcasting. Under the advance-funding provisions of the basic law, these funds will become available in fiscal year 1980.

Public Broadcasting is a key to quality television and radio programing. If it were not for public radio and television, there are many groups and interests that would never be served by the broadcast media. The funds included in this bill will provide valuable assistance for the growth and improvement of noncommercial radio and television. We should do no less than to insure that the Congress continue to play a major role in the support of this valuable means of communication.

HUMAN DEVELOPMENT PROGRAMS

The Office of Human Development within HEW administers a wide variety of vastly important programs, including those on behalf of our youth, our elderly, and our handicapped citizens. We have provided for significant expansion of services in all these areas. For the elderly and this is part of a new directive by Congress, too, since the budget was made up—we provide for more than half a million daily, hot, nutritious meals.

For children, we have provided for an additional 94,000 Head Start openings—and this is the first increase in Head Start in 10 years. In effect, when you look over the whole bill and the importance of Head Start and its being a successful program, and we think it is, that decision is very well taken.

For the handicapped, State grants will permit rehabilitation of 286,000 individuals into new vocations.

We have included $65 million for weatherization of homes of low-income families, to be administered by the Community Services Administration. This is 20 million more than the House provided.

We also included a significant expansion for Community Action offices. The last few years were bad ones for these programs, but they managed to survive. Now, with new people in charge, we can begin to fund them again with confidence that the money will be constructively used.

Overall, the bill is within our budget ceilings, our own budget ceilings, way below. In the controllable health programs, though, we are nearly $200 million above the amounts the Budget Committee assumed.

This means that we really cannot afford any further amendments over the committee's figures.

In summing up, this is a big, complicated, and very important bill. It require a lot of attention by the Members to understand it, particularly those who did not have the advantage of going through weeks and weeks, hundreds of hours of hearings and testimony, and through many, many hours of markups.

We cannot afford to get distracted from these very important money issues by other issues that are not germane to this bill. I have complained about this many times, but to no avail. The Labor-HEW appropriations bill is not the proper vehicle for writing authorizing legislation. This is a money bill. Let us try to keep our discussion to the money issues. I do not know whether that will be the case today before we get through with the bill, but last year, Mr. President, we spent 4½ to 5 days on this bill.

The Senate spent approximately—and I tabbed it so I have the record—less than 2 hours on the money items of a $57 billion bill. The remainder of the time was on legislation on an appropriations bill which becomes not subject to a point of order if the amendment is worded correctly to put a limitation on the spending of funds.

We have much legislation in this bill. As a matter of fact, Mr. President, I am not so sure that the Appropriations Committee in all appropriations bills has not become the legislative committee. Any time some group that has a cause cannot get something done in a legislative committee, they show up down at the Appropriations Committee with legislation on an appropriations bill. We have had them all.

The Rules Committee should be doing something to take all of these emotional controversial items that either the legislative committees do not handle or do not want to handle, and they show up on appropriations bill.

This is a money bill. It involves, next to defense, the largest single appropriation bill that we have, and if we add social security to it, which the Office of Management and Budget continues to put into the bill, over which we have no control—the control belongs in the legislative committees on what we pay in or take out—it will amount to over $198 billion and some millions plus. So in those terms it is the largest appropriations bill we have.

It amounts to most of the money that the taxpayers have a right to take a good look at and scrutinize how we are spending their money, and that we are not making decisions on policy questions, controversial, emotional policy questions that belong in legislative committees.

So, I am hopeful that we can finish this bill soon on the money items and spend at least a minimum amount of time on these controversial issues that happen to be in the bill which should be legislative items.

As we move on appropriations bills here—we move this week again, to try to finish some of them before the week is out—I think we will find that nearly everything legislatively that anyone can think of which cannot get done some place else has found its way into these appropriations bills.

So I am hopeful we will spend a minimum of time on them. But they are in the bills, and I appreciate there is going to be some discussion about them. There should be, but not to the point of taking up everyone's time, because we have to get these money bills done and the appropriations cleared up as soon as possible.

Mr. President, before I yield to the Senator from Massachusetts, who has been of great help to the subcommittee, and all other subcommittee members, I want to compliment our staff for working so hard. This is a complex, long, tedious bill with over 300 line items, and within the line items there are four or five other subtitles that we have to go into. Everyone has worked hard and done a good job on the bill, and the chairman is very appreciative of that.

But before I yield to the Senator from Massachusetts, at this point, in order to facilitate the study of committee recommendations by Members of the Senate, their staffs, and others, I ask unanimous consent to have printed in the RECORD, as usual, a table that shows the details of the progress of the bill moneywise, appropriationswise, up to this date.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE I, DEPARTMENT OF LABOR							
EMPLOYMENT AND TRAINING ADMINISTRATION							
Program Administration:							
Planning, evaluation and research	5,266,000	5,715,000	5,715,000	5,715,000	+449,000		
Comprehensive employment development	38,442,000	49,103,000	49,103,000	49,103,000	+10,661,000		
Trust funds	(2,409,000)	(2,428,000)	(2,428,000)	(2,428,000)	(+19,000)		
Apprenticeship services	12,989,000	14,146,000	13,856,000	13,856,000	+867,000	−290,000	
U.S. employment service	708,000	708,000	708,000	708,000			
Trust funds	(14,738,000)	(15,161,000)	(15,161,000)	(15,161,000)	(+423,000)		

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Unemployment insurance service	1,341,000	1,621,000	1,621,000	1,621,000	+280,000		
Trust funds	(10,037,000)	(11,070,000)	(10,890,000)	(10,890,000)	(+853,000)	(−180,000)	
Investigation and compliance	751,000	870,000	870,000	870,000	+119,000		
Trust funds	(1,139,000)	(1,131,000)	(1,131,000)	(1,131,000)	(−8,000)		
Executive direction and management	16,725,000	19,324,000	18,959,000	18,959,000	+2,234,000	−365,000	
Trust funds	(3,911,000)	(4,024,000)	(4,024,000)	(4,024,000)	(+113,000)		
Subtotal, Program Administration	108,456,000	125,301,000	124,466,000	124,466,000	+16,010,000	−835,000	
Federal funds	76,222,000	91,487,000	90,832,000	90,832,000	+14,610,000	−655,000	
Trust funds	(32,234,000)	(33,814,000)	(33,634,000)	(33,634,000)	(+1,400,000)	(−180,000)	
Employment and Training Assistance (CETA):							
Title I	1,880,000,000	1,880,000,000	1,880,000,000	1,880,000,000			
Title II (Public employment)	1,540,000,000				−1,540,000,000		
Title III:							
National training programs	1,558,360,000	1,135,060,000	301,060,000	410,060,000	−1,148,300,000	−725,000,000	+109,000,000
Program support	42,370,000	44,870,000	44,870,000	44,870,000	+2,500,000		
Title IV (Job Corps)	274,100,000	487,100,000	417,000,000	417,000,000	+142,900,000	−70,100,000	
Summer youth employment program	595,000,000	525,000,000	595,000,000	893,000,000	+298,000,000	+368,000,000	+298,000,000
Subtotal, regular program	5,889,830,000	4,072,030,000	3,237,930,000	3,644,930,000	−2,244,900,000	−427,100,000	+407,000,000
Temporary Employment Assistance (CETA):							
Title VI	6,847,000,000				−6,847,000,000		
Community Service Employment for Older Americans	150,000,000	200,000,000	180,400,000	200,000,000	+50,000,000		+19,600,000
Federal Unemployment Benefits and Allowances:							
Payments to former Federal personnel	440,000,000	560,000,000	560,000,000	560,000,000	+120,000,000		
Trade adjustment assistance	120,000,000	240,000,000	240,000,000	240,000,000	+120,000,000		
Unemployment assistance and payments under other Federal unemployment programs	300,000,000	400,000,000	400,000,000	400,000,000	+100,000,000		
Subtotal, FUBA	860,000,000	1,200,000,000	1,200,000,000	1,200,000,000	+340,000,000		
Grants to States for Unemployment Insurance and Employment Services:							
Unemployment Insurance Service	(697,000,000)	(754,600,000)	(771,010,000)	(771,100,000)	(+74,100,000)	(+16,500,000)	
Employment Services:							
Federal	89,100,000	53,600,000	53,600,000	53,600,000	−35,005,000		
Trust	(475,900,000)	(583,500,000)	(583,500,000)	(603,500,000)	(+127,600,000)	(+20,000,000)	(+20,000,000)
Subtotal, Employment Services	565,000,000	637,100,000	637,100,000	657,100,000	+92,100,000	+20,000,000	+20,000,000
Contingency Fund	(239,800,000)	(174,400,000)	(174,400,000)	(174,400,000)	(−65,400,000)		
Subtotal, Grants to States	1,501,800,000	1,566,100,000	1,582,600,000	1,602,600,000	+100,800,000	+36,500,000	+20,000,000
Federal funds	89,100,000	53,600,000	53,600,000	53,600,000	−35,500,000		
Trust funds	(1,412,700,000)	(1,512,500,000)	(1,529,000,000)	(1,549,000,000)	(+236,300,000)	(+36,500,000)	(+20,000,000)
Advances to Unemployment Trust Fund and Other Funds	5,000,000,000				−5,000,000,000		
Subtotal, Employment and Training Administration	20,357,086,000	7,163,431,000	6,325,396,000	6,771,996,000	−13,585,090,000	−391,435,000	+446,600,000
Federal funds	18,912,152,000	5,617,117,000	4,762,762,000	5,189,362,000	−13,722,790,000	−427,755,000	+426,600,000
Trust funds	(1,444,934,000)	(1,546,314,000)	(1,562,634,000)	(1,582,634,000)	(+137,700,000)	(+36,320,000)	(+20,000,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION							
Salaries and expenses:							
Labor-management relations policy and service	3,208,000	3,518,000	3,280,000	3,280,000	+72,000	−238,000	
Labor-management standards enforcement	14,430,000	15,026,000	15,026,000	15,026,000	+596,000		
Veterans reemployment rights	2,682,000	2,772,000	2,772,000	2,772,000	+90,000		
Federal labor-management relations	5,034,000	5,897,000	5,897,000	5,897,000	+863,000		
Employee benefits security	21,841,000	25,309,000	25,308,000	25,309,000	+3,468,000		
Executive direction, management and support	3,559,000	3,677,000	3,677,000	3,677,000	+118,000		
Subtotal, LMSA	50,754,000	56,199,000	55,961,000	55,961,000	+5,207,000	−238,000	
EMPLOYMENT STANDARDS ADMINISTRATION							
Salaries and expenses:							
Improving and protecting wages	43,722,000	47,045,000	47,045,000	47,045,000	+3,323,000		
Elimination of discrimination in employment	15,472,000	16,317,000	16,317,000	16,317,000	+845,000		
Office of the Federal Contract Compliance	(6,585,000)	(6,774,000)	(6,774,000)	(6,774,000)	(+189,000)		
Workers' compensation	27,516,000	32,624,000	32,624,000	36,124,000	+8,608,000	+3,500,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
Program development and administration	12,282,000	13,294,000	12,794,000	12,794,000	+512,000	−500,000	
Subtotal, Salaries and Expenses	99,252,000	109,545,000	109,045,000	112,545,000	+13,293,000	+3,000,000	+3,500,000
Federal funds	98,992,000	109,280,000	108,780,000	112,280,000	+13,288,000	+3,000,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
Special benefits:							
Federal Employees Compensation Act benefits	307,407,000	292,325,000	292,325,000	292,325,000	−15,082,000		
Disabled coal miners benefits	27,100,000	24,300,000	24,300,000	24,300,000	−2,800,000		
Longshore and harbor workers' benefits	2,442,000	2,735,000	2,735,000	2,735,000	+293,000		
Subtotal, Special Benefits	336,949,000	319,360,000	319,360,000	319,360,000	−17,589,000		
Subtotal, ESA	436,201,000	428,905,000	428,405,000	431,905,000	−4,296,000	+3,000,000	−3,500,000
Federal funds	435,941,000	428,640,000	428,140,000	431,640,000	−4,301,000	+3,000,000	+3,500,000
Trust funds	(260,000)	(265,000)	(265,000)	(265,000)	(+5,000)		
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION							
Salaries and expenses:							
Safety and health standards	8,338,000	8,692,000	8,692,000	8,692,000	+354,000		
Compliance:							
Federal inspections	57,616,000	59,151,000	59,151,000	62,151,000	+4,535,000	+3,000,000	+3,000,000
State programs	35,605,000	35,605,000	35,605,000	32,605,000	−3,000,000	−3,000,000	−3,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE I, DEPARTMENT OF LABOR—Continued							
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—Continued							
Education, consultation, and information	18,897,000	19,902,000	21,902,000	21,902,000	+3,005,000	+2,000,000	
Safety and health statistics	6,206,000	6,301,000	6,301,000	6,301,000	+95,000		
Executive direction and administration	3,671,000	4,989,000	4,989,000	4,989,000	+1,318,000		
Subtotal, OSHA	130,333,000	134,640,000	136,640,000	136,640,000	+6,307,000	+2,000,000	
BUREAU OF LABOR STATISTICS							
Salaries and expenses:							
Labor force statistics	27,878,000	32,314,000	33,314,000	32,314,000	+4,436,000		−1,000,000
Prices and cost of living	15,310,000	21,943,000	17,768,000	21,943,000	+6,633,000		+4,175,000
Wages and industrial relations	11,573,000	12,441,000	12,180,000	12,180,000	+607,000	−261,000	
Productivity and technology	2,789,000	3,010,000	2,937,000	2,937,000	+148,000	−73,000	
Economic growth	694,000	731,000	731,000	731,000	+37,000		
Executive direction and staff service	10,157,000	10,327,000	10,327,000	10,327,000	+170,000		
Revision of the consumer price index	7,216,000	3,600,000	3,600,000	3,600,000	−3,616,000		
Subtotal, Bureau of Labor Statistics	75,617,000	84,366,000	80,857,000	84,032,000	+8,415,000	−334,000	+3,175,000
DEPARTMENTAL MANAGEMENT							
Salaries and expenses:							
Executive direction	10,983,000	9,836,000	9,697,000	9,697,000	−1,286,000	−139,000	
Legal services	19,616,000	22,435,000	22,048,000	22,048,000	+2,432,000	−387,000	
Trust funds	(177,000)	(177,000)	(177,000)	(177,000)			
International labor affairs	5,093,000	5,899,000	5,899,000	5,899,000	+806,000		
Administration and management	14,516,000	17,489,000	16,810,000	16,810,000	+2,294,000	−679,000	
Trust funds	(315,000)	(1,065,000)	(1,065,000)	(1,065,000)	(+750,000)		
Adjudication	282,000	4,371,000	4,371,000	4,371,000	+4,089,000		
Trust funds	(820,000)	(320,000)	(320,000)	(320,000)	(−500,000)		
Promoting employment of the handicapped	1,446,000	1,432,000	1,432,000	1,432,000	−14,000		
Subtotal, Salaries and expenses	53,248,000	63,024,000	61,819,000	61,819,000	+8,571,000	−1,205,000	
Federal funds	51,936,000	61,462,000	60,257,000	60,257,000	+8,321,000	−1,205,000	
Trust funds	(1,312,000)	(1,562,000)	(1,562,000)	(1,562,000)	(+250,000)		
Special foreign currency program	70,000	70,000	70,000	70,000			
Subtotal, Departmental Management	53,318,000	63,094,000	61,889,000	61,889,000	+8,571,000	−1,205,000	
Federal funds	52,006,000	61,532,000	60,327,000	60,327,000	+8,321,000	−1,205,000	
Trust funds	(1,312,000)	(1,562,000)	(1,562,000	(1,562,000)	(+250,000)		
Total, Labor Department	21,103,309,000	7,930,635,000	7,089,148,000	7,542,423,000	−13,560,886,000	−388,212,000	+453,275,000
Federal funds	19,656,803,000	6,382,484,000	5,524,687,000	5,957,962,000	−13,698,841,000	−424,532,000	+433,275,000
Trust funds	(1,446,406,000)	(1,548,141,000)	(1,564,461,000)	(1,584,461,000)	(+137,955,000)	(+36,320,000)	(+20,000,000)
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
HEALTH SERVICES ADMINISTRATION							
Community health services:							
Community health centers	215,148,000	229,148,000	247,000,000	247,000,000	+31,852,000	+17,852,000	
Comprehensive health grants to States	90,000,000	90,000,000	90,000,000	90,000,000			
Genetic Information and Counseling				5,000,000	+5,000,000	+5,000,000	+5,000,000
Maternal and child health:							
Grants to States	315,000,000	315,000,000	315,000,000	350,000,000	+35,000,000	+35,000,000	+35,000,000
Sudden infant death information dissemination	1,716,000	1,716,000	1,716,000	3,650,000	+1,934,000	+1,934,000	+1,934,000
Research and training	28,708,000	28,708,000	28,708,000	30,000,000	+1,292,000	+1,292,000	+1,292,000
Subtotal, Maternal and child health	345,424,000	345,424,000	345,424,000	383,650,000	+38,226,000	+38,226,000	+38,226,000
Family planning	113,615,000	123,615,000	123,615,000	140,000,000	+26,385,000	+16,385,000	+16,385,000
Migrant health	30,000,000	30,000,000	34,500,000	34,500,000	+4,500,000	+4,500,000	
National Health Service Corps	25,381,000	37,599,000	42,599,000	42,599,000	+17,218,000	+5,000,000	
Hemophilia treatment centers	3,000,000	3,000,000	3,000,000	3,000,000			
Hypertension	9,000,000	9,000,000	10,000,000	12,000,000	+3,000,000	+3,000,000	+2,000,000
Home health services	3,000,000	3,000,000	8,000,000	5,000,000	+2,000,000	+2,000,000	−3,000,000
Program support	22,894,000	23,886,000	24,790,500	24,790,000	+1,896,000	+904,000	−500
Subtotal, Community health	857,462,000	894,672,000	928,928,500	987,539,000	+130,077,000	+92,867,000	+58,610,500
Quality assurance:							
Medical care standards	4,215,000	5,665,000	5,665,000	5,665,000	+1,450,000		
Professional standards review organizations	61,125,000	72,234,000	72,234,000	72,234,000	+11,109,000		
Program support	1,212,000	1,348,000	1,348,000	1,348,000	+136,000		
Subtotal, Quality assurance	66,552,000	79,247,000	79,247,000	79,247,000	+12,695,000		
Health care services and systems:							
Patient care and spec. health services:							
Hospitals and clinics	130,818,000	135,511,000	135,511,000	210,000,000	+79,182,000	+74,489,000	+74,489,000
Federal employee health	629,000	641,000	641,000	641,000	+12,000		
Construction and modernization				60,000,000	+60,000,000	+60,000,000	+60,000,000
Payment to Hawaii	1,200,000	1,200,000	1,200,000	2,200,000	+1,000,000	+1,000,000	+1,000,000
Subtotal	132,647,000	137,352,000	137,352,000	272,841,000	+140,194,000	+135,489,000	+135,489,000
Health maintenance organizations	18,100,000	18,100,000	21,100,000	21,100,000	+3,000,000	+3,000,000	
Emergency medical services	40,125,000	33,625,000	39,625,000	45,000,000	+4,875,000	+11,375,000	+5,375,000
Program support	9,466,000	9,779,000	9,779,000	9,779,000	+313,000		
Subtotal, Health care systems	200,338,000	198,856,000	207,856,000	348,720,000	+148,382,000	+149,864,000	+140,864,000
Program management	5,700,000	6,474,000	6,474,000	6,474,000	+774,000		
Less: Trust fund transfer	−40,121,000	−34,934,000	−34,934,000	−34,934,000	+5,187,000		
Subtotal, Health services	1,089,931,000	1,144,315,000	1,187,571,500	1,387,046,000	+297,115,000	+242,731,000	+199,474,500

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
CENTER FOR DISEASE CONTROL							
Disease control:							
Project grants:							
Venereal disease	25,000,000	18,000,000	27,000,000	37,000,000	+12,000,000	+19,000,000	+10,000,000
Immunization	17,000,000	19,000,000	22,000,000	23,000,000	+6,000,000	+4,000,000	+1,000,000
Rat control	13,000,000	13,000,000	13,000,000	14,000,000	+1,000,000	+1,000,000	+1,000,000
Lead-based paint poisoning prevention	8,500,000	8,500,000	8,500,000	12,000,000	+3,500,000	+3,500,000	+3,500,000
Disease surveillance	54,100,000	53,607,000	55,107,000	45,000,000	−9,100,000	−8,607,000	−10,107,000
Laboratory improvements	15,803,000	15,490,000	17,490,000	17,490,000	+1,687,000	+2,000,000	
Health education	4,564,000	7,064,000	7,064,000	2,500,000	−2,064,000	−4,564,000	−4,564,000
Occupational health:							
Grants	8,500,000	4,900,000	10,900,000	10,900,000	+2,400,000	+6,000,000	
Direct operations	42,269,000	44,277,000	45,277,000	44,277,000	+2,008,000		−1,000,000
Buildings and facilities				1,000,000	+1,000,000	+1,000,000	+1,000,000
Program management	3,037,000	3,088,000	3,088,000	3,088,000	+51,000		
Subtotal, Preventive health	191,773,000	186,926,000	209,426,000	210,255,000	+18,482,000	+23,329,000	+829,000
NATIONAL INSTITUTES OF HEALTH							
National Cancer Institute	814,936,000	818,936,000	831,936,000	920,000,000	+105,064,000	+101,064,000	+88,064,000
National Heart, Lung, and Blood Institute	396,661,000	403,642,000	432,642,000	456,000,000	+59,339,000	+52,358,000	+23,358,000
National Institute of Dental Research	55,573,000	57,981,000	58,981,000	63,000,000	+7,427,000	+5,019,000	+4,019,000
National Institute of Arthritis, Metabolism, and Digestive Diseases	219,600,000	216,961,000	237,461,000	273,000,000	+53,400,000	+56,039,000	+35,539,000
National Institute of Neurological and Communicative Disorders and Stroke	155,500,000	161,461,000	175,000,000	179,000,000	+23,500,000	+17,539,000	+4,000,000
National Institute of Allergy and Infectious Diseases	141,000,000	153,442,000	157,042,000	162,000,000	+21,000,000	+8,558,000	+4,958,000
National Institute of General Medical Sciences	205,000,000	219,896,000	225,396,000	235,000,000	+30,000,000	+15,104,000	+9,604,000
National Institute of Child Health and Human Development	145,543,000	155,761,000	162,761,000	167,000,000	+21,457,000	+11,239,000	+4,239,000
National Institute on Aging	30,000,000	34,500,000	39,000,000	35,000,000	+5,000,000	+500,000	−4,000,000
National Eye Institute	64,000,000	64,981,000	85,000,000	74,952,000	+10,952,000	+9,971,000	−10,048,000
National Institute of Environmental Health Sciences	51,141,000	58,100,000	63,600,000	58,000,000	+6,859,000	−100,000	−5,600,000
Research resources	137,500,000	102,074,000	144,947,000	144,947,000	+7,747,000	+42,873,000	
John E. Fogarty, International Center	7,992,000	8,369,000	8,369,000	8,369,000	+377,000		
Subtotal, biomedical research	2,424,446,000	2,456,104,000	2,622,135,000	2,776,268,000	+351,822,000	+32,0164,000	+154,133,000
National Library of Medicine	35,234,000	36,746,000	36,746,000	36,746,000	+1,512,000		
Office of the Director	16,934,000	17,871,000	17,871,000	71,871,000	+937,000		
Buildings and facilities	67,400,000	65,650,000	65,650,000	65,650,000	−1,750,000		
Total, National Institute of Health	2,544,014,000	2,576,371,000	2,742,402,000	2,896,535,000	+352,521,000	+320,164,000	+154,133,000
BIOMEDICAL RESEARCH—BY ACTIVITY (NON-ADD)							
Research grants:							
Regular programs:							
Noncompeting	733,984,000	768,795,000	768,795,000	768,705,000	+34,811,000		
Competing	275,134,000	288,896,000	356,696,000	356,696,000	+81,562,000	+67,800,000	
Subtotal	1,009,118,000	1,057,691,000	1,125,491,000	1,125,491,000	+116,373,000	+67,800,000	
Biomedical research support	40,873,000		35,000,000	35,000,000	−5,873,000	+35,000,000	
Minority research support	9,711,000	8,772,000	10,772,000	10,772,000	+1,061,000	+2,000,000	
Special programs:							
Multidisciplinary Centers	200,030,000	202,905,000	202,905,000	202,905,000	+2,875,000		
Other	162,556,000	174,471,000	174,471,000	174,471,000	+11,915,000		
Subtotal	362,586,000	377,376,000	377,376,000	377,376,000	+14,790,000		
Subtotal, research grants	1,422,288,000	1,443,839,000	1,548,639,000	1,548,639,000	126,351,000	+104,800,000	
Training programs:							
Individual awards	31,446,000	31,247,000	31,247,000	31,247,000	−199,000		
Institutional awards	104,694,000	91,639,000	91,639,000	91,639,000	−13,055,000		
Subtotal	136,140,000	122,886,000	122,886,000	122,886,000	−13,254,000		
Research and development contracts	388,488,000	391,838,000	396,838,000	396,838,000	+8,350,000	+5,000,000	
Intramural research operations	249,071,000	268,474,000	271,474,000	271,474,000	+22,403,000	+3,000,000	
Direct operations	161,455,000	172,972,000	172,972,000	172,972,000	+11,517,000		
Cancer disease control	60,625,000	61,233,000	62,233,000	61,233,000	+608,000		
Cancer construction grants	22,001,000	12,000,000	12,000,000	12,000,000	−10,001,000		
Program management	36,546,000	37,479,000	37,479,000	37,479,000	+933,000		
Subtotal, Biomedical Research	2,476,614,000	2,510,721,000	2,623,521,000	2,623,521,000	+146,907,000	+112,800,000	
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION							
General mental health:							
Research	108,908,000	106,908,000	116,908,000	116,908,000	+8,000,000	+10,000,000	
Training	86,600,000	86,600,000	86,600,000	86,600,000			
Community programs:							
Planning	1,000,000				−100,000,000		
Operations:							
First year	17,967,000		22,775,000	30,000,000	+12,033,000	+30,000,000	+7,225,000
Continuation:							
Grants initiated under new law	29,851,000	53,340,000	53,340,000	53,340,000	+23,489,000		
Converted staffing grants	49,914,000	104,754,000	104,754,000	104,754,000	+54,840,000		
Conversion	20,000,000	9,372,000	19,372,000	19,372,000	−628,000	+10,000,000	
Consultation and education	8,000,000	8,245,000	8,245,000	8,245,000	+245,000		
Financial distress	7,000,000	4,988,000	4,988,000	6,988,000	−12,000	+2,000,000	+2,000,000
Continuations under old law:							
Staffing	79,806,000	38,247,000	38,247,000	38,247,000	−41,559,000		
Child mental health	18,786,000	13,900,000	13,900,000	13,900,000	−4,886,000		
Subtotal, Community programs	232,324,000	232,846,000	265,621,000	274,846,000	+42,522,000	+42,000,000	+9,225,000
Program support	28,502,000	27,695,000	27,695,000	27,695,000	−807,000		
Subtotal, Mental health	456,334,000	454,049,000	496,824,000	506,049,000	+49,715,000	+52,000,000	+9,225,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION—Continued							
Drug abuse:							
Research	34,000,000	34,000,000	34,000,000	34,000,000			
Training	10,000,000	10,000,000	10,000,000	10,000,000			
Community programs:							
Project grants and contracts	160,000,000	161,500,000	161,500,000	161,500,000	+1,500,000		
Grants to States	40,000,000	40,000,000	40,000,000	40,000,000			
Program support	16,686,000	16,572,000	16,572,000	16,572,000	−114,000		
Subtotal, Drug abuse	260,686,000	262,072,000	262,072,000	262,072,000	+1,386,000		
Alcoholism:							
Research	14,808,000	13,179,000	16,179,000	16,179,000	+1,371,000	+3,000,000	
Training	7,200,000	7,200,000	7,200,000	7,200,000			
Community programs:							
Project grants and contracts	73,008,000	68,719,000	75,008,000	82,508,000	+9,500,000	+13,789,000	+7,500,000
Grants to States	56,800,000	55,500,000	56,800,000	56,800,000		+1,300,000	
Program support	9,538,000	9,468,000	9,468,000	9,468,000	−70,000		
Subtotal, Alcoholism	161,354,000	154,066,000	164,655,000	172,155,000	+10,801,000	+18,089,000	+7,500,000
Buildings and facilities		350,000	350,000	350,000	+350,000		
Program management	7,197,000	7,119,000	7,119,000	7,119,000	−78,000		
Subtotal, Alcohol, drug abuse and mental health	885,571,000	877,656,000	931,020,000	947,745,000	+62,174,000	+70,089,000	+16,725,000
Saint Elizabeths Hospital	64,514,000	68,746,000	68,746,000	68,746,000	+4,232,000		
Construction and renovation (SEH)		810,000	2,010,000	2,010,000	+2,010,000	+1,200,000	
Subtotal, ADAMHA	950,085,000	947,212,000	1,001,776,000	1,018,501,000	+68,416,000	+71,289,000	+16,725,000
HEALTH RESOURCES ADMINISTRATION							
National health statistics	29,349,000	34,778,000	35,278,000	33,600,000	+4,251,000	−1,178,000	−1,678,000
Health planning and resources development:							
Health planning	130,000,000	125,000,000	140,000,000	150,000,000	+20,000,000	+25,000,000	+10,000,000
Special medical facilities	9,000,000			1,750,000	−7,500,000	+1,750,000	+1,750,000
Program support	11,921,000	11,924,000	11,924,000	11,924,000	+3,000		
Subtotal, Planning and resources	150,921,000	136,924,000	151,924,000	163,674,000	+12,753,000	+26,750,000	+11,750,000
Health services research	30,134,000	30,442,000	33,542,000	32,442,000	+2,308,000	+2,000,000	−1,100,000
Health manpower:							
Health professions institutional assistance:							
Capitation grants	125,000,000	114,500,000	144,000,000	125,000,000		+10,500,000	−19,000,000
MOD	(101,100,000)	(114,500,000)	(120,100,000)	(101,100,000)		(−13,400,000)	(−19,000,000)
VOPP	(18,000,000)		(18,000,000)	(18,000,000)		(+18,000,000)	
Public Health	(5,900,000)		(5,900,000)	(5,900,000)		(+5,900,000)	
Health teaching facilities	26,000,000		5,000,000	8,500,000	−17,500,000	+8,500,000	+3,500,000
Health professions student assistance:							
Loans	24,000,000		10,000,000	26,000,000	+2,000,000	+26,000,000	+16,000,000
Loan repayments	2,000,000	1,500,000	1,500,000	1,500,000	−500,000		
National health service scholarships	40,000,000	40,000,000	55,000,000	55,000,000	+15,000,000	+15,000,000	
Scholarships	1,000,000				−1,000,000		
Exceptional need scholarships		5,000,000	5,000,000	5,000,000	+5,000,000		
Shortage area scholarships	400,000				−400,000		
Subtotal, Student assistance	67,400,000	46,500,000	71,500,000	87,500,000	+20,100,000	+41,000,000	+16,000,000
Health professions special educational assistance:							
Family med. residencies and training	39,000,000	45,000,000	45,000,000	45,000,000	+6,000,000		
Primary care residencies and training	15,000,000	15,000,000	15,000,000	15,000,000			
Project grants—VOPP	5,350,000				−5,350,000		
Interdisciplinary Training	5,350,000			5,000,000	−350,000	+5,000,000	+5,000,000
Physicians/dental extenders	10,500,000	11,100,000	11,100,000	11,100,000	+600,000		
Area Health Education Centers	14,000,000	15,500,000	17,000,000	17,000,000	+3,000,000	+1,500,000	
Disadvantaged assistance	10,000,000	8,000,000	14,500,000	14,500,000	+4,500,000	+6,500,000	
Foreign medical graduates	1,000,000	2,000,000	2,000,000	2,000,000	+1,000,000		
Manpower initiatives	10,000,000				−10,000,000		
Project grants MOD	14,850,000				−14,850,000		
Emergency medical training	6,000,000		6,000,000	6,000,000		+6,000,000	
National Advisory Committee on Graduate Medical Education	1,000,000	1,000,000	1,000,000	1,000,000			
Health profession startup	3,326,000	1,000,000	1,000,000	2,000,000	−1,326,000	+1,000,000	+1,000,000
Financial distress	3,500,000	2,000,000	2,000,000	4,000,000	+500,000	+2,000,000	+2,000,000
Supply and distribution reports	1,000,000	2,000,000	2,000,000		−1,000,000	−2,000,000	−2,000,000
Subtotal, Special programs	139,876,000	102,600,000	116,600,000	122,600,000	−17,276,000	+20,000,000	+6,000,000
Dental Health Education	8,000,000	2,100,000	4,000,000	4,000,000	−4,000,000	+1,900,000	
Nursing institutional assistance:							
Capitation grants	40,000,000		32,00,0000	30,000,000	−10,000,000	+30,000,000	−2,000,000
Advanced nurse training	9,000,000		10,000,000	12,000,000	+3,000,000	+12,000,000	+2,000,000
Nurse practitioner training	9,000,000	9,000,000	13,000,000	13,000,000	+4,000,000	+4,000,000	
Special projects	15,000,000	6,000,000	15,000,000	15,000,000		+9,000,000	
Subtotal	73,000,000	15,000,000	70,000,000	70,000,000	−3,000,000	+55,000,000	
Nursing student assistance:							
Loans	22,500,000		20,000,000	22,500,000		+22,500,000	+2,500,000
Scholarships	6,500,000	9,000,000	9,000,000	9,000,000	+2,500,000		
Traineeships	13,000,000		13,000,000	13,000,000		+13,000,000	
Loan repayment	3,000,000		1,500,000	1,500,000	−1,500,000	+1,500,000	
Fellowships	1,000,000		1,000,000	1,000,000		+1,000,000	
Subtotal	46,000,000	9,000,000	44,500,000	47,000,000	+1,000,000	+38,000,000	+2,500,000
Nursing research	5,000,000		5,000,000	5,000,000		+5,000,000	
Subtotal, Nursing programs	124,000,000	24,000,000	119,500,000	122,000,000	−2,000,000	+98,000,000	+2,500,000
District of Columbia Medical and Dental	8,900,000				−8,900,000		
Allied health (institutional)	24,000,000	8,000,000	20,000,000	20,000,000	−4,000,000	+12,000,000	

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Public Health:							
Special projects and health administration	5,500,000	5,000,000	5,000,000	5,000,000	−500,000		
Public health traineeships	9,120,000		7,000,000	7,000,000	−2,120,000	+7,000,000	
Health administration graduate programs		3,000,000	3,000,000	3,000,000	+3,000,000		
Health administration traineeships			1,000,000	2,000,000	+2,000,000	+2,000,000	+1,000,000
Subtotal, Public Health	14,620,000	8,000,000	16,000,000	17,000,000	+2,380,000	+9,000,000	+1,000,000
Health teaching fac. interest subsidies		2,000,000	2,000,000	2,000,000	+2,000,000		
Program support	22,577,000	23,020,000	23,020,000	23,020,000	+443,000		
Subtotal, Health Manpower	560,373,000	330,720,000	521,620,000	531,620,000	−28,753,000	+200,900,000	+10,000,000
Program management	10,947,000	11,755,000	11,755,000	11,755,000	+808,000		
Subtotal, Health Resources	781,724,000	544,619,000	754,119,000	773,091,000	−8,633,000	+228,472,000	+18,972,000
Payments of sales insufficiencies	4,000,000	2,592,000	2,592,000	2,592,000	−1,408,000		
Medical Facilities Guarantee and Loan Fund	31,000,000	41,000,000	41,000,000	41,000,000	+10,000,000		
Subtotal, Health Resources Administration	816,724,000	588,211,000	797,711,000	816,683,000	−41,000	+228,472,000	+18,972,000
ASSISTANT SECRETARY FOR HEALTH							
Salaries and expenses	23,177,000	23,178,000	23,178,000	23,178,000	+1,000		
Health education and promotion				2,500,000	+2,500,000	+2,500,000	+2,500,000
Retirement pay and medical benefits for commissioned officers	52,352,000	56,948,000	56,948,000	56,948,000	+4,596,000		
Scientific activities overseas	1,500,000	11,387,000	11,387,000	11,387,000	+9,887,000		
Subtotal, Assistant Secretary for Health	77,029,000	91,513,000	91,513,000	94,013,000	+16,984,000	+2,500,000	+2,500,000
Subtotal, Health	5,669,556,000	5,534,548,000	6,030,399,500	6,423,033,000	+753,477,000	+888,485,000	+392,633,500
EDUCATION DIVISION							
Office of Education							
ELEMENTARY AND SECONDARY EDUCATION							
Grants for disadvantaged children (Title I)	2,285,000,000	2,635,000,000	2,735,000,000	2,800,000,000	+515,000,000	+165,000,000	+65,000,000
Support and innovation grants	194,000,000	194,000,000	194,000,000	201,000,000	+7,000,000	+7,000,000	+7,000,000
Bilingual education:							
Grants to school districts	74,300,000	81,000,000	81,000,000	81,000,000	+6,700,000		
Training grants	29,700,000	36,975,000	36,975,000	36,975,000	+7,275,000		
Materials	7,000,000	10,000,000	10,000,000	10,000,000	+3,000,000		
Grants to State agencies	3,900,000	4,375,000	4,375,000	4,375,000	+475,000		
Advisory council	100,000	150,000	150,000	150,000	+50,000		
Information clearinghouse	167,000	500,000	500,000	500,000	+333,000		
Model replication and studies		2,000,000	2,000,000	2,000,000	+2,000,000		
Subtotal, Bilingual education	115,167,000	135,000,000	135,000,000	135,000,000	+19,833,000		
Right to Read	26,000,000	26,000,000	27,000,000	27,000,000	+1,000,000	+1,000,000	
Follow Through	59,000,000	59,000,000	59,000,000	59,000,000			
Drug abuse education	2,000,000	2,000,000	2,000,000	2,000,000			
Environmental education	3,500,000	3,500,000	3,500,000	3,500,000			
Educational broadcasting facilities	15,000,000	15,000,000	15,000,000	22,500,000	+7,500,000	+7,500,000	+7,500,000
Ellender fellowships	750,000	750,000	750,000	750,000			
Ethnic heritage studies	2,300,000	2,300,000	2,300,000	2,300,000			
State equalization grants	10,500,000				−10,500,000		
Indochinese refugee assistance	18,500,000				−18,500,000		
Subtotal, Elem. and sec. education	2,734,717,000	3,072,550,000	3,173,550,000	3,253,050,000	+521,333,000	+180,500,000	+79,500,000
SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS							
Maintenance and operations:							
Payments for "A" children	271,600,000	295,700,000	298,300,000	298,300,000	+26,700,000	+2,600,000	
Payments for "B" children	341,550,000		344,900,000	344,900,000	+3,350,000	+344,900,000	
Special provisions	15,350,000	16,600,000	16,600,000	16,600,000	+12,250,000		
Payments to other Federal agencies	52,500,000	57,700,000	57,700,000	57,700,000	+5,200,000		
Savings provisions	87,000,000		52,500,000	85,000,000	−2,000,000	+85,000,000	+32,500,000
Subtotal	768,000,000	370,000,000	770,000,000	802,500,000	+34,500,000	+432,500,000	+32,500,000
Construction	25,000,000	25,000,000	30,000,000	50,000,000	+25,000,000	+25,000,000	+20,000,000
Subtotal	793,000,000	395,000,000	800,000,000	852,500,000	+59,500,000	+457,500,000	+52,500,000
EMERGENCY SCHOOL AID							
National competition projects:							
Bilingual education projects	8,600,000	8,600,000	8,600,000	8,600,000			
Educational television	6,450,000	6,450,000	6,450,000	6,450,000			
Special programs and projects	45,750,000	50,750,000	48,250,000	55,000,000	+9,250,000	+4,250,000	+6,750,000
Evaluation	2,150,000	2,150,000	2,150,000	2,150,000			
Magnet schools	7,500,000	5,000,000	7,500,000	30,000,000	+22,500,000	+25,000,000	+22,500,000
State apportioned projects:							
Pilot programs	32,250,000	32,250,000	32,250,000	32,250,000			
Grants to non-profit organizations	17,200,000	17,200,000	17,200,000	17,200,000			
General grants to school districts	137,600,000	136,700,000	137,600,000	137,600,000			
Subtotal, emergency school aid (direct)	257,500,000	260,000,000	260,000,000	289,250,000	+31,750,000	+29,250,000	+29,250,000
Civil rights advisory services	34,700,000	34,700,000	34,700,000	37,400,000			
Subtotal, Emergency school aid	292,200,000	294,700,000	294,700,000	323,950,000	+31,750,000	+29,250,000	+29,250,000
EDUCATION FOR THE HANDICAPPED							
State assistance:							
State grant program	315,000,000	365,000,000	465,000,000	485,000,000	+170,000,000	+120,000,000	+20,000,000
Deaf-blind centers	16,000,000	16,000,000	16,000,000	16,000,000			
Preschool incentive grants	12,500,000	12,500,000	12,500,000	15,000,000	+2,500,000	+2,500,000	+2,500,000
Subtotal, State assistance	343,500,000	393,500,000	493,500,000	516,000,000	+172,500,000	+122,500,000	+22,500,000
Special population programs:							
Severely handicapped projects	5,000,000	5,000,000	5,000,000	5,000,000			
Specific learning disabilities	9,000,000	9,000,000	9,000,000		−9,000,000	−9,000,000	−9,000,000
Early childhood projects	22,000,000	22,000,000	22,000,000	22,000,000			
Subtotal, special population programs	36,000,000	36,000,000	36,000,000	26,000,000	−9,000,000	−9,000,000	−9,000,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
EDUCATION FOR THE HANDICAPPED—Continued							
Regional vocational, adult, and postsecondary programs	2,000,000	2,000,000	2,000,000	2,000,000			
Innovation and development	11,000,000	11,000,000	11,000,000	20,000,000	+9,000,000	+9,000,000	+9,000,000
Media and resource services:							
Media services and captioned films	19,000,000	19,000,000	19,000,000	19,000,000			
Regional resource centers	9,750,000	9,750,000	9,750,000	9,750,000			
Recruitment and information	1,000,000	1,000,000	1,000,000	1,000,000			
Subtotal, media and resource services	29,750,000	29,750,000	29,750,000	29,750,000			
Special education manpower development	45,375,000	45,375,000	45,375,000	45,375,000			
Special studies	1,735,000	2,300,000	2,300,000	2,300,000	+565,000		
Subtotal. Education for the handicapped	469,360,000	519,925,000	619,925,000	642,425,000	+173,065,000	+122,500,000	+22,500,000
OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION							
Vocational education grants, academic year 1976–1977	(451,246,000)				(−451,246,000)		
Vocational education (1977–1978 academic year vs. 1978–1979 academic year):							
Grants to States for vocational education:							
Basic vocational education program	412,719,000	393,719,000	430,266,000	430,266,000	+17,547,000	+36,547,000	
Program improvement supportive services	103,180,000	98,430,000	107,567,000	107,567,000	+4,387,000	+9,137,000	
Programs for students with special needs	20,000,000	20,000,000	20,000,000	20,000,000			
Consumer and homemaking education	40,994,000	40,994,000	40,994,000	40,994,000			
State advisory councils	5,066,000	5,066,000	5,066,000	5,066,000			
Subtotal, Staff grants	581,959,000	558,209,000	603,893,000	603,893,000	+21,934,000	+45,684,000	
Programs of national significance	27,153,000	25,903,000	28,307,000	28,307,000	+1,154,000	+2,404,000	
Bilingual vocational training	2,800,000	2,800,000	2,800,000	2,800,000			
Subtotal, vocational education 1978–79	611,912,000	586,912,000	635,000,000	635,000,000	+23,088,000	+48,088,000	
Adult education	90,750,000	80,500,000	90,750,000	90,750,000		+10,250,000	
Subtotal, occupational vocational, and adult education	1,153,908,000	667,412,000	725,750,000	725,750,000	−428,158,000	+58,338,000	
HIGHER EDUCATION							
Student assistance:							
Basic educational opportunity grants	1,903,900,000	2,316,000,000	2,300,000,000	2,070,000,000	+166,100,000	−246,000,000	−230,000,000
Supplemental educational opportunity grants	250,093,000	240,093,000	270,093,000	270,093,000	+20,000,000	+30,000,000	
Work-study	390,000,000	390,000,000	420,000,000	450,000,000	+60,000,000	+60,000,000	+30,000,000
Direct loans:							
Federal capital contributions	310,500,000		310,500,000	310,500,000		+310,500,000	
Loans to institutions	800,000		1,000,000		−800,000		−1,000,000
Teacher cancellations	11,920,000	15,160,000	15,160,000	15,160,000	+3,240,000		
Incentive grants for State scholarships	60,000,000	44,000,000	63,750,000	63,750,000	+3,750,000	+19,750,000	
Subtotal, Student assistance	2,927,213,000	3,005,253,000	3,380,503,000	3,179,503,000	+252,290,000	+174,250,000	−201,000,000
Special programs for the disadvantaged	85,000,000	70,331,000	125,000,000	100,000,000	+15,000,000	+29,669,000	−25,000,000
Educational Information Centers			5,000,000				−5,000,000
Minorities in the professions		3,000,000	3,250,000			−3,000,000	−3,250,000
Institutional assistance:							
Strengthening developing institutions	110,000,000	120,000,000	120,000,000	120,000,000	+10,000,000		
Language training and area studies	17,650,000	16,300,000	18,000,000	18,000,000	+350,000	+1,700,000	
University community services	14,125,000	12,125,000	18,000,000	18,000,000	+3,875,000	+5,875,000	
Aid to land-grant colleges	11,500,000	11,500,000	11,500,000	11,500,000			
State postsecondary education commissions	3,500,000	3,500,000	3,500,000	3,500,000			
Veterans cost of instruction	23,750,000	23,750,000	23,750,000	23,750,000			
Cooperative education	12,250,000	10,750,000	15,000,000	15,000,000	+2,750,000	+4,250,000	
Construction—annual interest grants		4,000,000	4,000,000	4,000,000	+4,000,000		
Subtotal, Institutional assistance	192,775,000	201,925,000	213,750,000	213,750,000	+20,975,000	+11,825,000	
Personnel development:							
College teacher fellowships	100,000				−100,000		
Local training for disadvantaged (CLEO)	750,000	1,000,000	1,000,000	1,000,000	+250,000		
Public service fellowships	4,000,000	4,000,000	4,000,000	4,000,000			
Mining fellowships	4,500,000	3,000,000	4,500,000	4,500,000		+1,500,000	
Law school clinical experience			1,000,000				−1,000,000
Subtotal, Personnel development	9,350,000	8,000,000	10,500,000	9,500,000	+150,000	+1,500,000	−1,000,000
Wayne Morse Chair on Law and Politics				500,000	+500,000	+500,000	+500,000
Subtotal, Higher education	3,214,338,000	3,288,509,000	3,738,003,000	3,503,253,000	+288,915,000	+214,744,000	−234,750,000
LIBRARY RESOURCES							
Public libraries	60,237,000	60,237,000	60,237,000	60,237,000			
School libraries and instructional resources	154,330,000	154,330,000	160,000,000	180,000,000	+25,670,000	+25,670,000	+20,000,000
College library resources	9,975,000	9,975,000	9,975,000	9,975,000			
Research Libraries			3,000,000	7,000,000	+7,000,000	+7,000,000	+4,000,000
Training and demonstration	3,000,000	1,500,000	3,000,000	3,000,000		+1,500,000	
Undergraduate instructional equipment	7,500,000	7,500,000	7,500,000	7,500,000			
Guidance, counseling and testing	3,000,000		3,000,000		−3,000,000		−3,000,000
Subtotal, Library resources	238,042,000	233,542,000	246,712,000	267,712,000	+29,670,000	+34,170,000	+21,000,000
SPECIAL PROJECTS AND TRAINING							
Special projects:							
Metric education projects	2,090,000	2,090,000	2,090,000	2,090,000			
Gifted and talented children	2,560,000	2,560,000	2,560,000	2,560,000			
Community schools	3,553,000	3,553,000	3,553,000	3,553,000			
Career education	10,135,000	10,135,000	10,135,000	10,135,000			
Consumer education	3,135,000	3,135,000	3,135,000	5,000,000	+1,865,000	+1,865,000	+1,865,000
Women's educational equity	7,270,000	8,085,000	8,085,000	8,085,000	+815,000		
Arts in education program	1,750,000	1,750,000	2,000,000	2,000,000	+250,000	+250,000	
Packaging and field testing	10,000,000	10,000,000	10,000,000	10,000,000			
Educational TV programming	7,000,000	7,000,000	5,000,000	5,000,000	−2,000,000	−2,000,000	
Subtotal	47,493,000	48,308,000	46,558,000	48,423,000	+930,000	+115,000	+1,865,000

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Educational personnel training:							
Teacher centers		5,000,000	5,000,000	12,500,000	+12,500,000	+7,500,000	+7,500,000
Teacher Corps	37,500,000	37,500,000	37,500,000	37,500,000			
Planning and evaluation	7,085,000	7,200,000	7,085,000	7,085,000		−115,000	
General program dissemination	500,000	500,000			−500,000	−500,000	
Information clearinghouse	333,000	400,000	400,000	333,000		−67,000	−67,000
Subtotal, Special Projects and Training	92,911,000	98,908,000	96,543,000	105,841,000	+12,930,000	+6,933,000	+9,298,000
Guaranteed Student Loan Program:							
Interest subsidies	325,000,000	121,781,000	121,781,000	121,781,000	−203,219,000		
Student Loan Insurance Fund	32,312,000	133,943,000	133,943,000	133,943,000	+101,631,000		
Contingency Borrowing Authority (SLIF)		25,000,000	25,000,000	25,000,000	+25,000,000		
Subtotal, Guaranteed student loan program	357,312,000	280,724,000	280,724,000	280,724,000	−76,588,000		
Higher Education Facilities Loan and Insurance Fund	2,119,000	1,847,000	1,847,000	1,847,000	−272,000		
Education Activities Overseas:							
Special Foreign Currency Program	2,000,000	2,000,000	2,000,000	2,000,000			
Salaries and Expenses:							
Advisory committees	2,281,000	2,041,000	2,261,000	2,261,000	−20,000	+220,000	
Program administration	112,976,000	127,018,000	123,128,000	123,128,000	+10,152,000	−3,890,000	
Subtotal, Salaries and expenses	115,257,000	129,059,000	125,389,000	125,389,000	+10,132,000	−3,670,000	
Subtotal, Office of Education	9,462,164,000	8,984,176,000	10,105,143,000	10,084,441,000	+622,277,000	+1,100,265,000	−20,702,000
NATIONAL INSTITUTE OF EDUCATION							
Research and development	58,300,000	96,000,000	76,600,000	76,600,000	+18,300,000	−19,400,000	
Program administration	12,085,000	13,000,000	13,000,000	13,000,000	+915,000		
Subtotal, National Institute of Education	70,385,000	109,000,000	89,600,000	89,600,000	+19,215,000	−19,400,000	
ASSISTANT SECRETARY FOR EDUCATION							
Improvement of Post-Secondary Education	11,500,000	14,500,000	12,500,000	11,500,000		−3,000,000	−1,000,000
Salaries and Expenses	9,062,000	10,159,000	9,939,000	9,939,000	+877,000	−220,000	
National Center for Educational Statistics	13,120,000	15,940,000	14,940,000	13,120,000		−2,820,000	−1,820,000
Subtotal, Assistant Secretary for Education	33,682,000	40,599,000	37,379,000	34,559,000	+877,000	−6,040,000	−2,820,000
Subtotal, Education Division	9,566,231,000	9,133,775,000	10,232,122,000	10,208,600,000	+642,369,000	+1,074,825,000	−23,522,000
SOCIAL AND REHABILITATION SERVICE							
Public Assistance:							
Maintenance assistance	6,306,430,000	6,605,800,000	6,585,800,000	6,300,000,000	−6,430,000	−305,800,000	−285,800,000
Medical assistance	10,229,318,000	11,816,000,000	11,464,400,000	10,750,000,000	+520,682,000	−1,066,000,000	−714,400,000
Social services	2,576,589,000	2,401,300,000	2,401,300,000	2,401,300,000	−175,289,000		
State and local training	79,860,000	75,000,000	75,000,000	75,000,000	−4,860,000		
Child welfare services	56,500,000	56,500,000	56,500,000	56,400,000			
Research	9,200,000	9,200,000	9,200,000	9,200,000			
Training projects	8,150,000		8,150,000	10,000,000	+1,850,000	+10,000,000	+1,850,000
Subtotal	19,266,047,000	20,963,800,000	20,600,350,000	19,602,000,000	+335,953,000	−1,361,800,000	−998,350,000
Work incentives:							
Grants to states	356,995,000	351,995,000	351,995,000	351,995,000	−5,000,000		
Program direction	13,005,000	13,005,000	13,005,000	13,005,000			
Subtotal	370,000,000	365,000,000	365,000,000	365,000,000	−5,000,000		
Cuban refugee program	82,000,000	67,700,000	67,700,000	76,200,000	−5,800,000	+8,500,000	+8,500,000
Special assistance to refugees from Cambodia, Vietnam, Laos in the U.S.	50,000,000				−50,000,000		
Program administration	65,751,000	74,535,000	73,000,000	73,000,000	+7,249,000	−1,535,000	
Subtotal	19,833,798,000	21,471,035,000	21,106,050,000	20,116,200,000	+282,402,000	−1,354,835,000	−989,850,000
SOCIAL SECURITY ADMINISTRATION							
Federal Funds							
Payments to the Social Security Trust Fund:							
Federal payments for supplementary medical insurance	5,053,000,000	6,383,000,000	6,383,000,000	6,383,000,000	+1,330,000,000		
Hospital insurance for the uninsured	803,000,000	687,941,000	687,941,000	687,941,000	−115,059,000		
Military service credits	622,000,000	656,000,000	656,000,000	656,000,000	+34,000,000		
Special payments for certain uninsured persons	235,902,000	228,203,000	228,203,000	228,203,000	−7,699,000		
Subtotal, Payments to SS Trust Fund	6,713,902,000	7,955,144,000	7,955,144,000	7,955,144,000	+1,241,242,000		
Subtotal, health function 550	(5,997,000,000)	(7,213,941,000)	(7,213,941,000)	(7,213,941,000)	(+1,216,941,000)		
Subtotal, income maintenance function 600	(716,902,000)	(741,203,000)	(741,203,000)	(741,203,000)	(+24,301,000)		
Special Benefits for Disabled Coal Miners:							
Benefit payments	947,865,000	958,000,000	958,000,000	958,000,000	+10,135,000		
Administration	14,100,000	9,623,000	9,623,000	9,623,000	−4,477,000		
Subtotal, Special benefits	961,965,000	967,623,000	967,623,000	967,623,000	+5,658,000		
Supplemental Security Income Program:							
Benefit payments	5,230,000,000	5,000,000,000	5,000,000,000	4,500,000,000	−730,000,000	−500,000,000	−500,000,000
State supplemental payments	55,000,000	45,000,000	45,000,000	45,000,000	−10,000,000		
Vocational rehabilitation services	52,770,000	75,180,000	75,180,000	75,180,000	+22,410,000		
Administration	500,352,000	542,958,000	542,958,000	542,958,000	+42,606,000		
Federal fiscal liability	57,000,000	86,862,000	86,862,000	86,862,000	+29,862,000		
Subtotal	5,895,122,000	5,750,000,000	5,750,000,000	5,250,000,000	−645,122,000	−500,000,000	−500,000,000
Limitation on salaries and expenses	(2,597,655,000)	(2,685,951,000)	(2,685,951,000)	(2,685,951,000)	(+88,296,000)		
Limitations on construction	(14,400,000)	(14,600,000)	(14,600,000)	(14,600,000)	(+200,000)		
Subtotal, Social Security Administration	16,183,044,000	17,373,318,000	17,373,318,000	16,873,318,000	+690,274,000	−500,000,000	−500,000,000
Federal funds	13,570,989,000	14,672,767,000	14,676,767,000	14,172,767,000	+601,778,000	−500,000,000	−500,000,000
Trust fund limitation	(2,612,055,000)	(2,700,551,000)	(2,700,551,000)	(2,700,551,000)	(+88,496,000)		

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1977 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1978—Continued

[Amounts in dollars]

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
TITLE II—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—Continued							
SPECIAL INSTITUTIONS							
American Printing House for the Blind	3,012,000	3,498,000	3,498,000	3,498,000	+486,000		
National Technical Institute for the Deaf: Academic Program	12,675,000	14,630,000	14,630,000	14,630,000	+1,955,000		
Gallaudet College:							
Academic Program	15,610,000	17,510,000	17,150,000	17,510,000	+1,900,000		
Model Secondary School for the Deaf	7,343,000	8,343,000	8,343,000	8,343,000	+1,000,000		
Kendall Demonstration Elementary School	3,270,000	3,907,000	3,907,000	3,907,000	+637,000		
Construction	15,575,000	16,216,000	16,216,000	16,216,000	+641,000		
Subtotal, Gallaudet College	41,798,000	45,976,000	45,976,000	45,976,000	+4,178,000		
Howard University:							
Academic Program	63,487,000	73,087,000	73,087,000	73,087,000	+9,600,000		
Howard University Hospital	22,106,000	22,106,000	22,106,000	22,106,000			
Construction	2,500,000	3,925,000	3,925,000	3,925,000	+1,425,000		
Subtotal, Howard University	88,093,000	99,118,000	99,118,000	99,118,000	+11,025,000		
Subtotal, Special Institutions	145,578,000	163,222,000	163,222,000	163,222,000	+17,644,000		
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT							
Child development:							
Head Start	475,000,000	485,000,000	595,000,000	655,000,000	+180,000,000	+170,000,000	+60,000,000
Research, demonstration, and evaluation	14,700,000	16,700,000	14,700,000	14,700,000		−2,000,000	
Child abuse	18,928,000	18,928,000	18,928,000	18,928,000			
Subtotal, Child development	508,628,000	520,628,000	628,628,000	688,628,000	+180,000,000	+168,000,000	+60,000,000
Youth development	9,000,000	9,000,000	9,000,000	16,000,000	+7,000,000	+7,000,000	+7,000,000
Aging programs							
Community services (Title III):							
State agency activities	17,000,000	17,000,000	18,000,000	20,000,000	+3,000,000	+3,000,000	+2,000,000
Area planning and social services	122,000,000	122,000,000	153,000,000	153,000,000	+31,000,000	+31,000,000	
Model projects	14,700,000	12,000,000	15,000,000	15,000,000	+300,000	+3,000,000	
Subtotal, Community Services	153,700,000	151,000,000	186,000,000	188,000,000	+34,300,000	+37,000,000	+2,000,000
Nutrition (Title VII)	203,525,000	225,000,000	250,000,000	250,000,000	+46,475,000	+25,000,000	
Research, demonstration, and manpower (Title IV):							
Research	8,500,000	7,000,000	8,500,000	8,500,000		+1,500,000	
Training	14,200,000	14,200,000	16,000,000	18,000,000	+3,800,000	+3,800,000	+2,000,000
Multidisciplinary centers on gerontology	3,800,000	3,800,000	3,800,000	3,800,000			
Subtotal, Research, demonstration, and manpower	26,500,000	25,000,000	28,300,000	30,300,000	+3,800,000	+5,300,000	+2,000,000
Federal Council on Aging	575,000	450,000	450,000	450,000	−125,000		
Multipurpose Senior Center (Title V)	20,000,000	20,000,000	40,000,000	30,000,000	+10,000,000	+10,000,000	−10,000,000
National clearinghouse		2,000,000	2,000,000	2,000,000	+2,000,000		
Subtotal, Aging programs	404,300,000	423,450,000	506,750,000	500,750,000	+96,450,000	+77,300,000	−6,000,000
Rehabilitation Service and Facilities:							
Basic State grants	740,309,000	760,472,050	760,472,050	760,472,000	+20,163,000	−50	−50
Service projects:							
Innovation and expansion	18,000,000	18,000,000	18,000,000	18,000,000			
Deaf-blind Center	2,100,000	2,500,000	2,500,000	2,500,000	+400,000		
Special projects	17,150,000	14,327,950	19,328,000	17,028,000	−122,000	+2,700,050	−2,300,000
Training and facilities grants:							
Training services	5,000,000	5,000,000	5,000,000	5,000,000			
Facility improvements	2,400,000	2,400,000	2,400,000	2,400,000			
Subtotal, Service projects	44,650,000	42,227,950	47,228,000	44,928,000	+278,000	+2,700,050	−2,300,000
Research	29,000,000	29,000,000	30,000,000	33,000,000	+4,000,000	+4,000,000	+3,000,000
Training	30,500,000	20,000,000	30,500,000	30,500,000		+10,005,000	
Subtotal	844,459,000	851,700,000	868,200,050	868,900,000	+24,441,000	+17,200,000	+699,950
Grants for the Developmentally Disabled:							
State grants	333,058,000	33,058,000	33,058,000	33,058,000			
Service grants	19,617,000	19,567,000	19,567,000	19,567,000	−50,000		
University affiliated facilities	5,250,000	5,500,000	6,500,000	7,500,000	+2,250,000	+2,000,000	+1,000,000
Subtotal	57,925,000	58,125,000	59,125,000	60,125,000	+2,200,000	+2,000,000	+1,000,000
Special programs for Native Americans	33,000,000	33,000,000	33,000,000	33,000,000			
White House Conference on Handicapped Individuals	1,436,000				−1,436,000		
White House Conference on Families		3,000,000		3,000,000	+3,000,000		+3,000,000
Salaries and expenses	49,449,000	51,875,000	51,875,000	51,875,000	+2,426,000		
Less: Trust fund transfer	−600,000	−600,000	−600,000	−600,000			
Subtotal, Human development	1,907,597,000	1,950,178,000	2,155,978,050	2,221,678,000	+314,081,000	+271,500,000	+65,699,950
DEPARTMENTAL MANAGEMENT							
Office for Civil Rights	29,770,000	36,061,000	33,821,000	33,821,000	+4,051,000	−2,240,000	
Less: Trust fund transfer	−919,000	−514,000	−514,000	−514,000	+405,000		
Subtotal, Office of Civil Rights, Federal funds	28,851,000	35,547,000	33,307,000	33,307,000	+4,456,000	−2,240,000	
General Department Management:							
Department direction	45,026,000	51,810,000	49,260,000	49,260,000	+4,234,000	−2,550,000	
Department operations	38,703,000	42,646,000	42,196,000	42,196,000	+3,493,000	−450,000	
Less: Trust fund transfer	−9,443,000	−9,579,000	−9,579,000	−9,579,000	−136,000		
Subtotal, General department management	74,286,000	84,877,000	81,877,000	81,877,000	+7,591,000	−3,000,000	

Item	1977 appropriation	Budget estimate	House allowance	Committee recommendation	Increase (+) or decrease (−) compared with— 1977 appropriation	Budget estimate	House allowance
Office of the Inspector General	27,453,000	29,633,000	29,633,000	29,633,000	+2,180,000		
Less: Trust fund transfer	−3,905,000	−4,290,000	−4,290,000	−4,290,000	−385,000		
Subtotal, Inspector General, General funds	23,548,000	25,343,000	25,343,000	25,343,000	+1,975,000		
Policy research	20,000,000	22,400,000	40,000,000	22,400,000	+2,400,000		−17,600,000
Subtotal, Departmental Management	146,685,000	168,167,000	180,527,000	162,927,000	+16,242,000	−5,240,000	−17,600,000
Total, Health, Education, and Welfare	53,507,477,000	55,844,160,000	57,291,533,550	56,218,895,000	+2,711,418,000	+374,735,000	−1,072,638,550
Federal Funds	50,840,434,000	53,093,692,000	54,451,065,550	53,468,427,000	+2,627,993,000	+374,735,000	−1,072,638,550
Trust Funds	(2,667,043,000)	(2,750,468,000)	(2,750,468,000)	(2,750,468,000)	(+83,425,000)		
TITLE III—RELATED AGENCIES							
Action (Domestic Programs):							
Volunteers in Service to America (VISTA)	23,000,000	25,350,000	25,350,000	25,350,000	+2,350,000		
Service Learning Programs	5,500,000	5,500,000	5,500,000	5,500,000			
Older Americans Volunteer Programs:							
Foster Grandparents Program	34,000,000	34,900,000	34,900,000	34,900,000	+900,000		
Senior Companion Program	3,800,000	6,600,000	7,000,000	7,000,000	+3,200,000	+400,000	
Retired Senior Volunteer Program	19,000,000	20,100,000	20,100,000	20,100,000	+1,100,000		
Subtotal, Older Volunteers	56,800,000	61,600,000	62,000,000	62,000,000	+5,200,000	+400,000	
Special Volunteer Programs	2,500,000	2,500,000	2,500,000	2,500,000			
Program Support	21,310,000	21,910,000	21,910,000	21,910,000	+600,000		
Subtotal, Action	109,110,000	116,860,000	117,260,000	117,260,000	+8,150,000	+400,000	
Community Service Administration:							
Community Action Operations:							
Local initiative	330,000,000	330,000,000	363,000,000	375,000,000	+45,000,000	+45,000,000	+12,000,000
Senior opportunities and service	10,000,000	10,000,000	10,000,000	10,000,000			
State economic opportunity offices	12,000,000	12,000,000	12,000,000	12,000,000			
Community food and nutrition	27,500,000	27,500,000	27,500,000	35,000,000	+7,500,000	+7,500,000	+7,500,000
Emergency energy conservation services	110,000,000		45,000,000	65,000,000	−45,000,000	+65,000,000	+20,000,000
Crisis intervention program (energy)	200,000,000				−200,000,000		
National youth sports program	6,000,000		6,000,000	6,000,000		+6,000,000	
Summer youth recreation and transportation	17,000,000		17,000,000	17,000,000		+17,000,000	
Training and technical assistance		1,000,000	1,000,000	1,000,000	+1,000,000		
Migrant program	1,000,000		1,000,000	1,000,000		+1,000,000	
Research and demonstration:							
Rural housing and development and rehabilitation	5,000,000		6,000,000	6,000,000	+1,000,000	+6,000,000	
Subtotal, Community Action	718,500,000	380,500,000	488,500,000	528,000,000	−190,500,00	+147,500,000	+39,500,000
Community Economic Development	48,170,000	30,000,000	48,170,000	47,170,000		+18,170,000	
Evaluation		1,000,000	1,000,000	1,000,000	+1,000,000		
Program Administration	27,883,000	31,000,000	30,183,000	30,183,000	+2,300,000	−817,000	
Subtotal, Community Services Administration	794,553,000	442,500,000	567,853,000	607,353,000	−187,200,000	+164,853,000	+39,500,000
Corporation for Public Broadcasting	103,000,000				−103,000,000		
Advance 1978	107,150,000				−107,150,000		
Advance 1979	120,200,000				−120,200,000		
Advance 1980		120,200,000	145,000,000	155,000,000	+155,000,000	+34,800,000	+10,000,000
Subtotal, Corporation for Public Broadcasting	330,350,000	120,200,000	145,000,000	155,000,000	−175,350,000	+34,800,000	+10,000,000
Federal Mediation and Conciliation Service	21,177,000	21,932,000	21,932,000	21,932,000	+755,000		
National Commission on Libraries and Information Science	4,007,575	563,000	563,000	563,000	−3,444,575		
National Labor Relations Board	80,908,000	88,520,000	88,520,000	88,520,000	+7,612,000		
National Mediation Board	3,660,000	3,703,000	3,703,000	3,703,000	+43,000		
Occupational Safety and Health Review Commission	6,607,000	7,150,000	7,150,000	7,150,000	+543,000		
Railroad Retirement Board:							
Payment to Railroad Retirement Trust Funds	250,000,000	250,000,000	250,000,000	250,000,000			
Regional Rail Transportation Protective Account	65,000,000	50,000,000	50,000,000	50,000,000	−15,000,000		
Limitation on salaries and expenses	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)		
Soldier's and Airmen's Home (trust fund appropriation):							
Operation and maintenance	16,009,000	16,356,000	16,356,000	16,356,000	+257,000		
Subtotal, Related Agencies	1,715,194,575	1,151,066,000	1,301,619,000	1,351,119,000	−364,075,575	+200,053,000	+49,500,000
Federal funds	1,681,471,575	1,117,784,000	1,268,337,000	1,317,837,000	−363,634,575	+200,053,000	+49,500,000
Trust funds	(33,723,000)	(33,282,000)	(33,282,000)	(33,282,000)	(−441,000)		
Final total, Labor-HEW	76,325,980,575	64,925,861,000	65,682,300,550	65,112,437,000	−11,213,543,575	+186,576,000	−569,863,550
Federal funds	72,178,708,575	60,593,970,000	61,334,089,550	60,744,226,000	−11,434,482,575	+150,256,000	−589,863,550
Limitation on trust fund transfers	(4,147,272,000)	(4,331,891,000)	(4,348,211,000)	(4,368,211,000)	(+220,939,000)	(+36,320,000)	(+20,000,000)

Mr. MAGNUSON. Mr. President, I yield the floor to the Senator from Massachusetts.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senator from Massachusetts (Mr. BROOKE) is recognized.

Mr. BROOKE. Mr. President, I thank the distinguished chairman of the subcommittee for yielding.

Mr. President, the pending bill provides funding for the Departments of Labor, Health, Education, and Welfare and related agencies for fiscal year 1978.

The budget requests we are considering total some $162 billion with trust funds counted in. In the area of funds which this committee acts upon directly, our bill totals $60,744,226,000. This is $589,863,550 under the House and only $150,256,000 above the budget request.

The fact that our bill is so low results from $1.8 billion in cuts from the budget estimates made in public welfare, medicaid, and supplemental security income. The cuts are based on projected carryover funds from fiscal year 1977 and reestimates of actual needs in fiscal year 1978.

There has been some discussion about the legitimacy of this reduction in welfare and supplemental security income. I would only say that the committee made the decision based upon estimates provided it by the Congressional Budget Office and others.

These estimates are, of course, subject to change. Thus, we make this reduction with the understanding that these are entitlement programs and it may be necessary to appropriate supplemental amounts to make up any shortfall that may occur.

Mr. President, let me provide the Senate with the highlights of our bill:

LABOR

Our total for the Department of Labor is $5.9 billion. This is an increase of $433.2 million over the House level, $424.5 million under the budget request, and $13.6 billion less than in fiscal 1977. The re-

duction from the 1977 level is due primarily to nonrecurring unemployment benefit costs and the fact that public service jobs have already been forward-funded into fiscal 1978. There is no need at this time to provide further amounts for the public service jobs program.

Beyond this, our committee has provided increased funding for two other jobs programs.

For summer jobs for youth we provide $893 million, or $298 million more than the House allowance. Under the Senate's bill we increase job slots from the present level of 1 million to 1.5 million. It is estimated the number of disadvantaged young people eligible for these jobs total about 2 million. So we would only be 500,000 under the total eligible.

For older workers we provide $200 million. This is $19.6 million above the House allowance. The Senate bill will provide 50,000 job slots, or about 12,600 more positions than are presently provided. The jobs go to low-income persons 55 years of age and older.

We also have made one other substantial change. Under the Occupational Safety and Health Administration we have shifted $3 million to the Federal compliance effort so as to provide additional inspectors, particularly in the area of worker health. The funds have been shifted from State OSHA programs where there appear to have been surpluses in the past.

HEALTH

Our total for the health function is $6,423,033,000. This is $392,633,500 more than the amount in the House and $888,485,000 above the administration request.

In the area of services, we have provided additional funds for emergency medical services, for hypertension, for maternal and child health grants, for sudden infant death, for family planning, and for Public Health Service hospitals.

Let me call particular attention to three of these areas.

For sudden infant death, SID's, our committee provides additional funds for both counseling and information and for basic research.

SID's is also known as crib death because of the number of infants who die in their cribs while asleep. SID's is the leading cause of death of infants between 1 and 12 months. It takes an estimated 7,500 infants' lives each year. But, as our subcommittee's recent oversight hearing on sudden infant death showed, the parents of the infants also are victims. They not only are left in a state of shock, but may also feel they were negligent in caring for their babies. It is clear they need counseling from trained professionals. However, we found that the HEW information and counseling program is poorly funded and does not provide for at least one project in each State. Our committee thus increased funding for SID's counseling from the $1.7 million in the budget to $3.6 million, the full amount of the authorization. We also have provided increased funding for SID's research by the National Child Health Institute over the $7.7 million now in the budget. Our level could more than double the allowance for SID's research.

For family planning services we provide $140 million, an increase of $16.3 million over the House and the budget. It is estimated that the recommendation will support an additional 600,000 persons in need of family planning services, particularly low-income women and teenagers. It is our committee's intent that these funds be used only for title X projects and that none of the money be transferred, administratively or otherwise, to other HEW programs.

Our committee also has provided an additional $74.4 million for Public Health Service hospitals and clinics to assist in meeting all costs which were incurred during fiscal year 1977 but for which no funds were appropriated. The committee has provided another $60 million to renovate and modernize these facilities.

For the National Institutes of Health, our committee has attempted to restore some balance to the funding of the various Institutes. Under our approach most of the Institutes receive a 15-percent increase over their fiscal year 1977 appropriation. Because its appropriation has been rising rapidly, the National Cancer Institute was given an increase of over 12 percent to $920 million. This is some $88 million more than the House allowance, a substantial increase.

Clearly, our committee is not in the least downgrading the battle against cancer. Cancer's appropriation is rising and is now nearing the $1 billion mark.

We believe that ever so gradually cancer research is paying off and that the program is on the right track. Although the research is expensive and time-consuming, NCI must, as our report points out, "have adequate financial resources to continue its humanitarian work."

In other areas of biomedical research, we give special emphasis to diabetes, arthritis, central nervous system regeneration, high risk pregnancy, communicable diseases, diseases of the eye, the aging process, and genetics. I could go on at length citing the many research priorities in our bill.

We have also provided more funding for alcoholism in particular because of our concern about the drinking problems of women and teenagers. Other increases over the House are for community mental health centers, for health planning, health professions and nursing education.

EDUCATION

For education, the committee provides $10,208,600,000. We have included increases over the budget request for handicapped children, for disadvantaged students in elementary and secondary schools and at the postsecondary level, for school desegregation efforts and for impact aid, among others. Yet, our bill is less than a 7-percent increase over the fiscal year 1977 appropriation for education and is $23.5 million below the House figure for 1978.

For elementary and secondary education, we recommend $3,253,050,000. Most of this amount, $2.8 billion, is for title I grants to disadvantaged children. Our recommendation, which is $65 million above the House figure, would provide services to about 64 percent of eligible children, as compared to only 57 percent currently.

We provide an increase of $29 million under emergency school aid to get the new magnet schools program into full swing and to provide some additional help to cities undergoing desegregation under either voluntary or court-ordered plans.

We provide $642.4 million for handicapped education, which includes an additional $20 million over the House for grants to the States. The total for State grants is thus $485 million which will be enough to fully fund the entitlement for the 3.6 million handicapped children identified by the States so far. We are only in the second year under the new handicapped education law and States will be required to provide full services to all handicapped children ages 3 to 18 by next year. It is important to provide States the full entitlement to carry out these mandatory services so as not to lose the momentum generated by the program thus far.

In short, Mr. President, Congress had mandated that all handicapped children receive equal educational opportunities. Thus, we must provide the funds, for we know full well that many of the States in this Nation are unable to provide sufficient funds to assure those children of equal educational opportunities. Therefore, we are attempting to do so in this bill to carry out the mandate of Congress for equal educational opportunities for all handicapped children in this country. It is a giant step forward, but it is an essential step that must be taken by this Congress.

The committee has provided $3,503,253,000 for higher education, $3.2 billion of which is for student assistance. This is nearly $235 million less than the House bill. The principal difference from the House is in basic grants, BOGS, for which we provide $2.07 billion, a reduction of $230 million under the House level. This amount will be enough to serve all eligible disadvantaged students and provide for a $200 increase in the maximum award, to a $1,600 ceiling. This will help, to some extent, with tuition increases which have afflicted a growing number of students from middle as well as lower income families. We also provide $1.1 billion for other student grant and loan programs to supplement basic grants, including a $30 million increase over the House for work-study jobs. The committee concurred with the House in rejecting the request by the administration to terminate support for the direct loan program; we provide $310.5 million to continue the program at its current level.

For school libraries, we provide $180 million, an increase of $20 million over the House, to help libraries meet the increasing cost of materials, and we provide $7 million for the newly authorized research libraries program to help make their resources more widely available and avoid costly duplication of collections.

Libraries, like all other institutions, have been hard hit with inflationary, spiraling costs. Thus, we try to provide some relief for them in this bill.

For impact aid, we concurred with the House in rejecting the administration's

proposal to cut off abruptly the aid to school districts for so-called category B children whose parents work on—but do not live on—Federal property. This proposal would have had a sudden and serious financial impact on nearly one-fourth of the Nation's school districts.

WELFARE

For public assistance we provide $19.6 billion, and for the Social Security Administration $14.1 billion. The total of both of these components is nearly $1.5 billion below the House level and $1.87 billion below the budget request. As I stated earlier, these cuts are based on estimated future requirements in the aid to families with dependent children program, in medicaid and in SSI, which are, in fact, uncontrollable programs.

HUMAN DEVELOPMENT

We have provided $655 million for the Headstart program, an increase of $170 million over the administration's request and $60 million more than the House provided. Most of this increase would go for expansion of the program, its first since 1968. The committee provided a total of $500 million for aging programs, $77 million more than the administration asked and nearly a 20-percent increase over the current year. This is designed to serve the elderly in parts of the country currently underserved.

RELATED AGENCIES

For related agencies, we provide a total of $1.35 billion. Nearly half, $607 million, is for poverty programs under the Community Services Administration. We provide increases over the House in the energy conservation, local initiative, and community food and nutrition programs. These increases total $39.5 million. The increase for local community action programs is the first in several years.

LANGUAGE AMENDMENTS

Our committee struck two language amendments added by the House. One would have prohibited the use of OSHA funds for issuing health and safety standards, unless accompanied by so-called economic impact statements. The matter is under review, and there is a serious concern that the development of such statements could delay putting essential health standards into effect.

The other amendment would have prohibited the use of HEW funds to support affirmative action programs. It is clear the amendment would tie the Department's hands in civil rights enforcement and should be dropped.

So far as the money provisions in the bill are concerned, I believe we have developed a responsive but prudent bill. There is no doubt we could have provided for even higher levels of funding for many worthy programs, but we recognize there are limited funds available and we must choose our priorities carefully. This we have done. Speaking purely on the funding levels provided by this bill, I am glad to recommend them to the Senate.

Mr. President, I take this opporunity to express again my deepest admiration and respect for the distinguished chairman of this subcommittee, Senator WARREN MAGNUSON of the State of Washington. He works tirelessly and effectively as our chairman.

Actually, we hold months of hearings on this bill. There is never a time when the bill is not before us, either this bill or bills supplemental to this bill. That means, Mr. President, that we are constantly holding hearings, markups, then hearings on supplementals and markups, then bringing them to the floor for consideration by the full Senate. It has been an inspiration and a pleasure for me to work as the ranking minority member with such a distinguished chairman. I commend him.

I also commend the very able and effective staff that we have in the Labor-Health Education and Welfare Subcommittee. Terry Lierman, who is our distinguished staff director, and Gar Kaganowich, Jim Sourwine, Sam Hunt, Jim Moran, Jim Painter, Featherstone Reid, and the ladies who work with them all have combined to make this, I think, a truly very, very important piece of legislation.

I want to add one thing further. I associate myself with what the distinguished chairman has said. Mr. President, this is an appropriations bill, not a legislative bill. Each year, we are confronted with all of the legislation which authorizing committees that have the legislative responsibility seemingly want to shirk and put over on to the Appropriations Committee. We have spent many hours, many days, and many weeks on legislative matters, particularly abortions, busing, OSHA, and the like. We hope that, at some time, these authorizing committees—we have said it before and we say it again—will accept their responsibility and deal with these important, substantive legislative matters in the legislative committees, and not leave them for the Appropriations Committee.

We have rules, Mr. President, which provide that we cannot legislate in an appropriations bill. But somehow, they have maneuvered around now by language to make it possible for them actually to legislate on an appropriations bill.

The distinguished majority leader and our distinguished minority leader are well aware of the parliamentary procedures that have been used in the past and which we expect here. I hope that, in consideration of this bill—because time is of the essence and it is such an important bill which we want to get through the Senate and into conference with the House and signed by the President—we can expedite this matter by not having lengthy discussions on the issues that I have spoken of—these issues have been well and fully debated by the Senate time after time—so that we can expedite the Senate's business.

I also hope, Mr. President, that the new President of the United States, in his first year in office, will recognize the importance of this bill. I hope he will also recognize what I am sure the House has done and what the Senate has done in order to present a realistic bill, a bill that recognizes the need of the administration to hold down spending, but, at the same time, recognizes the needs of the poor, the disadvantaged, the disabled, and the elderly. If he will do that, I am sure he will sign this bill into law.

Mr. President, I ask unanimous consent for floor privileges for the duration of the discussion of this bill for Michael Shorr of the Committee on Human Resources, Ralph Neas, Janet Anderson, Ernie Garcia, Steve Kittrell, Mary Wheat, Sheila Burke, John Napier, and Barbara Harris.

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

Mr. BROOKE. I yield the floor for now.

Mr. MAGNUSON. Mr. President, I thank the distinguished Senator, the ranking minority member on the committee, for his presentation of the matter on the floor, and for the fact that he has made a statement about this constant legislation under appropriations bills.

Mr. President, I ask unanimous consent, on behalf of Senator RIBICOFF, that Susan Irving of his staff be accorded the privilege of the floor.

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

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD a view supported by the Labor Department of language added on the House floor concerning illegal aliens. It is a statement by the Labor Department. It does not necessarily coincide with the committee's views.

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

The amendment has the limited objective of denying illegal aliens the benefits of CETA funds, unemployment insurance, youth training programs and elderly employment funds. This was the stated intent of Congressman Biaggi, the principal sponsor of the House of Representatives amendment. Thus, by prohibiting the Department of Labor from using funds "to carry out any activity for or on behalf" of an illegal alien, the amendment merely seeks to prevent certain public funds from being dispursed directly and specifically to aid individual illegal aliens. This would result from a transfer of federal funds either directly "for" the illegal alien, as in the disbursement of CETA funds to an illegal alien, or "on behalf" of the illegal alien, as in the expenditure of public funds for the training of a particular illegal alien.

On the other hand, the amendment would not require the Department of Labor to suspend its law enforcement activities because its investigation of an entire workplace might incidentally benefit one or more illegal aliens. For example, the amendment does not prevent the initiation or continuation of a proceeding under the Occupational Health and Safety Act just because a single illegal alien is employed in a factory in which two thousand legal workers are also employed. Similarly, in administering ERISA, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Davis-Bacon and Related Acts, the Service Contract Act, the Walsh-Healey Public Contracts Act, the Farm Labor Contractor Registration Act, and other statutes which the Department of Labor enforces, the Department could still initiate and continue a proceeding even if some of the employees who would benefit by the proceeding were illegal aliens.

The amendment has been designed to deny

certain privileges to illegal aliens and is certainly not meant to harm legal workers. Any interpretation to the effect that the amendment meant the Department of Labor could not proceed with an investigation of, for example, an allegedly unsafe workplace, because one illegal alien was employed there would be contrary to the intent of the amendment. Such interpretation would harm legal workers by denying them their rights to work in a safe and healthy environment. Where the Department enforces its various statutes which affect all workers, it is not taking action directly and specifically to benefit illegal aliens, but rather is acting "on behalf" of all employees.

THE DROUGHT SITUATION

Mr. MAGNUSON. Mr. President, I have become increasingly concerned about our Nation's drought situation, particularly out West. Nobody yet knows the full impact in the coming months in terms of unemployment, but we certainly have to prepare for the worst. In this regard, I have been trying to get the Labor Department to gear up for prompt action to counteract possibly severe drought-related unemployment.

At first, Secretary of Labor Marshall indicated he would set aside only $5 million for special drought assistance projects for the entire Nation. This was clearly not enough. For Washington State alone, the Governor has submitted a proposal to the Labor Department for $16 million, of which $8 million is needed immediately.

The Appropriations Committee, therefore, included report language directing the Secretary of Labor to set aside up to $50 million, to be made available as needed from funds currently available, during the balance of the fiscal year ending this September.

Secretary Marshall indicated he is collecting data to get the facts on the severity of drought-related unemployment, and will develop a national plan by July 1, 1977. In response to a letter from Senator JACKSON and me, the Secretary agreed to allocate the full $50 million called for by the Senate report, if indeed the data shows unemployment due to drought justifies this expenditure. I certainly hope drought-related unemployment does not reach crisis proportions; but if it does, I feel we have laid the groundwork to insure a prompt and meaningful response by the Labor Department.

Mr. President, I ask unanimous consent to have printed in the RECORD a Senate report excerpt, as well as correspondence with the Labor Department, concerning the drought situation.

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

REPORT No. 95-283

DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATION BILL, 1978

JUNE 21—(legislative day, MAY 18), 1977.—Ordered to be printed

(Mr. MAGNUSON, from the Committee on Appropriations, submitted the following report, to accompany H.R. 7555.)

The Committee remains concerned about the severe drought in the Far West, particularly in the States of California, Idaho, Oregon and Washington. The need to direct substantial amounts of discretionary funds to these affected states above their allocations to which they would otherwise be entitled is clear.

Accordingly, the Secretary is directed to channel discretionary funds adequate to support State-developed, drought-related emergency employment projects. In order to insure that sufficient funding is available to meet drought assistance needs as they may arise, the Secretary is directed to set aside both remaining fiscal year 1977 uncommitted discretionary resources and money anticipated to be reclaimed from prime sponsors this summer, up to $50,000,000, to be made available as needed during the balance of fiscal year 1977.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 20, 1977.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: This letter will provide you with information on funding of drought-related unemployment projects to supplement that which I provided you and five other Senators in my letter of June 16. I would specifically like to review for you my decision on a proposal to alleviate drought-related unemployment submitted to me by Governor Ray of Washington.

First of all, let me say that any Department of Labor response to drought-related unemployment will be based on a national assessment of the problems as they are manifested across the country. We have drought-related project proposals from a number of States, in particular the State of California. Our position to date, on all proposals, has been that the drought situation has not had significant unemployment effects. While there is the potential for a considerable unemployment problem due to the drought, it has not developed into a problem of an emergency nature. If and when such problems develop, the Department must evaluate the needs of each State relative to those of others similarly affected.

We have established an information system to provide us with current data on the impact of the drought. This system involves a weekly Drought Report from 21 States on the number of individuals filing drought-related unemployment insurance claims. State employment security agencies have also been asked to supplement this report by estimates of total drought-related unemployment, both insured and uninsured. The first reports from this system will be available on June 24.

As I indicated in my letter of June 16, I have set aside $5 million to be used nationwide for drought assistance projects. The Employment and Training Administration (ETA) has begun preliminary work on a plan for distributing these funds should our information systems indicate that drought-related unemployment is reaching serious levels. The plan will provide for analysis of such variables as the population affected, anticipated length of unemployment and the existence of alternative or supplementary relief systems. The final plan should be completed by July 1. Weekly information from Washington State will be considered under the plan along with that from other States that we are monitoring.

With regard to Washington State's particular proposal, I met with staff from Governor Ray's office on June 7. The Governor's representatives, members of your staff, and staff from my office discussed the proposal at length. The Governor had requested $8 million to provide project-type employment for those affected by the drought situation in the State. Those groups anticipated to be most severely affected are migrant and seasonal farmworkers and persons working in the logging industry.

After assessment of a variety of information currently available to us about drought-related unemployment in Washington State and the nation as a whole, I decided that the situation described by the proposal did not warrant direct intervention by this Department. I intend to communicate this decision to Governor Ray shortly.

Staff of the ETA also had some concerns about certain elements of the Washington State proposal. The proposal addressed the possibility of impact on both migrant workers and loggers but was not definite about a specific population to be served nor whether the populations described would meet eligibility requirements under the Comprehensive Employment and Training Act (CETA). The proposal also requested Departmental waiver of legislative provisions requiring public service employees to be paid comparable wages for comparable work done by unsubsidized employees. We believe that such a waiver would be inappropriate. We will communicate these concerns to Governor Ray. We will also inform the Governor that we have set aside $5 million for drought-related unemployment assistance, which could be used for approved projects if the situation worsens.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 23, 1977.

Hon. F. RAY MARSHALL,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: We are responding to your letter concerning the drought situation, particularly with respect to the application for funding from the Governor's office in Washington State.

Your letter indicated that you plan to set aside only $5 million for drought assistance projects. Recognizing that the impact of the drought on employment may be much more severe, the Senate report accompanying the fiscal year 1978 appropriations bill directs you to set aside up to $50 million, to be used during the balance of fiscal year 1977. As you know, the Washington State application alone totals $16 million.

Since your letter also indicated you will be developing a national plan on drought assistance by July 1, 1977, we are seeking your assurance that you will allocate the full $50 million called for by the Senate report, should unemployment due to the drought justify this expenditure.

Your prompt reply to this letter will be appreciated.

Sincerely,

HENRY M. JACKSON,
U.S. Senate.

WARREN G. MAGNUSON,
Chairman, Labor-HEW Appropriations Subcommittee.

U.S. DEPARTMENT OF LABOR,
Washington, D.C., June 27, 1977.

Hon. WARREN G. MAGNUSON,
Chairman, Subcommittee on Labor-Health, Education, and Welfare, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your June 23, 1977, letter concerning Department of Labor funding of projects designed to reduce unemployment related to drought conditions.

I agree that the allocation of funding specifically earmarked for drought assistance is appropriate and, as directed by the Senate report accompanying the Fiscal Year 1978 appropriations bill, will utilize Fiscal Year 1977 discretionary resources and unused allocations to prime sponsors as the sources of such funding. If drought-related unemployment reaches levels sufficient to justify the expenditure of funding beyond that already available to the States, and if such funding is available, I will allocate up to $50 million for such purposes.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. MUSKIE. Mr. President, the bill before us today, H.R. 7555, would provide $60.6 billion in fiscal 1978 funding for the Departments of Labor, Health, Education, and Welfare, and related agencies. As reported to the Senate, H.R. 7555 is within the spending constraints imposed by the first budget resolution, and I intend to vote for the spending this bill provides.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to it under the budget resolution. This bill is under the subcommittee's section 302(b) allocation, and is generally consistent with the first budget resolution targets.

The Labor-HEW Subcommittee's allocation under section 302(b) totals $68.7 billion in budget authority and $73.5 billion in outlays. Enactment of H.R. 7555 as reported plus spending already enacted would leave room within the subcommittee's allocation for further appropriations of $8.0 billion in budget authority and $2.2 billion in outlays.

A number of supplemental claims can be anticipated, however, that will reduce this budget margin in the months ahead.

The first budget resolution assumed as much as $3.8 billion would be appropriated to permit a smooth continuation of the CETA public service jobs program into fiscal 1979. This bill does not include those funds, nor does it include about $500 million in budget authority requested by the President for the youth employment legislation now in conference. Based on the estimate used in the first budget resolution for medicaid, the funding in H.R. 7555 is low by $300 million. Possible supplementals totalling $1.2 billion may be needed to fund other initiatives now pending before Congress for child care grants, SSI benefits, education programs, child welfare services, and various other programs. All in all, however, passage of H.R. 7555 and these other possible requirements would still leave $2.0 billion in budget authority and $800 million in outlays within the Labor-HEW Subcommittee's 302(b) allocation.

Mr. President, I ask unanimous consent that a table listing these possible later requirements be inserted in the RECORD at this point.

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

H.R. 7555: Labor-HEW appropriations, 1978 relationship to subcommittee allocation

[Dollars in billions]

	Budget authority	*Outlays*
Subcommittee section 302(b) allocation	68.7	73.5
Other actions completed	0.1	0.1
H.R. 7555	60.6	71.2
Remaining allocation	8.0	2.2
Medicaid	0.3	0.5
Income security programs	0.2	0.2
Child care legislation	0.2	0.2
Employment and training initiatives	0.7	0.3
Education	0.5	----
CETA forward funding	3.8	----
Other programs	0.3	0.2
Total possible later requirements [1]	6.0	1.4
Possible amount over (+) or under (−) Subcommittee allocation	−2.0	−0.8

[1] Possible later requirements would be higher, and the remaining Subcommittee allocation lower, by $1.4 billion in budget authority and $0.1 billion in outlays based on estimates used for the medicaid, SSI, AFDC, and medicare programs in the 1978 First Budget Resolution. The higher figures used in the Resolution appear unlikely to materialize in future supplementals. In the case of medicaid, SSI and AFDC, $1.3 billion in 1977 budget authority that will not be needed in fiscal 1977 has been continued for use in fiscal 1978 by the Senate Appropriations Committee; thus, $1.3 billion of budget authority assumed for medicaid, AFDC and SSI in the Resolution will not be needed. Another $0.1 billion in budget authority and outlays was assumed to be needed for federal payments to the medicare trust funds over and above the amounts included in H.R. 7555. No supplemental is expected for this amount.

Mr. MUSKIE. The Labor-HEW bill affects spending in seven different budget categories. Only in the health area is there any likelihood that appropriations could result in our exceeding the functional target for budget authority. Taken together, the several bills that determine health spending would result in health budget authority being about $200 million over the resolution target. However, the House levels are below the target, so I think we must see the results of the various appropriations conferences before a definitive judgment on health spending can be reached.

This bill is within the budgetary constraints adopted by Congress and is in agreement with the budget priorities we adopted last May. The budget act established a means by which Congress expresses its own preferences on how Federal spending is allocated among the functions of Government. This process is independent of what the President proposes to Congress in his annual budget message and appropriations requests. We have acted to set our priorities for the coming year and we are now in the process of carrying out those budgetary decisions. The bill before us today is substantially consistent with the spending plan already agreed to. And may I remind Senators the total outlays in the congressional budget are below those of the President.

However, I urge my colleagues to resist any floor amendments for substantial increases. No increase in health funding should be approved without offsetting reductions, since we are already potentially over the resolution targets as things now stand. Substantial increases in other areas would be undesirable, since the likely margin remaining after accounting for probable further requirements is fairly thin, and spending estimates for many of these programs are likely to change in ways we cannot foresee. It is important that we maintain flexibility to meet the unforeseen needs as we proceed through the fiscal year beginning this October.

I wish to thank the distinguished subcommittee chairman, Senator MAGNUSON, for his support of the budget process, not only through his work on appropriations but in his valued role as a Budget Committee member as well. I greatly appreciate the subcommittee reporting a bill consistent with the congressional budget, and I will be pleased to vote in favor of the spending you propose for fiscal 1978.

Mr. BELLMON. Mr. President, H.R. 7555 represents one of the major pieces of spending legislation for fiscal year 1978. Questions naturally arise as to the budget implications of this bill and some of the implications have been addressed by previous comments on this bill. I believe it is more meaningful to look at the budget implications of this bill in the context of all of the appropriations bills. The Appropriations Committee had an allocation of budget authority and outlays under the first budget resolution which the committee divided among all its subcommittees. After making some preliminary assumptions about bills yet to be reported by the Appropriations Committee, the picture for all appropriations bills shows that the committee will likely be under its allocation in budget authority—perhaps by as much as $4.5 to $5 billion—but will likely be over its allocation in outlays by as much as $0.4 to $0.5 billion. These numbers include assumptions regarding expected future requirements and the number will likely change through committee action on unreported bills, as well as floor action and conference action.

But the trend is likely to hold—the budget authority (BA) appears to be OK, but we have an outlay problem. It also appears that a significant amount of our future flexibility concerning possible later requirements will be used up. Therefore, while I will likely vote for final passage of H.R. 7555, I will likely be opposed to spending increases of this or later bills and I will likely be in favor of amendments which propose rational reductions. For example, I believe that there are opportunities for reasonable reductions in this bill before us today.

Finally, as an overall comment, let me express concern about certain questionable budget practices which might cause bills to reflect inaccurate impressions regarding true costs. In this bill, for instance, I question the practice whereby unused BA from fiscal year 1977 for public assistance and medicaid programs were "rolled forward" to fund programs covered by this bill and thus the true cost of this bill is understated by about $1.3 billion in budget authority. The bill would still be within the budget without the roll forward, so the practice was not used to hide a budget buster. However, the practice does in my mind involve some truth in budgeting. We put into the fiscal year 1978 budget resolution BA to fund these programs and since the programs will not use 1978 BA, but rather pick up unused 1977 funds, I intend next month in the second budget resolution to move the budget targets downward so that the unused 1978 budget authority will not be floating around uncommitted.

There is one particular budget prob-

lem which deserves our attention. The health function is of special concern as the provisions in this and other appropriation bills exceeds first budget resolution targets by $200 million in controllable health programs. A special effort must be made to resist amendments which increase spending in this area.

The congressional budget process provides us with one of our best tools for setting priorities between human resource needs and other Federal obligations. The budget process can also help us evaluate carefully what we are supporting within the human services field and aline our always-short resources effectively to meet as many human needs as possible. We must resist the temptation to let all the existing Labor-HEW and related agencies programs grow and I believe we can restrain growth in this bill. Therefore, I plan to offer some amendments to try to shave a few of the more generous increases the committee proposes.

Mr. President, as I have stated, I have particular concerns about Federal spending for health programs. In fiscal year 1973, Federal health outlays were slightly less than $19 billion—$18,832 million. Now 5 years later we are facing a budget that will involve health outlays of about $44.5 billion. That is an increase of 137 percent in 5 years. That averages nearly 27 percent growth per year. It is clear that the Federal Government has helped fuel the raging inflation in medical care costs. We have been too willing to turn large sums of the taxpayers' money loose and we have paid far too little attention to the economic effects of what we were doing, or even to the extent to which our generosity was really helping people meet their legitimate health care needs.

Mr. President, this bill appropriates money for most of the Federal health care programs. Only the medicare hospital care program, the Veterans hospitals and certain other Federal health care activities are not covered in this bill. But the $24.5 billion for health programs funded under this bill point up for us some realities we should not ignore. Even if we accept the committee's conclusion that the medicaid program will operate for $1 billion less in new authority than the President's budget estimated for fiscal year 1978, the health programs we are funding in this bill will cost about $2.5 billion more than they are costing in fiscal year 1977. Now that looks like slower growth, about 12 percent rather than the 27 percent that we experienced during the past 5 years, but let us not get carried away with our successes. We do not have medicare part A—one of the fastest growing programs—in this bill. And the medicaid reestimates may turn out to be too low. In any event, this bill continues to help fuel inflation in the health care field that far exceeds what is being experienced in our overall national economy.

Mr. President, I shall offer some amendments to try to reduce somewhat this bill's overgenerosity for health programs. The proposed cuts reflected in my amendments are small ones, but I am convinced they are appropriate. By approving the reductions I will offer, the Senate can signify its readiness to exercise at least some modest restraint on growth of health care costs. Past failures to exercise restraint and establish priorities have resulted in inappropriate and excessive development of health resources which contribute to cost but not to real human health needs.

I want to call particular attention, Mr. President, to the excess supply of hospital beds in many areas of this country. According to the experts, we are supporting over 100,000 excess beds. We ought to be using Federal Government influence to encourage hospital closings, consolidations, and reorientation of services.

I ask unanimous consent to include in the RECORD at the conclusion of my remarks a speech delivered by Secretary Joseph Califano at the recent American Medical Association Conference.

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

(See exhibit 1.)

Mr. BELLMON. In this address, Secretary Califano discusses the problem of cost escalation in health care field, and stresses the need to eliminate excess beds. Also, I have a statement on surplus hospitals capacity and ask unanimous consent that it also be inserted in the RECORD at this time.

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

STATEMENT BY SENATOR HENRY BELLMON ON SURPLUS HOSPITAL CAPACITY, MAY 17, 1977

Cost inflation in health care has reached crisis proportions. U.S. citizens will spend over 150 billion dollars for medical care in 1977 which represents 8.6 percent of the Gross National Product. This figure is more than one and one-half times the entire national defense budget. At the same time, however, it does not include additional health expenditures of about 40 billion dollars for eyeglasses, prescription drugs, dental care, and related needs. Also, it does not include indirect expenditures of over 10 billion dollars in reduced tax revenues provided by federal income tax deductions for health insurance, and tax exemptions by state and local governments.

Hospital costs account for about 40 percent of all medical care expenditures and represent the most inflationary component of the health care system. Since the early 1960's, for example, the Consumer Price Index has increased 75 percent. At the same time, hospital costs increased 500 percent, physician charges over 250 percent, and all other medical and dental services by 150 percent. Currently, hospital costs are escalating at a rate of about 15 percent each year or about three times the rate for other goods and services. These increases in health care and related costs have created tremendous inflationary pressures on other segments of the economy. It is estimated, for example, that health insurance increased from an average of 3.8 to 4.7 percent of total payroll between 1973 and 1977. By 1979, Ford Motor Company estimates that annual costs per employee for medical insurance will be approximately $2,700.00.

There is considerable evidence that excess hospital use and capacity, which make little or no contribution to health levels, represent major factors accounting for unacceptable levels of cost escalation. Hospital care represents one of the nation's largest industries. Since 1960, the total number of non-federal, short-term hospital beds increased from 640,000 to 930,000 and the national ratio of beds to population increased from 8.6 per 1,000 to 4.4 per 1,000. Since 1960, over 35 billion dollars have been invested in hospital beds and equipment. It is estimated that over 5 billion dollars will be invested in 1977 despite the fact that surplus capacity exists in most communities.

The Institute of Medicine and others estimate that at least 10 percent of the existing hospital beds are not needed. These beds cost about 5 billion to construct and about 2 billion each year to operate. Despite this surplus, 27,000 additional beds were constructed in 1976. It is estimated that New York City alone has 5,000 surplus beds which cost over $250 million to build and nearly $100 million annually in operating expenses.

There is little evidence to suggest that excessive hospital beds contribute to better health. Studies do show, on the other hand, that capacity generates use. For example, it is estimated that a 10 percent increase in capacity leads to from 4 to 6 percent increase in use. In one study in Vermont, it was found that annual occupancy rates varied from 897 patients days per 1,000 persons to 1,578 patient days per 1,000 persons in communities with almost identical population characteristics and illness rates. Thus, the differences were due to variations in availability of services and not the health needs of the population. There was no evidence that the high rate of hospital utilization made a contribution to better health for consumers in the high use area. In fact, studies of Health Maintenance Organizations have shown that hospital use can be reduced to 600–800 patient days per 1,000 without decreasing health and well-being of patients.

It is clear that during the past decade, strong incentives have developed for building and using short-term hospital beds. These trends have slowly eroded all market discipline so that the system operates virtually without constraints. Federal planning efforts have had virtually no impact upon total capital investment. Even in areas where certificate-of-need programs have limited bed growth, capital investment has shifted to upgrading plant and equipment.

There is general consensus that three factors have contributed to the erosion of market discipline and development of positive incentives for over-building hospital beds and duplication of services. First, health care is characterized by indefinitely expansible demand. The difficult and uncertain nature of medicine implies that medical demands are virtually inexhaustible even though illness rates remain constant or even decline. Providers can always justify added expenditures in order to give greater safety margins for patients (a problem aggravated by tremendous increases in malpractice insurance), treat more and more hopeless patients, utilize more laboratory tests, upgrade the quality of facilities, and increase personnel. Thus, the medical care system can legitimately absorb every dollar society will make available to it.

A second factor is that the present incentive system is skewed toward specialized, technological, high cost care. Hospitals and physicians compete for prestige which is achieved largely from highly specialized rather than primary care. Hospitals must compete largely by attracting physicians who expect the latest equipment and facilities. Since these are essentially "free" to the physician, he is insulated from economic penalties associated with surplus capacity. As a result, every hospital is under pressure to invest in the latest technology and to have available highly specialized units even though similar facilities are available in the community. It is estimated, for example, that from 84–93 percent of the Cardiac surgery units in the U.S. are underutilized.

The third and probably most important incentive for excessive capacity has been the growth of third-party reimbursement. Third-party payors, government and private insurance, currently pays about 90 percent of all

hospital costs. The retrospective method of reimbursement provides almost open-ended financing to the medical care system. The patient and, to a larger extent the provider, control the demand for services, but the bill is paid by a third-party. The consumer, once the premium or and/or co-payment is paid, has every incentive to demand maximum benefits and the provider has every incentive to render them. This system has driven a wedge between cost and consumption of services and has eliminated penalties for unwise or unnecessary utilization of hospital care.

It is clear that immediate steps must be taken to reduce the supply of hospital beds. Since capacity begets use, a reduction in the number of beds to an acceptable average ratio of not more than 4 beds per 1,000 people will save 8–10 billion dollars in hospital costs over the next 5 years. The Institute of Medicine has recommended an immediate reduction in the number of beds of at least 10 percent and many health planners believe that reductions of 15–20 percent could be made without risk to the health of U.S. citizens. Such a reduction would still allow for annual use of 1,000 patient days per 1,000 population with an average occupancy rate of 77 percent. Highest priority should be given to closing entire hospitals in areas with bed to population ratio significantly above 4 per 1,000. It is estimated that a 10 percent reduction achieved by closing units would achieve 8 percent savings in hospital costs or about 1.6 billion dollars per year. Less savings are achieved by closing subunits within hospitals (4 percent savings on 10 percent decrease in beds and little is gained by simply eliminating beds (less than 1 to 2 percent).

The following table shows the estimated cost savings that would result from a ten percent reduction in per capita hospital capacity (dollars in billions).[1]

[1] Estimates assume an annual increase of 15% in hospital costs. Also, that savings will be phased in as beds are reduced (25% 1978; 50% 1979; 75% 1980; and 100% for 1981–82).

Type of reduction	Initial expense [1] (if purchased)	Annual saving, with Roemer effect [2]					Total 1978–82
		1978	1979	1980	1981	1982	
Individual beds	0.9	0.5	0.9	1.5	2.3	2.6	7.7
Service departments	1.8	.6	1.4	2.4	3.6	4.2	12.2
Entire hospitals	13.2	1.2	2.8	4.7	7.3	8.3	24.3
Moratorium only	0	.5	.8	1.1	1.8	2.5	6.7

[1] Initial expense refers to a one-time cost if surplus beds were purchased. Costs would be less if only the capital costs were paid by the Government.

[2] The Roemer effect refers to the tendency for excess beds to generate use. McClure estimates that a 10-percent reduction in beds results in a 4-percent reduction in utilization rates.

The decision to close hospitals or reduce surplus capacity will be strongly resisted in most communities. The prestige and reputation of hospitals are often viewed as vital assets to communities. In addition, closing a hospital or reducing capacity has major economic implications as hospitals employ large numbers of workers and purchase goods and services in the community.

Despite some community resistance, however, it is clear that policies must be adopted to reduce excessive capacity and utilization which make little or no contribution to health. If current rates of cost inflation continue, more and more Americans will be unable to afford even minimal care. In 1976, for example, annual medical costs (excluding dental care, eyeglasses, and prescription drugs) averaged $640.00 per person or about $2,560.00 for a family of 4. This represents 18 percent of the annual income of a family at the Median income level. This burden is felt through higher out-of-pocket costs, growing insurance premiums, and taxes (Federal expenditures for health are predicted to double by 1982). As indicated previously, first priority should be given to immediate efforts to close or divert surplus beds in areas with low-occupancy and unusually high capacity. This must be accomplished in such a way as to minimize the immediate economic impact upon the community and must involve a long-range strategy to alter those conditions responsible for unnecessary hospital demand and excessive capacity. Such a strategy should include policies which encourage more front-end cost sharing in hospital insurance, promote a variety of alternative delivery systems with incentives to utilize hospitals more efficiently, alter current systems of reimbursement, reduce the number of hospital-oriented specialists, and shift the emphasis to ambulatory or outpatient alternatives consistent with good patient care. These approaches will help to reestablish some of the market incentives and discipline to the health care system and reduce the motivation for continued development of unnecessary beds and duplication of expensive technology.

Mr. BELLMON. Mr. President, one of the amendments I will offer will attempt to keep us from spending $60 million on brick-and-mortar improvements in eight federally operated Public Health Service hospitals. This type of investment in outmoded and unneeded facilities is totally unjustified in my view. My amendment is just a small token of the type of actions the Federal Government could take to help restrain health care cost escalation.

In conclusion, Mr. President, I urge my colleagues to resist amendments that will add costs, and to support amendments that will make reasonable reductions in the over-generous funding increases this bill provides for a number of programs.

EXHIBIT 1

[From the Washington Post, June 26, 1977]

WHAT'S WRONG WITH U.S. HEALTH CARE

(By Joseph A. Califano, Jr.)

We have set ourselves an ambitious goal in America: a high standard of health care for everyone—at manageable cost.

If we are to meet this ambitious goal, or even approach it, we must first see the nation's health care system clearly for what it is: a vast, sprawling, complex, highly expensive and virtually noncompetitive industry—one of the nation's largest though least understood industries, a unique system of economic relationships that are commanding, and controlling, an ever larger share of our nation's resources.

Health care in America today is big business. To be sure, health is not just another industry; the enduring strength and high quality of the doctor-patient relationship is a vital element in the medicine of the 1970s, just as it was a generation ago—and generations before that.

But the term industry is still an apt one—and it provides a critical perspective on the health care system for public policy makers.

With expenditures of $139 billion in 1976, the health care industry is the third largest in the United States. Only the construction industry and agriculture are larger.

In 1975, 4.8 million people worked in the health industry. That was 5.1 per cent of the national workforce—slightly more than one American worker in 20.

In the same year, 375,000 physicians were in practice in America: one for every 570 citizens.

Health care spending was 5.9 per cent of the gross national product in 1965. It was 8.3 per cent in 1975. And, at present inflation rates, it could reach 10 per cent of GNP by 1980. In that year, spending on health care will, without some kind of restraint, have ballooned to $230 billion, $1,000 for each man, woman and child in America.

The giants of corporate America have moved in to obtain their share of the health industry—major companies like IBM and Bausch & Lomb. Many of the major pharmaceutical companies are in the Fortune 500. The profits of these drug companies are far above the average for large corporations in America.

Health care is an inordinately complex and fragmented industry. It contains over 7,000 hospitals with a total capacity of 1.5 million beds; 16,000 skilled nursing homes, with a capacity of 1.2 million beds; thousands of laboratories and hundreds of suppliers of drugs, expensive medical equipment and other medical products.

Decisions in this industry are made—by a host of private and public institutions—without adequate planning at the state and local level.

Health care is a very costly industry. The median income of the average American family was $13,700 in 1975. In that same year, the average family expenditure for health care was nearly $1,600, more than 10 per cent of the median income.

An average hospital stay cost less than $350 in 1965. It now costs over $1,300. Private health insurance premiums have jumped 20 to 30 per cent in just the last year alone.

And the American people paid doctors a total of $26.3 billion in 1976.

The health care industry is virtually noncompetitive. The features of the competitive marketplace that have served our people so well in other industries—to promote efficient allocation and utilization of resources—are just non-existent in the health care industry.

The patient—the consumer—may select his family doctor, but he does not select his specialist, his hospital, the services he is told he needs, the often expensive medical tests to which he is subjected: The physician is the central decision-maker for more than 70 per cent of health care services.

Increasingly, the patient—the consumer—does not pay directly for the service he or she receives. Ninety per cent of the hospital bills are paid by third parties—private insurance companies, Medicare, Medicaid.

These reimbursement mechanisms usually operate on a cost-plus or fixed-fee-for-service basis, the most expensive and least efficient ways to function.

Most public and private benefit packages are heavily biased toward expensive inpatient care.

The unavailability of price and quality information keeps the consumer of health care services dependent on the decisions of the health care provider, who plays a dominant role in determining demand for health services and whose financial well-being is determined by the price charged.

The ability to restrict access to competitors—hospital credential committees that can for example, deny or delay privileges to Health Maintenance Organizations (innovative prepaid group health units)—provide special levers of market control.

We must face a basic fact: There is virtually no competition among doctors or among hospitals. And, just as important, there is precious little competition among pharmaceutical companies or among laboratories. For pharmaceutical and medical device and equipment companies, research has become big business, with patent monopoly pots of gold at the end of the research rainbow.

These economic features pose severe problems in allocating and utilizing health care resources in the most effective way possible.

THE WRONG INCENTIVES

We do not perceive the health care industry as a world of good people and bad people. Doctors are not bad and para-professionals good. Hospitals do not wear black hats while government policy makers wear white ones. That is not the point.

The point is that doctors, hospitals, pharmaceutical companies, nursing home operators—all the inhabitants of this non-competitive, free-spending, third party-payor world—act exactly as the incentives motivate them to act: conscious of quality, insensitive to cost.

The result, inevitably, is a set of economically classic structural problems.

First: Our health resources, abundant as they are, are not well-distributed, either economically or equitably.

In the past 10 years, we have made considerable strides toward opening access to health care for many people. But major problems remain:

We have not done a very good job over the past 10 years of helping rural Americans get ambulatory care. The typical rural citizen is twice as likely never to have had a physical examination as the typical citizen of a large metropolitan area. Many rural women fail to receive basic early cancer detection examinations.

In our inner cities, minority citizens still lag far behind others in their access to physician care. Polio immunization rates for black children under the age of 4 are one-third lower than the rates for white children.

While some are starving for health care, obesity is commonplace for others. Nationwide we have an excess of some 100,000 hospital beds. In Southern California, there are enough CAT scanners—a sophisticated X-ray and computer diagnostic tool costing $500,000 or more—for the entire western United States.

We have made progress in absolute numbers in ending the doctor shortage of 10 years ago, but doctors are unevenly distributed, geographically and by specialty. Manhattan has 800 doctors per 100,000 people; Mississippi fewer than 80. In some disciplines, we have too many specialists, while the desperate need for primary care physicians in many rural areas persists.

And so we face a major national challenge: to redirect the flow of new health resources into underserved areas and to underserved groups so that ultimately all Americans will have fair access to quality health care. And we must ask: Can we do this in an industry with virtually no competition? Indeed, in an industry where the economic incentives move resources in the opposite direction?

Second, not only are our health care resources poorly distributed, but they are often not organized as efficiently as they might be.

As physicians have moved to more lucrative practices in the suburbs, for example, the burdens of providing primary medical care in our inner cities has fallen increasingly on the outpatient departments of large metropolitan hospitals. Yet the cost of this kind of care is high: for cure, one which makes prevention as profitable for providers as treatment now is.

Fourth, our system of health insurance in America is an expensive and inequitable crazy guilt.

Some 18 million Americans—most of them unemployed or employed in small non-manufacturing businesses—have no health insurance at all.

Another 19 million Americans—most of them with incomes between $5,000 and $10,000—have no group insurance, only skimpy individual coverage that is at best inadequate.

Nearly half the population under age 65 does not have insurance that is sufficient to cover major medical expenses. National health insurance to protect all Americans from the crushing burden of medical expenses is essential.

THE COSTS ARE SOARING

But the overarching problem of the health care industry in America is the problem of runaway costs. In part because of these other problems I have sketched, the cost of medical care is soaring today.

Not only is health care spending devouring an ever larger share of our gross national product, but, under current projections:

Total health expenditures will double by 1980.

Hospital costs paid for by Medicare and Medicaid will double even sooner.

If unchecked, total hospital costs could reach $220 billion by 1985.

Health care is rising at a rate of 2.5 times the rise in the cost of living.

This rapid inflation imperils the ability of uninsured people to get health care at all. It gobbles tax dollars at such a rate that they are not available for other public priorities. The federal government spends 12 cents of every taxpayer dollar on health care—9 cents to the hospital industry alone. The average American worker works one month each year to pay health care costs.

The health care industry, as presently structured, has become a problem for all of us—leading to demands for change from the American people, from public officials, and increasingly from many physicians who are urgently concerned about both the medical and economic health of our people.

So the government—representing the people and the consumers—must play an increasing role in health care. We will fulfill our responsibility best with the many patients, two or three times higher than the same services offered in other settings, such as Health Maintenance Organizations and community health centers.

We have not made much progress in using non-physician health professionals to take some burdens off the physician—even though we know that nurses, physician assistants and other primary health practitioners can less expensively assume many tasks traditionally performed by physicians, without lowering the quality of care. Licensure laws are essential to preserve and maintain professional standards, but they should not be permitted to inhibit the development of new patterns of care.

Third, with little incentive to be cost-effective in the use of skills and resources, it is no wonder that our present health-care system emphasizes treatment of illness rather than prevention of illness.

Because of this, we are needlessly risking illness and sometimes even lives and recklessly consuming resources that could be used to meet other urgent needs.

Today the health-care challenge is dramatically different from what it was 10 or 20 years ago. Today the leadings killers are not communicable diseases, but accidents, heart disease, cancer, cirrhosis of the liver—which are often caused by people's lifestyles or by hostile influences in the environment.

Yet our health-care system is not really geared to the field of prevention aimed at these killers.

We could literally save thousands of lives that are now being stunted or lost—if we could reduce the ravages of:

Cigarette smoking, which kills through cancer, heart attack and emphysema.

Alcoholism, and its toll in mortality, morbidity and the destruction of family life.

Obesity, with its sinister companions, diabetes and hypertension.

Accidents, which kill and maim in the office, at home and on the highway.

In the case of each of these killers, we already have enough knowledge to make major lifesaving gains. What we lack is sufficient will and ingenuity in educating our fellow citizens about how to live more safely and sensibly.

Thus far, the administration has pressed forward on the cost front. The President has sent to the Congress legislation that would control the precipitous rise in hospital costs—the most inflationary sector in the health industry.

But we recognize that the proposal we have put forward—a limit on increases in total hospital revenues—is merely a stop-gap solution that is a necessary transition to more profound long-term structural reform.

For the long term we must organize health resources more effectively, distribute health care benefits more equitably, emphasize prevention and primary care, and establish a fair and effective system of national health insurance.

These much needed reforms will form the basic agenda for federal policy in health care for the immediate future.

Although the precise shape of these changes will be a source of debate and controversy, we know that any long-term strategy for reform in the health system must:

Provide alternatives to costly institutional care—whether in hospitals or nursing homes.

Encourage the substitution of general primary care for more costly specialized care wherever that is possible without lowering quality standards.

Expand and make more efficient the use of less expensive health care personnel.

Stress prevention and early treatment—especially among our children—to avoid unnecessary illness, disability and death.

For too long, all of us in health care have been using our affluence to cure problems, rather than our ingenuity and self-discipline to prevent them. We have not been willing to confront the hard fact that resources are limited and that we must find new methods to provide quality health care to all Americans at reasonable cost.

Now, the cost of our indulgence is catching up with us. We can no longer buy our way out of difficulties. We must *think* our way out.

Mr. MAGNUSON. Mr. President, I do not see anyone on the floor. I am tempted to move for third reading.

Mr. BROOKE. I am tempted to second that.

Mr. MAGNUSON. With all this interest, I do not know where it is, but they are awfully busy when we are down there having hearings. Everyone knew the HEW bill was coming up this morning. I guess at least 40 Senators have asked me personally, and probably as many have asked the Senator from Massachusetts. They knew it was going to be up and I wish they would be here. I understand that the Senator from Wisconsin is on his way, and I shall have a short amendment we can start with.

Mr. BROOKE. Mr. President, in the family planning services section, the committee report directs that the funds

appropriated for family planning services shall only be used for projects as authorized by title X. Is it the intent of the committee to insure that funds appropriated under this act for title X, PHSA, will not be used by HEW to increase funding for other legislative authorities?

Mr. MAGNUSON. I am sure that was our intent, I want the legislative record to so show.

Mr. BROOKE. Is it correct that the primary health care programs, such as maternal and child health, community health centers, and HMO's, are already required to provide family planning services by their legislative authorities and that we intend that they meet this mandate with the funds we have appropriated pursuant to these authorities?

Mr. MAGNUSON. That is correct.

Mr. BROOKE. I thank the distinguished chairman.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 565

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and I ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment No. 565.

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

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

The amendment is as follows:

At the end of the bill add a new section as follows:

Sec. —. Notwithstanding any other provision of this Act, the sums appropriated by this Act shall not be available for obligation in excess of the amounts requested in the most recent budget requests for the Departments of Labor, and Health, Education, and Welfare, and related agencies for which funds are appropriated in this Act, submitted to the Congress by the President.

Mr. PROXMIRE. Mr. President, I will explain the amendment.

Mr. President, I ask unanimous consent that Howard E. Shuman and Larry Patton of my staff be granted privilege of the floor during consideration of this amendment and the vote.

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

Mr. PROXMIRE. Mr. President, this amendment has one aim, to bring this Labor, and Health, Education, and Welfare appropriation bill back in line with President Carter's budget request. It would save $1.8 billion, and here is how:

It puts a limitation on the spending of each controllable budget item at a level not higher than the President's budget request. This is no Simon Legree or Scrooge amendment in which money is taken out of the mouths of the poor, the sick, lame and crippled. Not for a moment.

All this amendment does is to reduce each item in this bill which is above the request of the President back to the President's budget.

There are some items which the committee reduced below the President's request and, of course, I do not touch those. Whatever reductions the committee made I leave intact.

MASSIVE AMOUNTS FOR LABOR-HEW

President Ford proposed $180.8 billion in budget authority for the Department of Labor and the Department of Health, Education, and Welfare in fiscal year 1978. President Carter in his revised 1978 budget increased that total amount to $188.8 billion, an increase of $7 billion.

My amendment seeks, to the degree we have control over the budget, to return the figures not to the Ford budget but to the higher Carter budget figures.

Furthermore, the Carter budget, as submitted to Congress, was $16 billion more than the fiscal year 1977 Carter budget revisions and $18 billion more than the 1977 Ford budget estimate.

To look at it another way, the increase of $18 billion in this year's Carter budget and last year's Ford budget is equal to the total amount we spent in 1970 for labor, health and education.

So the return to the Carter budget will not pauperize the Department of Labor or the Department of Health, Education, and Welfare. It simply recognizes that President Carter is a humane, concerned President of the United States; and it recognizes that he has the same general goals for health, education, and welfare as the Members of the Senate. On that basis, it reduces what I think are excessive increases which the committee has imposed back to the budget level.

WHO'S ON FIRST?

The appropriation bill before us deals with less than 40 percent of the total Labor-HEW spending, because much of the total is from trust funds or noncontrollable items.

Nevertheless, this bill is bloated. One would not know that by reading the report. Trying to figure out the actual budget figures is as maddening as the old comedy routine of "who's on first?"

If my colleagues would take a minute to look at the cover page of the committee's report, we can read a wondrous tale of alleged fiscal restraint.

We see a bill totalling $60.7 billion. According to the report, this represents a reduction—let me repeat that—a reduction of nearly $600 million from the House-approved bill.

But the news gets even better.

On the fourth line we discover that the comparable fiscal year 1977 appropriation was over $72 billion. The conclusion is now obvious: We have a bill that is a model of fiscal restraint—$11½ billion under last year's spending levels and a mere $150 million above the President's requests.

Or is it?

A CONGRESSIONAL SHELL GAME

Let us look at the facts.

First, it is misleading to compare this year's bill with a level of spending for fiscal year 1977 of $72 billion. In fact, the level of spending this year is higher, not lower, than last year.

Why?

When we adopted the fiscal year 1977 supplemental bill and the economic stimulus bill, we provided advance funding for a number of programs: public service jobs, vocational education, youth training and employment, advances to the unemployment trust funds, and initial advance funding for the Corporation for Public Broadcasting. This advance funding skews last year's figures to the point where it is difficult to determine how to compare this coming year with the current fiscal year.

But both House committee Chairman FLOOD and the ranking minority member, Mr. MICHEL, agreed during the debate on the House floor that their bill represented an increase of about $4.3 billion, or 7.5 percent, over a comparable fiscal year 1977 figure.

So that is the first point. We started with a House bill that represented an increase in spending, not a decrease.

Second, the Senate Labor-HEW Appropriations Subcommittee increased that amount by $1 billion on controllable budget items.

How does one hide an increase of that magnitude?

Here is how:

First, the bill uses a lower estimate of what our welfare expenditures will be. The difference can be made up in a later supplemental after the critical spending decision is made. Remember: These are entitlement programs, so that we save nothing by using lower estimates of expenditures. These benefits must be paid regardless of what we do on this bill unless Congress alters the basic authorizing legislation.

Next, there is the handling of carryover welfare funds—excess funds from last year. These are applied to this year. Past congressional policy has always been to return unused funds to the Treasury and consider each year's appropriation from scratch. The distinguished Senator from Florida (Mr. CHILES) may have more to say on this matter.

But my point is this: Lower estimates of the funds necessary to pay the costs of entitlement programs or one-time accounting carryovers do not equal budget cuts in welfare spending.

A BLOATED BUDGET: FIRST A LOOK AT CONTROLLABLES

Mr. President, with all of the discussions about trust funds, entitlement programs and the like, it is difficult for any of us to develop an accurate picture of how this budget is growing.

I would like to suggest two ways: First, a look at the growth in spending for controllable items—items over which the Appropriations Committee, and ultimately the Senate, has control.

Here is where we begin to get a picture of a burgeoning budget.

President Carter's budget request represented an increase of nearly $700 million in controllable spending over a base of $22 billion—a base figure used by the House subcommittee, I might note.

The House added nearly $900 million of additional increases to the President's budget, for a grand total of $1.6 billion in increases over this year's budget—or an increase of 7 percent.

Not to be outdone, the Senate committee added another $1 billion in controllable spending.

This brings us to a total increase of $2.6 billion over last year's level—a whopping 12-percent increase in controllable items.

THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE: A PROFILE IN BIG SPENDING

The second approach that will put this increase in further perspective is to do a profile of the appropriations for the Department of Health, Education, and Welfare.

It is a profile in big spending that would make any taxpayer shudder.

When HEW was founded in 1963, it received $5.3 billion in appropriations. After only 4 years, its appropriation had more than doubled so that in fiscal year 1967 it received $12.3 billion.

And that was just the beginning!

Five years later, in fiscal year 1972, HEW's appropriation had more than doubled again. It was now $26.4 billion, instead of $12.3 billion.

Thus, it comes as no surprise that in 5 more years, the budget has nearly doubled again to $51.5 billion. Think about that. From 1963 to 1967, it took 4 years to double; 1967 to 1972, 5 years; 1972 to today, 5 years, it has almost doubled again.

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

Mr. PROXMIRE. I yield.

Mr. MAGNUSON. I wish the Senator would put in his statement the legislation that was passed in between, adding more and more authorizations and duties and responsibilities to HEW. Does the Senator have the figures as to that legislation? There is even more legislation, passed by Congress, which the Senator from Wisconsin voted for, between the time the budget was submitted and the time we are discussing this bill.

The Senator can talk about increase. Of course, it has been increased. We voted for all these programs and told HEW to administer them. That is what has happened.

When the Senator talks about percentages, the same thing has happened with respect to the Senator from Wisconsin. I hope he does not suggest that these figures are wrong. The interpretation of them might be different, but the figures are correct.

The HUD-Space Science bill, which comes before the subcommittee of the Senator from Wisconsin, has grown from $20 billion to $67 billion—a 231 percent increase. That is because we have done more in the field. That has gone up 231 percent in HUD-Space Science, and I think that is right; whereas, the HEW bill has grown, during the same time, 108 percent.

Mr. PROXMIRE. I say to my good friend from Washington that I do not blame the Appropriations Committee for this. I say that Congress has done it. Congress is responsible for most of these increases. There is no question about it.

As the Senator knows, I have tried to hold down the HUD appropriation bill. I voted against every increase in that bill. And it unlike this bill, is below the President's budget request.

Mr. MAGNUSON. I know.

Mr. PROXMIRE. But we also have followed a policy, unfortunately, of running out those expenditures for 40 years. That is one of the reasons why it has exploded as much as it has, and that is something that has been introduced only in the past couple of years.

Furthermore, new programs and new agencies have been added to the HUD-independent agencies bill which were not in the figures for previous years. The $5 billion in revenue sharing is one. The $5 billion for the Brooke-Cranston tandem plan is another, although the actual outlays for that program will never be more than a few $100 million. Another is the emergency loan program for New York City which is to be paid back. But the major reason for the increase is nothing more than a new bookkeeping increase in which housing funds for the section 8 program are multiplied by 20 or 30 or 40 times, unlike almost any other program in the budget.

Mr. MAGNUSON. The Senator has made some efforts. Now, he is on the HEW Subcommittees. I do not know how many hearings the Senator attended, because I know how busy he is, but some of these things from the hearings, since the budget was——

Mr. PROXMIRE. The Senator knows that as a member of the subcommittee I did my best to hold down the increases the subcommittee insisted on putting in. I voted "no" on every spending increase that came up without exception.

Mr. MAGNUSON. I know it is easy to vote "no" in this particular case, but the law is there.

Mr. PROXMIRE. Let me say to the Senator I am simply trying to go back to the budget. The authorizations do not mean we must go to the peak; that is the ceiling, and I want to go back to the budget. I am not saying that we should wipe out this whole operation; I am simply saying we have had an enormous, astronomical increase. The Senator is right. It is not only in HEW, it is in HUD, it is in many appropriations.

Mr. MAGNUSON. It is in the whole national defense budget.

Mr. PROXMIRE. If we are going to arrest this increase, the way to do it is at least to try to hold down spending to the level requested by the administration wherever we possibly can. That is what my amendment tries to do.

Mr. MAGNUSON. I suggest that one of the last places, if you think it is justified, and one of the most sensitive places, to hold it down is when we are directing what capabilities we might have, fiscal capabilities, to human needs. That is what this bill is all about, basic human needs, and this is what causes the trouble.

The whole budget has gone up this much. I voted—well, the Senator was not here, but I will tell him what kind of a job we did in the subcommittee. We had requests, 200 requests, from Members of the Senate to add to this bill, each for his own particular program, it might have been in health, rehabilitation, mental health centers, or other areas.

Mr. PROXMIRE. I agree with that wholeheartedly.

Mr. MAGNUSON. Do you know what they amounted to? Over $8 billion. We cut that out. That is a pretty good saving to hold the budget down. They wanted $8 billion more, and they were honest and sincere about their programs.

Mr. PROXMIRE. If the Senator would permit——

Mr. MAGNUSON. We had a stack of requests from Senators this high.

Mr. PROXMIRE. I do have limited time on the amendment, and if the Senator will permit——

Mr. MAGNUSON. You can have all the time you need until I ask for third reading. I think when you get done we will ask for third reading because no one else is here.

Mr. PROXMIRE. I do not want to keep offering amendments in order to get some time.

With respect to the HEW appropriation it comes as no surprise that in 5 more years, the budget has nearly doubled again to $51.5 billion.

Think about that: From 1963 to 1967, it took 4 years to double, fiscal year 1967 to fiscal year 1972, 5 years, fiscal year 1972 to today, again 5 years.

Where will this trend end? Can this country afford runaway social spending in which HEW's budget is doubling every 4 or 5 years?

It is time to break the pattern.

It is time to begin paring wasteful programs and mismanagement.

It is time to evaluate where we are going.

And my amendment affords us that chance.

WHAT THE AMENDMENT DOES

So what affect does the amendment have?

It cuts back to the budget proposal about $1.8 billion in controllable items the committee added to the President's budget.

I might point out this is a cutback of $1.8 billion; it is only a cut of about 3 or 4 percent in a $60 billion total, so I am not asking to gut the programs, I am not asking to destroy the programs, but I am just asking to return to the substantial increases President Carter recommended.

Mr. MAGNUSON. The Senator's figures are correct, if he will yield just a minute. The total controllables in the bill are up 6.7 percent, and the Senator's amendment would cut it down approximately in half, would it not?

Mr. PROXMIRE. My amendment would make a cut of $1.8 billion. That is approximately correct, that is right.

Mr. MAGNUSON. But we are up 6.7

percent and that just about takes care of the inflationary costs for all of these scores of programs. The Senator's figures are right.

Mr. PROXMIRE. With regard to specific items, if it is a controllable item and if it is over the budget estimate, it is cut back to that estimate.

Second, it leaves intact those cuts already made by the committee. They have exercised their will. We accept it. But we see no reason to force upon the President or the agencies funds they have not asked for and probably will not spend. These cuts amount to about $1.2 to $1.3 billion.

So, what would my amendment do? Simply look at the budget estimates. My amendment says that there shall be a limitation on obligation. They can be no higher than the latest budget estimate. It is as simple as that.

HOW TO CUT

Mr. President, when one attempts to cut the budget or to amend a controversial provision of a legislative proposal, a series of stock arguments are almost always trotted out. This is not the time. Wait until later on. Why not attack spending somewhere else—in defense or agriculture or foreign aid or HUD? Those are the cries that go up.

So I am certain that the opponents of this amendment—as they have already started—will either raise these stock arguments or others, principally the argument that "this is not the way to cut the budget," "that we should not merely return to the President's proposals but that some other method," probably unstated, "is the way to cut this appropriation." In particular, it will be said that this amendment takes Congress out of the act and accepts the President's levels. It does not take Congress out of the act. It does reduce it to the President's level, but it leaves the Senate in the act where it has made cuts.

Here is why it is done that way.

I could have proposed my own personal views of the ceiling level on appropriations. But that is much too narrow and limited an approach and would be subjected to even harsher criticism.

I could have proposed that we return to the House levels. But I did not do that because that would leave nothing for the conference to decide.

So what I propose is that we take, as a ceiling for spending, the levels proposed by the President and by the agencies. And I remind Members of the Senate that those levels are not only very much higher than last year's level of spending but they are in the totality some $7 billion higher than President Ford proposed.

So, yes, it does take Congress out of the act in terms of spending more money than either the President or the agencies requested in the official budget message of President Carter.

But it leaves the Senate in the act when we cut below the President.

In conclusion, Mr. President, my amendment does not "gut" this bill. It gives us a chance to begin reorienting our priorities in this area by the one effective tool Congress has at its disposal: The power of the purse.

The time has come to bring a halt to the burgeoning growth of agencies like HEW.

I would welcome any amendment or suggestion to reduce the HUD budget or any other budget, and I expect to introduce other amendments to reduce, for example, the military construction budget back to the level requested by the President and other budgets to the extent that they exceed the President's request.

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

Mr. MAGNUSON. Mr. President, I just want to say that I oppose this amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield for us to get the yeas and nays?

I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, we have gone over this bill with a fine-tooth comb and taken into consideration the responsibilities that have been thrust upon both the Departments of Labor and HEW since the budget was made up, and that must be carried out. We only have a certain amount of controllables in this budget, and they are the very sensitive ones.

They are for human needs; they are to take care of the poor, the disabled and the handicapped, and the better health or education for all citizens. The total we added to the budget, as I said earlier this morning, and if the OMB and the President were to make up a budget today it would be entirely different, I think, than the one they made up months ago, because they would have had to add some of these things.

So, going back to that would be destructive on the programs that Congress has enacted for these people.

I want to suggest, as I did just a minute ago, that of the total controllables in this bill we have only suggested 6.7 percent, and in many of these cases this only takes care of the increased costs over last year, of the inflationary costs. Some programs are up a little, some are down. Some we took out altogether, but Congress keeps passing bills requiring this or that particular agency to do more things in authorizations.

Mr. President, I have sat now in the Appropriations Committee—this might not seem believable to some—but the Senator from Massachusetts and I have sat downstairs here now on this bill looking at figures, cutting them or seeing whether they are adequate or not, listening and hearing all the testimony and, on the very same day, at the same time, the Senators upstairs were passing a bill recommending further responsibility and appropriation of more money at the same time, the same day.

So this is, as the Senator from Massachusetts said, sort of a running thing. But we think 6.7 percent is all right. It is adequate. We are going to go to the House, I say to my friend from Wisconsin, who understands conferences with the House pretty well, and we will probably come up nearer the figure he suggests. We will fight for what we have put in, but I think it will come down considerably, and naturally so. The House wants some things up and we want some things down, and this is the purpose of the conference.

I do not think, on human needs, this Congress should be any rubber stamp for a budget that was prepared by another administration and, particularly, when all of these other responsibilities have been given to the Department of HEW. We should appropriate as much for human needs as we think the country is capable of doing.

I think we should have our own opinions and our own advice on that.

The budget is advisory, and we pay very careful attention to the budget. But some of those recommendations were prepared months ago, and I think it would be an entirely different budget if it were sent up now.

I yield to the Senator.

Mr. BROOKE. Mr. President, I rise to oppose this amendment.

I have the greatest respect for Senator PROXMIRE, and it is good we have him in the Senate. It reminds me of the days when John Williams of Delaware was here as the Senate watchdog of spending. Senator PROXMIRE does that service for the Senate and performs that role, I think, most admirably.

I have the privilege of serving with him in the Banking, Housing, and Urban Affairs Committee, and I know how strongly he feels about fiscal conservatism and fiscal responsibility.

I simply point out to him, and not in a facetious manner, on the House, Space Science bill—and I serve on the subcommittee as well—that has grown from $20.4 billion in 1974 to $67.6 billion in 1978. This represents a 231-percent increase in budget authority.

I realize that there have been new funding requirements added to the House space science bill. However, there have also been additions to the Labor-HEW bill, as our distinguished chairman has said, which has grown from $29.1 billion to $60.7 billion during the same time, an increase of only 108 percent.

I will not belabor these figures. Suffice it to say the chairman has made the point and made it well. We are primarily working with the budget submitted by the outgoing President, President Gerald Ford. That budget was submitted, and that is the way we work with budgets. When a new administration comes in, the outgoing administration submits the budget, and then by law the incoming administration has not only the right but the responsibility to make amendments to it, and some admendments were made, to be sure.

But the administration has not had sufficient time to really analyze all of the spending programs in appropriations bills that are before Congress. We feel that the administration made some attempt, but we do not think it was realistic in some places. What the Senator would do is to cut money generally across the board, and there are many programs that would be hurt even though there

may be some that could stand some paring.

But even as late as this morning, the distinguished chairman and I have been trying to pare down this bill. We recognize the problems involved in it, but we still have to go to conference with the House of Representatives, as the Senator from Wisconsin very well knows, and we expect there will be some give and take obviously in the House of Representatives. The final version of this bill will be reduced even more than it is in the Chamber today.

I know that the Senator wants a rollcall vote on this amendment, which is his right. He has the yeas and nays on it.

But I must oppose the amendment because I think we have actually pared the bill down as much as we possibly can.

I hope that the Senator will stay in the Chamber and help us to withstand some of the increases, however, that are predicted to be coming forth. Even though we have considered literally hundreds of money amendments to this bill already, we still anticipate there will be some that will be offered in the Chamber this morning.

But I must in all due respect, for those reasons, oppose the Senator's amendment to cut this bill any further.

I yield the floor, Mr. President.

Mr. PROXMIRE. Mr. President, the distinguished chairman of the subcommittee (Mr. MAGNUSON) indicated there have been changes since the original budget request was made by the President.

I think we all know that if the President wanted to change the budget in any way, if he wanted a higher figure, he could communicate with us quickly, and would do so. He often does so. He writes us letters. He writes the chairmen whenever he feels in the case of any appropriation measure, or any other measure, that he would like a higher figure or a different figure. Advocates for the higher figure are always anxious to get that kind of communication from OMB.

We do not have any higher request on this budget than the request that I have been comparing in my discussion here or that my amendment would return the figures to. And, under my amendment, if a new formal budget request has come to the Congress, that new figure would prevail.

As far as the argument given by the distinguished chairman that inflation is the reason for most of the increase, the fact is that the President took that into full account in making his request. This is an increase of overall controllable and uncontrollable from $170.9 billion to $188.8 billion, or precisely 10 percent, from the original Ford budget of 1977. We have not had an inflation of 10 percent. It has been less than 10 percent. So the President's request not only took full account for inflation but added additional funds so that the real resources in the program would increase.

In addition to that, the House of Representatives added on money to that figure. The Senate added on the House's figure.

Senator MAGNUSON and Senator BROOKE are two of the finest Senators and ablest Senators we have in this body. They both have served extremely well. This is a tough job they had, and I think they have done an excellent job in every respect, except that the figures are too high.

As far as the Senator from Massachusetts is concerned in making the point he made about HUD, I point out that HUD is below the President's request on any basis. And we made sure of that. It is well below.

If we conformed to the President's budget request we would have increased the HUD budget, not decreased it.

Furthermore, virtually all of the increase in the last 4 years of the HUD budget is because since 1974 we have made a change in the way we fund that budget. We now do it on a multiyear basis. We used to do it on the 1-year basis. Now we run it out to 10, 30, or 40 years, depending on the program. That is resulting in multiplying the amount. For instance, we had one the other day that would have been a $30 million expenditure in 1974. Now it is $1.2 billion or 40 times, $30 million.

That is the main reason for this explosion at HUD. Still HUD is too high. I wish to see it lower, and I would have voted for amendments that would have cut it lower. But it is below the President's budget. It is below the House of Representatives figure. I think we should take that into account.

Mr. President, I recognize that it is very difficult to get this kind of an amendment seriously considered by Members of the Senate. But I think if we are going to mean it when we say we want to hold down spending, certainly the most moderate course we could follow is to at least conform with the President's request when he is substantially higher than President Ford, when he is a man who obviously thoroughly and deeply believes in health, education, and welfare, and the labor programs and job programs that are funded in this bill.

So I hope we can act on this amendment favorably.

I must say I do not expect that it is going to get more than a few votes, but I am hopeful.

Mr. ROBERT C. BYRD. Vote.

Mr. PROXMIRE. Mr. President, I am ready to vote.

I yield back the remainder of my time.

Mr. MAGNUSON. I have no time to be yielded back.

The PRESIDING OFFICER (Mr. ZORINSKY). The question is on agreeing to the amendment of the Senator from Wisconsin.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Idaho (Mr. MCCLURE) is necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 32 nays 62, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—32

Allen	Goldwater	Morgan
Bellmon	Griffin	Proxmire
Bentsen	Hansen	Randolph
Biden	Hatch	Roth
Byrd,	Hayakawa	Schmitt
Harry F., Jr.	Helms	Scott
Byrd, Robert C.	Johnston	Stone
Cannon	Laxalt	Thurmond
Curtis	Leahy	Tower
Danforth	Lugar	Wallop
Garn	McIntyre	Zorinsky

NAYS—62

Abourezk	Hart	Muskie
Anderson	Haskell	Nelson
Baker	Hatfield	Nunn
Bayh	Hathaway	Packwood
Brooke	Heinz	Pearson
Bumpers	Hollings	Pell
Burdick	Huddleston	Percy
Case	Humphrey	Ribicoff
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schweiker
Clark	Kennedy	Sparkman
Cranston	Long	Stafford
Culver	Magnuson	Stennis
DeConcini	Mathias	Stevens
Dole	Matsunaga	Stevenson
Domenici	McGovern	Talmadge
Durkin	Melcher	Weicker
Eagleton	Metcalf	Williams
Eastland	Metzenbaum	Young
Glenn	Moynihan	

NOT VOTING—6

Bartlett	Gravel	McClure
Ford	McClellan	Riegle

So the amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

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

The PRESIDING OFFICER. The Senate will please come to order.

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, will the distinguished manager of the bill yield to me for a brief colloquy?

Mr. MAGNUSON. Yes.

Mr. TALMADGE. Mr. President, the Labor-HEW Subcommittee of the Senate Appropriations Committee has chosen to reduce the Senate allowance for disease investigations, surveillance, and control in the Center for Disease Control 1978 budget. The Senate allowance for this line item is $45 million, whereas the House allowance is approximately $55 million.

The $10 million reduction would have a significant impact on the ability of the Center for Disease Control to respond to the broad range of health problems and disease epidemics with which they are concerned. It would also reduce the laboratory services which the CDC provides to States and compromise the core support for immunization activities, venereal disease control, lead screening, and so forth.

This budget cut would require a reduction in personnel of over 300 positions, from 1,581 to 1,268.

Those people are engaged in very important work of disease control, lead screening, venereal disease control, and so on. May I have the assurance of the

distinguished floor manager of the bill and the ranking minority member—Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will please come to order.

Mr. TALMADGE. May I have the assurance of the distinguished floor manager of the bill and the distinguished ranking minority member that these items will be carefully reviewed in the conference committee, with a view to trying to correct any inadequacies that the Senate figure may contain, and with the hope that the House figure can be agreed upon on these items?

Mr. MAGNUSON. I assure the Senate from Georgia that the Senator from Massachusetts and I hope to have this in conference. We are pretty much dedicated to the general idea that we ought to have more prevention anyway. There have been some additional reports that we need to get. I think that the Senator from Georgia will be satisfied when we get through the conference.

Mr. TALMADGE. I am grateful to my distinguished friend. May I have the same assurance from the distinguished ranking minority member?

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from Georgia. I think he makes a strong point and I assure him that when we go to conference, we shall give this very serious consideration.

Mr. TALMADGE. I am grateful indeed for the assurance of my two distinguished friends. On that basis, Mr. President, I shall not offer an amendment that these items be increased at this time.

I yield to my distinguished colleague from Georgia, if the Senator from Washington will yield to me further, for his comments.

Mr. MAGNUSON. I yield.

Mr. NUNN. I thank the Senator from Washington and the Senator from Massachusetts for agreeing to give strong consideration to the factors that my distinguished colleague from Georgia has pointed out in his reference to the Center for Disease Control. I think it is important that this money be restored in the conference. I thank the Senator from Washington and the Senator from Massachusetts for their assurance of their help in the conference to see whether this program will be continued.

Mr. MAGNUSON. Mr. President, I yield to the Senator from Indiana for a unanimous-consent request.

Mr. BAYH. I thank my friend from Washington.

Mr. President, I ask unanimous consent that Ann Church, Barbara Dixon, Abby Reed and Fred Williams be granted privilege of the floor during debate and votes on H.R. 7555, the Labor/HEW appropriations bill.

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

Mr. HATCH. Mr. President, I ask unanimous consent that Robert Hunter of my staff be granted privilege of the floor during the debate on voting.

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

Mr. BROOKE. Mr. President, I ask unanimous consent that the following staff members be granted the privilege of the floor during the consideration and vote on the pending legislation:

Greg Fusco, Jon Rother, Mike Shore, Spencer Johnson, Douglas Racine, Alan Fox, Debbie Robertson, Barbara Dixon, Fran Farmer, Jeff Garin, Nancy Anderson, Dick Vodra, Carolyn Randel, and Karin Adler.

Mr. MAGNUSON. Mr. President, reserving the right to object, are these staff members? Not of our staff.

Mr. BROOKE. No, they are of various Senators.

Mr. MAGNUSON. The Senator put them all together?

Mr. BROOKE. I put them all together just to save time.

Mr. MAGNUSON. Very well.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Carlton Andrus, John I. Brooks, and Joanne O'Neal of my staff be granted privilege of the floor during the consideration of this measure.

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

Mr. HARRY F. BYRD, JR. Now, if I may have the attention of the Senator from Washington, on page 7 of the committee report it shows that the committee recommendation for appropriation for the Employment and Training Administration, the program administration costs, would be $90.832 million.

That compares with $76.222 million for the current fiscal year, an increase of 19.1 percent.

My question is, is not that a very substantial increase in administrative costs for that program?

Mr. MAGNUSON. It is a substantial increase, but the House put it in. We decided we would go along with the House figure, realizing we would probably have to anyway in conference.

A lot of this is mandatory with public service jobs we voted here in the supplemental.

Mr. HARRY F. BYRD, JR. The fact is that there is an increase in administrative costs of 19.1 percent in that program.

Mr. MAGNUSON. That is correct. That was due to the fact that we almost tripled the public service job program in the supplemental that they have to manage and I think that bill was something like $4 billion.

Mr. HARRY F. BYRD, JR. I note from the same page of the committee report—the committee recommendation—I am quoting, as follows:

The committee recommends an appropriation of—

Mr. MAGNUSON. Page 7?

Mr. HARRY F. BYRD, JR. Page 7.

The committee recommends an appropriation of $90.832 million in general revenue funds to support 2,721 positions.

In using a calculator to figure that out, those positions will average $33,300 in salary per position.

My question is: Is it necessary to put on 2,721 individuals at an average salary of $33,300?

Mr. MAGNUSON. This is not salary. The salary is nowhere near that average at all. It is much lower.

This is for maintenance and operations. This is for all the expenses of management put together. It is below the budget estimate. The House went below the budget, and we did. But it comes from the fact that we did appropriate these billions of dollars in public service jobs.

The average salary is $12,000 to $17,000.

Mr. HARRY F. BYRD, JR. I am just reading the committee report, and it says:

The committee recommends an appropriation of $90,832,000 in general revenue funds to support 2,721 positions.

Mr. MAGNUSON. That is right.

Mr. HARRY F. BYRD, JR. And that averages out to $33,300 per position.

Mr. MAGNUSON. No. That is for the total cost of administering a $4 billion or $5 billion new program that showed up after the budget was written, and we are $1 million below the budget; and with the House figure, an average salary is from $12,000 to $17,000.

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

Mr. MAGNUSON. In just a moment.

The rest of the amount is for maintenance and office, and whatever they have. The House had long hearings on it. We accepted the House figure and the President even recommended higher than this. That is because of the Unemployment Security Administration, which will handle public service jobs, of which there are——

Mr. HARRY F. BYRD, JR. I have not gotten to that yet.

Mr. MAGNUSON. What?

Mr. HARRY F. BYRD, JR. I have not gotten to that yet, I say to the Senator. I am not speaking of that figure. I will get to that next.

Mr. MAGNUSON. It is what the committee did.

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

Mr. HARRY F. BYRD, JR. Yes.

Mr. STONE. Mr. President, I ask unanimous consent that Mary Repper of my staff be granted privilege of the floor during voting and proceedings.

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

Mr. HARRY F. BYRD, JR. I say to the Senator from Washington, the committee report says that in addition to the $90,832 million, $33.634 million is recommended to be expended for the Employment Security Administration Account in the Unemployment Trust Fund to support 1,110 positions.

Mr. MAGNUSON. That is mandatory.

Mr. HARRY F. BYRD, JR. I just want to point out, though, the tremendous sums of money which are being used for administrative costs of these programs; $33,634,000 to support 1,110 positions.

Mr. MAGNUSON. It is not that much.

Mr. HARRY F. BYRD, JR. That is what the committee report says; that is all I know about it.

Mr. MAGNUSON. How much did the Senator say?

Mr. HARRY F. BYRD, JR. $33,634,000 is recommended to be expended to support 1,110 positions. It is on page 7 of the committee report.

Mr. MAGNUSON. Yes; that is exactly

what it is, 1,110 positions, and $33 million is the total for the whole management and the whole program, which involves close to $5 billion of jobs we created in the supplemental.

I do not think that ratio of administration compared with what they are handling and what they must do under the bill and under the money we gave them—close to $5 billion, I do not have the exact figure—is too high.

This is building maintenance, equipment, and that is what we call support. The salaries run between $12,000 and $17,000, which is not too large a salary for this responsibility.

I am quoting from the House who went to great length on hearings on this matter.

Mr. HARRY F. BYRD, JR. I am quoting from the Senate committee report.

Mr. MAGNUSON. Yes; we quoted the figures which the House put it. These are House figures.

Mr. HARRY F. BYRD, JR. But certainly a reader would have a right to believe that it costs $33,634,000 to support 1,110 positions. That is what it says here.

Mr. MAGNUSON. That is correct. That itself is a decrease over the comparable 1977 level.

Mr. HARRY F. BYRD, JR. If we go to page 18 of the report, at the bottom of the page—"Departmental Management" is the caption—we read:

> The committee recommends an appropriation of $60,257,000 in general revenue funds to support 1,705 positions.

That breaks down to an average of $35,340 per position.

Mr. MAGNUSON. This is general management for the whole department. On page 19 we see that the committee concurs with the House in reducing the request of $1,069,000 and 55 positions for Comprehensive Employment and Training Act, and reduces the staff by 20 positions.

The committee feels that these resources combined with those provided in fiscal 1977 will be sufficient. We reduced it. We reduced it from the budget.

Mr. HARRY F. BYRD, JR. The fact is that the committee report says:

> The committee recommends an appropriation of $60,257,000 to support 1,705 positions.

That is another way of saying that it costs $35,340——

Mr. MAGNUSON. Those are not additional positions. Those are positions they now have.

Mr. HARRY F. BYRD, JR. Whether they are the same, it averages out to $35,340 per position.

Mr. MAGNUSON. Support is more than just salary. It is the whole management of the Department. They have not only public service jobs but also all kinds of other employment jobs that we put in the two bills, in the Emergency Labor Employment Act.

Mr. HARRY F. BYRD, JR. I ask the Senator a question, with reference to page 24 of the committee report, under travel. I read one sentence:

> The committee continues its concern over the amount of time and money spent on travel within the Department. Close reins should continue to be kept on domestic and foreign travel, retreats, conferences, and conventions.

My question is this: Does the able chairman have a figure as to how much is being spent? How much was spent in the past year on travel and how much is being spent this year on travel?

Mr. MAGNUSON. I do not have those figures exactly, but we can break them down for the Senator. We have all the testimony.

Mr. HARRY F. BYRD, JR. I note that the committee, and I feel very wisely and justly, has concern about the amount of money that is spent on travel.

Mr. MAGNUSON. We have taken a 10-percent reduction on all forms of travel, 20 percent in some cases. I will get those figures.

Mr. HARRY F. BYRD, JR. I wonder whether we can get an overall figure as to the total cost of travel.

Mr. MAGNUSON. The only reason we exempt patient travel is that these are often people being moved to a more suitable treatment facility.

Mr. HARRY F. BYRD, JR. This does not apply to that.

Mr. MAGNUSON. We do not apply it to that.

Mr. HARRY F. BYRD, JR. My inquiry does not apply to travel of patients.

Mr. MAGNUSON. I understand.

Mr. HARRY F. BYRD, JR. It applies to travel of Department personnel.

Mr. MAGNUSON. We have cut most of the departments in the whole bill from 10 percent to 20 percent as to their travel—that is, from last year's travel account.

Mr. HARRY F. BYRD, JR. I would appreciate it if the Senator could get those figures.

Mr. MAGNUSON. We will get them for the Senator.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. DOLE. Mr. President, the Senator from Kansas wishes to address a question to the managers of the bill. In the committee report on the Supplemental Appropriations bill, the Office of Education was directed to complete and submit to Congress by May 1, 1977, a study of the school facilities at various sites including those at Fort Riley, Kans. On April 1, I was assured by my distinguished colleague, the junior Senator from Massachusetts, that the Subcommittee on Labor-HEW Appropriations shared my concern about the urgent need for school facilities at Fort Riley and that it was the subcommittee's intention to assess the forthcoming Office of Education study and then to recommend the need for additional funding. Given the fact that the Office of Education still has not fulfilled the committee's request for updated information and priority rankings of pending construction applications, the Senator from Kansas is more concerned than ever regarding the present status of the Fort Riley schools. In testimony which I presented to your subcommittee on March 1, I indicated that during the past few years, the Army has spent $27.3 million to construct 1,101 new housing units at Fort Riley resulting in an estimated school enrollment increase of some 1,700 students. Since HEW and not the Army, has jurisdiction over the construction of school facilities, it was hoped that school construction would begin soon after HEW was aware of the need. We still have 139 children going to school in World War II era barracks. I am appalled that we have to send the sons and daughters of our military families to school in World War II barracks. And the number is going to increase unless we provide some supplemental appropriation.

The Army has provided the World War II barracks as a temporary facility. It is my understanding that this is the best that can be done since the Army is specifically barred from using defense appropriations for school construction.

Needless to say, there are many problems resulting from this situation. There are no special education facilities. There is no auditorium. The playground facilities are minimal, and that is significant since grades 1 through 6 are being taught in these facilities.

The lack of better facilities has required class enrollments higher than the optimum level. About 30 children are being placed in each class. Classes cannot be held on the second floor of these buildings because of the danger of fire. Due to poor insulation, these buildings are very expensive to heat.

There is no cafeteria. Food must be prepared in a kitchen some place else and transported to the facilities.

The alternative to the temporary solution of using World War II barracks would be "double session." "Double sessions" would require half of the students going to school from 7 a.m. to 1 p.m. and the other half from 1:30 p.m. to 7:30 p.m. I believe this is totally unacceptable for children in grades 1 through 6.

In addition to the classes being held in World War II barracks, 232 children of grades kindergarten through six are being bused into schools in Junction City. These students are being assigned to schools on a space available basis, which means they are rotated from one school to another on a year-to-year basis. Again, the lack of stability in the school environment adds to the difficulty of getting a good education.

At the junior high school level, the school at Fort Riley, which was constructed for about 400 students, is being attended by 563 students. Due to the crowded conditions, there is no library and no special education facilities. Three temporary buildings have been constructed to accommodate additional students.

I could go on but, most of what I have to say was stated in testimony I presented last March.

Fort Riley's needs are truly not exorbitant. A conservative estimate suggests an expenditure of $12.5 million. Can the Senator from Massachusetts comment on this matter?

Mr. BROOKE. We are aware of the present needs at Fort Riley. Under Public Law 815, the Committee on Appropriations has included $50,000,000, an increase of $25,000,000 over the 1977 level. Twenty million of the increase recommended by the committee is targeted at helping to meet the school construction

needs at military bases such as Fort Riley.

Mr. DOLE. What provisions has the committee made to assure that all of the funding needs at Fort Riley will be met in the near future?

Mr. BROOKE. When we get the new Impact Aid Construction priority list from HEW, the list that we were supposed to have by May 1, it will be easier to tell how much will be required to meet the needs at Fort Riley. Let me assure you that the committee is aware of the needs in this area. According to the old priority list, it appears that Fort Riley would receive at least $6,000,000 in fiscal year 1978.

Mr. DOLE. Mr. President, I thank the Senator from Massachusetts. It is my hope that we can provide some funding at the earliest possible date so as to alleviate the severe lack of school facilities at Fort Riley.

Mr. BROOKE. Mr. President, I have discussed this matter with the distinguished Senator from Kansas, and he makes a strong point. The committee is aware of the problem at Fort Riley, Kans., and has given very serious consideration to this and to school construction funds.

Mr. DOLE. I thank the distinguished ranking Republic floor leader.

UP AMENDMENT NO. 566

Mr. DOLE. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. (Mr. HUDDLESTON). Is the Senator sending an amendment to the desk?

Mr. DOLE. Yes. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 566:

On page 35, line 19, strike out "$2,221,678,000" and insert in lieu thereof "$2,226,678,000".

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished Senator from Massachusetts. I understand the financial constraints and the pressures to hold down spending. Reluctantly, I will not press the amendment in view of these restrictions. However, I would like to make record of this amendment, because I think it is a very worthwhile effort. I understand the many pressures on this committee, and realize that the vote just taken indicates there is considerable support for cutting all funding to the budget request.

Mr. President, the amendment I offer today would raise the amount of money appropriated to the assistant Secretary for Human Development from $2,221,678,000 to $2,226,678,000. This is an increase of $5 million.

I propose this increase to provide an additional $5 million to the Rehabilitation Services Administration, to be earmarked specifically for projects with industry—PWI.

The Senate Appropriations Committee voted to fund PWI at $5 million. This represents a $1 million increase over the House recommendation, and a $2 million increase over the budget request. Although I appreciate the committee's awareness of the need for increased funding, I do not think it was a sufficient increase.

However, I understand the practicalities of the matter, and so, as I have indicated, will not press the amendment.

PROJECTS WITH INDUSTRY

Projects with industry was created by the Vocational Rehabilitation Act of 1968. Its purpose is to prepare handicapped individuals for jobs in private businesses and industries. It provides not simply a job, but a career to handicapped Americans.

I might add there are a great many handicapped Americans who are looking for meaningful work through which to express themselves and to get into the mainstream of American life.

HIGH UNEMPLOYMENT

Statistics show that the handicapped have the highest unemployment rate of any minority group in the country. Dr. Henry Viscardi, Director of the White House Conference on Handicapped Individuals, estimates that 12 million handicapped Americans are able to work. Of these, only 4.75 million are employed, and most of those persons are underemployed. Because of their underemployment, the situation is even worse than the statement indicates.

Most handicapped persons earn under $7,000 yearly, and many earn even less than $2,000. Figures show that of the handicapped individuals who are not institutionalized, 42 percent are employed. Fifty-nine percent of able-bodied persons are employed, making a difference of 17 percent. Forty-two percent versus 59 percent employment rate translates into 2 million handicapped persons that need employment in order to allow the handicapped population to enjoy the same employment rate of the rest of society.

Dr. Viscardi also states that if these 2 million handicapped Americans were employed—even if their wages averaged only $5,000—that their jobs would result in $10.5 billion added to the economy because of their new roles as wage earners and taxpayers. An equal amount of money would be saved because of reduced public and private support of handicapped persons.

KANSAS PROJECTS

PWI has proven to be an effective program in helping disabled individuals find and keep jobs. Now, approximately 20 projects are working with 1,000 corporations across the country. By October of this year, there will be 30 projects with industry.

In my own State of Kansas, we can boast of an excellent project. Center Industries of Wichita has proven its worth by integrating severely disabled workers into industrial jobs. Because of careful planning and counseling, the project has run smoothly, and I know personally of handicapped individuals who for the first time in their lives, have the satisfaction of working for gainful employment.

The Menninger Foundation in Topeka is also working to help the mentally handicapped individual find his slot in the working world. This is a relatively new area, but is very much in keeping with the goals of projects with industry. I know of other projects all across the country that are experiencing the same kinds of success, and I am eager to see that we allow for expansion and further development of these projects. We can do this by increasing the PWI money to $10 million. It is a small price to pay for the large amount of benefits we accrue from the program.

FACTS

By the end of fiscal year 1977, these projects will have placed 3,600 to 4,000 handicapped persons in jobs. These persons have generated $25 million in wages, of which approximately 20 percent has gone for taxes. Clearly, this is a program which pays for itself—not just in theory or concept alone, but in practice, as illustrated by hard, cold facts.

In addition to the taxes paid, many new job-holders are former welfare recipients, who sometimes claimed over $5,000 in yearly benefits.

When the program was initiated, it cost $2,000 to $3,000 per placement. This cost has since been trimmed to $1,000 per placement. As the projects continue to grow and develop, I anticipate that this figure will drop even lower.

Employers have been surprisingly supportive of this program, and have often made financial contributions to rehabilitation facilities, or have equipped them with machinery and instructors. While most of the training is done at rehabilitation facilities, instruction for more advanced jobs is conducted on location.

PAST CONGRESSIONAL MANDATE

The Congress in recent years has mandated affirmative action policies for handicapped individuals. PWI presents an excellent incentive for the enforcement of these policies.

Affirmative action is much more efficient if approached in this manner rather than by sheriff and posse. We can elect to expand a program which provides technical assistance to employers and which familiarizes them with the needs of handicapped individuals.

We must not fool ourselves—affirmative action for the handicapped will not be easy to achieve. But, with a program-like projects with industry, we can work through such problems as architectural modifications, social adjustments, and other job-related difficulties once the person has been trained for—and allowed—a career.

I urge my colleagues to support this amendment to raise projects with industry funding by $5 million. It will not only generate revenue for the treasury, but more importantly, it will provide employment opportunities to thousands of handicapped Americans.

As the distinguished Senator from Massachusetts indicated, the committee is aware of this program and of its potential. Of course, the Senator from Kansas is also aware of the budgetary constraints; and am willing to accept any comments the Senator might make.

Mr. BROOKE. Mr. President, if the Senator will yield, I commend the distinguished Senator from Kansas for proposing this amendment and for recog-

nizing the budgetary restraints upon the committee.

This is an excellent program, and rehabilitation services, specifically those where you bring in private indutsry to help the handicapped, is a program we are well aware of.

I have discussed this with the distinguished chairman, Senator MAGNUSON, and he fully understands the import of the Senator's amendment; and is also appreciative of the Senator's willingness at this time to withdraw his amendment.

I wish to point out that we did add an additional $1 million for this program, which brought it up to a total of $5 million and, as I understand it, the Senator from Kansas would increase this to $10 million.

I think it is a project certainly worthy of that kind of funding level, and we hope we might be able to do that in a future appropriations bill, but I think the Senator from Kansas has made a strong case on the floor this morning, and we certainly will take that into consideration when we consider this rehabilitation services program for further appropriations.

Mr. DOLE. I thank my distinguished colleague.

Let me again point out there is a great need in this country for more emphasis on finding meaningful employment for handicapped Americans. We have just completed a White House Conference on Handicapped Individuals. There will be a number of excellent suggestions that will be put forth in legislative terms in the coming months.

Handicapped persons have the highest unemployment rate in the country. During fiscal year 1977 about 4,000 persons will have been placed through this program alone. Many of these persons were previously on welfare, and have never made a dollar in their lives, but had been subject to public charity. I find that most handicapped Americans are very much like everyone else—they want to work, they want to express themselves.

Placement costs in this program run about $1,000 per transaction, which represents a big reduction, since in the beginning the transaction costs were about $3,000, rather expensive.

It just seems to me this is a positive program, and I commend the committee for the increase they allotted to it. I understand the great constraints the committee is under. I would only suggest in the coming months and years there is going to be more and more emphasis on opportunities for handicapped Americans. It is the next wave. The Senator from Kansas knows of the deep compassion and concern that both Senator BROOKE and Senator MAGNUSON have in this area.

I only suggest that we need to be doing what we can to make certain that this program properly grows and expands, not just for the sake of growth or expansion but for the sake of helping America's handicapped.

Mr. BROOKE. Mr. President, if the Senator will yield, I again commend the Senator from Kansas for his deep commitment in the work he has done in nutrition, and the work he is now attempting to do by this amendment with the handicapped. He is absolutely correct. We have to pay more attention to jobs for the handicapped.

As the Senator from Kansas well knows, we have mandated equal educational opportunities for all handicapped children in this country. Under this bill Senator MAGNUSON and I have worked for funds for educational opportunities for these handicapped children.

As they are further educated and as they complete their education, they are going to be in a position to look for jobs, so there will be more of a need to employ the handicapped than we have ever had before because they will be better equipped to take on jobs.

And we cannot do it all through Government jobs. We have to do it through the private sector. And I think the amendment which the Senator has offered and has been willing to withdraw, in recognition of fiscal restraints upon our appropriations bill, certainly is an indication of where we have to go.

We commend the Senator from Kansas again for introducing the amendment, for bringing it to the attention of the subcommittee, and we can assure him that in the future we will give it the utmost consideration.

Mr. DOLE. Mr. President, I might just say before I withdraw the amendment that I believe this program will grow in a proper way, in a reasonable way, and in a measured way. It will be of great benefit to industries as they attempt to comply with many mandates of the Rehabilitation Act of 1973.

I am happy with the response of the distinguished Senator from Massachusetts, and I withdraw the amendment.

The PRESIDING OFFICER (Mr. HUDDLESTON). The amendment of the Senator from Kansas is withdrawn.

Mr. BROOKE. I thank the Senator.

Mr. President, I ask unanimous consent that a member of Senator CULVER's staff, Kim Holmes, be granted the privilege of the floor during votes and consideration of the pending bill.

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

The Senator from North Carolina is recognized.

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

Mr. HELMS. I yield, gladly, to my able friend.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Eileen Winkleman of my staff be granted the privilege of the floor.

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

Mr. HELMS. Mr. President, I make a similar unanimous-consent request on behalf of Mr. Carl Anderson, of my staff, including all votes that may occur during consideration of the pending measure.

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

Mr. HELMS. Mr. President, I make the same unanimous-consent request on behalf of Jan Olsen, a member of Senator HAYAKAWA's staff.

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

AMENDMENT NO. 471

Mr. HELMS. Mr. President, I call up amendment No. 471 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina proposes amendment No. 471.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. None of the funds appropriated under this Act which are extended to any institution of higher education may be terminated, withheld, or otherwise encumbered while such institution is a party to any action in the courts of the United States alleging in whole or in part the failure of such institution to comply with any regulation or that any regulation is unlawful or otherwise improper in its substance or in the administration or application thereof and until all appeals of such action have been exhausted.

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be included as a cosponsor of the pending amendment.

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

Mr. HELMS. Mr. President, on April 22 of this year, I introduced, along with seven of my colleagues, S. 1361, the Academic Freedom Act of 1977. That legislation was proposed to preserve the academic freedom and the autonomy of institutions of higher education. Since that time I have received a great many letters from college presidents and administrators all across this country recounting to me many of the problems they experience as a result of excessive bureaucratic regulation. Often those regulations go far beyond the intent of Congress as expressed in its recent enactments.

For example, the regulations published by HEW, which purport to implement title IX of the Education Amendment of 1972, are broad and sweeping in nature. Indeed, they bear little resemblance to title IX at all. Through overbroad interpretation inconsistent with the congressional enactment, HEW has extended the meaning of the term "education" to embrace programs, activities, and services which are not actually part of the educational curriculum, such as athletics, student housing, medical care, fraternities and sororities.

Additionally, HEW has effectively rewritten the law which pertains to education programs and activities "receiving Federal financial assistance." Under the HEW regulations, they cover such programs and activities "receiving or benefiting from Federal financial assistance." There are several problems with the

phrase "or benefiting from," but foremost is the fact that Congress did not say it. It is not in the law. HEW said it. And HEW has put itself in a position of making law.

These two gross excesses on the part of unelected bureaucrats, standing alone, are quite significant. First, HEW applies the term "educational" very broadly to almost anything even remotely associated with a school or college. Second, by the insertion of the phrase "or benefiting from" in connection with Federal financial assistance, HEW brings within the coverage of its regulations activities which do not receive Federal financial assistance in any reasonable sense of the concept. Thus, the Department has made vague that which was precise, and with the nebulous legal environment that it has intentionally created, the Department now has latitude to arbitrarily dictate "law" that will affect every student in this country. This vast power is vested in a relatively small group of unelected bureaucrats who are not in anyway whatsoever answerable to the American people.

These concepts are fundamental to and underlie the problem. The practical manifestations of this distortion of the congressional enactment will, if allowed to stand, continue to radically alter the structure, and eventually, the substance of all education throughout America. Such an alteration, effected by a small group of unelected individuals, will be forced upon countless thousands who do not want the brand of restrictive debilitating so-called equality that severely limits freedom and absolutely inhibits traditional values.

Many college administrators regard such HEW regulations as wasteful, outside the scope of congressional intent, and unconstitutional. As a practical matter, colleges have been foreclosed from challenging such regulations in court because HEW may terminate all funds to a college during the legal proceedings.

Mr. President, the careers of many college students and professors depend upon the Federal financial assistance appropriated under this act today. Colleges should be given a due process hearing before their interests are so adversely affected. This pending amendment would give colleges their day in court before the funds upon which they rely are terminated. This amendment does not require HEW to seek a judicial ruling every time it decides to terminate financial assistance to a college. It simply prohibits the termination of such assistance during the time a college seeks a judicial review of the agency action on the grounds that the concerned regulation is unconstitutional or exceeds congressional intent, or is otherwise improper.

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

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from North Carolina wishes an additional 10 minutes.

If the Chair will just indulge me a moment, how about 30 minutes?

Mr. HELMS. Mr. President, let me offer a proposal to the distinguished majority leader:

Could we have a 30-minute time limitation on the amendment and assume that I have consumed 10 minutes of my time and thus have 5 minutes remaining.

Mr. MAGNUSON. Mr. President, may I suggest to the Senator from North Carolina that it is my understanding that the Senator from Massachusetts or myself will make a point of order on this amendment and, if the point of order is sustained, of course, we would not need to worry about a time agreement.

Mr. HELMS. That is correct.

Mr. MAGNUSON. If it is not, then we come back to a time agreement. Is that all right?

Mr. HELMS. Yes, entirely satisfactory.

Mr. MAGNUSON. We will wait until the Senator from Massachusetts returns to the Chamber.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. BROOKE. Mr. President, I have read the Senator's amendment. Without exhaustive debate, because I believe this matter has been debated at great length, I feel compelled to raise a point of order as this amendment, I feel, is legislation on an appropriation bill. I will withhold raising that point of order, however, out of due respect to the distinguished Senator from North Carolina, until such time as he has completed his discussion of this amendment. At the time that he does complete his discussion of this amendment, it is my intention, with all due respect, to raise a point of order.

Mr. HELMS. Mr. President, the understanding of the Senator from North Carolina is that in any event there will be no rollcall votes prior to 2 p.m. this afternoon, which I find entirely satisfactory.

Mr. President, I noted with interest the comments of my friend from Massachusetts (Mr. BROOKE), who stated that he, at the appropriate time, intends to raise a point of order against this amendment.

I hope he will not do that. The Senator from North Carolina feels this issue is so compelling, that it involves so many colleges and universities across the country—surely the Senate owes it to the college administrators who are so burdened——

The PRESIDING OFFICER. Will the Senator withhold until we have order in the Chamber? The Chair cannot hear the Senator.

Mr. MAGNUSON. I wonder if the Senator from North Carolina would temporarily lay his amendment aside so that we might take up an amendment which we can dispose of in 5 minutes, an amendment of the Senator from Missouri, with the understanding we will return to his amendment.

Mr. HELMS. Certainly, if the Senator will permit me to complete my thought.

The administrators of colleges and universities in this country, Mr. President, are laboring under an awesome burden which threatens the survival of many institutions. Unelected bureaucrats in the Department of Health, Education, and Welfare can arbitrarily cut off funds, and the administrators have no recourse.

The Senator from North Carolina asks only that the colleges and universities of this country be given the right of due process. If the Senator from Massachusetts decides that he must raise a point of order against this amendment on the ground that it is legislation on an appropriation bill, the Senator from North Carolina, in turn, will appeal the ruling of the Chair, in the event the Chair rules against the Senator from North Carolina and in favor of the Senator from Massachusetts.

The Senator from North Carolina feels that this matter deserves to be considered by the Senate. It deserves an up-and-down vote on the question.

I feel very strongly about this. Our colleges and universities ought to be allowed at least the basic rights in responding to Federal bureaucracies.

Mr. President, I have done research in the past several months on the whole effect of Federal controls on higher education. Would you believe, Mr. President, that Duke University in my State spends nearly $500 per student per year just to respond to Federal redtape and Federal regulations? The University of North Carolina at Greensboro tied up its entire computer system for 6 months to respond to just one Federal redtape request. One copy of the report filed by the University of North Carolina at Greensboro in response to that one demand from some Federal bureaucrat in Washington, D.C., Mr. President, weighed 12 pounds.

Who is in charge? If the Congress does not take note of this situation, and correct it, then we will have been derelict. In one way or another, Mr. President, I hope we can have a rollcall vote on this question.

I will ask unanimous consent, Mr. President, that I be permitted to lay aside my amendment.

Mr. BROOKE. Will the Senator yield?

Mr. HELMS. Yes.

Mr. BROOKE. Can we have a unanimous-consent agreement to have a vote on this matter after 2 p.m.?

Mr. HELMS. That is satisfactory with me.

Mr. BROOKE. As I understand, we will first get a ruling from the Chair on the point of order. Can we get that ruling now? Will that be agreeable?

Mr. HELMS. Certainly.

Mr. BROOKE. I will raise the point of order.

Mr. President, I raise the point of order on the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The amendment containing the contingency is general legislation. The point of order is well taken.

Mr. HELMS. Mr. President, as stated earlier, I must appeal the ruling of the Chair, for reasons that I stated. I ask for the yeas and nays.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Is there a sufficient second for the yeas and nays?

There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that the rollcall on the Senator's appeal from the ruling of the Chair be at 2 p.m.

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

UP AMENDMENT NO. 567

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes unprinted amendment numbered 567.

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,633,750,000)".

On page 20, line 24, strike "$3,246,050,000" and insert in lieu thereof "$3,081,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,633,750,000)".

Mr. EAGLETON. Mr. President, this amendment, which has just been stated, would cut $165 million from the committee's recommendation for title I purposes under this bill.

Let me say, Mr. President, that I doubt if I have ever offered an amendment as reluctantly as I offer this one. The educational needs of this country are colossal. There are educational inadequacies and shortcoming in almost every school district in our Nation.

However, we are about a very practical business here today, Mr. President. We know that, as the Senate bill now stands, it is $1.8 billion over the Carter budget insofar as controllable items are concerned. and that it is $800 million over the House figure insofar as controllable items are concerned. The President has indicated that he can "live with" the House bill. The President has also indicated that he cannot "live with" the Senate bill.

(Mr. BIDEN assumed the chair.)

Mr. MAGNUSON. Will the Senator yield?

Mr. EAGLETON. I yield to the Senator from Washington.

Mr. MAGNUSON. The chairman has had no such indication, but there have been some rumblings down there to that effect. I do not think the President of the United States has ever said directly that he will veto the HEW bill if the Senate figures prevail—of course, naturally, the Senate figures will not prevail when we get to conference—but that he would accept the House figures. There has been no direct communication to the Senator from Massachusetts or myself. I want the record clear on that.

The Secretary of HEW has indicated that he hoped we would keep the bill as low as possible. That is what the Senator from Missouri is trying to do.

Mr. EAGLETON. I thank my distinguished colleague from Washington. I will clarify my remarks by adopting his words: There have been "rumblings" from the White House and from HEW that the President may not be able, in the final analysis, to live with the Senate figures. I have talked twice this morning with the Secretary of HEW, Mr. Califano. Although he has not categorically stated that the President will, in fact, veto the bill if the Senate figures prevail, he has expressed, as he has to the chairman, his deep concern that the Senate figures are considerably in excess of both the Carter budget and the House figures.

Having said that, I must say that I think we all, sooner or later, are going to have to face up to a stark, blunt reality which I shall state as follows: Somewhere along the line, between now and October 1, we are going to have to pass an HEW bill that the President will sign. Somewhere along the line, whether today or later in conference with the House, we are going to have to make some accommodations with the administration to try to achieve a shared objective—to wit, the enactment and signing of an HEW bill. I think that now is the time to begin that process of accommodation. I hasten to repeat, I say this with enormous reluctance.

I have picked as the subject of this amendment title I of the Elementary and Secondary Education Act. Let me give, in brief essence, the figures that are involved in this portion of the HEW budget.

The fiscal 1977 enacted title I figure was $2.285 billion. The Carter budget for this same function increased it by $350 million, for a total figure of $2.635 billion. The House of Representatives added $100 million to that. Their total figure was $2.735 billion for this function. The Senate bill, before this body at this time, increased it another $65 million, for a total in the Senate figure for title I of $2.8 billion.

The administration's proposed budget, the $350 million that they are proposing in addition to the fiscal year 1977 enacted, is the largest single increase in the education budget. That is, the administration, in its refashioning of title I, when it came into office in January this year, gave its heaviest increase, insofar as educational item is concerned, to title I. They upped it on their own by $350 million. Of course, the House, as I have said, and the Senate have added, in toto, another $165 million to that figure.

Also at this time, Mr. President, let me point out to my colleagues that there is $500 million in the pipeline for title I, which will not be obligated by local school districts from the fiscal year 1977 appropriation. I think that is a very important and telling point. Not only has the administration increased title I in its own budget by $350 million, but, in addition thereto, there is already $500 million in the pipeline which will not be obligated by local school districts in fiscal year 1977 and which will thus be spent in fiscal year 1978.

So, in a manner of speaking, if we add the $500 million that is in the pipeline with the Carter increase of $350 million over the fiscal year 1977 figure, in practical essence, for fiscal 1978, there will be $850 million more spent on title I in fiscal 1978 than was spent for that same function in fiscal 1977.

Mr. President, I shall conclude my remarks as I began: I offer this amendment with a heavy heart.

I am one of two Members of the U.S. Senate who serve both on the education authorization committee and the education appropriation committee. The other Senator in that same category is Senator SCHWEIKER.

Thus, I have had a continuing connection, indeed, a continuing deep interest, in educational matters.

As I said at the outset, I know that there are thousands of unmet needs insofar as education is concerned in this country. But having said that, I realize that somewhere along the line in some portions of this budget—like it or not—some accommodation is going to have to be reached with the White House.

I think we ought to begin now to travel that road of accommodation. That is why, even with reluctance, I offer the amendment that I have just described.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Mr. President, of course, I know the Senator from Missouri has done a great deal of work in this field. So have the rest of us. We are thinking about this total amount. Of course, that sounds big. It does not adequately cover the people that need it or should be eligible for it.

We agree with the Senator. I was about to offer an amendment myself for some figure because this is a matter that has had its ups and downs both in the House of Senate committee.

It is a matter that we did cut below some recommendations. We had requests from several Senators to add to this particular item and we cut those down.

I think we can accept some different figure here. The Senator from Massachusetts and I discussed this matter. Because we will probably have to go back to the House figure anyway, or somewhere near the House figure, and we would be under the House with this figure.

Mr. BROOKE. Will the Senator yield?

Mr. MAGNUSON. Yes.

Mr. BROOKE. Mr. President, I know that the Senator from Missouri offers this amendment, as he has said, with a

heavy heart, because he has been in the forefront in education, as has our distinguished chairman (Mr. MAGNUSON). No one has done more in this field than has Senator MAGNUSON for disadvantaged children.

Mr. President, I have a heavy heart also that the Secretary of HEW would even suggest a drastic cut in title I funds. Title I funds are so important. There are over 9 million eligible disadvantaged children in this country.

Our bill would serve only 6.6 million of the 9 million. If we were to agree to this cut, we would only be serving 5.6 million children.

That is going in the wrong direction, Mr. President. We should be going further forward. We should be adding to the number of disadvantaged children that we are taking care of, rather than cutting back on the number of disadvantaged children.

We have recommended $165 million over the budget request. The House level is $65 million less than the Senate. We discussed this at great length after rather exhaustive hearings and, as the distinguished chairman has said, we had amendment after amendment from Senators who wanted to add to the money.

We know that the Senator from Missouri is making a strong case on budgetary constraints and we certainly want to have a bill the President will sign into law. The distinguished chairman and I, as late as this morning, have been looking for areas where we could make some cut that would make this bill more palatable to the administration, that the administration could in conscience sign.

Obviously, we all would agree that there is a need for more spending here as elsewhere in this particular bill. But again, we are faced with fiscal responsibility and we just cannot spend money that we do not have.

I would ask the distinguished Senator from Missouri to consider a change in his amendment and take it back to the House amount. I will say why I would suggest that. That would mean—and with an even heavier heart do I suggest it—a $65 million cut from title I. It would take the program back to a position where it would not mean a great step forward, but it would not, also, mean a step backward.

When we go to the House, if we go with a further cut, then I am fearful the House, being also cognizant of fiscal constraint, might accept the Senate figure and then it would be even further reduced. If we did that, I think we would achieve a purpose that the Senator from Missouri, certainly the chairman of the committee and I, would not like to see accomplished.

But I do not think this is a matter we ought to bring to the Senate for a vote. I think if the Senator could see his way clear to modify his amendment accordingly, I suggest this would be a matter which the distinguished chairman could accept and I certainly could accept, then we could look elsewhere in this bill for other cuts, because I understand the Senator has made a very important and a very firm case.

Mr. MAGNUSON. Mr. President, my friend from Massachusetts suggests we go back to the House figure, and suggests to the Senator from Missouri $165 million.

I would offer a substitute or a modification of the Senator's amendment to make it different and we can then talk with the House about it.

Mr. BROOKE. Mr. President, Senator JAVITS has been informed of this amendment and is on his way to the floor. I would have to ask for time for him to be heard on this amendment.

Mr. MAGNUSON. I withdraw my suggestion.

We have to wait, I guess. I know Senator JAVITS wanted to up it more.

Mr. BROOKE. He is the ranking minority member of the legislative subcommittee, and I am sure they are very much concerned about any cut in title I funds.

Mr. MAGNUSON. If we took every authorization of the legislative committee—and Senator JAVITS is a member of it—and had what we called full funding of what they authorized in that committee, the U.S. marshal would be walking down to the Treasury Department right now.

It runs into billions. We just could not do it.

So the authorization is a ceiling for us to work in between.

Mr. President, I suggest that the Senator withdraw his amendment temporarily.

Mr. BROOKE. Senator JAVITS is on the floor.

Mr. EAGLETON. Mr. President, let me summarize what is before the body and we are, of course, anxious to hear from the Senator.

Let me restate what we are doing in this amendment. We are dealing with title I. All three of us have debated this matter, myself, Senator MAGNUSON and Senator BROOKE.

As we stated, we do it with grave reluctance and a heavy heart. But we realize some accommodation has to be made with the President.

So I have offered an amendment to cut from the Senate figure on title I by $165 million. The Senate figure is $2.8 billion.

My amendment would cut it back to the Carter budget figure. The Carter budget is $350 million over what was spent in fiscal 1977, and there is another $500 million in the pipeline that will not be spent in fiscal 1977.

In essence, therefore, the total figure will be $850 million over what, in actuality, will be spent in fiscal 1977.

I am prepared to yield to my distinguished colleague from New York (Mr. JAVITS) if he wishes to discuss this at this point in time.

Mr. BROOKE. Mr. President, I want to be sure that the Senator is well aware of——

Mr. JAVITS. I am not aware of anything, so I suggest the absence of a quorum.

Mr. BROOKE. I should like to discuss it with the Senator.

Mr. JAVITS. I will; fine.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, it is an interesting thing here that has developed—my being called in suddenly, because I had expressed myself to the Appropriations Subcommittee as being strongly favorable to this item, and urging that it be increased to over $3 billion.

The reason is that none of these bills does more than serve two-thirds of the universe to be served—to wit, the disadvantaged children, of whom there are about 9 million. The Senate bill would serve about 6 million, the House bill about 5 million, without dealing with fractions. Hence, the desire to get as close as possible to dealing with our real problem, which is the totality of the disadvantaged children.

The interesting thing that develops is that Senator EAGLETON, Senator MAGNUSON, Senator BROOKE, and I are all deeply devoted to title I, the help for disadvantaged children. The only reason for making any cuts in this bill would represent some effort to defer to the President's desire to bring down the aggregate amount, and that is undoubtedly shared by other Members here. But I do not feel that I can, in good conscience, join in any cut which is deeper than that which I understand has been suggested by Senator BROOKE, bringing the Senate figure down to the House figure.

After all, this represents $2.8 billion. It represents the considered judgment of the subcommittee which is here with this measure. They, too, had very much in mind the exigencies which were faced in this field. Yet, they brought in a figure which was $65 million higher than that of the House.

In deference to the views of my colleagues—and I immediately affirm their fidelity to the substantive purpose as much as mine, and that goes for the mover of the amendment and the managers of the bill—I would not feel that, in good conscience I could stand silent or not vote "no" on a cut which was less than the House figure.

Mr. EAGLETON. I say to my distinguished colleague that I know of his deep interest in educational matters. No one participates more vigorously at all the hearings of the Human Resources Committee than does the Senator from New York City (Mr. JAVITS). Perhaps no city in the world has as severe educational problems as does New York City. Thus, I understand when he says that even the $65 million cut, as suggested by Senator BROOKE, meets with great reluctance on his part.

I suppose no Senator who will participate in this debate will do so with any joy or glee or eagerness or happiness. We are all here with a feeling of reluctance.

However, as I said before Senator JAVITS came to the floor, we are fast approaching a day of reckoning, a day of

reckoning insofar as some livable, tolerable condition is concerned between the viewpoint of Congress and the viewpoint of the adminstration as to the scope and extent of the HEW bill.

I probably would be agreeing with my colleague from New York, Senator JAVITS, were it not for these two facts, which I think bear brief repetition:

No. 1, the Carter budget already calls for a $350 billion increase over the fiscal 1977 budget—a very healthy increase. That is already in the Carter proposal.

I repeat: There is a half-billion dollars in the pipeline that will not be spent in fiscal 1977, but will be spent in fiscal 1978. If we add $350 million and $500 million, it is $850 million more than will be spent in fiscal 1977.

To be quite frank, I think the $65 million figure offered by Senator BROOKE does not really accomplish much at all. I would just as soon leave the figure as it is. I think it would be such a token, miniscule showing of accommodation with the White House that it would not send any meaningful signal to the White House, nor would it even have any significant symbolic meaning.

I could agree with the distinguished chairman, the Senator from Washington, that a cut of three-digit figures—to wit, $100 million—would carry some symbolic significance that would help us begin to travel a road of rational accommodation between Congress and the President. I hope that Senator MAGNUSON, in due time, will offer his $100 million figure as a compromise, and then we can vote on it.

Mr. JAVITS. Mr. President, I do not wish to detain the Senate. I just wish to answer that as follows:

We all agree that the people we are trying to reach are not being served. We all agree that the appraisals of the House and the Senate are higher than the $100 million cut about which Senator EAGLETON speaks. That was much considered.

I would just like to make two added points: One, the influence of inflation on the dollar and what this money can buy. Going back over a period of years, back, say, to 1968, we have had about a 50-percent inflation. So when we are talking about this figure now as compared with previous figures, even with previous figures a year ago, the inflation factor has got to be cranked in, and that makes a very material difference when you are dealing with large sums. Even a 6-percent inflation factor means $180 million in a $3 billion figure, and that is a very very large figure. It just takes in all the things we are talking about. That is point No. 1.

Second, Mr. President, I do not believe we are going to design this bill in such a way that all the President's objections can be met. Some can be met, but not all, and I do not think he is going to veto this bill because this particular item is cut $65 million or $100 million.

So I deeply believe we have got to listen to our own consciences, too. I think Senator BROOKE has gone just about as far as, in all conscience, I feel I could go for whatever it means for one Senator to feel this way, and I think I would like to stand with him.

Mr. BROOKE. Mr. President, I just want the RECORD to show that I am not in favor of any cut from title I to the disadvantaged. I suggested, as a compromise, to cut the $65 million and go back to the House figure because the Senator from Missouri had made such a strong case for fiscal restraint and, as my chairman has said, an attempt to keep this bill at such a level that the President would sign it.

But I have to agree with my colleague from New York. I cannot see the President of the United States vetoing an HEW bill because of the difference in $35 million for the disadvantaged children of this country. I just cannot see it.

It is incomprehensible to me. This is a huge bill. This bill is a $62-billion bill, leaving out the trust funds. With trust funds it is even more than that. It goes over $100 billion. So we are talking about a small amount of money here. We are talking about $165 million over the budget request, but we are talking about only $65 million over the House request.

Now the House has been very conservative in this bill, but they saw themselves the need to increase the title I funds $100 million over the President's budget.

I cannot see why the distinguished Senator from Missouri will call $65 million a minuscule amount. It is a lot of money to me. It is a lot of money to the Senator from North Carolina (Mr. HELMS), I am sure, for title I.

It certainly will mean a lot to those disadvantaged children, and will raise the number served, from the low number who are being served today, to a larger increase than certainly would be true under the Senator from Missouri's amendment.

But I want the RECORD to show I do not favor even a $65 million cut. When we added the $165 million in the Senate, both in the subcommittee and in the full committee, we did so with full knowledge of what we were doing. We knew there was a further need for money for title I. We did it in good faith and we did it in confidence that the President would sign it.

I understand the President is looking for some places to cut back. All I am saying is do not do so here, not on the services to disadvantaged children.

When I made that offer to the distinguished Senator from Missouri which the Senator from New York, I think reluctantly, agreed to go along with—as he serves as the ranking member of the Human Resources Committee which is the authorizing committee for this legislation—it seemed to me not to be just a nonsymbolic gesture, and I assure the Senator it was not a nonsymbolic gesture, it was a good faith attempt to try to find some way in which we could cut back without hurting too much.

But I fear if we go back, either under the Senator from Missouri's amendment or the amendment which he would like the chairman of the subcommittee—the manager of this bill—to offer, we might get hurt in a conference with the House and end up even further back than the House level. That they could come in and accept the Senate version of the bill which, I think, would be disastrous.

Therefore, I would hope the Senator from Washington, our distinguished chairman, would not offer that amendment. I would be compelled to vote against it and ask for a rollcall vote on that, and I think the Senator understands why.

Mr. EAGLETON. Well, just a brief response, Mr. President. Were this the only item in dispute between the Congress and the President, then the Senator from Massachusetts would be completely correct. Were this the only item in disagreement, the President would not veto this bill because of a $35 million difference, that is, the difference, between the Brooke $65 million and the Magnuson $100 million.

But this is not the only item in disagreement. This is one of a whole host of items in disagreement.

As the Senator from Massachusetts said, "There ought to be cuts, but not here." If not here, where? We are $1.8 billion over the Carter budget. Who wants to offer to cut the National Cancer Institute? We have added millions to cancer research. Is there going to be a Brooke amendment to cut the National Cancer Institute? How about the National Eye Institute? Who is going to offer an amendment to cut the National Eye Institute? Is there going to be a Brooke amendment then to cut vocational education funding? If not here, where? Find me a place in this bill where you will cut. If you do not start on this item in the educational budget that has the largest incremental increase of any other educational item, if you do not start with that, where do you start?

We all know that in a "shoot out at high noon," in a "face-down" between the White House and the Congress, somewhere along the line we are going to have to compromise. All of us in this body know that. All of us in this body know that sooner or later we are going to have to reach an accommodation with President Carter and Secretary Califano. I maintain that now is the appropriate time to begin to responsibly face up to this reality.

AMENDMENT NO. 471—APPEAL WITHDRAWN

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

Mr. BROOKE. I yield.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to request that the yeas and nays previously ordered at 2 o'clock be vacated.

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

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to request that I withdraw my appeal from the ruling of the Chair.

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

Mr. HELMS. Now, Mr. President, I ask unanimous consent that it be in order for me to withdraw my amendment.

The PRESIDING OFFICER. The amendment has fallen on a point of order and is not before the Senate.

Mr. HELMS. I thank the Chair and I thank the Senator.

UP AMENDMENT NO. 567

Mr. BROOKE. Mr. President, I know how strongly the Senator from Missouri feels, and I also know that he, in good faith, is trying to find ways in which we can cut this bill.

I want to assure him that the distinguished chairman and I are also looking for ways in which we can cut the bill.

The Senator said that the Senator from Massachusetts would not introduce an amendment to cut cancer. He is absolutely correct, I would not. We came in with a 12-percent increase in cancer, but we came in with a 15-percent increase in all other NIH divisions.

But we did recommend cuts and I am recommending further cuts: First, $65 million in title I. Second, $32.5 million in maintenance and operations.

The Senator also knows I recommended a cut in Cuban refugees money. I think the Senator voted for the continuation of that money. It is a program we have been supporting for 17 years. It was supposed to be a temporary program. Now, there is a proposal to keep it going for another 10 years, and I recommend that that be cut out and terminated, but the Senator voted against doing that.

There were others who voted against it.

I do not want the record to remain that the Senator from Massachusetts is not looking for places to cut because that just is not true. All I am saying is you do not cut back on title I services to disadvantaged children. I do not think the President wants to cut back on title I services to disadvantaged children.

We could go on and on and debate this case. It is an important factor, to be sure, but I do not think anything really would be served by it at this time.

I feel the case has been strongly made that we ought not to cut back, and if we cut back then let it be known that the administration is doing the cutting back, the administration is cutting back on the services to disadvantaged children.

There are other areas which I could point out where they could cut back if they want this bill reduced, but I do not think this is the place. If they want to do it, then they will just have to muster the votes to do it.

I fear if we cut back here in the Senate and go to the House of Representatives there will be a further reduction and we will take a giant step backwards insofar as title I services to disadvantaged children in this country are concerned.

That is a decision which the distinguished Senator from Missouri will have to make.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I seem to be in the middle here between my friend from Massachusetts and my friend from Missouri.

I think that we can cut a little from this amount for the simple reason that overall it involves $2.8 billion. There is $500 million in the pipeline. We just got those figures recently. That $165 million might be too much, and $65 million might be just a little too little.

So I am going to submit an amendment to the bill to cut this amount $100 million. It is in between.

And also I propose to submit another amendment which would cut $32.5 million in impacted aid, as mentioned by the Senator from Massachusetts, which would give us a total cut right there in those two items of $132.5 million which I think is reasonable.

I do not think we should be too hard-nosed about this money one way or another, and I say to my friend from Massachusetts probably when we go to the House of Representatives we are going to come closer to his figure anyway, although there is a possibility, I agree with the Senator from Massachusetts, that they may say, "All right, we will take the cut," as they often do that.

UP AMENDMENT NO. 568

So I propose, first, an amendment to the amendment of the Senator from Missouri making it $100 million.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 568 to the Eagleton amendment No. 567.

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,698,750,000)".

On page 20, line 24, strike "$3,246,050,000 and insert in lieu thereof "$3,146,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,698,750,000)".

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. I wish to submit the other amendment to the bill, the $32.5 million, but maybe we could dispose of that right now without a rollcall.

Is that all right?

UP AMENDMENT NO. 569

I propose the amendment on page 21, line 24, strike $802.5 million; on page 21, line 25, strike $744.8 million, on page 22, line 2, insert a period after "act" and delete the remainder of lines 2, 3, and 4.

This would accomplish this $32.5 million in impacted aid for maintenance and operation, the so-called Savings Provisions. That is what the amendment is about, and I hope the Senator will accept it.

UP AMENDMENT NO. 567

Mr. EAGLETON. Mr. President, I ask unanimous consent that my amendment with the Magnuson substitute pending be temporarily laid aside and that the pending order of business be the Magnuson $32.5 million amendment.

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

Mr. BROOKE. Mr. President, I am willing to accept the Magnuson amendment of a cut of $32.5 million.

The PRESIDING OFFICER. The Senator will withhold a moment.

UP AMENDMENT NO. 569

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes unprinted amendment No. 569.

On page 21, line 24, strike "$802,500,000" and insert $770,000,000.

On page 21, line 25, strike "$744,800,000" and insert $712,300,000.

On page 22, line 2, insert a period after "Act" and delete the remainder of line 2 and lines 3 and 4.

The PRESIDING OFFICER. The Senator fram Massachusetts.

Mr. BROOKE. Mr. President, I am prepared to accept the amendment of the distinguished chairman on maintenance and operation costs of $32.5 million, and yield back my time.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 569) was agreed to.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the Magnuson amendment for $100 million.

Mr. MAGNUSON. $100 million instead of $60 million.

Mr. BROOKE. Title I.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROOKE. Mr. President, if I may, I wish to question the Senator from North Carolina if he intends to have his vote on appeal from the Chair at 2 p.m. If not, I ask unanimous consent that the vote occur on the Magnuson amendment at 2 p.m.

Mr. HELMS. Mr. President, as the Senator knows, by previous unanimous-consent request an order for the yeas and nays was vacated.

Mr. BROOKE. I did not hear that. I thought the Senator asked whether it could be.

Mr. HELMS. No. I made such a request, and it was vacated.

Mr. BROOKE. Has the order then been vacated, Mr. President?

The PRESIDING OFFICER. Yes, the order has been vacated.

Mr. BROOKE. Then, Mr. President, I ask unanimous consent that vote occur on the Magnuson amendment at 2 p.m.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from North Carolina reserves the right to object.

Mr. MAGNUSON. Mr. President, will the Senator yield to me?

Mr. HELMS. Mr. President, I ask the Senator from Massachusetts if it is his understanding inasmuch as I yielded to the Senator from Missouri for his amendment that after the vote the Senator from North Carolina will be recognized to call up a series of amendments.

Mr. BROOKE. Yes. We can vote now.

The PRESIDING OFFICER. We can vote now.

UP AMENDMENT NO. 568

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the name of the Senator from Missouri (Mr. EAGLETON) be added to the so-called Magnuson amendment.

Mr. EAGLETON. That is correct.

Mr. HELMS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Mr. President, I did not hear the Chair state that the Senator from North Carolina would be recognized immediately after the rollcall. Is that understanding correct?

The PRESIDING OFFICER. That is only because the Chair did not hear the request.

The Chair acknowledges that request and the Senator from North Carolina will be recognized.

Mr. HELMS. I thank the Chair.

Mr. BROOKE. Mr. President, I withdraw my unanimous-consent request that the vote occur at 2 p.m., because there is no necessity for it at that time, and would agree to vote immediately.

Mr. EAGLETON. Mr. President, I ask unanimous consent that my name be added to the Magnuson $32.5 million amendment that has previously been agreed to.

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

Mr. EAGLETON. Mr. President, I am prepared to vote on the Magnuson substitute.

The PRESIDING OFFICER. The Chair wishes to know if the Senator from Massachusetts is still requesting the yeas and nays on the Magnuson-Eagleton amendment.

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the Magnuson-Eagleton amendment.

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—41

Anderson	Byrd,	Church
Bentsen	Harry F., Jr	Cranston
Bumpers	Cannon	Curtis
Burdick	Chiles	Eagleton
Eastland	Johnston	Proxmire
Garn	Long	Scott
Gravel	Magnuson	Sparkman
Griffin	McClure	Stennis
Hansen	McIntyre	Stevens
Hatch	Metcalf	Stevenson
Hayakawa	Morgan	Talmadge
Helms	Nelson	Thurmond
Huddleston	Nunn	Young
Jackson	Percy	Zorinsky

NAYS—50

Allen	Hart	Moynihan
Baker	Haskell	Muskie
Bayh	Hatfield	Packwood
Bellmon	Hathaway	Pearson
Biden	Heinz	Pell
Brooke	Hollings	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Case	Inouye	Sarbanes
Chafee	Javits	Sasser
Clark	Kennedy	Schmitt
Culver	Leahy	Schweiker
Danforth	Lugar	Stafford
DeConcini	Mathias	Stone
Dole	Matsunaga	Tower
Domenici	McGovern	Wallop
Durkin	Melcher	Williams
Glenn	Metzenbaum	

NOT VOTING—9

Abourezk	Goldwater	Randolph
Bartlett	Laxalt	Riegle
Ford	McClellan	Weicker

So Mr. MAGNUSON's amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 567

The PRESIDING OFFICER The question recurs on amendment No. 567.

Mr. MAGNUSON. That amendment reduced——

SEVERAL SENATORS. Mr. President, we cannot hear.

The PRESIDING OFFICER. The Senate will be in order. The question is on the amendment.

Mr. MAGNUSON. The amendment of the Senator from Missouri, Mr. President?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. What is the amendment of the Senator from Missouri?

Mr. MAGNUSON. To cut $165 million.

The PRESIDING OFFICER. It is amendment No. 567.

Mr. EAGLETON. It would cut the $185 million. The Magnuson substitute to cut the $100 million having failed, my amendment cutting the $165 million is before the body and I presume we will hear from the Senator from Massachusetts (Mr. BROOKE).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, since we have debated this amendment at great length and the Senate has voted its will on the amendment of the Senator from Washington, I would ask the Senator from Missouri if he would withdraw his amendment to cut title I funds by $165 million and substitute therefor an amendment for $65 million, which amendment I would be willing to support and hopefully we could take it on a voice vote.

Mr. EAGLETON. That would be fine, and I would be pleased to be a cosponsor of a Brooke amendment.

Mr. BROOKE. I would rather have it called the Eagleton amendment, Mr. President.

Mr. MAGNUSON. If nobody wants the honor, I will take it.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Does the Senator want to propose it as a substitute?

Mr. BROOKE. That is correct.

Mr. EAGLETON. The Senator proposes as a substitute to mine a cut of $65 million, with the figures to be appropriately conformed.

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

Mr. BROOKE. Yes.

Mr. JAVITS. Mr. President, I do not wish the Senator to stand alone in this.

The PRESIDING OFFICER. The Senate will be in order.

If the Senator from Massachusetts has a substitute amendment, will he send it to the desk?

Mr. BROOKE. Yes, we shall send it up.

Mr. JAVITS. Mr. President, I would not wish the Senator to stand alone in this matter. I do not misconstrue the view of the Senate, either. I think the Senate voted against the $100 million because it thought that cut was too large.

I have spoken to a great many Members. I think they feel there should be some cut. I am sorry to see it. I think it is most regrettable. But I think Senator BROOKE is doing exactly what he should do in proposing the $65 million cut. I should like to support him and share the responsibility.

Mr. BROOKE. I thank my courageous colleague from New York.

Mr. President, with a heavier heart than the Senator from Missouri had when he submitted his amendment, I submit the substitute amendment which would reduce it by $65 million. I accept the Senator from New York as a cosponsor of that amendment.

Mr. JAVITS. All right.

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

Mr. BROOKE. Yes.

Mr. PELL. Mr. President, I ask unanimous consent that the privilege of the floor be accorded to Jean Frohlicher and Peter Harris.

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

The following Senators requested and, by unanimous consent, the privilege of the floor was granted to the following staff members:

Mr. KENNEDY, Jack Leslie; Mr. CANNON, Kelton Abbot; Mr. GLENN, Reginald Gilliam; Mr. BENTSEN, Gale Picker; Mr. DECONCINI, Jerry Bonham; Mr. CHAFEE, Lee Verstandig, and Fran Paris; Mr. WALLOP, Deral Wiley; Mr. EAGLETON, Marsha McCord.

Mr. MAGNUSON. Mr. President, that is all the staff members that are available, is it not? All of them. We should have had a blanket request, to let everybody in, en bloc, on this particular bill. I wish there were more Senators here, but the staff is adequately represented.

Mr. BROOKE. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona (Mr.

DECONCINI) be added as a cosponsor of this amendment.

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

Mr. EAGLETON. I should like to be listed as a cosponsor.

Mr. BROOKE. I ask unanimous consent that the distinguished Senator from Missouri (Mr. EAGLETON) and the distinguished Senator from Washington (Mr. MAGNUSON) be added as cosponsors of this amendment.

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

UP AMENDMENT 570

The clerk will state the substitute amendment.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 570.

Mr. BROOKE. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 20, line 15, strike "($2,798,750,000)" and insert in lieu thereof "($2,733,750,000)".

On page 20, line 24, strike "$3,246,050,000" and insert in lieu thereof "$3,181,050,000".

On page 21, line 7, strike "($2,798,750,000)" and insert in lieu thereof "($2,133,750,000)".

Mr. BROOKE. I think all my colleagues understand that this is a cut of $65 million from title I of this bill. Mr. President, I am prepared to yield back the remainder of our time.

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

INTERNATIONAL TRADE COMMISSION

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6370.

The PRESIDING OFFICER. (Mr. MOYNIHAN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 6370) 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, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. ROTH, and Mr. PACKWOOD conferees on the part of the Senate.

EXTENSION OF TIME FOR COMMITTEE ON FOREIGN RELATIONS TO FILE REPORT

Mr. SPARKMAN. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. SPARKMAN. Mr. President, on April 1, 1977, the Official Conduct Amendments of 1977 (S. Res. 110) was adopted by the Senate. That resolution contained the following provision:

SEC. 305. (a) The Committee on Foreign Relations shall review the problem of travel, lodging, and other related expenses provided to Members, officers, or employees of the Senate paid for by foreign governments in the situation where it is not possible to procure transportation, lodging, or other related services or to reimburse the foreign government for those purposes.

(b) the Committee shall report the results of its review under subsection (a), together with its recommendations, to the Senate within *ninety days* after the day on which this resolution is agreed to.

The 90-day requirement of that section will expire next Thursday, June 30, 1977. However, within the next 2 weeks, the Senate and House conferees will be meeting to resolve the differences between the House and Senate versions of the Foreign Relations Authorization Act of 1978 (H.R. 6689). Section 458 of the Senate-passed version of that legislation addresses the entire area of foreign gifts and decorations including the acceptance of travel paid by foreign governments.

It is my hope that the Senate will grant the Foreign Relations Committee an additional 30 days to submit the report required in section 305 of Senate Resolution 110. This extension of time will permit the committee to consider adequately the results of the conference on H.R. 6689 in the preparation of its report. It is also my understanding that the Senate Select Committee on Ethics, the committee charged with primary responsibility concerning the Senate rules governing the receipt of gifts, has no objection to granting the Foreign Relations Committee this extension of time.

Therefore, I ask unanimous consent that the Senate grant the Foreign Relations Committee an additional 30 days within which time it may submit the report required by section 305 of Senate Resolution 110.

Mr. ROBERT C. BYRD. Reserving the right to object, has this been cleared with the distinguished Senator from Illinois?

Mr. SPARKMAN. It has been cleared with the Committee on Ethics, yes.

Mr. ROBERT C. BYRD. Then I have no objection.

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

ORDER FOR COMMITTEE TO FILE REPORT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be given until midnight tonight to file its report on S. 1307.

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

TIME-LIMITATION AMENDMENT—S. 9

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the OCS bill is called up and made the pending business, there be a time limitation of 4 hours to be equally divided between Senator JACKSON and Senator HANSEN, that there be a time limitation on any amendment of 2 hours, a time limitation on any amendment to an amendment of 30 minutes, with one exception, that being an amendment by Mr. DURKIN with respect to the study of oil and gas reserves on which there be a 2½-hour time limitation, that there be a time limitation on any debatable motion or appeal of 30 minutes, and that the agreement be in the usual form, with the further proviso that the majority leader may call up the measure at any time after the July 4 holiday.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, this agreement was worked out with some care on both sides of the aisle.

It is my understanding that there is no objection to that arrangement. The only question I would have and I would ask for further clarification on is the amendment to be offered by Senator DURKIN.

Do I understand it is for oil and gas study? Specifically, would that not include then a proposal for, say, oil and gas divestiture?

Mr. ROBERT C. BYRD. It will not. I can assure the Senator of this because I would be opposed to that myself.

Mr. BAKER. All right.

Mr. President, there is no objection on this side.

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

Mr. ROBERT C. BYRD. Mr. President, in further modification of the agreement I ask unanimous consent that the vote occur not later on final passage of that bill, with paragraph 3 of rule XII waived, than 6 o'clock on the second day of consideration of the bill.

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

The text of the agreement is as follows:

Ordered, That at any time following the July 4th Non-Legislative Period, it be in order for the Majority Leader to call up S. 9 (Order No. 262), a bill to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, and that debate on any amendment in the first degree (except an amendment by the Senator from New Hampshire (Mr. Durkin), relative to a study of oil and gas reserves, on which there shall be 2½ hours) shall be limited to 2 hours, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the Minority Leader or his desig-

nee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill (which shall occur no later than 6 p.m. on the 2d day of consideration), debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the Senator from Washington (Mr. Jackson) and the Senator from Wyoming (Mr. Hansen): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

LABOR-HEW APPROPRIATIONS

The Senate continued with the consideration of H.R. 7555.

Mr. MAGNUSON. Mr. President, will the Chair put the question?

The PRESIDING OFFICER. The question is on agreeing to the Brooke substitute for the Eagleton amendment.

The amendment was agreed to.

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

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the Eagleton amendment as amended.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized.

The Senator from North Carolina has the floor.

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

Mr. HELMS. Yes, I yield.

Mr. BROOKE. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 10 minutes for each side, a total of 20 minutes.

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

AMENDMENT NO. 470

Mr. HELMS. Mr. President, I call up amendment No. 470 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be sated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment No. 470.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . None of the funds appropriated under this Act which are made available to students as scholarships, loans, grants, wages, or in any other form; or made available to any institution of higher education for payment to or on behalf of students admitted to such institution shall be held and considered for any purpose as Federal financial assistance made available to such institution itself.

Mr. HELMS. Mr. President, thousands of college students today face the possible loss of Federal financial assistance due to the arbitrary actions of HEW officials. HEW has decided to terminate Federal assistance; including scholarships, loans, grants, wages and veterans' benefits, to every student attending a college which has failed to comply with its rules and regulations. That means, Mr. President, that if one student receives benefits from the Federal Government, HEW assumes command of that institution.

This decision to substantially injure the educational career of thousands of students as a means of resolving disputes with college administrators is profoundly unfair. It completely lacks congressional authorization and should not be tolerated. The bottom line is that students should not be pawns in this new bureaucratic game which the HEW bureaucrats play.

There are hundreds of small, private colleges throughout the United States. These colleges are vital to the education of millions of Americans and their contribution to diversity in the American educational experience is substantial. These colleges highly prize their long traditions of independence and some have even refused to accept any Federal financial assistance in order to preserve that autonomy.

Hillsdale College in Hillsdale, Mich., is representative of many small colleges in its desire to maintain that independence. Its plight at the hands of Federal bureaucrats recently was the subject of a commentary by Nicholas von Hoffman. I think it is worthwhile to ponder what Mr. von Hoffman said.

Mr. von Hoffman wrote the following:

Some years ago, (Hillsdale College) decided that the Federal Government might not be the fount from which all blessings flow and refused to accept any financial help. No dormitory loans, no research grants, no funds for this kind of special program or that sort of exciting breakthrough experiment. Hillsdale did not want to be bossed. . .

Moreover, where other schools spend a fortune keeping the books to satisfy the whims of the General Accounting Office, Hillsdale can administer itself at a low cost the way it wants. . .

But now a threat has come to Hillsdale. The government has found what it apparently hopes is a way to put the college under its regulatory net. HEW has decreed that Hillsdale is a "recipient institution," although it takes no government money, on the grounds that the Hillsdale students, as individuals, do receive federal student loans and veterans' benefits which make it possible for them to attend college.

As a recipient institution, Hillsdale would have to have HEW's affirmative action program and all the requirements that Washington imposes on colleges and universities.

Not that the school is opposed to admitting blacks or females, (Hillsdale President George) Roche points out that Hillsdale, founded in 1844, was doing so before the Civil War. The student body is evenly divided male-female with 3.5 percent blacks, most of whom are scholarship students.

The college also has students from 28 nations, all of which suggests that Roche isn't speaking with forked tongue when he says the school is resisting as a matter of principle. It wants to stay free.

To resist, the board of trustees has passed a resolution saying that the college "will hold to its traditional philosophy of equal opportunity without discrimination by reason of race, religion, or sex but such nondiscrimination will be voluntary," and if that means no more government tuition help, then Hillsdale will take up the beggar's cup and try to find more money for scholarships.

Mr. President, what Nicholas von Hoffman has said about Hillsdale is true all across this country.

I have discussed earlier on this floor today and days previous the alarming statistics involved in Federal control, Federal domination, of our colleges and universities.

Mr. President, $3 billion a year is spent by the colleges and universities just to respond to Federal regulation and redtape. That happens to be exactly equivalent to the total amount of the private funds raised by the colleges and universities in a year's time.

Moreover, Mr. President, I referred earlier today to Duke University, a very fine university in my State of North Carolina.

Can we believe it, Mr. President, that Duke University spends $500 a year per student per year just to respond to Federal redtape?

That is precisely the figure; $500 per year per student. The Senator from North Carolina submits that is too much redtape, too much regulation, too much Federal control, and that is what this amendment is all about.

Mr. President, there should be room in the American education system for Hillsdale and the hundreds of small private colleges like it. Year after year, bureaucratic regulation becomes more excessive and more stifling to that creative balance necessary for the unencumbered pursuit of knowledge that has been the hallmark of American college life. Today we have come very close to the point when bureaucrats at HEW can demand of these small colleges: "Either accept Federal regulation and its consequences or we will make it impossible for you to exist."

That is what it amounts to. That is what this amendment addresses itself to.

Congress can act now to remedy this situation. Today we are voting on an appropriation act. We are appropriating money to be extended to colleges as Federal financial assistance to those institutions and we are also appropriating money to be extended to students as Federal financial assistance to those individuals. It is entirely proper, Mr. President, for Congress in this appropriations act to appropriate those funds in such a manner so as to avoid any confusion or misunderstanding on the part of HEW bureaucrats that money appropriated for the one purpose can be considered by them to have been appropriated for some other purpose.

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

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

Mr. HELMS. Yes, of course. I am delighted to yield to my friend.

Mr. CRANSTON. Mr. President, I ask

unanimous consent that during Senate consideration of H.R. 7555, the Labor-HEW Appropriations bill, Jon Steinberg of the Veterans Affairs Committee staff and Gary Sellars and Fran Butler of the Human Resources Committee staff have full access to the floor, including during rollcall votes, and all stages of the proceedings.

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

Mr. HELMS. Mr. President, I ask unanimous consent that the distinguished Senator from California (Mr. HAYAKAWA) be added as a cosponsor, and I yield to him the remainder of my time.

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

Mr. HAYAKAWA. Mr. President, I would like to speak in support of the amendment offered by my distinguished colleague from North Carolina (Mr. HELMS).

I believe there is a very important distinction to be drawn when HEW makes grants as to who is the recipient of a grant that is offered to a student to help him get through college.

If, indeed, HEW has decided the college the student goes to is a recipient institution and, therefore, comes under the directives of HEW and has to accept those controls, then it seems to me this is a real misreading of the ultimate intent of scholarship and other financial aids for students.

Such moneys are really intended for the student as recipient, not the institution.

I am rather sensitive on this point because at San Francisco State College as one of the presidents of the California State University system, we had to undergo considerable lecturing on the part of extremely arrogant agents of HEW who presumed to tell us what was moral and what was not moral in the treatment of our minority students.

I and my own faculty were extremely offended by these remarks because, as a college dealing with minority students ever since its inception in 1899, we at San Francisco State had enormous experience in what is just, what is proper, to enhance opportunity for minority students, what to do for the economically handicapped, and so on. And when HEW came to dictate to us what is moral and not moral, as I say, we were deeply offended, we were absolutely outraged. But they said, "If you don't follow our guidelines, we withhold this, that and the other funds from your institution."

All this got us into the expensive program already described in which hundreds of dollars per student were spent just writing reports and going over the records of all our students and all our faculty to discover what were our hiring and admission practices in faculty and staff, and so on.

It was an enormous waste of time and an enormous waste of money, especially the taxpayers' money; but, also, it seemed to me that it was a limitation on the freedom of the student, when the student was threatened with the withdrawal of the scholarship funds if he went to a college which did not choose to follow HEW guidelines and was preoccupied with promoting its own sense of racial justice.

Apparently, from what the Senator from North Carolina says, Hillsdale College has its own definition of social justice, as we did.

I, not having had the experience, did not institute a program to fight HEW at that time, when I was President of San Francisco State. I am very sorry I did not have the education or the background to be able to fight them in the proper way, but I am glad to see this opportunity now.

I believe that a student who is deserving of financial aid to go to college should go to the college of his choice, in any accredited institution, including Hillsdale College, which does not choose to go by HEW guidelines and spend all the money and manpower necessary to report that it is following those guidelines.

If a student wants to go to San Francisco State or Stanford or East Texas State University, at Commerce, Tex., it does not matter. It is the student's choice. If the Government chooses to subsidize students by such grants in aid, I believe the students should have the freedom to go wherever they wish, without the institution suffering therefrom or without the student suffering therefrom.

Mr. HELMS. I thank the Senator from California.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. BROOKE. Mr. President, this amendment would restrict HEW from using students' aid as a lever to enforce title VI of the Civil Rights Act. Courts already have ruled that student aid is Federal aid for civil rights enforcement purposes.

I could debate this amendment at great length with the distinguished Senator from North Carolina, now joined by the distinguished Senator from California. However, as in the other amendment which was offered, which was similar in its direction to this amendment, I am compelled to raise a point of order. I do so reluctantly, whenever I raise a point of order; but I have indicated that I will consistently raise a point of order on these matters which are, in my opinion, legislation on appropriation bills.

So I raise the point of order, Mr. President, on the ground that this is legislation on an appropriation bill.

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

Mr. BROOKE. I yield.

Mr. MAGNUSON. I join the Senator. It seems to me that the new amendment by the Senator from North Carolina does exactly the same thing that he had in the other amendment. Again, it is legislation on an appropriation bill. It belongs in a legislation committee, and while I might be for it, it does not belong here.

The PRESIDING OFFICER. The Chair rules that the point of order is well taken. The amendment does contain——

Mr. HELMS. I raise the question of germaneness, Mr. President.

The PRESIDING OFFICER. The Chair has ruled that the point of order is correct, and it is too late for the question of germaneness to be moved.

Mr. HELMS. The able occupant of the Chair had not finished ruling, and I raised the question of germaneness. The Chair was still in the process of ruling.

I raise the question of germaneness, Mr. President. I suggest that the Chair did not finish.

The PRESIDING OFFICER. The Chair does not wish to insist upon its ruling. The Senator raises the question of germaneness.

Under rule XVI, the Chair submits that question to the Senate, without debate.

Mr. HELMS. I thank the Chair for its courtesy.

The PRESIDING OFFICER. The question is whether the amendment is relevant.

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is whether the amendment of the Senator from North Carolina is relevant. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

The yeas and nays resulted—yeas 33, nays 62, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—33

Allen	Griffin	Nunn
Baker	Hansen	Roth
Bellmon	Hatch	Schmitt
Byrd, Harry F., Jr.	Hatfield	Scott
Chiles	Hayakawa	Sparkman
Curtis	Helms	Stennis
Dole	Johnston	Thurmond
Domenici	Laxalt	Tower
Eastland	Long	Wallop
Garn	Lugar	Zorinsky
Goldwater	McClure	
	Morgan	

NAYS—62

Abourezk	Culver	Javits
Anderson	Danforth	Kennedy
Bayh	Durkin	Leahy
Bentsen	Eagleton	Magnuson
Biden	Glenn	Mathias
Brooke	Gravel	Matsunaga
Bumpers	Hart	McGovern
Burdick	Haskell	McIntyre
Byrd, Robert C.	Hathaway	Melcher
Cannon	Heinz	Metcalf
Case	Hollings	Metzenbaum
Chafee	Huddleston	Moynihan
Church	Humphrey	Muskie
Clark	Inouye	Nelson
Cranston	Jackson	Packwood

Pearson	Sarbanes	Stone
Pell	Sasser	Talmadge
Percy	Schweiker	Weicker
Proxmire	Stafford	Williams
Randolph	Stevens	Young
Ribicoff	Stevenson	

NOT VOTING—5

Bartlett	Ford	Riegle
DeConcini	McClellan	

The PRESIDING OFFICER (Mr. MOYNIHAN). The Chair will now rule on the point of order. The amendment having been held nongermane, the point of order has been made that the amendment contains legislation in an appropriation bill. The Chair rules that the point of order is well taken.

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the Senator from North Carolina and cosponsored by the distinguished Senator from California there be a time limitation of 25 minutes to each side.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to Senators for unanimous consent requests.

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members:

Mr. BELLMON, Robert Boyd, Robert Fulton, Dick Hargis, Barry Kinsey, Charles McQuillen; Mr. KENNEDY, Jay Urwitz, Christine Burch; Mr. ANDERSON, Sandy Wallace, Andy Kozak; and Mr. MCCLURE, Jim Streeter.

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. I believe there is a previous order that I will be recognized for a series of amendments. Is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I ask unanimous consent that I may yield to the Senator from California to call up an amendment to be cosponsored by the able Senator and the Senator from North Carolina, and that I be recognized after resolution of his amendment.

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

The Senator from California is recognized.

AMENDMENT NO. 473

Mr. HAYAKAWA. Mr. President, I call up my amendment No. 473 to H.R. 7555 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) for himself and Mr. HELMS proposes amendment numbered 473.

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

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

The amendment is as follows:

On page 42, line 21, insert the following new section:

SEC. 211. None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation, or enforcement of any rule, regulation, standard, guideline, recommendation, or order issued by the Secretary of Health, Education, and Welfare which for purposes of compliance with any timetable, goal, ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or (2) the admissions policies or practices of such individual or entity.

Mr. HAYAKAWA. Mr. President, today I call upon my colleagues in the Senate to take affirmative action against discrimination based upon race, creed, sex, and national origin.

Affirmative action, I say, not passive acceptance of divisive, discriminatory, and unfair practices fostered, indeed, decreed by the Department of Health, Education, and Welfare. I am referring, of course, to HEW's entrenched policy of forcing upon the schools and businesses of this country a curious form of bigotry—as if bigotry in all its forms were not curious—which actually requires employers and admissions officers to take into account a person's race or sex in their decisions. It does not matter whether this be called a quota system, a minority ratio plan, a goal, a timetable, or numerical representation. What it boils down to is treating some people more favorably, and treating others less favorably, because of the shade of their skin, the nationality of their parents, or the gender of their chromosomes.

I really thought that, as a nation, we had put all that behind us. In fact, not too many years ago, laws were passed in this very Chamber to forbid that kind of discrimination. And now, the Federal Government, through the regulatory authority of HEW, insists upon the very kind of discrimination outlawed by the Civil Rights Act of 1964.

I do not think anyone has been deceived by recent assurances on the part of Secretary Califano—whose own ethnic origin, one would hope, has taught him the evils of discrimination—that his Department does not support racial or sexual quotas in employment and education. There is no functional difference between a quota on the one hand and, on the other, goals and timetables and all the other evasive means which are being used to camouflage discrimination and reimpose quotas. In the hands of HEW, it is only the difference between a gloved fist and bare knuckles.

I ask my distinguished colleagues of the Senate to consider for a moment how they would feel if they received a letter in the mail, inviting them to accept a teaching job at a particular institution because their skin color was underrepresented on the faculty of that institution. It happens.

How would we feel if we applied for a position at a university, received an enthusiastic response from the school, appeared there for an interview, and found our potential employers visibly distressed that we were not the right color. That happens too.

And the curious fact is that this is not in defiance of the law. It is in compliance with HEW's regulations which, in one way or another, require its grantees to give preferential treatment in employment and admissions to members of groups which have, in the past, suffered from discrimination. Or rather, some such groups which have suffered from discrimination but not all of them.

HEW has not seen fit to consider as minorities many ethnic and cultural groups whose members have nonetheless suffered past discrimination in our society. If your name is Pulaski or Slechta or Horvath or Chakiris or Gedra or, for that matter, Califano, you cannot be included in affirmative action programs, except as a victim. If your name is O'Brien or Odgaard or Oberholtzer, you have no recompense for past discrimination you may have suffered. If my name were Heifitz or Humboldt or Hlatki, I could be denied a job, a promotion, or a place in college in favor of someone less qualified than I whose name happens to be Hayakawa.

All this in the name of justice.

We all know where HEW stands on this matter. And we know where the American people stand: In a recent Gallup poll, by a margin of 8 to 1, they affirmed their belief that ability, rather than preferential treatment, should be the main consideration. Among women, 82 percent feel that way; and among nonwhites, fully 64 percent want ability, rather than other considerations, to determine hiring and job advancement. What we do not know is where the Congress stands.

It is not easy for me to say this, because I respect this body and admire my colleagues in it. But the unpleasant truth is that, time and again, we have allowed the Federal bureaucracy to openly thwart our will. The Congress did not see fit in 1964 to mandate affirmative action programs by law, and we should not allow the executive branch to do the same thing by regulation. Unless we act clearly and forcefully now, we run the risk of having the public and the courts mistake our inaction for approbation. We cannot escape our final accountability for whatever the bureaucracy does in our name.

The amendments which I and several of our colleagues are offering today to the Labor-HEW appropriations bill specifies that none of the funds for HEW can be used in any way to mandate hiring and promotion policies, or admissions practices of any individual or entity. It would, in effect, prohibit the Department from requiring quota systems even when they are disguised as timetables, goals, or ratios. The Secretary could not force discriminatory practices upon the American people through "any rule, regulation, standard, guideline, recommendation, or order." I did not include in that list "ukase," because that is defined as a royal proclamation from a czar, and HEW does not have a czar to rule us.

I realize, Mr. President, that my amendment will meet with opposition. And before we hear from the advocates of affirmative action programs, I would like to offer this one note of caution. Before any of us extolls HEW's mania for quotas, let us look to our own office

staffs. How many of us are in full compliance with HEW's guidelines? I know, I know, they do not apply to the Congress. What is good enough for the rest of the country is not good enough for Capitol Hill. We enacted some new Senate rules this year, which forbid discrimination in hiring. But how many offices are engaging in affirmative action to put their own houses in order?

It is possible—indeed, in the opinion of many persons, it is probable—that the Supreme Court, in its decision in the Bakke case, will soon drastically curb HEW's penchant for discriminatory practices. I am sure that everyone here is aware of the issues in the Bakke case. An applicant to a medical school in California was denied admission because he was the wrong color—in other words, because school authorities gave preferences to other, less qualified applicants solely on the grounds of their race. The California State Supreme Court struck down that discriminatory system, and the Supreme Court of the United States may well agree.

But how fitting it would be if the Congress, which found the courage to enact the Civil Rights Act of 1964, would now summon up the strength to teach HEW the true meaning of that law. Its true meaning was that the American Republic, having at least overcome its weaknesses, wrote into law the fundamental decency of its people by requiring that we be blind to color and sex and creed and national origin in our business dealings with one another.

That was a noble decision in 1964. Its reaffirmation would be a noble decision by the Congress today.

Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. MOYNIHAN. Mr. President, will the Senator from North Carolina yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. MOYNIHAN. I ask unanimous consent that Judy Bardacke of my staff be accorded the privilege of the floor during the remainder of debate on this measure.

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

Mr. HELMS. Mr. President, how much time remains to the proponents of the amendment?

The PRESIDING OFFICER. Fifteen minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I commend the able Senator from California (Mr. HAYAKAWA) for his comments on behalf of the amendment which he and I are jointly sponsoring. He is correct. America's colleges and universities are indeed laboring under a staggering amount of Federal regulation. Federal bureaucrats are producing a constant flood of new and revised laws, regulations, and guidelines that often leave college administrators confused, frustrated, and exhausted.

Recently, the Southern Association of Colleges and Schools studied the impact of Federal regulation on its member colleges. The report found that the cost of compliance with Federal regulations required some institutions to spend as much as 50 cents to administer every Federal dollar received. Others stated—get this, Mr. President—that they must spend more to comply with Federal regulations than they do to operate many of their academic departments.

By far, the greatest cause of this flood of Federal regulations affecting higher education is the social engineering of Federal bureaucrats. And by far the greatest segment of these regulations has concerned the use of affirmative action quotas and goals.

Historically, the concept of affirmative action first surfaced in Executive Order No. 11246, issued by President Lyndon Johnson in the wake of the Civil Rights Act of 1964. It requires employers to "take affirmative action to ensure that (people) are treated—without regard to their race, color, religion, sex, or national origin." However, Federal agencies administering this Executive order have failed to articulate a constitutionally proper meaning for "affirmative action" which is consistent with the intent of Congress in its landmark civil rights legislation.

The legislative history of the Civil Rights Act of 1964 clearly shows the intent of Congress to outlaw preferential employment practices. For example, the able Senator from Minnesota (Mr. HUMPHREY), who was then majority whip, maintained that:

> The proponents of the bill have carefully stated on numerous occasions that Title VII does not require an employer to achieve any sort of racial balance in his work force by giving preferential treatment to any individual or group. (110 Cong. Rec. 14331.)

That is a matter of record. Senator HUMPHREY will confirm it, I am sure.

But, despite this intent of Congress to prohibit discriminatory practices through the use of numerical quotas and goals, Federal bureaucrats have interpreted "affirmative action" as requiring quotas and goals.

Under the present bureaucratic formulation, affirmative action is, in reality, as the Senator from California has stated, affirmative discrimination. Within the academic community it has created a system of reverse discrimination. Affirmative action quotas and goals inescapably produce a situation where discrimination is commonplace. Edward Levi, former U.S. Attorney General and past president of the University of Chicago, rejected HEW's claims that the "hiring goals" it repeatedly imposes are different than numerical quotas. He said: "The country has been on a program where affirmative action, requiring the statement of goals, is said with great profoundness not to be the setting of quotas." But, he concluded, "it is the setting of quotas."

Proponents of discriminatory quotas and goals have been partially successful in blurring the distinction between nondiscrimination and affirmative action. In a classic example of Orwellian "newspeak" the Department of Labor characterized affirmative action as part of an employer's larger obligation not to discriminate. This confusion between nondiscrimination and affirmative action has promoted a system in which discrimination is being institutionalized under the guise of a nondiscrimination program.

The interpretation of affirmative action as requiring quotas and goals is not compelled by any executive order. Nor is it mandated by any act of Congress. Instead, discrimination through the use of quotas and goals is a bureaucratic creation, and this is the point the Senator from California and I are making with this amendment.

Affirmative discrimination is being promoted as the only practical response to discrimination. To the contrary, there are many Federal and State laws which prohibit discrimination in almost every area of life including education, employment, and accommodations. The continued vigorous enforcement of these laws has been the most effective method of eliminating discrimination in the recent past and is still the most effective method today.

Just as affirmative discrimination is legally unnecessary to promote equal opportunity for minorities in higher education, it is also unnecessary as a practical matter. Prof. Thomas Sowell of UCLA, the noted black economist, observes that contrary to the myths fostering affirmative action plans,

> The effect of the straightforward antidiscrimination laws of the 1960s and of the general drive toward racial integration had created a premium for qualified black academics, even before HEW's goals and timetables. Moreover, the improvements that have occurred since then need not be due to HEW pressures but may be thought of as a continuation of trends already evident before affirmative action programs began.

The cost of implementing Federal regulations adversely affects minority and low-income students. For example, at Duke University the cost per student of implementing federally mandated social programs has increased from $58 in 1968 to $451 in 1975.

The cost today is over $500 per year per student at Duke University. This is a statistic which I hope Senators will ponder carefully. The poor and the minorities are being deprived by this folly.

The cost of compliance has affected other private universities even more drastically. To take another example, the cost at Georgetown University has risen from $16 per student in 1965 to $356 in 1975.

I do not know what it is for 1977, but I would be willing to wager it is far in excess of $400 per year per student in Georgetown University.

This increase in the cost of attending college most adversely affects minority and low-income students. If they start off, Mr. President, having to pay $500, approximately. per year per student for Federal regimentation, where does that send the price of education? Who is being hit the hardest? The minority and low-income students, of course.

These students can least afford any increase in the cost of attending school. They are most dependent upon financial aid. The millions of dollars which are today spent implementing Federal regulations could instead provide thousands of students with a college education.

Mr. President, in closing I would like to share part of an open letter to President Carter, sponsored recently by the Committee on Academic Nondiscrimination and Integrity. In it, over 40 prominent educators describe quotas and preferential treatment as illegal, unconstitutional, and shortsighted.

The signers of the letter include Dr. Sidney Hook, of the Hoover Institution, Prof. Nathan Glazer, of Harvard University, Prof. Valerie Earle of Georgetown, Prof. Eugene Rostow of the Yale Law School, Prof. Maurice Rosenberg of Columbia Law School, Prof. Paul Seabury of the University of California at Berkeley, and Prof. Allan Ornstein of the University of Chicago. The letter reads, in part, as follows:

DEAR MR. PRESIDENT: According to the New York Times of March 18, 1977, Secretary Califano of H.E.W. has enthusiastically endorsed racial and sexual discrimination which we believe to be unjust and illegal. In offering his support to racial quotas and preferential policies in hiring and admissions, your Secretary has bid defiance to the Civil Rights Act of 1964, to Executive Order 11246, to the Equal Protection Clause of the Constitution of the United States as interpreted consistently by the Supreme Court, and to basic principles of Civil Rights. . . .

Many of us have long felt that the so-called "goals and timetables" programs were in reality discriminatory quota programs, masked to conceal their illegality. We owe Secretary Califano thanks for the candor with which he announces his support for racial and sexual discrimination. But candor cannot atone for flagrant defiance of law, . . . In one stroke, Secretary Califano proposes to arrogate to himself the power to determine who shall and who shall not enjoy equality of opportunity in our country, and reduces the constitutional rights of all citizens to privileges bestowed at the caprice of government. . . .

We note with dismay Secretary Califano's justification of discrimination, namely that it "works." Of course, discrimination "works." It benefits the favored groups and damages the others. . . . But let us assure you as educators, Mr. President, that discrimination has never and will never work to produce the best possible education for all Americans, and let us assure you as citizens that it has always worked to destroy justice and fairness and has always created cynicism, conflict and more discrimination . . .

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I yield myself such time as I may require.

Mr. President, I oppose the anti-affirmative action amendment to H.R. 7555, the fiscal year 1978 Labor-HEW appropriations bill. This section is an attempt to circumvent the Constitution by precluding the Department of Health, Education, and Welfare from enforcing title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, and from carrying out its responsibilities under Executive Order 11246. The Hayakawa-Helms amendment would prohibit HEW from expending any funds in connection with the implementation or enforcement of certain civil rights requirements relating to the employment or admissions policies of institutions receiving Federal grants or contracts.

The amendment to H.R. 7555 states:

None of the funds appropriated in this Act may be obligated or expended in connection with the issuance, implementation or enforcement of any rule, regulation, standard, guideline, recommendation or order issued by the Secretary of Health, Education and Welfare which for purposes of compliance with any timetable, goal, ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex requires any individual or entity to take any action with respect to (1) the hiring or promotion policies or practices of such individual or entity, or

(2) the admissions policies or practices of such individual or entity.

The apparent effects of the amendment would be threefold.

First, it would limit severely the enforcement of Executive Order 11246, which prohibits discrimination by Federal contractors. Under Executive Order 11246, Federal contractors are required to adopt an affirmative action plan designed to insure that the contractor does not discriminate on the basis of race, sex, et cetera, and is making a reasonable effort to employ minorities and women in proportion to their availability in the labor force. Where the contractor fails to meet established standards relating to the employment of such individuals, the contractor's affirmative action plan must establish certain timetables and goals to increase the employment of minorities and women.

However, HEW does not take any enforcement action against such a contractor to obtain "compliance" with any such timetables or goals. HEW takes action only if it determines that the contractor has not made a good-faith effort to meet its timetables and goals. While the amendment does not precisely address this type of enforcement action, it does speak in terms of prohibiting HEW, for purposes of complying with goals and timetables, from requiring a recipient "to comply" with any ratio, quota, or other numerical requirement respecting hiring or promotion policies or practices. The amendment would significantly restrict HEW's authority to enforce Executive Order 11246.

Second, the amendment would prohibit HEW from requiring certain types of remedial action by recipients who have been determined to be in violation of either title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, or title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in federally assisted education programs. Where recipients are found to have discriminated in violation of those statutes, remedial action may be necessary to overcome the effects of past discrimination. The case law under title VII of the Civil Rights Act and the Executive order makes it clear that goals and timetables are an appropriate means of correcting past discrimination. As in the case of the Executive order, HEW does not attempt to enforce compliance with numerical requirements as such, but looks to the policies and practices of the recipient to determine if a good-faith effort has been made to eradicate the effects of past discrimination.

Because the proposed amendment is apparently intended to prohibit HEW from requiring use of any remedial "numerical requirement," it would restrict the ability of HEW to enforce title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972.

Third, the amendment would interfere with the ability of HEW to comply with several court orders, such as Adams against Califano, which require HEW to issue and enforce desegregation guidelines which may require the use of goals and timetables to correct employment discrimination against, or underutilization of, minority and female administrators and teachers. This amendment not only precludes the executive branch from faithfully executing two laws enacted by the Congress, but, in effect, places HEW in a position of noncompliance with an order of a Federal court. Ultimately we will have orchestrated a conflict between the other two branches of Government. The court will tell them to remedy a longstanding wrong against women and minorities, and we will have made the remedy unavailable.

There is, however, a monstrous myth surrounding the whole anti-affirmative action syndrome and the "reverse discrimination" rhetoric which gives rise to such amendments as the one contained in this bill. The plain facts are these—prohibiting discrimination in admissions in higher education did not and has not increased significantly the participation of minorities in professional and higher education. With regard to employment, this is especially true at the doctoral level. If there were truly much "reverse discrimination" in the land, there would not exist such a paucity of minority and femal doctors, lawyers, Ph. D.'s in the physical and biomedical sciences, in mathematics, engineering, et cetera. Black American citizens make up about 1 percent of those annually receiving doctoral degrees. Mexican, Puerto Rican, and Native American citizens receive such degrees in even smaller percentages. Although women appear to fare better, we have in no way reached the millennium.

If affirmative action were so successful, why is it that, 30 years after the Federal Government required nondiscrimination among Government contractors, Federal agencies are backlogged with complaints of discrimination? And why do Federal courts regularly order backpay remedies in the millions of dollars thus denoting extensive patterns of race and sex discrimination in this country?

The amendment before us would set us back 25 years or more. It ignores the glaring realities of the education and employment status of minority and female Americans in 1977. Because of this, I urge my colleagues to halt this retreat from our Government's commitments to equality of opportunity, equality of employment, equality of education. I ask that this amendment be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. BROOKE. How many minutes remain for the proponents of the amendment?

The PRESIDING OFFICER. There are two.

Mr. BROOKE. Mr. President, I want to add that the administration and HEW both support the position that I have taken in opposing the amendment offered by the distinguished Senator from California and the distinguished Senator from North Carolina. I think it is important that the administration sees fit to come out strongly in opposition to these amendments, because the administration recognizes the fact that I have indicated to the Senate today, that there is still a great need to remedy past discrimination against women and minorities in equal educational opportunities and employment opportunities.

I reserve the remainder of my time.

Mr. HELMS. Will the Senator from California yield 1 minute?

Mr. HAYAKAWA. Yes.

Mr. HELMS. In response to the able Senator from Massachusetts, I suppose it is to be expected that HEW would oppose this amendment. Who ever heard of a bureaucrat or a bureaucracy wanting to give up any power? That is just the point.

Mr. President, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

Mr. HAYAKAWA. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. HAYAKAWA. Because of the affirmative action in higher education, a new form of racial discrimination has been developing across the country. That is that black graduates with bachelors', masters', or even doctors' degrees are today being discriminated against because it is assumed that they got into college on the basis of affirmative action and, therefore, are not the equivalent of white graduates with the same degrees. I warn the distinguished Senator from Massachusetts that this is one of the side effects of affirmative action that was not predicted. I have seen this with great alarm. This is the kind of reputation that unjustly falls upon very distinguished and able black graduates of universities at all levels. I point that out.

I, too, would like to ask for the yeas and nays on this measure.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. MAGNUSON. Mr. President, I merely want to associate myself with the statement of the Senator from Massachusetts, which I have discussed with him previously. I hope that this amendment will not be added to this bill. I still think, and again, I repeat, it is changing the rules. It is legislation and should be taken up in the regular committee rather than on a money bill.

Mr. BROOKE. Mr. President, I certainly agree with my distinguished chairman. As we have discussed earlier, he supports a position of strong opposition to this amendment, which, as he said, is legislation on an appropriation bill. We did not raise the point of order, because there is language to this effect in the House bill. We feel it would be a serious step for the Senate to take this position where there is such a strong need for a remedy of past discrimination in this country. I hope that this amendment will be defeated.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from South Carolina (Mr. THURMOND) is necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—31

Allen	Griffin	Nunn
Byrd, Harry F., Jr.	Hansen	Roth
Cannon	Hatch	Schmitt
Curtis	Hayakawa	Schweiker
Danforth	Helms	Scott
Dole	Johnston	Stennis
Domenici	Laxalt	Talmadge
Eastland	Long	Tower
Garn	Lugar	Wallop
Goldwater	McClure	Young
	Morgan	

NAYS—64

Abourezk	Gravel	Moynihan
Anderson	Hart	Muskie
Baker	Haskell	Nelson
Bayh	Hatfield	Packwood
Bellmon	Hathaway	Pearson
Bentsen	Heinz	Pell
Biden	Hollings	Percy
Brooke	Huddleston	Proxmire
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Kennedy	Sparkman
Chiles	Leahy	Stafford
Church	Magnuson	Stevens
Clark	Mathias	Stevenson
Cranston	Matsunaga	Stone
Culver	McGovern	Weicker
DeConcini	McIntyre	Williams
Durkin	Meicher	Zorinsky
Eagleton	Metcalf	
Glenn	Metzenbaum	

NOT VOTING—5

Bartlett	McClellan	Thurmond
Ford	Riegle	

So the Helms-Hayakawa amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the Senator from North Carolina there be a time limitation of 20 minutes, 10 minutes to each side.

Mr. PACKWOOD. Mr. President, what is the amendment?

Mr. BROOKE. It is an amendment on classification and keeping of files.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Will the Senator make that 15 minutes to a side?

Mr. BROOKE. Mr. President, I withdraw that request and make the further unanimous-consent request that the amendment by the Senator from North Carolina have a time limitation of 20 minutes, 10 minutes to a side.

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

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

Mr. BROOKE. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Karen Minton, of my staff, have the privilege of the floor during the consideration of this measure.

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

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

UP AMENDMENT NO. 571

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes unprinted amendment No. 571.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. None of the funds appropriated under this Act shall be used to require any school, school system, or other educational institution, as a condition precedent, contingent, or subsequent for receiving funds, grants, or other benefits from the Federal Government, to classify teachers or students by race, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, or national origin; or prepare or maintain any records, files, reports, or statistics pertaining to the race, or national origin of teachers or students.

Mr. HELMS. I yield myself such time as I may require.

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

Mr. HELMS. I yield.

Mr. BROOKE. Is it the Senator's intention to have a rollcall vote on this amendment?

Mr. HELMS. My present intent is to have a rollcall vote.

Mr. BROOKE. I thought while we had Senators here——

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. HELMS. Mr. President, much attention has been directed to the actions of our courts in requiring the assignment of pupils and teachers on the basis of race. Courts may order assignments in specific cases based upon judicial notions of equity.

If a court decides that a school system has not been keeping the law, that is one thing; but it is an entirely different thing for HEW bureaucrats to decide that pupil and teacher assignments must meet some arbitrary standards of bureaucratic imagination. If a school system has not been in court, we should not leave it to bureaucrats to be the judges. But HEW bureaucrats have used the power of the Federal purse to force school systems to make assignments and keep records on the basis of race in order to qualify for Federal funds.

The solution is simple. Today we are appropriating funds for HEW. HEW will in turn use those funds to require school systems to set assignments and establish records based on race, as HEW has constantly done in the past. So today we can stop this practice by refusing to allow HEW to demand racial quotas as a condition of dispensing Federal funds.

Mr. President, the fundamental laws of this Nation clearly state that there shall be no discrimination on the basis of race or national origin. Quotas imposed by the Federal Government undermine this most basic foundation of our system of government: Equality before the law. We should teach our children that all people have equal opportunity to earn life's benefits, and that in our society there are no boundaries to limit their achievement other than their own ability and dedication.

Instead, the quota system tells them everyday as they enter their schoolhouse that it is not what they may do, but who they are that really counts. Ultimately, the quota system fosters among our children a contempt for the law and their fellow students.

My amendment would prohibit an isolated and arrogant Federal bureaucracy from engaging in economic blackmail to achieve its goals of social engineering—goals which have never had the support of the American people and which could never be achieved at the ballot box.

The pending amendment, Mr. President, provides that no funds appropriated under this act shall be used to require any school system, or other educational institution as a condition for receiving funds, grants, or other benefits from the Federal Government, to classify teachers or students by race or national origin.

It provides that these funds shall not be used to require the assignment of teachers or students to schools, classes, or courses for such reasons; and it provides that these funds shall not be used to require the preparation or maintenance of any records, files, reports, or statistics pertaining to the race or national origin of teachers or students.

This amendment, if enacted, will return the schools of this country to the local units of government and, thereby, to the people. That is what the American people want, Mr. President; every poll taken shows this; and it is what Congress ought to do and do now even at this late date.

As this Senator from North Carolina has stated many times, it happens occasionally that programs and policies of government continue to survive long after the reason, if any, for their existence has ceased to be a real consideration. The Federal Government is riddled with such programs. They are wasteful; and often, they are counterproductive to the best interest of the American people.

The amendment is addressed to such an anachronism: The needless "strings" that allow the Department of Health, Education, and Welfare to require school systems to compile stacks and stacks of information, statistics, and reports in order to prove that no discrimination exists.

Now, such a requirement may seem harmless enough on its face; but numerous school officials have repeatedly advised me that it is not. HEW requires them to devote many hours—time they could use helping students—to gathering and processing these statistics. It completely disrupts their offices and programs. In many instances these schools do not have sufficient clerical assistance. They must resort to requiring teachers to help compile this information. They are in effect forced by HEW to require teachers to take time away from helping children gain an education in order to provide data-hungry bureaucrats with unnecessary information.

The purpose and intent of this provision is simple and clear. It states that the Senate does not want the Department of Health, Education, and Welfare to interfere further with the administration of our schools.

Congress has the power to correct this situation. It can do so by approving this amendment. The approval of this provision will finally remove this anachronistic Federal interference from the educational process. It will preclude HEW from continuing to make a negative contribution to the well-being of the children of America.

Lest anyone fear that the removal of these Federal controls will result in the reinstitution of historical discriminatory practices, let me point out that the court-ordered desegregation plans that were entered over the years still remain on the books. They survive as an assurance that dual school systems and the like will not be reestablished.

Constitutional interpretations require unitary school systems; but the Constitution does not require the existence of a power within HEW to continually harass our school officials, teachers, parents, and children. The Constitution does not require that Congress appropriate money for the collection of data regarding teachers and students. It is the responsibility of the States and local units of government in the operation of their schools to maintain such records as they consider helpful. It is not a Federal matter, and Federal funds should not be used for that purpose.

I do wish that Senators would go out across the country, across their own States, and talk with the administrators and the teachers of our public schools. Ask them about their problems. I have done this and, without exception, they are fed up to here with all of the unnecessary recordkeeping which is so burdensome, which wastes the time of teachers and administrators, time which they would otherwise spend in improving the quality of education.

We talk so often, so piously in this Chamber about improving education. Here is our chance to do something constructive for education—and it will not cost a dime. To the contrary it will save countless millions of the taxpayers' dollars.

I urge adoption of the amendment.

Mr. MAGNUSON. Mr. President, there are portions of this amendment where there might be something said in their favor, but it goes way too far, and it would probably stop HEW from keeping any kind of records at all in order that they might do what Congress and the courts have told them to do, enforce the civil rights legislation.

There may be some cases where they abuse this, but that is a matter again for a piece of legislation to lay out all the ground rules under the Civil Rights Act, which is the law, we voted for it, and I hope the amendment will be defeated for that reason.

I do not see how they could operate and have any information at all if the amendment carried. Again, for the second reason I oppose it, because here again is a legislative matter that should be taken up by the legislative committee.

If there are regulations and rules down at HEW which are wrong, and they want to change them, they should change them through the proper committee in the Congress, so I hope the amendment will be defeated.

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

Mr. MAGNUSON. Yes, I yield.

Mr. BROOKE. Mr. President, I join my distinguished chairman in opposing this amendment.

Mr. President, this is one of the most dangerous amendments to be offered. This amendment was offered, in perhaps some modified form, in 1974. It is the old Holt amendment that was offered in the House, and I think it was also offered in the Senate by the distinguished Senator from North Carolina.

On each occasion thankfully, Mr. President, this amendment has been defeated by large margins here in the Senate.

What it would do would be to effectively repeal title VI of the 1964 Civil Rights Act. Not only could we not enforce title VI to remedy unconstitutional violations, but we could not even discover if such violations existed. We could not assign two students or teachers, and every remedy involved some type of assignment. So the effect of the Senator's amendment, as I said, would be disastrous.

I hope the Senate will again, as it has in its wisdom heretofore, overwhelmingly defeat this amendment.

I yield back the remainder of our time.

Mr. MAGNUSON. Yes.

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from North Carolina. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Michigan (Mr. RIEGLE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Virginia (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 26, nays 64, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—26

Allen	Hansen	McClure
Byrd, Harry F., Jr.	Hatch	Nunn
Cannon	Hayakawa	Roth
Curtis	Helms	Schmitt
Dole	Huddleston	Talmadge
Eastland	Johnston	Tower
Garn	Laxalt	Wallop
Goldwater	Long	Young
	Lugar	Zorinsky

NAYS—64

Anderson	Gravel	Moynihan
Bayh	Griffin	Muskie
Bellmon	Hart	Nelson
Bentsen	Haskell	Packwood
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Case	Jackson	Ribicoff
Chafee	Javits	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Schweiker
Clark	Magnuson	Sparkman
Cranston	Mathias	Stafford
Culver	Matsunaga	Stevens
Danforth	McGovern	Stevenson
DeConcini	McIntyre	Stone
Domenici	Melcher	Weicker
Durkin	Metcalf	Williams
Eagleton	Metzenbaum	
Glenn	Morgan	

NOT VOTING—10

Abourezk	Hollings	Stennis
Baker	McClellan	Thurmond
Bartlett	Riegle	
Ford	Scott	

So Mr. HELMS' amendment was rejected.

UP AMENDMENT NO. 572

Mr. BELLMON. Mr. President, I call up an amendment which I have at the desk, and ask that it be reported.

The PRESIDING OFFICER (Mr. SASSER). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 572:

Page 42, line 21: Add the following new section: "Section 211. Funds under this title shall be utilized to the maximum extent provided by law to provide incentives through equalization of reimbursement schedules for physicians and other health providers who deliver services in rural and other medically under-served areas. To this end, the Secretary is directed to report to the Congress no later than January 1, 1978 on the progress made in carrying out these requirements and on actions taken to eliminate differences in reimbursement levels for practitioners in rural and medically under-served areas."

Mr. BELLMON. Mr. President, the purpose of this amendment is to require the Secretary to equalize reimbursement schedules for physicians and other health providers who practice in rural and underserved areas. There is a serious shortage of physicians and related health professionals in rural areas. At least 100 counties in the United States have no physicians and over 50 percent of rural areas have less than 50 physicians per 100,000 population.

Mr. President, current reimbursement practices based upon usual and customary charges provide disincentives for physician practicing in rural or underserved areas. Traditionally, physicians' fees in these areas were lower than those in urban communities. Thus, the rural physician pays an economic penalty for practicing in areas of highest need. If we are to solve the problem of geographic maldistribution, it would appear that policies should be adopted which provide positive incentives for physicians and other providers who serve rural and underserved areas. Mr. President, this amendment will at least help eliminate economic discrimination and possibly reduce the flow of physicians to affluent areas of the community. I urge the Senate to adopt this amendment and hope that new legislation may be developed later which more directly addresses the the needs of rural and medically underserved areas.

Mr. MAGNUSON. Mr. President, I hope the Senator from Oklahoma might discuss this amendment for a minute or two, and then withdraw it. It is subject to a point of order.

I think it is a good amendment. The Secretary is directed to report to the Congress no later than January 1, 1978, on the progress in carrying out the requirements to equalize these payments. I am sure the committee will join with the Department and expedite that report, and urge the Secretary to do something about the reimbursement levels of health practitioners in rural areas vis-a-vis such practitioners in other areas.

Mr. BELLMON. Mr. President, to be sure that Senators understand the problem, today the young M.D. coming out of medical school who goes to the urban areas receives much higher levels of reimbursement for his services under medicare and medicaid than that same physician if he goes to practice in the rural areas, where he may be most needed. Thus, most of the young doctors are going to the cities and passing up the rural areas, where they are badly needed.

Did I understand the chairman to say that the committee is looking into this area, and expects some legislation?

Mr. MAGNUSON. Yes; I think this has been one of the problems for a long time, the maladjustment in distribution of medical personnel, with shortages in certain areas. This, as I say, has existed a long time. That is one reason why we established the National Health Service Corps.

I can assure the Senator the committee will take some action on this matter when we get the report. In the meantime, the Department will do what it can to equalize these payments.

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

Mr. BELLMON. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, let me say, in addition to what the Senator from Washington has said, that we are now considering a bill in the Health Subcommittee of the Committee on Finance which covers pretty much the same area. Perhaps we could work with the Senator from Oklahoma. It is the so-called Talmadge bill, now before the Health Subcommittee. It would appear to me, just from a quick reading of the language, that it may contain a section very much like the Senator's proposal. I will be happy to work with the Senator from Oklahoma.

Mr. BELLMON. Mr. President, on the basis of those assurances, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

UP AMENDMENT NO. 573

Mr. BELLMON. Mr. President, I call up another amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) offers an unprinted amendment numbered 573.

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

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

The amendment is as follows:

Page 12, Line 23 Delete "$920,000,000" and insert in lieu thereof "$901,290,000".

Page 13, Line 2 Delete "$456,000,000" and insert in lieu thereof "$436,327,000".

Page 13, Line 6 Delete "$63,000,000" and insert in lieu thereof "$61,146,000".

Page 13 Line 12 Delete "$273,000,000" and insert in lieu thereof "$261,560,000".

Page 13, Line 18 Delete "$179,000,000" and insert in lieu thereof "$171,050,000".

Page 13, Line 23 Delete "$162,000,000" and insert in lieu thereof "$155,100,000".

Page 14, Line 1 Delete "$235,000,000" and insert in lieu thereof "$225,500,000".

Page 14, Line 7 Delete "$167,000,000" and insert in lieu thereof "$160,097,000".

Page 14, Line 12 Delete "$35,000,000" and insert in lieu thereof "$33,000,000".

Page 14, Line 14 Delete "$74,952,000" and insert in lieu thereof "$70,100,000".

Page 14, Lines 21–22 Delete "$58,000,000" and insert in lieu thereof "$56,225,000".

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

Mr. BELLMON. Let me get the yeas and nays first. I ask for the yeas and nays on the amendment.

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

Mr. MAGNUSON. I wonder if the Senator would agree to a time limitation agreement of 10 minutes to a side on the amendment.

Mr. BELLMON. I am very happy to agree to that.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the debate on this amendment be limited to 10 minutes to a side.

Mr. KENNEDY. Mr. President, reserving the right to object, I would like to know what the substance of the amendment is. As I understand, it is a health amendment, and I would like to ask what the substance is before I would be willing to agree to a limitation.

So, for the moment, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MAGNUSON. The amendment is to cut all of the items in NIH by certain amounts of money as listed in the amendment.

Mr. BELLMON. Mr. President, let me explain very briefly. The amendment would provide for a 10-percent increase in the appropriations to NIH for the fiscal year over the 1977 level.

Mr. MAGNUSON. It is cut from what we recommend.

Mr. BELLMON. The committee recommends a 15-percent increase and this amendment would provide for a 10-percent increase.

Mr. President, there is no point in a lengthy discussion. I will simply say that the savings amounts to $91.5 million, and the amendment would bring the total very closely in line with the level of the House bill. The House bill is $2.74 billion and this amendment would make the level $2.76 billion. It is just slightly above.

I feel that the 10-percent increase in the appropriation for the National Institutes of Health represents a reasonable increase over the fiscal 1977 level.

This would still provide a funding level in excess of both the administration and House recommendations. Since 1976, or in 2 years, the National Institutes of Health will have increased from $2.2 billion to $2.9 billion if the committee's recommendations are adopted. This represents an increase of $700 million in 2 years. There is a limit as to the amount of funds which can be effectively administered and allocated for worthwhile health research. A 10-percent increase would permit a significant expansion of research programs and is consistent with the need to control cost escalation in the health field.

Mr. President, it is time that we began to recognize a basic medical fact of life. We cannot do everything that is scientifically possible and we must start to establish priorities for the use of health resources. Research needs must be balanced off against the need to provide additional health care to needy populations. We must start to evaluate new medical technology in order to determine which research developments actually promote health. We are beginning to realize that more is not necessarily better and that significant gains in health may best be achieved by redirecting resources into prevention and improvements in diet, personal habits, and environmental changes.

Mr. President, the changes which are contained in this amendment are reasonable and establish responsible funding levels for the National Institutes of Health. It will permit the health research effort to continue at a high level and at the same time, permit room for possible development of new priorities and initiatives into those areas which appear to offer major opportunities for improving the health status of American people.

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

Mr. MAGNUSON. Mr. President, the members of the committee oppose this amendment. We spent a great deal of time on NIH. One of the problems, of course, is to establish priorities. There is always a great deal of argument whether cancer should get this, or heart get this, or eye get this, or what the amounts should be.

We think to be fair about it, and we have done this almost every year in the bill, we increased NIH a certain percentage. This year, after looking it all over and listening to reams and reams of testimony, and considering the House bill, we all agreed, practically unanimously, except maybe the Senator from Oklahoma did not agree in the full committee meeting, that we would increase all of the Institutes approximately 15 percent over the budget. It would be 15 percent for all of the Institutes and 12 percent for cancer, because it has received a greater amount in the past 2 or 3 years.

The House did not add as much as that. Of course, I would think after we go to conference we could come out with a figure perhaps near what the Senator is suggesting.

I hope the Senate will not agree to these cuts, which are across the board. I hope they will not agree to them. I know the increases were across the board, too.

There is a lot of good work being done. We have seen a lot of exciting things happen. We just did not want to underfund NIH programs and activities. We are hopeful there will be steady progress out there with the new director, Dr. Frederickson.

I hope the Senate will not accept this amendment. We will go to the House and probably come down a little bit anyway. There, again, we need some leeway in the establishment of research priorities when we get there. Somebody will always want a little more for arthritis, and someone else will want more for heart and lung diseases. They are all different. Sometimes there are even arguments and feuds between the people in the institutes as to which ones should get this amount or that amount of funds.

We thought we came to a wise and sensible decision on this, considering what the House said, and the fact that the budget itself was extraordinarily low this year.

Mr. BELLMON. Mr. President, let me make it clear again that this does not represent a cut from the current level of operation nor from the President's budget. My amendment provides for a 10 percent increase in funding for the National Institutes of Health, which, in my opinion, is adequate to provide for the establishment of priorities which the distinguished chairman of the subcommittee is interested in, as we all are, and it provides for adequate growth and new initiatives. The idea of jumping 15 percent in the operation of the National Institutes of Health to me seems to be extravagant. It is simply going to promote waste in that agency.

Mr. MAGNUSON. I understand that, and the Senator understands our problem in this. The Senator himself presented an amendment, as I remember it, to add $20 million to diabetes.

Mr. BELLMON. And take $20 million out of another item.

Mr. MAGNUSON. To take $20 million out of cancer. I do not like to see these things traded off like that. They have to stand on their own feet. That is why we sometimes have to revert back to a cut as we see these things moving. NIH is doing a great job. I hope we can sustain the 15 percent. We have the best health research in the world. Our problem is the delivery of health care. These NIH people are extremely qualified and highly dedicated. There have been six Nobel prize winners at NIH and four are still working at NIH for a pittance I should add.

The Senator from North Dakota knows what we have accomplished in the eye field, for instance. There have been great strides. Heart cases have gone down 7.5 percent in the past year, and probably 16 percent over the last 3 years, much of that due to the hypertension screening that we have initiated in this bill.

We are also pressing some buttons on cancer.

I have said many times I have some personal reasons in this cancer matter, personal reasons in my family. The first bill I ever authored when I came to Congress was to establish the cancer institute. I got the big sum of $2 million to establish it, and that started the NIH we know today.

At that time, 4 out of 5 people who had cancer died. We have it down now to 2.5. We can do even better if we have more clinical work, like more women taking Pap tests and things of that kind. That is some progress. We cannot evaluate these things in terms of money. I would rather err a little on the other side than to pick on NIH and biomedical research. That is the most sensitive program we have in this bill. We wanted to keep moving ahead and we thought 15 percent would give us leeway in the conference. We must end up with an increase anyway over last year because all these things cost a little more.

There are millions of dollars worth of volunteer work that go into the Institutes. Top people all over the world, scientists and doctors, come in. They do not get any salary and they work on a particular thing that they are expert in.

I hope that we will not take this cut across the board. Let us go to conference on our recommendations. It is not going to make a great big dent, anyway, in a $62 billion bill. It is for something that is good; it is for something that is worthwhile. Without it, the American people will be bad off.

Does the Senator know that the longevity of the American people has increased, in the past 24 years, 18 years? Is that not something?

Out at NIH, there is an institute for the heart, one for eye, one for general medicine, one for arthritis. But they all work together. They all cut across each other. That is why we added this 15 percent, because to take it from one and put it in another, may be hurting the one that is doing the best job. They all realize that and work together out there.

This is not any great amount, 15 percent, for a country as wealthy as we are, for the health of the American people. It has paid off. It is the best investment we have ever made in the health of our people. I do not want to stint one bit on it and I hope the amendment is defeated.

Mr. BELLMON. Mr. President, one final word. I point out that a 10-percent increase is generous. Increasing the appropriation by that factor means almost doubling it. If we increase it by 10 percent a year over 8 years, that almost doubles it. If we increase it at the rate of 15 percent, that doubles it over 6 years. So the amendment is being generous with the National Institutes of Health.

I agree with the distinguished chairman, the floor manager of the bill. They have been remarkable and I do not want to slow them down. I think giving them an increase of 10 percent in 1 year is adequate to keep that good work going on.

Mr. BAYH. Will the Senator yield?

Mr. MAGNUSON. I yield any time I have to the Senator from Indiana.

The PRESIDING OFFICER. There is no time control. The Senator from Indiana is recognized.

Mr. BAYH. I appreciate the courtesy of my colleague from Washington. I shall not take more than 5 minutes, even though the time is not controlled.

It has been the good fortune of the Senator from Indiana to sit on the Subcommittee on HEW Appropriations for a good while now, and see the Senator from Washington and the Senator from Massachusetts labor over the very difficult problems of how we get enough money to do all the things we would like to do.

I have the greatest respect for my friend from Oklahoma. He has a little different responsibility as a member of the Committee on the Budget, perhaps, than some of the rest of us. But I must say that there is one of the most compelling reasons for us to maintain the committee position. Perhaps I should say that, when we were arguing within the committee, the Senator from Indiana wanted to do a little bit more. The Senator from Massachusetts and the Senator from Washington resisted this.

Mr. MAGNUSON. As a matter of fact, we cut it down from the request of several Senators on this floor to make it higher than we did. We cut it to a sensible and defensible level.

Mr. BAYH. I understand. The Senator from Indiana has to plead guilty to that indictment.

Mr. MAGNUSON. The Senator is only one of them.

Mr. BAYH. I accept that admonition.

The reason I have been for increasing expenditure in these areas is that, in a lot of areas of Federal expenditures, we wonder whether we are getting anything out of it. We think we are, but we wonder. In these National Institutes of Health programs, we are seeing the results. There are people now living with their loved ones, walking, talking, playing, because we had the courage to put that money in there 5 years ago. For the first time in history—and I am sure the Senator from Washington has touched on many of these things—for the first time, maybe not in history, but in modern history, since we have started keeping records, we have had the number of people dying from heart diseases, stroke, heart-related incidents of death, go down this year. Why is that? It is because of the progress made in these Institutes, the educational program that is part of the money in this bill.

We have people now, children, living because of the progress made in cancer research in childhood lukemia. Breast cancer and other kinds of this disease have been effectively dealt with.

Frankly, Mr. President, I just could not resist succumbing to what I felt was a responsibility to support the Senator from Washington, realizing that the Senator from Oklahoma would like to do more but feels budgetary restraints. But when we have the enemy on the run, I say let us pour it to them. Right now, we have the enemy, some of these killers, on the run, and now is not the time to retreat.

ADDITIONAL STATEMENT SUBMITTED

NATIONAL INSTITUTE APPROPRIATIONS

Mr. HUMPHREY. Mr. President, the reputation of the National Institutes of Health is worldwide. It has set a standard of scientific excellence and competence. It deserves our strong and continued support.

Congress can be proud of the research establishment it has helped to create. Each of the individual Institute budgets has been reviewed by the executive branch, by the House of Representatives, by our Appropriations Committee. The figures set represent the judgment of our colleagues on the amount of funding required to maintain the momentum of medical progress.

I have spoken at length on the need to fund the cancer program adequately at a level that permits us not only to maintain momentum but to advance toward greater understanding of the diseases that afflict Americans, and new and better methods to treat and cure them. Each of these Institutes has a vital function. Biomedical research is one investment recovered many times over in lives lengthened and saved, in increased productivity, in the quality of our lives.

Our biomedical research establishment has been developed carefully and gradually over the past 2 decades. In no case that I know of have we thrown at these Institutes more money than they can constructively employ. The structure is in place and prepared to use effectively and efficiently the relatively modest increases envisaged in this bill, much of which is neutralized by inflation.

Institute programs are not ivory towers in which scientists toil for the sake of knowledge alone. A crucial element in every program is the education, dissemination of research results, and application to the medical problems that undermine this Nation's health. The American public has an immediate stake in Institute activities.

Statistics illustrate the success and positive impact of these programs. Cancer treatment has made great strides in survival and recovery rates. There has been a sharp decline in the death rate from stroke and hypertension. Developments in technology have saved millions of dollars annually for the American public. These "earnings" do not appear on any balance sheet. If they did, our investment would not seem extravagant. It would seem cautious.

The National Institutes budget affects the health, life and economic well-being of practically every American. I cannot think of a budget item which deserves more vigorous support. We have a right and duty to demand a careful accounting of goals and results. But a punitive and arbitrary slash in funds will have the opposite effect and will defeat our purposes.

Mr. MATHIAS. Mr. President, the Labor-HEW appropriations bill before the Senate today makes a strong commitment to finding cures for killing and debilitating diseases that deeply affect the lives of too many Americans. The $2.9 billion for biomedical research in the National Institutes of Health budget supports studies that generate broader and deeper knowledge to be applied to solving our health problems. That figure is reasonable and necessary and should not be reduced by this amendment.

Inflation in medicine threatens to erode the national commitment to basic medical research. The bill we consider today rejects the notion that we should make counterproductive cuts in research to respond to medical cost increases. I urge my colleagues to join in supporting this needed level of funding for biomedical research. We should therefore reject the Bellmon amendment.

I have had the privilege of representing the people of Maryland in the U.S. Congress since 1960. There has always been a large number of biomedical scientists as part of my constituency. I have known many of those men and women personally and I have visited their laboratories and clinics to discuss with them time and again their goals and the goals of medical science for our Nation. I respect those people for a dedication unequalled in any other profession and I greatly admire their search for truth and for cures for our most serious maladies.

In times of increasing health care

costs it is tempting to foresake commitments to the search for medical knowledge in favor of programs of more immediate return. But I am convinced that one of the most promising avenues for lowering costs is an investment in basic research.

We are understandably impatient for national investments in basic biomedical research to bear fruit. Yet unrealistic expectations lead to unrealistic promises of success and this has led to the disease-of-the-year phenomenon in our policies. I believe that this appropriations bill is an intelligent and balanced approach to solving problems on a number of fronts. It would be a tragic error to reduce support for NIH at this moment in history.

Dr. Robert Butler, the 1976 Pulitzer prize winner for his book, "Why Survive? Being Old in America," prescribes basic research as the cure for some of our current cost ills. He says research is the ultimate medical service and the ultimate cost container.

When Michael Faraday was asked by Queen Victoria to explain the value of his obscure discoveries in magnetism and electricity, he responded, "Madam, of what use is a baby?" Faraday could not have foreseen that his revelations would be the basis of modern power generation, but he clearly appreciated the fact that discovery develops as technology.

Mahlon B. Hoagland, M.D., is a modern medical scientist who knows the value of basic research and appreciates its importance in solving health problems. In 1956, Dr. Hoagland and Dr. Paul C. Zamecnik discovered the molecule that transfers the genetic message of the production of proteins. Dr. Hoagland is president and scientific director of the Worcester Foundation for Experimental Biology. He has prepared an excellent statement on the value of basic biomedical research.

I ask unanimous consent that Dr. Hoagland's statement, as well as a guest editorial which I authored and which appeared in the February 14, 1977, issue of Chemical and Engineering News be printed at this point in the RECORD.

I urge the Senate to defeat the pending amendment.

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

[Guest editorial in Chemical and Engineering News, Feb. 14, 1977]

WANTED: MORE SUPPORT FOR BASIC RESEARCH

(By Senator CHARLES McC. MATHIAS, JR.)

The United States is not making the commitment to scientific research that our resources and our responsibilities demand. Last year Congress finally managed to reverse an eight-year trend of declining support for basic research, but by that time funding had declined so drastically in terms of real dollars that we were barely spending at the 1965 level.

While the federal budget increased almost 100% over the past decade, spending on research dropped from 1.5 cents in every federal dollar to 1.2 cents. Most of that money is earmarked for specific projects. The amount available for unfettered research is negligible.

Some believe that the United States is suffering a "technology gap"; that our reduced research effort has made our exports less attractive and our industry less competitive. The jury is still out on that question. But what is clear is that basic research, so vital to the growth and well-being of our society, has been short-changed.

Basic research—the pure search for knowledge—does not press for immediate, predictable results, but it is central to scientific and economic progress. An investment in basic research admittedly is an act of faith—a gamble, but it is a gamble that has paid off for us over and over again.

We need look no farther than the energy crisis to recognize that a new investment in basic research is vital. No one who has been living on the East Coast of the United States in this winter of 1977 can doubt that our civilization is facing a basic challenge to its survival which revolves around the question of energy. To meet this challenge we urgently need the scientific breakthroughs that only research can produce. We also need a national commitment to train the experts, to develop the tools, and to establish a broad research effort in the energy field.

We cannot hope to meet this and future problems by buying knowledge on a crisis-by-crisis basis. We cannot expect to push a button and have science supply answers instantaneously. We must lay broad foundations now, to have a scientific structure adequate to tomorrow's needs.

We can no longer count on great scientific strides being made by a single genius working with simple tools. New laws of physics aren't likely to be discovered under an apple tree and even Einstein's chalk and blackboard seem inadequate to today's complexities. Thousands of computer hours are now the prelude to advances in pure mathematics.

The frontiers of knowledge have advanced so far that new discoveries can be made only at great cost. It is unrealistic to expect private enterprise to underwrite such costs when the returns, however sure, are generally neither direct enough nor immediate enough to justify the investment. Industry should be encouraged to stimulate basic research wherever possible, but it is government that must shoulder most of the burden.

I worked hard last Congress to get a healthy boost in National Science Foundation funding. I am ready to do battle again this year and I hope others both inside and outside of the governmental system will join me in pressing for more support for basic research.

When Americans swept the Nobel Prizes last year, they testified to the great intellectual dynamism in this country. We obviously have the talents and the tools available for putting the money to good use. I intend to see that we get it.

[From Worcester Foundation Bulletin]

STATEMENT BY DR. MICHAEL B. HOAGLAND, M.D.

Our country is seriously shortchanging itself by spending less than one percent of its health care budget on basic research. But how much research money would be enough? It is, of course, impossible in this area of so many unknowns to give a precise answer to the question. But we can try for an approximate answer in two ways: (1) by evaluating the evidence indicating that basic research is in readiness to contribute substantially to a solution of major health problems; and (2) by considering how our potential for progress in medical science is actually now being discharged.

What has basic research accomplished thus far in this century? Knowledge gained primarily as the result of basic research has made possible: (1) an increase of some 30 years in human life expectancy; (2) women's opportunity to control their own childbearing; (3) the virtual elimination of such diseases as plague, cholera, tuberculosis, poliomyelitis, smallpox, diptheria; (4) vitamins and general improvement in human nutrition; (5) X-rays in medical diagnosis and treatment; (6) extensive improvements in surgical and anesthetic technology; (7) advances in the prevention and treatment of numerous immunologic, hormonal, neurologic and genetic disorders; and many other technological improvements.

These are monumental achievements for science. But the potential for even more brilliant achievement is intrinsic in the nature of knowledge growth. For knowledge accumulates, if science is healthy, at a steadily increasing rate. Prior to the last few years' slump in science support, knowledge growth was phenomenal, leading to a vast body of information, now poised and ready to help the sick.

One example: the present $800 million a year effort to conquer cancer is a direct outgrowth of basic science achievements. During the 1940's, 1950's and 1960's, scientists gained major new insights into the workings of cells: the detailed structure of genes and proteins, how they work to duplicate cells, how cells perform their many functions, how immune systems work, etc. By the early part of this decade, this new knowledge was ripe for application to the understanding of cancer. For cancer is a disease of cells.

These considerations cannot help us to arrive at a specific figure for an optimal level of dollar support for basic research. They do tell us, however, that a vast new fund of knowledge is abuilding, and historical experience tells us that such knowledge will inevitably benefit mankind.

There are several clear indications that the nation's potential for scientific exploration of medical problems is being weakened: (1) training opportunities for scientists are severely limited; (2) only about one-quarter of all approved proposals are being funded. This program, wherein a scientist with an idea could get money to carry out his research, provided he can convince a committee of his peers as to the merit of his project, has been among the most enlightened pieces of legislation enacted by the American political system; (3) in recent years, the withholding or paring of funds has made research support insecure and unstable to the intense discouragement of men and women and institutions trying to give their best to the discovery of new knowledge.

The savings in medical and health care dollars, to say nothing of misery, that has been achieved by elimination of diseases can be conservatively estimated in the tens of billions annually. Measles vaccine alone, for which good data are available, saves us a quarter of a billion dollars annually. Even modest, additional contributions by basic science to disease prevention or cure could offset the expected additional health care cost of $50 billion during the next three years.

WHY IS BASIC RESEARCH BEING SHORTCHANGED?

There's a public relations problem. It is difficult to glamorize and sensationalize the search for basic knowledge. Applications of knowledge to people always have greater appeal. The technology of the treatment of paralyzed polio victims is, for example, more immediately comforting than the underlying laboratory studies on virus-cell interactions.

Basic research solutions, while ultimately definitive, take time before they can become applicable to people. This tempts scientists to make premature promises which, when they're not fulfilled, lead to public disillusionment.

Some public figures have publicly scorned basic science and its methods, particularly the use of model systems, often because they don't understand the full potential of basic research. Model systems are simple systems used by basic researchers for experimentation when they can't use humans. Bacteria, for example, have been used extensively in molecular biology to gain profound new insights into genetics and the molecular structure and functions of cells. Mendel used peas

with consummate skill to establish modern genetics. Thomas Hunt Morgan used fruitflies to make genes known. The concept that individual genes governed the synthesis of individual proteins came from Beadle's great work—with bread molds.

One day, if we allow science to continue to develop knowledge, basic research will make present-day health care obsolete. Far-fetched? Hardly. In 1946, I lay in bed with "moderately advanced" tuberculosis at Trudeau Sanatorium, New York. Thousands upon thousands of other victims of the disease, there and throughout the world, had the choice of prolonged bed rest or radical chest surgery. Some of my friends at Trudeau had been sick for 30 years! Late that year streptomycin was introduced and treatment of some patients began. The result was nothing short of a miracle. Before my eyes men and women, sick most of their lives, became well. Not better, but well!

The largest problem that emerged was how to help such patients adjust to beginning life anew in the outside world. And soon after that, the most important problem faced by Trudeau's trustees, shared by sanatorium directors all over the country, was how to dispose of a large number of useless buildings!

Basic research made that miracle possible. Given any kind of reasonable encouragement it can continue to work its miracles.

Mr. MAGNUSON. Will the Senator yield to me for half a minute?

Mr. BAYH. I am glad to yield the floor.

Mr. MAGNUSON. Another thing that we have found out, and I have known for years, is that, when there is any inflationary process in the country, for some reason, medical supplies, sophisticated medical machines, and laboratory equipment all go up higher than any other items. The best figure we got out of long hearings on this matter was that the inflation rate for equipment and things like that at NIH was 11 percent. So if we go up 10, we are not even taking care of the inflationary pressures that are involved in the whole medical and biomedical research profession.

I yield the floor.

I ask for the vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. MATHIAS), the Senator from Virginia (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 24, nays 68, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—24

Allen	Cannon	Eastland
Bellmon	Curtis	Garn
Byrd, Harry F., Jr.	Danforth	Goldwater
	Eagleton	Griffin
Haskell	Lugar	Stennis
Hatch	McClure	Talmadge
Hayakawa	Nunn	Zorinsky
Helms	Proxmire	
Laxalt	Roth	

NAYS—68

Anderson	Hatfield	Nelson
Bayh	Hathaway	Packwood
Bentsen	Heinz	Pearson
Biden	Hollings	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Riegle
Case	Javits	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kennedy	Schmitt
Church	Leahy	Schweiker
Clark	Long	Sparkman
Cranston	Magnuson	Stafford
Culver	Matsunaga	Stevens
DeConcini	McGovern	Stevenson
Dole	McIntyre	Stone
Domenici	Melcher	Tower
Durkin	Metcalf	Wallop
Glenn	Metzenbaum	Weicker
Gravel	Morgan	Williams
Hansen	Moynihan	Young
Hart	Muskie	

NOT VOTING—8

Abourezk	Ford	Scott
Baker	Mathias	Thurmond
Bartlett	McClellan	

So Mr. BELLMON'S amendment was rejected.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed.

Mr. BROOKE. Mr. President, I ask unanimous consent that there be a time limitation on the busing amendment of 45 minutes to a side, the time to be controlled 45 minutes by the distinguished Senator from Missouri (Mr. EAGLETON) and 45 minutes by the distinguished chairman of the subcommittee, Senator MAGNUSON.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, that proposal is perfectly agreeable with me. My only inquiry is this: I do not know if there will be more than one amendment on busing. My understanding is that the Senator from Massachusetts will offer a motion to strike the language that is in the committee bill; but I heard that another Senator has an amendment he wishes to offer.

Mr. BROOKE. The unanimous-consent request I suggested is restricted to that particular amendment.

Mr. EAGLETON. Does the amendment of the Senator from Massachusetts strike language in the committee bill? I am agreeable to 45 minutes to a side.

Mr. MAGNUSON. Mr. President, I ask that if the Senator from Massachusetts is going to make the motion to strike the language, the time be allocated to him.

Mr. BROOKE. I thank the chairman.

Mr. MAGNUSON. I have views of my own, depending on the wording.

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

Mr. BROOKE. Mr. President, I ask unanimous consent that on the amendment to be offered by the distinguished Senator from Oklahoma (Mr. BELLMON) there be a time limitation of 20 minutes, 10 minutes to a side, to be controlled by the Senator from Oklahoma and the distinguished chairman, Senator MAGNUSON.

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

UP AMENDMENT NO. 574

Mr. BELLMON. Mr. President, I call up my amendment which is at the desk, amendment No. 1.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 574.

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

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

The amendment is as follows:

Page 10, Line 19 Delete "$1,387,046,000" and insert in lieu thereof "$1,306,046,000.

Page 10, Lines 22 and 25, insert colon after "Leprosy", and delete "and $60,000,000, to remain available until expended, shall be for construction and renovation of Public Health Service Hospitals and Clinics."

Mr. BELLMON. Mr. President, this amendment would reduce recommended appropriation levels for Public Health Service hospitals and clinics from $270,000,000 to $189,000,000. It would eliminate $60,000,000 which was added for buildings and facilities and reduce increases for services by $21,000,000. This would still allow for an increase of $53,000,000 over the House and Carter budgets for health services. This increase in services is more than adequate in terms of requests and justifications given in testimony by PHS officials during the fiscal year 1978 hearings. In addition, it would allow sufficient additional funds to eliminate shortcomings—identified in a GAO study of the PHS hospital system. Specifically, it would permit hospitals and clinics to maintain current services, purchase adequate supplies of drugs and related needs, and maintain existing equipment and facilities.

Mr. President, there is a serious question concerning whether or not additional funds should be invested in upgrading or expanding PHS hospitals. Most are located in communities which have large surpluses in hospital beds and expensive medical technology and facilities. Expansion of PHS hospitals would add to redundant capacity and inefficient utilization of health resources. Funds could be more effectively used to assist existing facilities to convert surplus capacity to outpatient and ambulatory care centers. Such facilities could easily provide services available through PHS hospitals and clinics.

Mr. President, this amendment is not only consistent with the current administration's recommendations concerning funds for PHS hospital construction and facilities, but priorities and goals of past administrations. No funds were recommended or appropriated in fiscal year 1977 and none were included in the President's budget for fiscal year 1978. Finally, Mr. President, there is a serious national concern over rapidly rising health care costs. Federal expenditures for health has doubled during the past

5 years and may double again by 1980. Thus, it is imperative that we critically evaluate every expenditure in order to determine if it is the most effective use of tax dollars. In view of widespread uncertainty as to the need for expansion of PHS hospitals and clinics, this appears to be one area in which a more realistic level of funding can be achieved without endangering legitimate health care needs. I urge that the amendment be adopted.

The PRESIDING OFFICER (Mr. STONE). The Senator will suspend.

The Senate will be in order. The Senate is not in order.

Mr. BELLMON. Mr. President, I point out again, for those who may have missed it, that this appropriation in fiscal 1977 was $130.8 million. In the bill before us, that appropriation is more than doubled, to $270 million, and my amendment would allow an increase of up to $189 million, which is almost 50 percent. So this cannot be thought of as a cut-back. This provides for a very generous increase, but it does cut back some of the wasteful appropriations provided in the bill.

Mr. President, I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, this amount of money was added to the bill after a great deal of consideration regarding what it was going to be used for in the field of modernization of these eight or nine so-called Marine hospitals, Public Health Service hospitals.

Now, we have debated on this floor in the past when Members of the Senate have sought to knock out funds for the hospitals altogether. Long ago we established the fact that they are there and they are going to be kept there and they are serving a useful purpose, and could serve even more good purposes.

They have expanded and, in some cases, they have become clinics or medical centers in areas where they are sorely needed.

They are not only there now to service Marine people, seamen, and people of that kind whom they were originally set up for, but they are into basic and applied research and they are doing everything else.

Out in Seattle, the PHS hospital is involved in providing additional services similar to some of the rest of them. There was no place in town for an Indian health clinic. They have taken over all of the Indian patients in the area who do not live on the reservation but who live in the urban centers.

They are doing cancer research, combined with the medical school at the University of Washington. Like the one in Boston does, and the one in Baltimore works hand in glove with Johns Hopkins.

Because they have been used so much and because they are so important they needed some repairs—sometimes it is really only remodeling—to set them up for this type of clinic or that type of of clinic or that type of special treatment, even some temporary beds.

HEW was asked, we asked them, for a report. They came back and said the total for all of them would run about $120 million. We decided that maybe that was a little too high. We wanted to accomplish at least 45 percent of these urgently needed projects to place in these hospitals and clinics which are going to remain operational, and we want them to give the kind of service they are giving, so that we cut that construction total down to $60 million, and we will have to go to the House with this.

They have been used in many cases for immunization purposes, drug abuse and alcoholic treatment clinics. Drug and medical care supplies in the area—and there are currently 22 of their clinics, have only 1 week to a month of supplies on hand, a critical shortage. All this because they have been short changed in operational funds and can't pay their bills.

Another thing, some of them have been operating in violation, some minor violations, but they are operating in violation, of some fire and safety codes in some of these places. This would take care of that and pay their bills, keep them going as they should be going and rendering this much needed service.

So I hope the amendment is not agreed to.

I yield to the Senator from Massachusetts.

Mr. BROOKE. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, very briefly, I just want to associate myself with the arguments made by the distinguished Senator, the manager of the bill.

I concur in his feeling about the Public Health Service hospitals. Several years ago when Elliott Richardson was Secretary of HEW he threw out the idea that we might phase out the Public Health Service hospitals. That forced us to look at the issue very, very hard.

The result of that was that these hospitals are performing a vital function. Until some provision is made with other hospitals to pick up the load that Public Health Service hospitals are carrying we need to keep these hospitals in business. If they are in business they have to be in business at a quality and at a standard of performance which is acceptable.

That is why the money is necessary, in my judgment, and that is why, very briefly, I think this amendment should be defeated.

Mr. BROOKE. I certainly agree with my distinguished colleague from Maryland.

Mr. President, this amendment would cut $81 million total, $60 million from construction and $21 million from services. What it would do would be to really defeat rural and urban health initiatives that should be taken.

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

Mr. BROOKE. Yes.

Mr. BELLMON. To keep the record straight, it is not a cut from the present level of funding. It is actually an increase over present funding levels by about $60 million.

Mr. BROOKE. That is correct, but it is still an $81 million cut, as I said. But the Senator is correct.

There is, however, an active outreach program to provide necessary health maintenance and immunization. We certainly would not be able to do that with this cut; on full participation in health planning we would not be able to do that either with this cut.

As the distinguished chairman said, we find that all of these hospitals, in order to restock their drug and medical care supplies, because of lack of funds have had to cut back, curtail, and they have had supplies of only 1 week to a month on hand.

So, Mr. President, for all of these reasons we hope the Senate would not accept this amendment. We discussed it at some length before in the committee, and we feel the funding level we have proposed to the Senate is a sound one.

We hope there will be no further cuts in Public Health Service hospitals.

I am prepared to yield back the remainder of my time.

Mr. BELLMON. Mr. President, I will be willing to yield back the remainder of my time in a moment.

Let me point out just one example of what I am talking about. There is a Public Health Service hospital in Staten Island in New York, in the metropolitan New York area. In that area there is already a surplus of 5,000 hospital beds. So here we are, the Federal Government, operating a hospital in an area that is already seriously overbuilt so far as hospital beds are concerned, and we are now talking about coming along and spending part of the $60 million for new construction in an area where there is no need for this kind of facility at all.

The same circumstances exist in other areas where these Public Health hospitals are in operation. So let me just point out again, Mr. President, that this amendment would allow an increase of almost $60 million in a $130 million budget. That is a 50-percent increase.

The committee's level is a 100-percent increase in 1 year. I submit there is no justification when we are in a tight budget situation, as we are, for increasing any program like this by 100 percent in 1 year.

Mr. President, I am willing to yield back the remainder of my time and have a vote.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Oklahoma. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Kentucky (Mr. FORD), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND), would vote "yea."

The result was announced—yeas 37, nays 57, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—37

Allen	Goldwater	Proxmire
Bellmon	Griffin	Roth
Bentsen	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Scott
Cannon	Hayakawa	Stafford
Chafee	Heinz	Stennis
Curtis	Helms	Stone
Danforth	Laxalt	Talmadge
DeConcini	Lugar	Tower
Dole	McClure	Wallop
Domenici	Morgan	Young
Garn	Nunn	Zorinsky
	Percy	

NAYS—57

Anderson	Haskell	Metcalf
Bayh	Hatfield	Metzenbaum
Biden	Hathaway	Moynihan
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Burdick	Humphrey	Packwood
Byrd, Robert C.	Inouye	Pearson
Case	Jackson	Pell
Chiles	Javits	Randolph
Church	Johnston	Ribicoff
Clark	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Culver	Long	Sasser
Durkin	Magnuson	Schweiker
Eagleton	Mathias	Sparkman
Eastland	Matsunaga	Stevens
Glenn	McGovern	Stevenson
Gravel	McIntyre	Weicker
Hart	Melcher	Williams

NOT VOTING—6

Abourezk	Bartlett	McClellan
Baker	Ford	Thurmond

So Mr. BELLMON's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 575

Mr. McCLURE. Mr. President, I have an unprinted amendment at the desk, which I call up and ask that it be reported.

Mr. MAGNUSON. Mr. President, will the Senator yield so that I may ask the Senator from Oklahoma whether he has another amendment?

Mr. McCLURE. Will the Senator please wait until the clerk has stated the amendment?

The PRESIDING OFFICER. The Senate will be in order. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) offers an unprinted amendment numbered 575.

The amendment is as follows:

On page 8, line 17, following the word "employees", insert the following: *Provided further*, That none of the funds appropriated or otherwise made available in this paragraph may be obligated or otherwise expended to promulgate regulations, excepting those complying with Executive Order No. 11949.

Mr. McCLURE. I now yield for an inquiry to the Senator from Washington.

Mr. MAGNUSON. I did not hear the Senator.

Mr. McCLURE. Did the Senator wish for me to yield to him?

Mr. BROOKE. If the Senator will yield, we had had an understanding that after the Bellmon amendments had been completed, we would go to Senator EAGLETON's and my amendment on busing. We were trying to ascertain whether or not the Senator from Oklahoma has another amendment.

Mr. McCLURE. This amendment which is at the desk would insert the language in the House bill with regard to the economic impact statement. Copies of the amendment have been furnished to legislative counsel on both sides of the aisle, and it will take just a few minute to dispose of.

Mr. MAGNUSON. I was going to ask the Senator from Oklahoma, I understood he had one more amendment, and I would like the Senator from Oklahoma to finish with his amendments so we could start with someone else's.

Mr. BROOKE. Will the Senator from Idaho agree to lay aside his amendment until we finish with the Senator from Oklahoma?

Mr. McCLURE. This amendment will take just a few minutes. I think the Senator from Oklahoma has indicated it is all right to go ahead with it.

Mr. BROOKE. Mr. President, I could not accept this amendment. I think I would like time to discuss it. I think the chairman would also like time to discuss the amendment with the Senator from Idaho. If he were to agree to lay it aside, we might discuss it with him.

Mr. McCLURE. Then I ask unanimous consent, Mr. President, that I be permitted to lay my amendment temporarily aside, and that the amendment of the Senator from Oklahoma be considered at this time.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, there was an understanding that upon the disposition of the amendments by Mr. BELLMON, Mr. BROOKE would be recognized to make his motion to strike the language dealing with busing. I would hope we could pursue that course at this time; then I had hoped we could get on the amendment by Mr. PACKWOOD. Could we work out some understanding whereby those understandings could be carried out? Then we could work out some agreement with respect to the Senator's amendment.

Mr. McCLURE. Mr. President, I will be happy to cooperate with the majority leader, of course. I was not aware of the agreement. I checked at the desk, and they said there was no order.

Mr. ROBERT C. BYRD. No order, that is correct. We just had a sort of gentlemen's understanding.

Mr. McCLURE. Could the Senator from Massachusetts indicate how long it might take to dispose of the amendment?

Mr. BROOKE. The Senator from Oklahoma only wants 5 minutes. It will merely be a colloquy.

The amendment, which I will move to strike, has a time agreement of 45 minutes on each side, controlled on the one side by the Senator from Missouri (Mr. EAGLETON) and on the other side by me.

Mr. McCLURE. I will be happy to withdraw my amendment, Mr. President, if I may be recognized in order following the disposition of the motion to strike.

Mr. BROOKE. There was another part to that so-called gentleman's agreement, not an order, that the Senator from Oregon (Mr. PACKWOOD) would be recognized to introduce an amendment.

Mr. PACKWOOD. Could I explain the problem? I have been waiting all afternoon. I do not mind. I am perfectly willing to wait. This amendment is on abortion and a number of people want to know reasonably a specific time. If I can tell them that we are coming after the disposition of the Eagleton-Brooke debate, we can reasonably have a time for them.

Mr. McCLURE. I am concerned that if we get busing and abortion ahead of OSHA, OSHA will be up about midnight tonight.

Mr. PACKWOOD. I talked with the majority leader. I can assure the Senator from Idaho I do not intend to take a lengthy time on abortion. I did not want to enter into a time limitation before I made my comments, but this is a debate we have had for several years and I do not expect it to be a 5-hour debate.

Mr. ROBERT C. BYRD. Mr. President, let me see if we can get an order entered and agreed to carrying out our understanding.

Mr. JAVITS. Mr. President, I cannot hear anything.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I ask unanimous consent that upon the yielding of the floor by Mr. BELLMON, the disposition of his amendment, the Senator from Massachusetts (Mr. BROOKE) be recognized to proceed with his amendment or motion dealing with the busing section of the bill; that upon the disposition of that amendment on which there is a time agreement, the distinguished Senator from Oregon (Mr. PACKWOOD) be recognized to call up his amendment, and upon the disposition of that amendment Mr. McCLURE will be recognized to call up his amendment.

Mr. BROOKE. Reserving the right to object, I would point out to the distinguished majority leader that, depending upon the outcome of the amendment to which I will offer a motion to strike, the busing language, it will necessitate a further amendment to be offered regarding busing. I think the Senator from Missouri well understands what I am talking about. I would not want to agree to a time agreement or an order which would preclude that prior to the recognition of the distinguished Senator from Oregon to call up his amendment.

Mr. ROBERT C. BYRD. Would that be acceptable?

Mr. PACKWOOD. It would be acceptable to me.

Mr. McCLURE. It seems to me what we are entering into now is a rather long-

range question on busing which will take some time to dispose of. Although the Senator from Oregon has indicated that he is willing to abbreviate his remarks, I am not sure that he speaks for the other 99 Members of this body.

Mr. BROOKE. Will the Senator yield?

Mr. McCLURE. Yes.

Mr. BROOKE. If it will reassure the Senator from Idaho so he will not object to this unanimous-consent agreement, if there is another amendment following the vote on the amendment to strike the busing language, I would be willing to take a unanimous-consent agreement for a 1-hour time limitation on that.

Mr. ROBERT C. BYRD. Or even less, because the subjects have been discussed ad infinitum.

Mr. MAGNUSON. Mr. President, I cannot hear what they are saying on the other side of the aisle. What is the nature of the amendment of the Senator from Idaho? Is it legislation on an appropriation bill or is it a money item?

Mr. McCLURE. It is a limitation on the expenditure of the money.

Mr. MAGNUSON. It is legislation on an appropriation bill. It is not a money item. Can the Senator wait until we get through some of the other legislation on the appropriation bill?

Mr. McCLURE. Sure.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, could we present the request?

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, what is the request?

Mr. ROBERT C. BYRD. Mr. President, may I repeat the request?

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. That upon the disposition of the amendment by Mr. BELLMON, Mr. BROOKE will proceed with his amendment dealing with busing, on which there is a time limitation. Depending upon the outcome, if there is another busing amendment, it will be limited to 40 minutes because the subject will have been amply discussed in the first amendment. Upon the disposition of that busing matter, then Mr. PACKWOOD will be recognized to bring up his amendment on abortion. Upon the disposition of that amendment, Mr. McCLURE will be recognized.

Mr. JAVITS. Mr. President, reserving the right to object, may we have any idea of the plan of the majority leader for tonight? It is now half past 5. I personally happen to be due at a White House dinner. Others may have similar problems. All we need is to know. Are we going to go through with this for whatever number of hours it takes?

Mr. ROBERT C. BYRD. I would hope to finish the bill tonight. At least, we are putting this effort in trying to arrange a sequence. These subjects have been discussed so much I do not think it will take the time we may envision at the moment.

Mr. JAVITS. I am certainly not going to stand in the Senator's way of arranging the schedule, but that means we may be here until any hour, is that correct?

Mr. BROOKE. That is correct.

Mr. JAVITS. We may be here until midnight.

Mr. ROBERT C. BYRD. But let us say that if conditions were such after a while we saw we could not finish, at least the sequence would be there.

Mr. BROOKE. I hope the majority leader will not hold that out because we are hoping to finish the bill tonight.

Mr. ROBERT C. BYRD. I hope to finish it tonight.

Mr. BROOKE. Reserving the right to object again, just so we will not mislead the distinguished Senator from Idaho, depending upon the outcome of the Packwood amendment on abortion, there could be further amendments on this question of abortion. I think the Senator ought to understand that. There is no time limitation on the Packwood amendment, to start with, and there are several amendments which might be proposed on this whole question of abortion.

Mr. McCLURE. Mr. President, I wonder, in fairness to the Senator from Idaho, if we can dispose of my amendment, which is certainly a much less complex question than the busing or abortion issues, both of which may be followed by subsidiary motions or ancillary motions. I wonder if the majority leader and the manager of the bill might not see fit to allow me to go ahead and call up my amendment and get it disposed of before going into those other relatively lengthier amendments.

Mr. MAGNUSON. I want to suggest to the majority leader that when he gets all through talking with the Republican side of the aisle, he might come over here and tell us what is going on. [Laughter.]

All of these amendments are all right, but when we are through with them, there are a few more legitimate amendments to this bill which deal with the appropriation of money. That may take a half hour or an hour. I hope it does not take any longer. Every time I turn around there is another Senator up here with another amendment to up the bill, but then they vote to cut it somewhere else. So they get it both ways when they go home and want to explain it. They want to cut the bill and up the bill, too.

It looks like we are going to have a long evening. I suggest those who have to go to the White House or who want to go to the White House better get going and forget about it. [Laughter.]

Mr. HANSEN. Will the Senator yield?

TIME-LIMITATION AGREEMENT—M'CLURE AMENDMENT

Mr. BROOKE. Mr. President, could we make an agreement to follow the busing amendments? If we could enter into a time agreement with the distinguished Senator from Idaho for 30 minutes, would that be adequate for him, a 30-minute time agreement, 15 minutes on a side? After we dispose of that amendment, then we will move on to the question of abortion. Is that agreeable?

Mr. McCLURE. Yes, it is.

Mr. ROBERT C. BYRD. I so move, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senate will be in order.

UP AMENDMENT NO. 576

Mr. BELLMON. Mr. President, I have an amendment at the desk. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes unprinted amendment No. 576.

Page 17, lines 14–15 Delete "$773,091,000" and insert in lieu thereof "$701,091,000."

Mr. BELLMON. Mr. President, this amendment would reduce the level of funding for Health Resources Administration and Health Resources by $73 million. Specifically, it would make cuts in the following areas:

Amount of reduction (millions)

Program:	
1. Health professions institutional assistance:	
Capitation grants for veterinarians, optometrists, pharmacists, podiatrists (VOPP)	18
2. Nursing institutional assistance:	
Capitation grants	30
Advanced nurse training	12
3. Nursing student assistance:	
Traineeships	13
Total	73

Mr. President, health manpower is an excellent example of a successful Federal program. These programs were developed during the 1960's when it was apparent that the Nation faced a serious shortage of health professionals. Unfortunately, once programs have been developed, there are strong pressures to continue them regardless of existing needs or new priorities which require attention. Current projections indicate that existing levels of enrollment will supply adequate health manpower and that we will have surpluses in some areas by 1985. It is quite clear that the physician shortage will likely be solved within the next decade. It is estimated that approximately 170 physicians per 100,000 population are required to provide adequate care although the rate will vary from 150 to 190 per 100,000 depending upon demographic and health characteristics of an area. The rate per 100,000 in the United States was 158.6 in 1970 and if present trends continue will exceed 237 per 100,000 by 1990. Because of the overall increases in the number of physicians and continued emphasis upon medical and surgical specialties, there will be a large surplus of specialists by 1985. This surplus represents a major threat for further cost escalation and will further the trend toward highly specialized hospital-based care. More specialists simply means more referrals and more costly procedures.

The anticipated surplus in the number of registered nurses will occur by 1980 even if there are no changes in present enrollment levels. In addition, the large number of nursing schools currently developing graduate programs indicates a potential surplus in graduate trained nurses by 1985.

Thus, immediate steps can be taken to alter levels of support in nursing educa-

tion for capitation grants, advanced training, and traineeship. Funds are retained for nurse practitioners training, special projects, and student loans and scholarships.

Mr. President, reductions contained in this amendment are directed toward programs which are designed to significantly increase the overall level of health manpower. It does not recommend cuts in programs designed to promote geographic and speciality redistribution or better utilization of health resources through increased health planning and resource development. Thus, increased support for residencies and training in family medicine and primary care is retained. In addition, additional support for disadvantaged assistance, national health service scholarships, and related programs is excluded from this amendment.

This amendment does not reduce support for essential health manpower needs. It recognizes that the major health manpower priority has shifted from producing large numbers of practioners to the need for geographic and speciality redistribution. Even with the reductions in this amendment, the allocations for health resources exceed the administration's budget by over $100 million. It is time, Mr. President, that we accept the fact that our manpower policies have been successful and that we begin to redirect resources into other high-priority areas.

The purpose of the amendment is simply to point out that when we started these programs, back in the 1960's, there was a very obvious need in this country for more health professionals. We had a severe shortage and, obviously, emphasis needed to be given to these programs. Now, when we project the existing levels of enrollment in these programs ahead a few years and look out to 1985, it is obvious that if we keep increasing the funding for these types of programs, we are going to wind up with a very great oversupply of physicians and paramedics of all types. The purpose of this amendment is to start putting on the brakes so we do not wind up a few years from now with a lot of people who are highly trained and will not be needed in the health professions.

Mr. MAGNUSON. Mr. President, I shall take just a minute.

I appreciate what the Senator from Oklahoma is trying to do. What happened was that the President proposed a cut of $100 million. That was too much too fast. The House and the Senate disagreed with that, even though we do know that, in some places, there might be a surplus of nurses. But there are not enough nurses in the very places the Senator and I talked about earlier, the underserved areas—rural hospitals and nurse practitioners and preventive health service people. We did cut the capitation grant to start a phase-out. We think this amount that we have in will phase it out gradually and wisely so we shall not have a shortage in the places where we do not want a shortage.

Mr. BELLMON. Mr. President, I appreciate the comments of the distinguished chairman of the subcommittee. I think we are in agreement. We know there are areas where there is a shortage and we want to take care of those. I am concerned that we not have a great oversupply in some of the urban centers. I appreciate his interest.

Mr. BROOKE. Will the Senator yield?

Mr. BELLMON. I yield.

Mr. BROOKE. I say to the Senator that I understand the purpose of his amendment, but the increasing demands of health care are making greater demands of registered nurses. There are evolving roles that require that nurses continue their education beyond basic nursing programs. Without loan and other assistance, student nurses will not be able to enter health professions training programs.

Our committee has made, as the chairman has said, a 25-percent cut in nurses' capitation funds, which was reduced from $40 million to $30 million, and which is $2 million less than the House figure. The budget request for 1978 for nursing was $100 million under the 1977 appropriation. At the present time, only about 20 percent of nurses have baccalaureate or higher degrees and the projected demand for 1980 is for more than 50 percent of nurses to need more than baccalaureate degrees.

Even though I certainly understand the Senator's bringing up this amendment, I am glad that he is just discussing this question and not pressing the amendment at this time.

Mr. BELLMON. Mr. President, it is obvious that the committee is aware of the danger and they share my concern. I shall not press the amendment. I withdraw the amendment from further consideration.

The amendment was withdrawn.

UP AMENDMENT NO. 577

Mr. BROOKE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes unprinted amendment No. 577.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

Beginning on page 41, line 5 strike out section 208.

Mr. BROOKE. Mr. President, this is a historic and deeply disturbing moment in the legislative history of this body. For our deliberations on this year's Labor-HEW appropriations bill represent the culmination of a trend which we should deplore, and which we may all yet regret, regardless of our ideological persuasions or political affiliations.

Legislating on appropriations measures has long been a disapproved practice in the Senate. The inclusion of substantive legislative language, without recourse to the normal Senate apparatae of hearings, investigations and debate, has almost always been ruled subject to points of order, and has engendered great criticism.

Yet, today, we are treated to the rising specter of amendments and riders which are framed in prohibitory or delimiting terms, and not, therefore, as susceptible to points of order.

The fact that an amendment limits or proscribes activities, instead of advocating new ones, should not obscure its essentially substantive quality, legislative weight, import, or purpose. Prohibiting the use of Federal funds for certain activities is often as effective as far-ranging legislative initiatives. Yet this practice short-circuits the safeguards which we in Congress are bound to respect and which the American people have a right to expect.

This practice has escalated to the point where reasoned, dispassionate debate on controversial issues is virtually impossible. And this practice must cease, for, if we vote to sustain this amendment, we are fostering preemptory, precipitate action at the moment when we should be encouraging caution, concern, and restraint.

The practice of legislating on appropriations measures does little to enhance the luster of the Senate as a deliberative body. When we consider the underlying fact that the educational future of millions of our young are at stake, our haste borders on the irresponsible.

It is long past time that we in the Senate should separate emotionalism and illusion from reality when confronting the busing issue. The most central issue is certainly not busing, per se. Indeed, busing for school transportation has been an integral and time-honored component of our educational system. At this very moment, 55 percent of all schoolchildren are transported by bus to schools in their communities. Yet, only 4 percent of the schoolchildren in this Nation are bused for racial desegregation purposes. I conclude that the fundamental question remains whether we as a Nation are truly committed to full equality of educational opportunity for all Americans.

If we are committed, then all other questions become merely procedural. These procedural issues—what tools can be used to further our Federal antisegregation policies; how much discretion must be vested in HEW to facilitate accomplishment of these worthwhile policies; what is the impact of limitations, through amendment, on our ability to achieve equality—are extremely complex and variated. They are best solved after careful and protracted consideration.

Anything less is an abrogation of the public trust. Anything less compromises our ability to forge progressive solutions to our manifold social and economic problems. I, for one, cannot endorse any other course but that we fully meet our responsibility, in this instance, to conduct ourselves in a constitutionally sound and forthright manner. Anything less is disingenuous, and may ultimately be divisive and destructive.

No one can deny that there are several constitutional, as well as practical problems with the Eagleton-Biden amendment which wait to be resolved. First, any

amendment which precludes HEW from taking remedial actions in the face of unlawful segregatory practices raises serious constitutional questions.

It is settled case law that any Federal statute which would force an agency to fund a racially discriminatory program would be found in violation of the fifth amendment of the Constitution. This principle was articulated by a unanimous Supreme Court in the Little Rock school desegregation case, *Cooper* v. *Aaron* (358 U.S. 1, 19 (1958)). Cooper holds that Government support of segregated schools "through any arrangement, management, funds or property" cannot be reconciled with the constitutional prohibition against governmental action denying equal protection of the laws. *Gatreaux* v. *Romney* (488 F 2d 731, 739 (7th Cir. 1971)) and *Green* v. *Kennedy* (309 F Supp. 1127 (D.D.C. 1970)) expressly buttressed this analysis in other Government activities.

By passage of this amendment, which is so constitutionally suspect, we make the Government a partner in segregation. This we cannot do.

And, if Eagleton-Biden is passed, we force HEW into an anamolous, and altogether unsatisfactory position. First, HEW could abide by this amendment, forsaking its fifth amendment responsibilities. Second, HEW could ignore this amendment, thereby precipitating an almost certain court challenge or mandamus action.

Third, and most probable, HEW could be forced to radically alter its approach to title VI enforcement. This approach has, in the past, been largely conciliatory. Although title VI provides for the suspension or termination of Federal funds to programs which illegally discriminate, HEW has rarely utilized this sanction. Instead, HEW has consistently attempted to secure voluntary compliance through negotiation and cooperative efforts. The amendment does not acknowledge this reality. Instead, this amendment shreds HEW's enforcement and review mechanisms and divests the procedure of even a modicum of sensitivity and selectivity. Whatever our opinion about the efficacy and fairness of busing, this dilemma must give us pause.

And, it should be crystal clear, even to those who oppose busing on principle, that the severe and crippling limitations which Eagleton-Biden places on HEW's discretion may ultimately lead to more, not less, busing. For it will certainly lead to greater litigation and contention over the issue. And it will almost certainly precipitate more use of the courts as the only remaining recourse to vindicate the rights of students who are trapped in still-segregated communities, and ill-equipped educational ghettos.

Second, the practical dangers of so sharply limiting HEW's ability to fashion or to accept remedies to end unlawful segregation must also be evaluated. The precedent which we may now forge could be applied again and again to other agencies and departments whose purview includes controversial issues. Without careful consideration of this particular aspect of our actions, we may do disservice to the fragile balance of powers guaranteed by the Constitution. And we do violence to the concept of free-flowing, consistent and effective administrative action.

Under these grave circumstances, we must resist the lure of short-term political expediency. We must resist the temptation to resort to demagoguery as we face this volatile issue. Because each time we yield to more facile solutions, we compound our Nation's serious problems, and prolong the processes which we must employ to fashion the solutions which we seek.

There will always be disagreement on the underlying issues which we face today. But for myself, I have only one view. And it is a strong view. I believe that this society must be equal, and free, for all the people. And this equality and freedom must be secured by any permissible, legal or constitutionally-mandated means. If it means busing to end unlawful segregation, then I support it. If it means temporary preferential remedies, then I support them, also.

My faith in the Constitution as a living document which requires equal treatment and protection of the laws for every citizen leads me to conclude that the temporary discomfort and inconvenience which must be borne in our efforts to propel this society to that moment when equality is finally realized are but small costs to pay.

This debate is particularly poignant to me, as our Nation has seen a whole people ravaged by the dark staining shadow of slavery. Over 100 years ago, this very deliberative body fashioned remedial legislation to help the displaced and disenfranchised persons who were trapped and oppressed by the incidence of their birth. Yet, this tragic historical condition, and the remaining vestiges of slavery, continue to cast a pall over our aspirations, our dreams, and our lives.

So, the need for strong leadership through enlightened congressional action is no less great today. We have stumbled toward progress since the 1954 Brown decision, but we have far to go. This body has, in the recent past, spoken courageously to the issue of racial inequality, securing voting rights, fair and open housing and guaranteeing the use of public accommodations for all. It would be reprehensible, and an historical anomaly, if this 95th Congress presided over the dismantling of those few agencies charged with promoting equality, even before full equality was assured.

Yet, even my strong, unequivocal support for the eradication of inequality wherever it is found in our society does not prevent me from stressing the procedural consequences of the actions which we might take this afternoon. Nor do my own strong views on this issue hinder me from perceiving the value of intensive dialogue among citizens and elected officials who have differing views, before we take precipitous action.

Mr. President, I urge my colleagues to join me in separating substance from procedure. I urge my colleagues to consider the dangers inherent in our rush to judgment and legislation without benefit of dispassionate consideration. And whatever the views on the substantive merits of the Eagleton-Biden amendment, I urge my colleagues to consider the dangerous precedent we are here establishing, by attaching a rider of this import on an appropriations measure, and by so sharply limiting agency discretion.

I, therefore, ask my colleagues to support my motion to strike section 208 from this bill. Let those who wish fashion a piece of substantive legislation to accomplish these debated ends, submitting it to the appropriate Senate bodies for study, and then to the Senate collectively for deliberation and disposition.

Mr. President, I yield to the distinguished Senator from North Carolina 5 minutes, and before I do, I ask for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I rise to support the amendment of the distinguished Senator from Massachusetts, and once again oppose the language in this bill which is supposed to be antibusing and which is supposed to encourage neighborhood schools—but not in the case of the South.

Although I confess, Mr. President, that I would rejoice if a piece of legislation would come before the Senate outlawing nationwide busing and providing means and ways for us to provide quality schools all over the Nation so that we can ultimately return to neighborhood schools, I will not support, Mr. President, a plan which would, in effect, relieve the burden north of the Mason-Dixon line and keep the South busing until kingdom come. And that is exactly what we are talking about here today.

The language of the Eagleton-Biden amendment is in the present Labor-HEW appropriations bill. The language would block HEW from using the funds to require busing beyond the nearest school, and the "pairing" of schools to achieve racial quotas.

But—and this is the important thing my colleagues should remember—the ban would apply only in the future, because it can apply only to the 1978 HEW funding. Thereafter, a new limitation will have to be included every year. And even then, the ban will apply only to future desegregation requirements.

That means one thing, and one thing only: That the ban on busing shall apply only in the North and West, because that is where future actions are to be taken. The South has already integrated its schools, and this so-called antibusing amendment will not apply.

In my State of North Carolina, 42 school systems are operating under court orders. This amendment will not touch them. Those that are busing now will be busing still.

Eighty more school systems have plans in effect on a voluntary basis, and, usually, a suit against them pending in Federal court. This amendment will not ap-

ply to them, because HEW will take no action in 1978 to require such a plan. It has already done it, and that will stand. Even if a school board were to try to argue that HEW would be prevented from keeping a past busing plan in effect during this year, you had better believe that pending court suit would be activated, and that school system would be in worse trouble than it is now.

There are those who argue with me that I ought to vote against busing, even if the ban would only apply in the North. But I have to most emphatically disagree.

I believe that if we take the pressure off the North and the West, we will remove any incentive from these areas of the country to help us find ways to provide quality education for boys and girls in every area of the country in such a way that we can then return to neighborhood schools.

Mr. President, we might as well face the facts of life. That is the only way we ever are going to return to neighborhood schools—to see that the schools in every community in America offer an education equal in quality to that of any other area. Until we recognize that, until we do it, we are not going to be able to return to neighborhood schools, which I think all of us want to do, provided we can provide these equal opportunities.

If we adopt this amendment, or the language of the Eagleton-Biden proposal, we will return, in my opinion, to the hypocritical situation in which a northerner may stand up and oppose busing on the grounds that it creates turmoil and stress in the lives of children, but a southerner making exactly the same argument will be dismissed as a bigot.

Last year, a national television reporter did a telecast from a suburb of a Midwestern city. The reporter was repeating, in a horrified manner, the sort of turmoil that is attendant on busing, which that city was seeing for the first time. He was reporting the suburbanites' objections that there were police walking the halls of the schools. He was saying that students were going to school armed. He was especially anxious to stress the absurdity that children were being bused past their own neighborhood school to 1 mile away, even when their old school was right across the street from their homes.

All these issues were being reported as if they were brand new, and they were being reported in a most negative manner. But the very same things were being objected to in the South 15 and 20 years ago, and the objections fell on deaf ears.

Fifteen and twenty years ago, the selfsame outcries were to be heard from the South, and they were ignored. There was no such television news report as I have just described. No such amendment as we are now considering would have had a ghost of a chance in the Senate of the United States. But now things are different, and they are different because now the rest of the Nation is beginning to have its own busing. Suddenly, the legitimate objections against busing are no longer dismissed as excuses.

But relieve that pressure on the rest of the country, and what will you have? Vote to ban future—repeat, future—busing, and what will result?

We will again have the pretense that the solid black schools in Northern cities, and the solid white schools in their suburbs are just a matter of chance. We know that that is not true, that racial discrimination has existed in the North and the West just as truly as it existed in the South and in other parts of the Nation. The same contention would be made, that the black and white schools in the South were deliberate and premeditated denials of constitutional rights.

The truth has dawned on many people. A supposed antibusing measure has come before the Senate. Neither one would have happened if busing had not become a fact outside the Southern States.

I will vote for a competent antibusing measure which attacks the problem on a nationwide basis. I remain hopeful that we will solve this problem by providing top quality schools in each and every neighborhood. I decline, once again, to vote for the mere appearance of a busing ban. I will not vote for one which guarantees that northern children will walk to their neighborhood schools, and southern ones ride a bus to the other side of town.

So I join in the support of the amendment of the Senator from Massachusetts.

Mr. BROOKE. I thank the distinguished Senator from North Carolina. I understand his reasons for supporting my amendment to strike this language. I again have to say how very much I am inspired and pleased by his courageous stand and by his understanding, more important, of the real problem involving school desegregation, what busing is and what it is not.

I think he has made a very clear and very convincing case. What he has said is absolutely true, and I wish others would look at it realistically and not hypocritically as, unfortunately, some do in this country.

Mr. President, I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, we have debated this matter for many years, and always there is the kind of rear guard effort to dismantle whatever we are trying to do at a particular time, without general regard to how it fits into the total scheme of trying to assert constitutional rights.

A note has been struck by Senator BROOKE which I would like to repeat, which I think is critically important.

I stood in this place 20 years ago and heard the dire things which would happen to our country and to our social system, the civil war and insurrection which would occur if black people and other minorities were given their rights as citizens of the United States, by the United States.

We said at that time that the States did not do it and would not do it and that, therefore, if this country meant anything, we have to do it.

Mr. President, notwithstanding the disorders in Louisville and Boston and Little Rock and many other places, the fact is that the most segregated part of the United States is getting to be the most desegregated—to wit, the American South—and the South is bigger, richer, stronger. Indeed, we are terribly worried about it now, because the pendulum has swung so strongly, economically, in favor of the so-called sunbelt.

Mr. President, it really is almost disheartening, as an American coming from the very same minority origins myself, to now have to still debate this very same rear guard action against common human decency, sustained by all the judges of the Supreme Court unanimously only yesterday.

How much validation do the minorities need? How long do they have to suffer this indignity, to have this challenged and challenged and challenged and challenged again by Senators who represent not only their States but also the conscience of our country? That is really what is at stake in the busing argument. In my judgment it is irrefutable if we really mean what we say about America.

Finally, Mr. President, many of the men and women who feel as we do about busing or some other aspect of the segregation, as ordered by the courts, are the most ardent exponents of human rights and backed President Carter in this great moral struggle for human rights throughout the world. What about us at home? Are we practicing what we preach, which is one of the most elementary sentiments in the human personality, or are we just preaching it to others?

Or do we intend really, before we preach to others, to be an example to the world?

Mr. President, I repeat it is almost disheartening to have to go through this year after year after year, with people voting who, in many, many other directions, show the most broad-scale and generous sentiments to their fellow men, and yet somehow or other cannot perceive the sheer element of dignity which went into the constitutional rights which the Founding Fathers vouchsafed us, and which it is now our duty to make good.

Mr. President, I hope very much the Senate will respond to the eloquence of my colleague, who fought this battle so manfully for a very long time, and to the deep feelings which, I think, should animate us all as Americans.

Mr. BROOKE. Mr. President, I want to thank my distinguished colleague from New York who has truly been a leader in the battle for civil rights for all people for so many years. His statement was articulate and eloquent, as usual, and I hope very persuasive to his colleagues on this floor.

Senator JAVITS mentioned that in the South they have done so well so far as school desegregation is concerned, and he is absolutely correct.

Mr. President, in 1964 in the South 8 percent of the black schoolchildren attended integrated public schools; only 8 percent in 1964.

In 1972, 8 years later, 92 percent of the black schoolchildren in the South attended integrated schools—from 8 to 92 percent in only 8 years to show that it can be done.

The Senator from New York referred

to some of the violence that happened in Boston, of which I was ashamed. But I am proud to say that they had a graduation the other day of the first class under the desegregation orders. There was not one act of violence, which goes to prove that if we let the children alone, and let the teachers and the children work this matter out, we could do in the North as they have done in the South.

We do not keep coming up with these amendments, as the Senator said, requiring us to fight a rear guard action year after year after year on every bill possible without giving hope to those advocates of violence and those who still want to deny equal educational opportunities to all children in this country; that we could get on with not the integration of schools but the desegregation of public school systems in this Nation.

So I thank my colleague from New York who spoke so eloquently, as I thank my colleague from North Carolina who also spoke eloquently, for different reasons, but he spoke and he stood up because he knows what is right and what is essential in this Nation.

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

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

Mr. President, before making my principal remarks, which I have considerably shortened from the prepared text, I would like to make two comments with respect to the remarks of the Senator from North Carolina (Mr. MORGAN), who is no longer here, I think, on the floor, and my friend and colleague, the able Senator from New York (Mr. JAVITS).

First, with respect to the fact that this amendment applies only to the North, I must beg to differ with the Senator from North Carolina. It will apply to the whole Nation.

As I will get into later in the debate, talking about the segregating and isolating factors of urban school systems, there happen to be five on this list that are from the South: Houston, Dallas, New Orleans, Memphis, and San Antonio, and my remarks are equally applicable to those five cities as to the other cities on the list, starting with New York, and going down through Kansas City.

Second, in response to the Senator from New York, who is at all times eloquent and a person who most sincerely speaks with great compassion, I thought his remarks were in his customary vein of being compassionate and understanding.

It is a little bit troublesome to me in referring to the fact that for 20 years in this body we have been having this debate and, as Senator JAVITS points out, some of the greatest segregation is now in school systems in the North. I will bring it even a little closer here, Mr. President, I will bring it to the city where we are situated and where we have been having these debates for 20 years: the most segregated school system in the United States, bar none is Washington, D.C., with 96 percent minority—here it is on the list about eight down—96.3 percent minority, 3.7 percent white.

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

Mr. EAGLETON. No, not at this time.

Yet despite the fact of this being the most segregated school system in the country, I know of no suit filed by the Civil Rights Division of the Department of Justice to desegregate this whole system; I know of no suit filed or pending by any civil rights group to desegregate this school system; I know of no suit currently pending by any students or parents of students to desegregate this school system. Why is this, Mr. President? It is a very simple answer, and that is the whole guts of this debate. There is no way under the sun to desegregate the District of Columbia school system.

There is no way you can bus around 3.7 percent whites and place one in each class in each school in the District of Columbia. It would be an exercise in futility. It would be an exercise in nothingness.

If you look down the segregative and isolative patterns in all the major school systems of this country, the same will apply.

I say to my friend from New York City, there is no way in this, one of the largest, if not the largest, school system in the country, there is no viable way, to desegregate a 67.0 percent minority school system. There is no way if you bus white children all across New York and have one-third of each school comprised of whites, there is no way that you will avoid white flight in New York City, no way whatsoever.

If you go down the line, Chicago, 70 percent black, 70 percent minority, there is no way you can desegregate the Chicago school system.

Here is Philadelphia with 62.2 percent minority, there is no way to desegregate the Philadelphia school system.

Detroit, the subject of later remarks in this speech, 81.4 percent minority. There is no way under the Detroit case that you can desegregate the Detroit school system.

I hasten to point out that the Supreme Court yesterday spoke—the Senator is correct, my friend the Senator from New York, with respect to busing—and what did they say in the two cases they handed down yesterday? In Detroit No. 2 or call it Milliken No. 2, the U.S. Supreme Court failed to order again across-district busing, and by a unanimous—this time unanimous—opinion affirmed the basic premise of the earlier Detroit case, which means that there will only be intradistrict busing, not inter, but intra, within Detroit, with an 81 percent minority school system.

It said with respect to that busing, that the cross-district busing Detroit was about to order exceeded the violation and reiterated that the remedy must be tailored to cure the specific violation. You must tailor the remedy Detroit—not to include the suburbs because there was no evidence that any school district outside of Detroit was found to have engaged in unconstitutional activity, as was stated in an earlier case. You must tailor the busing and target it. You cannot have interstate busing; it must be within the city of Detroit. That is what the Court held 8 to 0 yesterday.

Let us go to the Dayton case that just came down yesterday, again 8 to 0. The district court in Dayton ordered cross-district busing, ordered the kind of busing that would bus inner city school students to the suburbs. It went up to the court of appeals where it was rejected. The Supreme Court affirmed that order yesterday unanimously 8 to 0.

The U.S. Supreme Court said no cross-district busing, and again if there is to be busing in Dayton it must be intradistrict and it must be very limited in nature. It must be targeted under the so-called Austin doctrine. So that is what the court held yesterday.

We are talking about the Court that is just across the street from us here. They spoke unanimously. So if we are invoking the great jurists of mankind, let us invoke them in their most recent opinions, and let us apply them to the facts as we know them, because in net sum essence, Mr. President, I repeat, it is impossible in the kinds of school systems I have listed on this chart, many of which are preponderantly minority, we are only kidding ourselves, and doing worse, we are not even kidding the people in those communities. We are invoking a great harm on them when we pretend that we can, in fact, desegregate a city school system that has minority percentages as listed on this chart.

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

Mr. EAGLETON. I will yield at a later time.

Mr. BROOKE. On that point.

Mr. EAGLETON. I refuse to yield. Make notes and I will be glad to chat with you a little later on.

The Byrd amendment was first adopted nearly 2 years ago, and it was subsequently readopted last year, to express a clear congressional directive to the Department of Health, Education, and Welfare that it may not require busing of students beyond the school nearest their homes in order to enforce compliance with title VI of the Civil Rights Act. Within the past month, the Departments of HEW and Justice have disclosed their own interpretation of the Byrd amendment, an interpretation which circumvents the clear intent of the amendment and would allow HEW to require busing in connection with the so-called pairing or clustering of schools. There have been indications from both within and without the Department that HEW is preparing to test its interpretation of the Byrd amendment in Court, in connection with a proposed desegregation plan for the Kansas City, Mo., school district.

When the bill we are now considering was considered by the Appropriations Committee, I, along with Senator BIDEN, offered a revised version of the Byrd amendment, designed to vitiate what I consider to be HEW's fallacious analysis. The Appropriations Committee adopted my revised version and I urge the entire Senate to retain the revised Byrd amendment in the final bill.

In explaining the reasoning behind my amendment, Mr. President, I wish first to make it clear that in this Kansas City matter, we are not talking about a case

in Federal court where the judge finds a violation of the equal protection clause of the Constitution and enters a busing order to remedy such violation. The Byrd amendment would not apply in such a situation and I would not support a law which attempted to restrict the authority of Federal courts to fashion appropriate and targeted remedies to redress such constitutional violations. The Byrd amendment does apply and I support its application to matters such as Kansas City where HEW acting solely on its own administrative authority and acting without any judicial determination of unconstitutionality, administratively seeks to impose its own formula as the racial mix or racial balance of a given school district.

Mr. President, my position is that the Supreme Court decisions in the Detroit and in the Indianapolis cases, and I should add refortified by Detroit No. 2 handed down yesterday and Dayton No. 1, both unanimously, and absent the special and incredibly unique facts in the Wilmington case that my colleague, Senator BIDEN, will address, that those Supreme Court opinions, Detroit 1, Indianapolis 1, Detroit 2, and Dayton 1, bar—and that is the law—they bar, they prohibit, interdistrict busing, busing from the city to the suburbs between black inner city school districts and white suburban school districts.

That is not Eagleton law and that is not Biden law. That is the Supreme Court of the United States law. None of us wrote it, but we are all obliged to read it, we are all obliged to understand it, and we are all obliged to comply with it.

If I am correct in this reading of the Detroit, Indianapolis, and Dayton cases—and I am convinced that I am right in my reading of those cases—then large-scale busing within predominantly minority populated school districts cannot and will not remedy such racial imbalance.

Mr. President, I ask unanimous consent that a table be printed in the RECORD showing the racial mix of some of our Nation's largest school districts.

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

Major urban school districts:	Percent minority	Percent change in white enrollment 1967–72
New York City	67.0	−5.0
Los Angeles unified	39.8	−12.0
Chicago	70.4	−23.0
Philadelphia	62.2	−6.0
Detroit public schools	81.4	−30.0
Houston independent school district	65.8	−21.0
Baltimore City	75.5	−38.0
Dallas independent school district	54.9	−21.0
District of Columbia	96.3	−40.0
Cleveland City school district	62.2	−13.0
San Diego unified school district	33.7	−10.0
Milwaukee public schools	40.2	−19.0
Memphis City schools	71.2	−15.0
Orleans parish	80.8	−39.0
Boston public schools	49.3	−16.0
Indianapolis	45.7	−25.0
St. Louis City	72.2	−27.0
San Francisco unified school district	51.1	−25.0
San Antonio independent school district	52.3	−13.0
Kansas City	68.0	−27.0

Mr. EAGLETON. Mr. President, it is my position that if HEW proceeds to order intradistrict, inner district busing in these school districts, starting with Kansas City, quite obviously they intend to move on—there is preliminary negotiation with Chicago to start there, with the 70 percent black school system—then such busing, in my opinion, will be completely self-destructive. The effect of such intradistrict busing will be to heighten the racial isolation of these inner city schools, not lessen it.

I am convinced that if HEW orders large-scale intradistrict busing in the Kansas City school district and in Chicago, within a year the current 68 to 70 percent minority composition of the Kansas City and Chicago school districts will be dramatically increased.

If HEW goes ahead with this order in those two cities, I am willing to read into the RECORD right now my prediction, and I will apologize to the whole body if I am wrong. If this fall, this September, in Kansas City and Chicago an intradistrict total busing order goes into effect, I will promise that by September 1978, a year from now, Kansas City—instead of being a 68 percent minority school district—will be at least 78 percent. I am willing to predict if they enter a similar order in Chicago—Chicago which is now a 70 percent minority school district—it will be a year from now, this fall, if they go ahead with such a foolish concept, an 80 percent minority school district.

It is this stark reality of the racial mix of our large city school districts which causes me to conclude that intradistrict busing is foredoomed to failure in such school districts.

It is this reality and the same reality that has caused Prof. James Coleman, who was the author of the landmark report on the effects of segregation on school children, to reevaluate his all-out support of busing as an integration tool, and he now opposes it in districts such as I have been describing.

It is this same reality that has caused black newspaper columnist William Raspberry to conclude:

> A lot of us are wondering whether the busing game is worth the prize. Some of us aren't even sure just what the prize is supposed to be.

It is this same reality that has caused Wilson Riles, a black and the superintendent of public instruction for the State of California, to say:

> If you have to have blacks sitting next to Caucasians to learn, we are in a mess, because two-thirds of the world is non-white, and we would not have enough whites to go around. If the schools are effective and the children learn, that is the easiest way to achieve the ultimate goal of integration.

It is this same reality that has caused the liberal and progressive St. Louis Post-Dispatch to oppose large-scale busing in the St. Louis school district, which, by the way, has a 72 percent minority enrollment. The St. Louis Post-Dispatch interestingly does support busing in Kansas City where it is 68 percent black. It opposes busing in St. Louis and says:

> . . . both sides in the suit recognize that large-scale busing in a school district with a black majority could be counterproductive in terms of desegregation, and both sides insist that they do not want to "shove something down people's throats." No one wants a duplication of the Boston school dispute here.

So says the Post-Dispatch.

Mr. President, the problems of segregated schools currently being addressed by the Federal courts and by HEW are far different from those that were involved in previous enforcement activities. For most of the period following the 1954 Supreme Court decision in Brown against Board of Education, desegregation efforts were directed primarily at disestablishing the separate systems of schools for blacks and whites that were mandated by law throughout the Southern States and some border States, I might add, including my own of Missouri.

It was evident in those cases that dual system of segregated schools was the result of official action, that is de jure segregation, and as increasingly more explicit rulings of the Supreme Court made clear, the dual systems had to be eradicated, "root and branch," and converted to unitary systems. Busing as an instrument for desegration did not raise difficult issues in the largely rural districts of the South, in a sense, for a high proportion of students were being bused to their schools already; indeed it has often been stated that the effect of desegregation in many places in the South was to reduce the amount of busing since maintenance of a dual system required busing more children for longer distances than that necessitated in a unitary system.

Today, a generation after Brown, the question is not so much what to do about dual systems in the rural South—they have been unified, for the most part—but rather what can and should the Federal Government do about predominantly minority schools—also called "racially isolated schools"—in the big cities. As the U.S. Commission on Civil Rights stated in its February 1977 report entitled "Statement on Metropolitan School Desegregation," page 6:

> To a very great extent the remaining problems of segregation by race and national origin in public schools are problems that exist in big cities. While nationally . . . two out of every five black children attend intensely segregated schools [i.e. 90 to 100 percent minority enrollment], in the 26 largest cities of the United States almost three of every four black pupils are assigned to such schools.

Viewed from a somewhat different statistical perspective, HEW reports that more than 70 percent of the black students who are in all-minority schools are

in 19 cities, located in all parts of the country.

Problems of big city school segregation are complicated by two factors not commonly found in earlier cases coming out of the South:

First. Many of these cities—9 of the largest 12 and 14 of the largest 20—have majority black enrollments in their schools, and the proportions of black students to white students are steadily rising.

Referring to the chart, the second column—and these are the latest complete figures we could get—indicates the racial trend in these school districts during a period from 1967 to 1972. During that period, every school system listed had an increase in the percentage of minority enrollment: For example, the District of Columbia by 40 percent, Detroit by 30 percent, New Orleans by 23 percent, and so on. As the Civil Rights Commission report puts it, page 1:

> In the wake of two great migrations—the movement of black people from the rural South to big cities throughout the country and of whites from central cities to the suburbs—the racial composition of these school systems has changed dramatically from predominantly white to predominantly black.

Second. The liability of big city school districts for segregated schools is often not readily ascertainable through application of the de jure/de facto criteria developed by Congress and the courts to distinguish between State-enforced segregation and that which has been "adventitiously caused"; that is, by factors not related to official action. The cities of the North and the West did not maintain separate schools for black and white students as part of a legally mandated segregated system prior to 1954, thus liability for racially isolated schools in those districts cannot be imputed to school authorities on the ground that such schools are vestiges of a former dual system; there must be evidence of official action leading to the creation of conditions of segregation. Even in cities located in border States with a history of official segregation, where desegregation was undertaken promptly following the Brown decision there often are questions as to whether the existence of predominantly black schools today resulted from the earlier segregated systems or whether they were caused by other factors, such as the shifts in population referred to by the Civil Rights Commission.

In short, Mr. President, we are faced with a situation where predominantly black schools exist in cities having—in most cases—a predominantly black school population and where the fundamental causes of racial isolation are generally not readily attributable to a history of segregative practices.

That would be true in all the eastern and far western cities.

Given these circumstances, I believe that we are bound to inquire what the effects of programs of large-scale crosstown busing in such cities are going to be—whether it will be Kansas City this year or Chicago next year, and whether such busing is more likely to produce meaningful integration or more segregation.

My views on this question were expressed in the 1975 debate which led to enactment of the Byrd amendment, when I said:

> To spread a dwindling number of white students throughout a predominantly black city school system is a self-defeating exercise. While the so-called "white flight" from the cities to the suburbs cannot be attributed solely to unreasonable busing requirements, it certainly has been an important factor.

(Mr. METZENBAUM assumed the chair.)

Mr. EAGLETON. Now let us hear what the Civil Rights Commission says on this same argument.

The Civil Rights Commission report, which argues for desegregation on a multidistrict, metropolitan approach concurs with my views on the efficacy of busing within big city districts, stating, page 10–11:

> Few people regard desegregation plans that affect the city alone as providing stable or satisfactory solutions. In the words of Eleanor Holmes Norton, then chairman of the New York City Human Relations Commission (whom we recently confirmed as chairperson of the U.S. Equal Employment Opportunity Commission): "To simply distribute a diminishing number of whites thinner and thinner is obviously to get embarked on a process that will not result in integration. A school with 20 percent white students and 80 percent minority students is not integrated . . . That's why the metropolitan approach has to be looked at very closely."

Thus, given the Court rulings limiting busing to intradistrict, if we look down once again at this list and see the minority makeup, with that intradistrict busing in Detroit and Kansas City, in Chicago, and in Washington, D.C., we can see it is foredoomed to failure.

In the same vein, Dr. James S. Coleman of the University of Chicago, whose earlier studies of student performance in desegregated schools lent support to the movement toward integration, has argued convincingly that the exodus of white families from the central city to the suburbs has been hastened by ill-advised desegregation policies of the kind that the Byrd amendment is intended to prohibit. Professor Coleman recently said in a speech:

> Ironically, "desegregation" may be increasing segregation.

While reaffirming his commitment to the vindication of rights guaranteed by the Constitution, Dr. Coleman has urged a reconsideration of the remedies the courts have devised to enforce those rights so as to avoid practices which are, in fact, destructive of the goals of integration.

The Civil Rights Commission concluded that metropolitan remedies involving most or all of the school districts in a metropolitan region, must be employed to overcome racial isolation in big city school districts, stating that, page 8:

> The difficulty of dealing with racial isolation in very large cities is compounded by the fact that in many places the problem has become not simply the existence of segregated schools but of segregated school districts.

However, recent decisions of the Supreme Court concerning the appropriateness of ordering desegregation on a metropolitan basis make it unlikely that such an approach will be sustained, absent exceptional circumstances. The Supreme Court has dealt with this issue in several cases; the principal exposition of the Court's position on this subject came in the Detroit case, *Milliken* v. *Bradley*, 418 U.S. 717 (1974).

The Federal district court in Milliken found, and the sixth circuit court of appeals affirmed, that the only effective remedy for the de jure segregation found to exist in Detroit was to include 53 suburban school districts in the desegregation plan, even though there was no evidence that any school district outside of Detroit had engaged in unconstitutional activity. The Supreme Court reversed, holding that a Federal court is not empowered to impose such a remedy unless acts of the State or of the suburban school districts can be shown to have been a substantial cause of interdistrict segregation.

It should be noted that yesterday the Supreme Court once again considered the Detroit case. No busing between the city and the suburbs was ordered. In fact, as to the busing to be conducted within the Detroit school district, such busing must not "exceed" the violation and the remedy must be "tailored" to cure the "condition that offends the Constitution."

Chief Justice Burger, writing for a unanimous court, stated as follows:

> The well-settled principle that the nature and scope of the remedy is to be determined by the violation means simply that federal court decrees must directly address and relate to the constitutional violation itself. Because of this inherent limitation upon federal judicial authority, federal court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate the Constitution or does not flow from such a violation, see *Pasadena City Board of Education* v. *Spangler, supra*, or if they are imposed upon governmental units that were neither involved in nor affected by the constitutional violation, as in *Milliken I, supra*. *Hills* v. *Gautreaux*, 425 U.S. 284, 292–296 (1976). But where, as here, a constitutional violation has been found, the remedy does not "exceed" the violation if the remedy is tailored to cure the "condition that offends the Constitution." *Milliken I*, supra, at 738.

If there had been any doubt as to the direction being signaled by the court in the Detroit case, such doubts were erased yesterday in the Court's ruling on the Dayton desegregtaion case. In remanding the Dayton case to the district court, the Supreme Court reiterated its conviction that a remedy must be tailored to a specific violation of the equal protection clause.

Such was the case in Wilmington, Del., where the Court affirmed without opinion a ruling by Federal district court that a metropolitan remedy was appropriate after the Delaware General Assembly explicitly excluded the Wilmington district from a general reorganization of Delaware school districts. This prevented the predominantly black Wilmington district from being reorganized with a predominantly white school district while other districts within the

State were able to consolidate (*Buchanan* v. *Evans*, 423 U.S. 965 (1975)).

However, the Supreme Court reversed the lower court's order in a subsequent case ordering interdistrict desegregation in Indianapolis and directed the lower court to reconsider its decision in light of the Supreme Court's intervening opinions in two cases which held that in order to establish the unconstitutional character of official actions, it is necessary to show a "racially discriminatory purpose," *U.S.* v. *Board of School Commissioners of Indianapolis*, 45 U.S.L.W. 3500 (1977), vacated and remanded for reconsideration in light of *Washington* v. *Davis*, 426 U.S. 229 (1976), and *Village of Arlington Heights* v. *Metro Housing Development*, 45 U.S.L.W. 4073 (1977).

Washington v. *Davis* and *Arlington Heights* v. *Housing Authority* were not school desegregation cases—they involved claims of racial discrimination in employment and housing construction, respectively—but the Supreme Court's direction to lower courts considering school desegregation matters to take these two cases into account is particularly significant, in view of the more restrictive approach to racial discrimination issues articulated by the Court therein. What the Supreme Court appears to be saying is that lower courts should not be quick to impute a discriminatory purpose to the actions of school authorities based on the existence of predominantly black schools, where those racial concentrations may as plausibly be explained by other factors, such as the existence of racially segregated housing patterns.

Support for this conclusion can be drawn from a separate concurring opinion written by Justice Powell—joined by the Chief Justice and Justice Rehnquist—in the recent case of *Austin Independent School District* v. *U.S.*, 45 U.S.L.W. 3413 (1976). The Austin case, like the Indianapolis case, was remanded to the lower court in a brief memorandum opinion for reconsideration in light of *Washington* v. *Davis*.

The Austin case, ratified yesterday in both the Detroit and Dayton cases, called for a very specific targeted remedy, and takes into account what had been the negative effects of segregation. Senator BIDEN, I know, will discuss that in some detail.

In his opinion concurring with the Court's per curiam order, Justice Powell said:

> The principal cause of racial and ethnic imbalance in urban public schools across the country—North and South—is the imbalance in residential patterns. Such residential patterns are typically beyond the control of school authorities. For example, discrimination in housing—whether public or private—cannot be attributed to school authorities. Economic pressures and voluntary preferences are the primary determinants of residential patterns.

The point of this discussion of recent Supreme Court actions in the area of school desegregation, Mr. President, is to indicate that the Court's view of the responsibilities of local school authorities and the appropriateness of particular remedies for segregation is an evolving thing, particularly as more and more cases involve school districts where allegations concerning the liability of school authorities for predominantly black schools must be established by circumstances other than the existence of a prior dual system mandated by law.

It should be pointed out at this point that just yesterday the Supreme Court handed down its 8 to 0, unanimous opinion in the Dayton case—Dayton against Brinkman. In that case, the Supreme Court unanimously rejected a systemwide busing remedy as being much too broad. The Supreme Court, in remanding the case to the district court, stated as follows:

> . . . In effect, the Court of Appeals imposed a remedy which we think is entirely out of proportion to the constitutional violations found by the District Court. . . ."

The Court further stated:

> "The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington* v. *Davis*, supra. All parties should be free to introduce such additional testimony and other evidence as the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systematic impact may there be a systemwide remedy. . . .

By contrast, the administration of title VI by HEW gives the appearance of a mechanistic process; evidence concerning racial isolation is punched in and a requirement is printed out that each school must reflect the racial balance of the entire school system, give or take a few percentage points. Lipservice is paid to the need to establish a de jure violation, but there would seem to be a few school districts with any significant degree of racial isolation where HEW cannot construe some official action of some agency as having a racially discriminatory purpose, sufficient to call for districtwide relief, often involving extensive busing.

The experience of the Kansas City School District in my home State of Missouri is instructive. It has a predominantly minority school population—mainly black but with a significant Hispanic representation—approximating 68 percent. It is surrounded by predominantly white suburban districts. Like all school districts in Missouri, Kansas City maintained a segregated school system in 1954, when approximately 18 percent of its students were black. In the fall of 1955, following the Brown decision, a desegregation plan was adopted which provided for assignment of students to their neighborhood schools. Three formerly black schools and one formerly white school were closed to aid in eliminating dual facilities.

Throughout the 1950's and into the 1960's, Kansas City was one of the industrial cities receiving a great influx of black people from the rural South, most of whom settled in or near the central city area which was predominantly black. The black residential area expanded greatly during this period, with areas on the fringe becoming integrated and then rapidly resegregated as black residential areas. Schools changed along with neighborhoods, becoming integrated and then resegregated.

The school district's problems with HEW began when it sought and obtained funds in 1973 under the emergency school assistance program—ESAA—to implement a voluntary program of grade level restructuring and some busing of students to decrease racial isolation. When the district sought continued funding for the program in 1974, it was advised by the representative of HEW's Office for Civil Rights—OCR—located in Kansas City that certain steps regarding assignment of school administrators and student transfer policies would have to be taken to comply with the particular eligibility requirements of ESAA. After a period of disagreement with OCR, negotiations were begun and the district reached a settlement with OCR in February 1975 resolving the disputed issues pertaining to eligibility for ESAA funds.

The district successfully implemented all of the settlement provisions, including the student transfer provisions, until it was enjoined by a State court, acting on a complaint filed by the parents of some students affected by the new transfer policy. HEW moved to terminate the district's eligibility for ESAA funds and to obtain repayment of funds previously paid the district under the ESAA grant.

The district brought an action in Federal court and obtained an injunction prohibiting the suspension of ESAA funds. At the same time it contested the proposed termination of funds through HEW administrative procedures, contending that it was in compliance with ESAA eligibility requirements. The hearing officer ruled in favor of the district and, following an appeal by the regional HEW office, this ruling was upheld by the Assistant Secretary of HEW.

To recapitulate, Mr. President, the school district, of its own initiative, sought to remedy some of the problems of racial isolation in its schools. It obtained funds provided by Congress for just such a voluntary program. There was a dispute with the Office for Civil Rights officials in the Kansas City regional office of HEW over issues relating to desegregation which bore upon the district's eligibility for ESAA funds—a dispute in which the district ultimately prevailed at higher levels in HEW.

It was at this point, Mr. President, during the hearing on ESAA eligibility, that the district was served with a notice by the Kansas City regional OCR office alleging that the district was in violation of title VI of the Civil Rights Act of 1964 because it maintained a segregated school system, and was therefore subject to termination of all Federal financial assistance. There is an inescapable suspicion that the region OCR office had zeroed in on the Kansas City School District, al-

though it must be conceded that OCR was also under pressure to investigate and take action against a number of school districts as a result of an order issued by a Federal court in Washington.

Whatever the motivation of OCR, it rejected a desegregation plan developed by the district and generally took the position that the district could comply with title VI requirements only by achieving a racial balance of all, or nearly all, schools within the district—a process that would require extensive crosstown busing. The district rejected this requirement, fearing that it would result in white students retreating across nearby school boundary lines into readily accessible white suburban districts.

It was at about this time, Mr. President, in September 1975, that Congress first adopted the Byrd amendment, prohibiting HEW from requiring busing as a condition for continued receipt of Federal funds. Representatives of the district sought to discuss the legal consequences of the Byrd amendment with regional OCR officials, but the latter refused to give up any HEW interpretation of the effect of the Byrd amendment on the pending issues, a position which I believe was itself a violation of the proscription contained in the Byrd amendment.

A hearing was held in December 1975, on the question of whether all Federal financial assistance to the Kansas City School District should be terminated. The hearing officer appointed by HEW was a Social Security Administration hearing officer with no experience in education or civil rights matters.

One year later, in December 1976, the HEW hearing officer rendered a decision against the district, in which he essentially found that local school authorities had never dismantled the prior dual system because they had never achieved a significant racial balance in schools of the district. The hearing officer rejected the district's contention that segregated conditions resulted from the manifold increase in the black student population, and the reduced white student population, that came about as a result of profound demographic changes in Kansas City in the period following 1955.

The hearing officer also rejected the district's contention that the Byrd amendment imposed a restriction upon the allowable range of remedies that could be required by HEW as a condition of compliance under title VI; indeed the hearing officer's formal conclusions of law made no reference to the Byrd amendment. The hearing officer proposed a student assignment plan calling for a partial balancing of student population by race, which would necessarily involve transporting students away from the schools nearest their homes, in violation of the Byrd amendment.

The decision of the hearing officer in the Kansas City case is now under appeal to a reviewing authority within HEW.

Mr. President, I believe that the history of HEW activities in Kansas City supports my view that the limitations on HEW's authority under title VI of the Civil Rights Act ought to be extended as proposed by the Appropriations Committee. Even apart from any questions of the motivations of the OCR enforcement personnel, or of the experience or expertise of the decisionmakers, this case exemplifies the HEW position that racially isolated schools are presumptively the outcome of intentional racial discrimination, rather than the unwanted and unfortunate consequence of population shifts that are beyond the control of local school officials. There may well have been actions that could have been taken by the school authorities to ameliorate to some degree the effects of a changing school population, but given established patterns of residential racial separation, it seems likely that the results would have been de minimus. Indeed, if Dr. Coleman and other like-minded commentators are correct, such actions may well have hastened the white exodus.

In any case, to hold school authorities liable for all that has happened in Kansas City in the last 20 years is to credit them with far more influence than they could possibly have. Yet, that was the position of HEW; there was little or no effort to suggest a remedy tailored to reach such failures to react to changing circumstances for which the school board and its predecessors might reasonably be held accountable.

The Byrd amendment was intended to deal with just such situations. It does not prohibit HEW from requiring remedies when there has been a finding of a title VI violation. However, it does require that when HEW determines that compliance with title VI requires that students be bused, because of the grave consequences to a community that very often accompany such a requirement enforcement may not proceed through the administrative process. HEW is authorized under title VI to refer matters to the Department of Justice for litigation; this is the course that should be pursued if there is a decision to go forward in a case to which the Byrd amendment applies.

As I mentioned at the outset, Mr. President, the Byrd amendment as contained in the bill before the Senate, H.R. 7555, was modified in committee to deal with the interpretation recently given it by HEW, based on an analysis prepared by the Department of Justice. I will submit copies of Justice and HEW memorandums on this interpretation, along with a Library of Congress analysis of the interpretation.

The Justice Department analysis concludes that Congress did not intend to prohibit HEW requirements of busing associated with the desegregation techniques known as "pairing" and "clustering." The revised Byrd amendment language which I have submitted is explicit in stating that Congress intends for its prohibition to extend to such practices, as well as to any other reorganization of grade structure. Allowance is made, however, for such transportation as may be necessary to transport handicapped children for purposes of special education or to transport children to magnet schools.

Mr. President, my position in favor of the Byrd amendment rests in large part on my view that districtwide busing in cities with predominantly black school populations will lead ultimately to less, rather than more integration, and also on the corollary principle that interdistrict, or metropolitan, remedies are probably not feasible in most areas, based on a reading of the Supreme Court's opinion in the Detroit case and its actions in similar cases. It has been suggested that these considerations are irrelevant when constitutional rights are at stake, and the Supreme Court decision in *Cooper* v. *Aaron*, 358 U.S. 1 (1958) is cited to that effect.

Mr. President, let me conclude on this note, because it was raised by the Senator from Massachusetts (Mr. BROOKE) when he talked about Cooper against Aaron. Let me dwell on that for a moment.

Cooper against Aaron dealt as the Senator from Massachusetts pointed out, with the desegregation of Central High School in Little Rock, Ark. The school board asked that desegregation be postponed because extreme public hostility, engendered largely by the Governor and the legislature, would make it impossible to conduct a sound educational program with Negro students in attendance. The Supreme Court held that vindication of the Constitutional rights of the plaintiffs could not be sacrificed or yielded because of concerns about violence or disorder. Quite properly—and I fully agree with the holding in Cooper against Aaron—the court ordered that its order be implemented without regard to possible public reaction, and President Eisenhower eventually used Federal troops to effectuate the court's mandate.

The situation here is different in several respects. It is not being proposed that constitutional rights be denied because of the fear of public reaction; rather the Byrd amendment imposes a partial limitation on the use of one form of remedy because its use may result in a diminished opportunity for black children to obtain an integrated education. Troops can prevent interference with a court's order, but I say to my colleagues that no army, nor any other force, can compel white parents to remain in a school district where they are in a substantial minority. Moreover, it is not a State Governor or a mob that is acting to impede the implementation of a court order; rather, it is the U.S. Congress placing limitations on an administrative process which it created in the first instance. Finally, the Byrd amendment in no way restricts the Federal courts from carrying out any orders they may seek to enter in desegregation cases; it is addressed only to HEW.

In closing, Mr. President, I would like to quote from an article on school busing which appeared in April 1975, in the journal of the Phi Delta Kappa education society. The authors of this article, Biloine Whiting Young and Grace Billings Bress, suggested that perhaps our approach to providing equal educational opportunity over the past 20 years has been too simplistic. They noted that:

> For 20 years the national remedy for low minority achievement has been busing for integration—the faith that if the correct

racial mix can be provided in a classroom, problems of low achievement and racial tensions will disappear. Such a "solution" now appears to have been dangerously simplistic, creating expectations it has, so far, been unable to satisfy. Further, mandatory busing has contributed to the racial and economic segregation of our cities on a scale undreamed of in 1954, to the extent that in many there are no longer enough white pupils to integrate.

The Detroit ruling now ends the search for more white faces and throws the challenge back on the schools to find genuine solutions rather than inadequate and largely symbolic remedies which distract attention from learning problems that need real—not symbolic—solutions. Educators must free their thinking of the racist notion that there is something magical in whiteness—that without it a black or a red or a brown child cannot learn. Once this mythical heritage of white superiority is abandoned, educators can address themselves to an analysis of the strengths, weaknesses, and needs of each school system, school, classroom, and, ultimately, each child—no matter his color or that of his seatmates—to determine which of the many resources, including integration, are most applicable to his learning needs.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of my remarks, and also a Library of Congress analysis of the Justice Department memorandum.

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

PREPARED STATEMENT OF SENATOR EAGLETON

The Byrd amendment was first adopted nearly two years ago (and subsequently readopted last year) to express a clear Congressional directive to the Department of Health, Education and Welfare that it may not require busing of students beyond the school nearest their homes in order to enforce compliance with Title VI of the Civil Rights Act. Within the past month, the Departments of HEW and Justice have disclosed their own interpretation of the Byrd Amendment, an interpretation which circumvents the clear intent of the Amendment and would allow HEW to require busing in connection with the so-called "pairing" or "clustering" of schools. There have been indications from both within and without the Department that HEW is preparing to test its interpretation of the Byrd Amendment in court, in connection with a proposed desegregation plan for the Kansas City, Missouri School District.

When the bill we now are considering (H.R. 7555) was considered by the Appropriations Committee, I offered a revised version of the Byrd Amendment, designed to vitiate what I consider to be HEW's fallacious analysis. The Appropriations Committee adopted my revised version and I urge the entire Senate to retain the revised Byrd Amendment in the final bill.

In explaining the reasoning behind my amendment, Mr. President, I wish first to make it clear that in this Kansas City matter, we are not talking about a case in federal court where the judge finds a violation of the Equal Protection Clause of the Constitution and enters a busing order to remedy such violation. The Byrd Amendment would not apply in such a situation and I would not support a law which attempted to restrict the authority of federal courts to fashion appropriate and targeted remedies to redress such constitutional violations. The Byrd Amendment does apply and I support its application to matters such as Kansas City where HEW acting solely on its own administrative authority and acting without any judicial determination of unconstitutionality seeks to impose its own formula as the racial mix or racial balance of a given school district.

Mr. President, my position is that Supreme Court decisions in the Detroit and Indianapolis cases, absent the special and unique facts in the Wilmington case, effectively bar interdistrict busing between black inner city school districts and white suburban school districts. If I am correct in this reading of the Detroit and Indianapolis cases—and I am convinced that I am correct, as I will elaborate shortly—then large-scale busing within predominantly minority populated school districts cannot and will not remedy such racial unbalance.

Mr. President, let me state the racial mix of some of our Nation's largest school districts.

Major urban school districts:	*Percent minority*	*Percent change in white enrollment 1967–1972*
New York City	67.0	— 5.0
Los Angeles Unified	39.8	—12.0
Chicago	70.4	—23.0
Philadelphia	62.2	— 6.0
Detroit Public Schools	81.4	—30.0
Houston Indep Sch Dist	65.8	—21.0
Baltimore City	75.5	—38.0
Dallas Indep Sch Dist	54.9	—21.0
District of Columbia	96.3	—40.0
Cleveland City Sch Dist	62.2	—13.0
San Diego Unified Sch Dist	33.7	—10.0
Milwaukee Public Schools	40.2	—19.0
Memphis City Schools	71.2	—15.0
Orleans Parish	80.8	—39.0
Boston Public Schools	49.3	—16.0
Indianapolis	45.7	—25.0
St. Louis City	72.2	—27.0
San Francisco Unif Sch Dist	51.1	—25.0
San Antonio Isd	52.3	—13.0
Kansas City	68.0	—27.0

It is my position that if HEW proceeds to order intradistrict busing in these school districts, as it is seeking to do in Kansas City, then such busing will be completely self-destructive. The effect of such intradistrict busing will be to heighten the racial isolation of these inner city schools, not lessen it. I am convinced that if HEW orders large-scale intradistrict busing in the Kansas City School District that withn a year the current 68% minority composition will be dramatically increased. It is the stark reality of the racial mix of our large city school districts which causes me to conclude that intradistrict busing is foredoomed to failure in such school districts.

It is this reality that has caused Professor James Coleman, author of the landmark report on the effects of segregation on school children, to re-evaluate his all-out support of busing as an integration tool.

It is this reality that has caused black newspaper columnist William Raspberry to conclude:

"A lot of us are wondering whether the busing game is worth the prize. Some of us aren't even sure what the prize is supposed to be."

It is this reality that has caused Wilson Riles, a black and the Superintendent of Public Instruction for the State of California, to say:

"If you have to have blacks sitting next to Caucasians to learn, we are in a mess, because two-thirds of the world is non-white, and we would not have enough whites to go around. If the schools are effective and the children learn, that is the easiest way to achieve the ultimate goal of integration."

It is this reality that caused the liberal and progressive St. Louis Post-Dispatch to oppose large-scale busing in the St. Louis School District (which has 72% minority enrollment), stating, ". . . both sides in the suit recognize that large-scale busing in a school district with a black majority could be counterproductive in terms of desegregation, and both sides insist that they do not want to 'shove something down people's throats.' No one wants a duplication of the Boston school dispute here."

Mr. President, the problems of segregated schools currently being addressed by the federal courts and by HEW are far different from those that were involved in previous enforcement activities. For most of the period following the 1954 Supreme Court decision in *Brown* v. *Board of Education*, desegregation efforts were directed primarily at disestablishing the separate systems of schools for blacks and whites that were mandated by law throughout the Southern States. It was evident in those cases that dual system of segregated schools was the result of official action, i.e. *de jure* segregation, and as increasingly more explicit rulings of the Supreme Court made clear, the dual systems had to be eradicated, "root and branch", and converted to unitary systems. Busing as an instrument for desegregation did not raise difficult issues in the largely rural districts of the South, for a high proportion of students were being bused to their schools already; indeed it has often been stated that the effect of desegregation in many places in the South was to reduce the amount of busing since maintenance of a dual system required busing more children for longer distances than that necessitated in a unitary system.

Today, a generation after *Brown*, the question is not so much what to do about dual systems in the rural South—they have been unified, for the most part—but rather what can and should the federal government do about predominantly minority schools (also called "racially isolated schools") in the big cities. As the U.S. Commission on Civil Rights stated in its February 1977 report entitled "Statement on Metropolitan School Desegregation" (p. 6):

"To a very great extent the remaining problems of segregation by race and national origin in public schools are problems that exist in big cities. While nationally . . . two out of every five black children attend intensely segregated schools [i.e. 90 to 100% minority enrollment], in the 26 largest cities of the United States almost three of every four black pupils are assigned to such schools."

Viewed from a somewhat different statistical perspective, HEW reports that more than 70 percent of the black students who are in all-minority schools are in 19 cities, located in all parts of the country.

Problems of big city school segregation are complicated by two factors not commonly found in earlier cases involving the South:

(1) Many of these cities—9 of the largest 12 and 14 of the largest 20—have majority black enrollments in their schools, and the proportions of black students to white students are steadily rising. As the Civil Rights Commission report puts it (p. 1):

"In the wake of two great migrations—the movement of black people from the rural South to big cities throughout the country and of whites from central cities to the suburbs—the racial composition of these school systems has changed dramatically from predominantly white to predominantly black."

(2) The liability of big city school districts for segregated schools is often not readily ascertainable through application of the *de jure/de facto* criteria developed by Congress and the courts to distinguish between state enforced segregation and that which has been "adventitiously caused," i.e.,

by factors not related to official action. The cities of the North and the West did not maintain separate schools for black and white students as a part of a legally mandated segregated system prior to 1954, thus liability for racially isolated schools in those districts cannot be imputed to school authorities on the ground that such schools are vestiges of a former dual system; there must be evidence of official action leading to the creation of conditions of segregation. Even in cities located in border states with a history of official segregation, where desegregation was undertaken promptly following the *Brown* decision there often are questions as to whether the existence of predominantly black schools today resulted from the earlier segregated systems or whether they were caused by other factors, such as the shifts in population referred to by the Civil Rights Commission.

In short, Mr. President, we are faced with a situation where predominantly black schools exist in cities having (in most cases) a predominantly black school population and where the fundamental causes of racial isolation are generally not readily attributable to a history of segregative practices.

Given these circumstances, I believe that we are bound to inquire what the effects of programs of large-scale crosstown busing in such cities are going to be—whether such busing is more likely to produce meaningful integration or more segregation.

My views on this question were expressed in the 1975 debate which led to enactment of the Byrd Amendment, when I said:

"To spread a dwindling number of white students throughout a predominantly black city school system is a self-defeating exercise. While the so-called "white flight" from the cities to the suburbs cannot be attributed solely to unreasonable busing requirements, it certainly has been an important factor."

The Civil Rights Commission Report, which argues for desegregation on a multi-district, metropolitan approach concurs with my views on the efficacy of busing within big city districts, stating (p. 10–11):

"Few people regard desegregation plans that affect the city alone as providing stable or satisfactory solutions. In the words of Eleanor Holmes Norton, chairman of the New York City Human Relations Commission (now chairperson of the U.S. Equal Employment Opportunity Commission): 'To simply distribute a diminishing number of whites thinner and thinner is obviously to get embarked on a process that will not result in integration. A school with 20 percent white students and 80 percent minority students is not integrated . . . That's why the metropolitan approach has to be looked at very closely.'"

In the same vein, Dr. James S. Coleman of the University of Chicago, whose earlier studies of student performance in desegregated schools lent support to the movement toward integration, has argued convincingly that the exodus of white families from the central city to the suburbs has been hastened by ill-advised desegregation policies of the kind that the Byrd Amendment is intended to prohibit. Professor Coleman found that, "Ironically, 'desegregation' may be increasing segregation." While reaffirming his commitment to the vindication of rights guaranteed by the Constitution, Dr. Coleman has urged a reconsideration of the remedies the courts have devised to enforce those rights so as to avoid practices which are, in fact, destructive of the goals of integration.

The Civil Rights Commission concluded that metropolitan remedies involving most or all of the school districts in a metropolitan region, must be employed to overcome racial isolation in big city school districts, stating that (p. 8):

"The difficulty of dealing with racial isolation in very large cities is compounded by the fact that in many places the problem has become not simply the existence of segregated schools but of *segregated school districts*."

However, recent decisions of the Supreme Court concerning the appropriateness of ordering desegregation on a metropolitan basis make it unlikely that such an approach will be sustained, absent exceptional circumstances. The Supreme Court has dealt with this issue in several cases; the principal exposition of the Court's position on this subject came in the Detroit case, *Milliken v. Bradley*, 418 U.S. 717 (1974). The federal district court in *Milliken* found, and the Sixth Circuit Court of Appeals affirmed, that the only effective remedy for the *de jure* segregation found to exist in Detroit was to include 53 suburban school districts in the desegregation plan, even though there was no evidence that any school district outside of Detroit had engaged in unconstitutional activity. The Supreme Court reversed, holding that a federal court is not empowered to impose such a remedy unless acts of the state or of the suburban school districts can be shown to have been a substantial cause of interdistrict segregation.

It should be noted that yesterday the Supreme Court once again considered the Detroit case. No busing between the city and the suburbs was ordered. In fact, as to the busing to be conducted within the Detroit school district, such busing must not "exceed" the violation and the remedy must be "tailored" to cure the "condition that offends the Constitution."

Chief Justice Burger, writing for a unanimous court, stated as follows:

"The well-settled principle that the nature and scope of the remedy is to be determined by the violation means simply that federal court decrees must directly address and relate to the constitutional violation itself. Because of this inherent limitation upon federal judicial authority, federal court decrees exceed appropriate limits if they are aimed at eliminating a condition that does not violate the Constitution or does not flow from such a violation, see *Pasadena City Board of Education v. Spangler, supra*, or if they are imposed upon governmental units that were neither involved in nor affected by the constitutional violation, as in *Milliken I, supra. Hills v. Gautreaux*, 425 U.S. 284, 292–296 (1976). But where, as here, a constitutional violation has been found, the remedy does not 'exceed' the violation if the remedy is tailored to cure the 'condition that offends the Constitution'. *Milliken I, supra*, at 738. (Emphasis supplied.)

If there had been any doubt as to the direction being signalled by the Court in the Detroit case, such doubts were erased yesterday in the Court's ruling on the Dayton desegregation case. In remanding the Dayton case to the District Court, the Supreme Court reiterated its conviction that a remedy must be tailored to a specific violation of the Equal Protection Clause. Such was the case in Wilmington, Delaware, where the Court affirmed without opinion a ruling by federal district court that a metropolitan remedy was appropriate after the Delaware General Assembly explicitly excluded the Wilmington District from a general reorganization of Delaware school districts. This prevented the predominantly black Wilmington District from being reorganized with a predominantly white school district while other districts within the state were able to consolidate (*Buchanan v. Evans*, 423 U.S. 965 (1975).

However, the Supreme Court reversed the lower court's order in a subsequent case ordering interdistrict desegregation in Indianapolis and directed the lower court to reconsider its decision in light of the Supreme Court's intervening opinions in two cases which held that in order to establish the unconstitutional character of official actions, it is necessary to show a "racially discriminatory purpose" (*U.S. v. Board of School Commissioners of Indianapolis*, 45 U.S.L.W. 3500 (1977), vacated and remanded for reconsideration in light of *Washington v. Davis*, 426 U.S. 229 (1976), and *Village of Arlington Heights v. Metro Housing Development*, 45 U.S.L.W. 4073 (1977).

Washington v. Davis and *Arlington Heights v. Housing Authority* were not school desegregation cases (they involved claims of racial discrimination in employment and housing construction, respectively) but the Supreme Court's direction to lower courts considering school desegregation matters to take these two cases into account is particularly significant, in view of the more restrictive approach to racial discrimination issues articulated by the Court therein. What the Supreme Court appears to be saying is that lower courts should not be quick to impute a discriminatory purpose to the actions of school authorities based on the existence of predominantly black schools, where those racial concentrations may as plausibly be explained by other factors, such as the existence of racially segregated housing patterns.

Support for this conclusion can be drawn from a separate concurring opinion written by Justice Powell (joined by the Chief Justice and Justice Rehnquist) in the recent case of *Austin Independent School District v. U.S.*, 45 U.S.L.W. 3413 (1976). The Austin case, like the Indianapolis case, was remanded to the lower court in a brief memorandum opinion for reconsideration in light of *Washington v. Davis*. In his opinion concurring with the Court's *per curiam* order, Justice Powell said:

"The principal cause of racial and ethnic imbalance in urban public schools across the country—North and South—is the imbalance in residential patterns. Such residential patterns are typically beyond the control of school authorities. For example, discrimination in housing—whether public or private—cannot be attributed to school authorities. Economic pressures and voluntary preferences are the primary determinants of residential patterns."

The point of this discussion of recent Supreme Court actions in the area of school desegregation, Mr. President, is to indicate that the Court's view of the responsibilities of local school authorities and the appropriateness of particular remedies for segregation is an evolving thing, particularly as more and more cases involve school districts where allegations concerning the liability of school authorities for predominantly black schools must be established by circumstances other than the existence of a prior dual system mandated by law.

It should be pointed out at this point that just yesterday the Supreme Court handed down its 8–0, unanimous opinion in the Dayton case (*Dayton v. Brinkman*). In that case, the Supreme Court unanimously rejected a system-wide busing remedy as being much too broad. The Supreme Court, in remanding the case to the District Court, stated as follows:

". . . In effect, the Court of Appeals imposed a remedy which we think is entirely out of proportion to the constitutional violations found by the District Court. . . ." The Court further stated:

"The duty of both the District Court and of the Court of Appeals in a case such as this, where mandatory segregation by law of the races in the schools has long since ceased, is to first determine whether there was any action in the conduct of the business of the school board which was intended to, and did in fact, discriminate against minority pupils, teachers or staff. *Washington v. Davis*, supra. All parties should be free to introduce such additional testimony and other evidence as

the District Court may deem appropriate. If such violations are found, the District Court in the first instance, subject to review by the Court of Appeals, must determine how much incremental segregative effect these violations had on the racial distribution of the Dayton school population as presently constituted, when that distribution is compared to what it would have been in the absence of such constitutional violations. The remedy must be designed to redress that difference, and only if there has been a systemwide impact may there be a systemwide remedy. . . ."

By contrast, the administration of Title VI by HEW gives the appearance of a mechanistic process; evidence concerning racial isolation is punched in and a requirement is printed out that each school must reflect the racial balance of the entire school system, give or take a few percentage points. Lip service is paid to the need to establish a *de jure* violation, but there would seem to be few school districts with any significant degree of racial isolation where HEW cannot construe some official action of some agency as having a racially discriminatory purpose, sufficient to call for district-wide relief often involving extensive busing.

The experience of the Kansas City School District in my home state of Missouri is instructive. It has a predominantly minority school population (mainly black but with a significant Hispanic representation) approximating 68 percent. It is surrounded by predominantly white suburban districts. Like all school districts in Missouri, Kansas City maintained a segregated school system in 1954, when approximately 18 percent of its students were black. In the fall of 1955, following the *Brown* decision, a desegregation plan was adopted which provided for assignment of students to their neighborhood schools. Three formerly black schools and one formerly white school were closed to aid in eliminating dual facilities.

Throughout the 1950's and into the 1960's, Kansas City was one of the industrial cities receiving a great influx of black people from the rural South, most of whom settled in or near the central city area which was predominantly black. The black residential area expanded greatly during this period with areas on the fringe becoming integrated and then rapidly resegregated as black residential areas. Schools changed along with neighborhoods, becoming integrated and then resegregated.

The School District's problems with HEW began when it sought and obtained funds in 1973 under the Emergency School Assistance Program (ESAA) to implement a voluntary program of grade level restructuring and some busing of students to decrease racial isolation. When the District sought continued funding for the program in 1974, it was advised by the representative of HEW's Office for Civil Rights (OCR) located in Kansas City that certain steps regarding assignment of school administrators and student transfer policies would have to be taken to comply with the particular eligibility requirements of ESAA. After a period of disagreement with OCR, negotiations were begun and the District reached a settlement with OCR in February, 1975 resolving the disputed issues pertaining to eligibility for ESAA funds.

The District successfully implemented all of the settlement provisions, including the student transfer provisions, until it was enjoined by a state court, acting on a complaint filed by the parents of some students affected by the new transfer policy. HEW moved to terminate the District's eligibility for ESAA funds and to obtain repayment of funds previously paid the District under the ESAA grant.

The District brought an action in Federal Court and obtained an injunction prohibiting the suspension of ESAA funds. At the same time it contested the proposed termination of funds through HEW administrative procedures, contending that it was in compliance with ESAA eligibility requirements. The hearing officer ruled in favor of the District and, following an appeal by the Regional HEW office, this ruling was upheld by the Assistant Secretary of HEW.

To recapitulate, Mr. President, the School District, of its own initiative, sought to remedy some of the problems of racial isolation in its schools. It obtained funds provided by Congress for just such a voluntary program. There was a dispute with the Office for Civil Rights official in the Kansas City Regional Office of HEW over issues relating to desegregation which bore upon the District's eligibility for ESAA funds—a dispute in which the District ultimately prevailed at higher levels in HEW.

It was at this point, Mr. President, during the hearing on ESAA eligibility, that the District was served with a notice by the Kansas City Regional OCR Office alleging that the District was in violation of Title VI of the Civil Rights Act of 1964 because it maintained a segregated school system, and was therefore subject to termination of all federal financial assistance. There is an inescapable suspicion that the Reigonal OCR Office had zeroed in on the Kansas City School District, although it must be conceded that OCR was also under pressure to investigate and take action against a number of school districts as a result of an order issued by a federal court in Washington.

Whatever the motivation of OCR, it rejected a desegregation plan developed by the District and generally took the position that the District could comply with Title VI requirements only by achieving a racial balance of all, or nearly all, schools within the District—a process that would require extensive cross town busing. The District rejected this requirement, fearing that it would result in white students retreating across nearby school boundary lines into readily accessible white suburban districts.

It was at about this time, Mr. President, in September, 1975, that Congress first adopted the Byrd Amendment, prohibiting HEW from requiring busing as a condition for continued receipt of federal funds. Representatives of the District sought to discuss the legal consequences of the Byrd Amendment with Regional OCR officials, but the latter refused to give any HEW interpretation of the effect of the Byrd Amendment on the pending issues, a position which I believe was itself a violation of the proscription contained in the Byrd Amendment.

A hearing was held in December, 1975, on the question of whether all federal financial assistance to the Kansas City School District should be terminated. The hearing officer appointed by HEW was a Social Security Administration Hearing Officer with no experience in education or civil rights matters.

One year later, in December 1976, the HEW hearing officer rendered a decision against the District, in which he essentially found that local school authorities had never dismantled the prior dual system because they had never achieved a significant racial balance in schools of the District. The hearing officer rejected the District's contention that segregated conditions resulted from the manifold increase in the black student population, and the reduced white student population, that came about as a result of profound demographic changes in Kansas City in the period following 1955.

The hearing officer also rejected the District's contention that the Byrd Amendment imposed a restriction upon the allowable range of remedies that could be required by HEW as a condition of compliance under Title VI; indeed the hearing officer's formal conclusions of law made no reference to the Byrd Amendment. The hearing officer proposed a student assignment plan calling for a partial balancing of student population by race, which would necessarily involve transporting students away from the schools nearest their homes, in violation of the Byrd Amendment.

The decision of the hearing officer in the Kansas City case is now under appeal to a reviewing authority within HEW.

Mr. President, I believe that the history of HEW activities in Kansas City supports my view that the limitations on HEW's authority under Title VI of the Civil Rights Act ought to be extended as proposed by the Appropriations Committee. Even apart from any questions of the motivations of the OCR enforcement personnel, or of the experience or expertise of the decision makers, this case exemplifies the HEW position that racially isolated schools are presumptively the outcome of intentional racial discrimination, rather than the unwanted and unfortunate consequence of population shifts that are beyond the control of local school officials. There may well have been actions that could have been taken by the school authorities to ameliorate to some degree the effects of a changing school population, but given established patterns of residential racial separation, it seems likely that the results would have been *de minimus*. Indeed, if Dr. Coleman and other like-minded commentators are correct, such actions may well have hastened the white exodus.

In any case, to hold school authorities liable for all that has happened in Kansas City in the last 20 years is to credit them with far more influence than they could possibly have. Yet, that was the position of HEW; there was little or no effort to suggest a remedy tailored to reach such failures to react to changing circumstances for which the School Board and its predecessors might reasonably be held accountable.

The Byrd Amendment was intended to deal with just such situations. It does not prohibit HEW from requiring remedies when there has been a finding of a Title VI violation. However, it does require that when HEW determines that compliance with Title VI requires that students be used, because of the grave consequences to a community that very often accompany such a requirement enforcement may not proceed through the administrative process. HEW is authorized under Title VI to refer matters to the Department of Justice for litigation; this is the course that should be pursued if there is a decision to go forward in a case to which the Byrd Amendment applies.

As I mentioned at the outset, Mr. President, the Byrd Amendment as contained in the bill before the Senate, H.R. 7555, was modified in Committee to deal with the interpretation recently given it by HEW, based on an analysis prepared by the Department of Justice. Senator Biden will submit a copy of the Justice Department memorandum and the letter from HEW Secretary Califano on this interpretation, and I will submit a Library of Congress analysis of the interpretation to be printed at the conclusion of my remarks.

The Justice Department analysis concludes that Congress did not intend to prohibit HEW requirements of busing associated with the desegregation techniques known as "pairing" and "clustering." The revised Byrd Amendment language which I have submitted is explicit in stating that Congress intends for its prohibition to extend to such practices, as well as to any other reorganization of grade structure. Allowance is made, however, for such transportation as may be necessary to transport handicapped children for purposes of special education or to transport children to magnet schools.

Mr. President, my position in favor of the Byrd Amendment rests in large part on my view that district-wide busing in cities with

predominantly black school populations will lead ultimately to less, rather than more integration, and also on the corollary principle that inter-district, or metropolitan, remedies are probably not feasible in most areas, based on a reading of the Supreme Court's opinion in the Detroit case and its actions in similar cases. It has been suggested that these considerations are irrelevant when constitutional rights are at stake, and the Supreme Court decision in *Cooper* v. *Aaron*, 358 U.S. 1 (1958) is cited to that effect.

Cooper v. *Aaron* dealt with the desegregation of Central High School in Little Rock, Arkansas. The School Board asked that desegregation be postponed because extreme public hostility, engendered largely by the Governor and the Legislature, would make it impossible to conduct a sound educational program with Negro students in attendance. The Supreme Court held that vindication of the Constitutional rights of the plaintiffs could not be sacrificed or yielded because of concerns about violence or disorder. Quite properly, the Court ordered that its order be implemented without regard to possible public reaction, and President Eisenhower eventually used federal troops to effectuate the Court's mandate.

The situation here is different in several respects. It is not being proposed that Constitutional rights be denied because of the fear of public reaction; rather the Byrd Amendment proposes a partial limitation on the use of one form of remedy because its use may result in a diminished opportunity for black children to obtain an integrated education. Troops can prevent interference with a court's order, but no army, nor any other force, can compel white parents to remain in a school district where they are in a substantial minority. Moreover, it is not a state governor or a mob that is acting to impede the implementation of a court order; rather, it is the United States Congress placing limitations on an administrative process which it created in the first instance. Finally, the Byrd Amendment in no way restricts the federal courts from carrying out any orders they may seek to enter in desegregation cases; it is addressed only to HEW.

In closing, Mr. President, I would like to quote from an article on school busing which appeared in April, 1975, in the journal of the Phi Delta Kappa education society. The authors of this article, Biloine Whiting Young and Grace Billings Bress, suggested that perhaps our approach to providing equal educational opportunity over the past 20 years has been too simplistic. They noted that:

"For 20 years the national remedy for low minority achievement has been busing for integration—the faith that if the correct racial mix can be provided in a classroom, problems of low achievement and racial tensions will disappear. Such a 'solution' now appears to have been dangerously simplistic, creating expectations it has, so far, been unable to satisfy. Further, mandatory busing has contributed to the racial and economic segregation of our cities on a scale undreamed of in 1954, to the extent that in many there are no longer enough white pupils to integrate.

"The Detroit ruling now ends the search for more white faces and throws the challenge back on the schools to find genuine solutions rather than inadequate and largely symbolic remedies which distract attention from learning problems that need real—not symbolic—solutions. Educators must free their thinking of the racist notion that there is something magical in whiteness—that without it a black or a red or a brown child cannot learn. Once this mythic heritage of white superiority is abandoned, educators can address themselves to an analysis of the strengths, weaknesses, and needs of each school system, school, classroom, and, ultimately, each child—no matter his color or that of his seatmates—to determine which of the many resources, including integration, are most applicable to his learning needs."

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Washington, D.C., June 15, 1977.

From American Law Division.

Subject Analysis of the Position of the Department of Health, Education, and Welfare with Respect to the Byrd Amendment and the Department's Authority to Enforce School Desegregation under Title VI of the 1964 Civil Rights Act.

Reference is made to your inquiry concerning recent reports in the Washington Post that the Department of Health, Education, and Welfare has reassessed its position on the legal effect of the so-called "Byrd Amendment" to the fiscal 1977 Labor-HEW appropriations as it relates to the agency's authority to enforce desegregation by school districts under Title VI of the 1964 Civil Rights Act (42 U.S.C. 2000d et seq.). According to those reports, HEW is now of the view that it is not barred by that language from requiring federally aided districts to "pair" or "cluster" schools, and reassign pupils for remedial purposes, to compel compliance with federal nondiscrimination standards. See, Washington Post, A-6 (June 8, 1977). This notwithstanding possible contrary implications in section 208 of the Appropriations Act which provides as follows:

"None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with Title VI of the Civil Rights Act of 1964. (P.L. 94-439, sec. 208, September 30, 1976).

You ask whether the Department's position finds support in the legislative history of this section.

Section 208 had its origin in the Byrd Amendment which was initially adopted by floor amendment to a prior law, the fiscal 1976 Labor-HEW Appropriations Act (P.L. 94-206, sec. 209, January 28, 1976). The section was later included in the reported version of the 1977 Appropriations bill and was reenacted without substantial debate. Consequently, the primary evidence of Congressional intent is that contained in the debates on the fiscal 1976 Act.

As passed by the Senate, that measure (H.R. 8069) contained three amendments designed to limit the authority of HEW to administratively enforce the requirements of Title VI of the 1964 Act-barring discrimination on the basis of race, color, or national origin in federally assisted programs—with respect to state and local educational agencies. The first of these, offered by Senator Biden on September 17, 1975 (Biden I), would have applied to all educational institutions (including postsecondary) and was addressed in general terms to the "assign-[ment of] teachers or students to schools, classes, or courses for reasons of race," whether or not busing was involved. 121 Cong. Rec., p. 29113 (September 17, 1975). A week later, Senator Biden called up another amendment (Biden II) which deleted the reference to teachers and focused specifically on busing by banning simply the "transportation of students for reasons of race." 121 Cong. Rec., p. 30356 (September 25, 1975). Both measures passed the Senate but were later dropped in conference.

Meanwhile on September 19, 1975, the Senate resumed debate on the busing issue with the introduction of an amendment by Senator Scott (Pa.) for himself and Senator Humphrey which was apparently intended to nullify Biden I by providing that "[n]one of the funds contained in this Act shall be used in a manner inconsistent with the Fifth and Fourteenth Amendments to the Constitution of the United States and Title VI of the Civil Rights Act of 1964." 121 Cong. Rec., p. 29544 (September 19, 1975). Senator Scott, like Senator Brooke two days earlier, contended that this amendment was necessary because Biden I went far beyond busing and would "emasculate" H.E.W. authority under Title VI to enforce school desegregation.

Following a series of procedural votes, Senator Byrd (W. Va.) offered his amendment as a perfecting amendment to Scott-Humphrey to modify the latter to provide that "[n]one of the funds appropriated by this Act shall be expended to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the course of study pursued by such student, in order to comply with Title IV of the Civil Rights Act of 1964." 121 Cong. Rec., p. 29551 (September 19, 1975.) There followed four days of debate during which time Senator Byrd, assisted by Senators Allen and Helms, made it clear that they would yield the floor only if the opposition, led by Senator Brooke, would agree not to kill his amendment on a tabling motion.

Senator Byrd asserted that his amendment would restore the principle set forth in the Supreme Court's landmark decision in *Brown* v. *Board of Education*, that students could not be assigned to schools solely on the basis of race. Since that decision, Senator Byrd contended, "we have . . . gone 180 degrees and today children, black and white, are being assigned to public schools in various parts of the country solely on the basis of race—black or white—nothing more, nothing less." At the same time, however, he stressed that his substitute was narrower than the Biden amendment which opponents argued would bar all administrative action by H.E.W. requiring remedial assignment of students and teachers. According to Senator Byrd,

"My amendment is strictly a busing amendment. It addresses itself only to busing and not to assignment of students—only to busing. It also addresses itself only to students. It says nothing about teachers. Also, it addresses itself only to the subject of public schools; it has nothing to do with colleges, et cetera. So it is a very simple amendment. It deals with busing only, with the busing of students only, and with the busing of students to the nearest public school. It makes one exception, that being if the student cannot pursue courses he desires to pursue at the nearest school. So it is the neighborhood school concept." 121 Cong. Rec., p. 29813 (September 23, 1975).

* * * * *

"The amendment is purely and simply a busing amendment. It does not go to the assignment of students, it does not go to the assignment of teachers, it does not pertain to colleges; it pertains only to students in the public schools of this country. It would provide that the funds appropriated in this act cannot be utilized by H.E.W. either directly or indirectly to require the transportation of any student to any school beyond his neighborhood school—beyond the school nearest his home—except in instances wherein the student could not pursue the courses of study he desires to pursue in the nearest school." 121 Cong. Rec., 30037 (September 24, 1975).

Therefore, whereas Biden I, which spoke in terms of racial assignments to classes and courses as well as schools, may have prohibited all HEW imposed remedial assignments of students—to walk-in schools, particular classrooms, or otherwise—Senator Byrd stressed throughout the debates that his amendment would affect only administrative authority with respect to desegregation plans

requiring transportation or busing of students.

In sum, the legislative history of the Byrd Amendment, like the measure on its face, strongly suggests that it was its proponents' intention to eliminate busing beyond the physically closest school to the student's home as an administrative remedy for enforcement of Title VI. The only apparent exception is the situation where that school does not provide the appropriate course of study for the particular student. Although there is evidence that among the motivating factors behind the amendment was misgiving as to reach of Biden I—that it was overbroad and might have the unintended effect of inhibiting a broad range of remedial actions unrelated to administratively imposed busing—supporters of the various alternative formulations before the Senate were united on the question of student transportation. Senator Biden, for instance, in offering his second amendment stated that he intended the restrictions imposed by Biden II to parallel those contained in the Byrd Amendment. "I suppose a short-hand way of saying it—and this is a way of shifting responsibility—is that I want the Byrd amendment to be the law . . . I want it to be just the Byrd amendment. I want the Byrd amendment to be the law of the land with regard to H.E.W.'s use of funds in any way to order busing." 121 Cong. Rec., p. 30357 (September 25, 1975). Accordingly, we are able to discern little basis from the legislative history of the Byrd Amendment for asserting an additional exception, express or implied, to the "nearest school" limitation for those cases where HEW is seeking to impose a school pairing or clustering plan under Title VI.

An interesting parallel may be provided by judicial construction of an anologous limitation contained in Title II of the 1974 Education Amendments, 20 U.S.C. 1791 *et seq.* One provision of that law purports to prohibit the courts and federal agencies from requiring the transportation of students beyond the school closest or next closest the home. 20 U.S.C. 1714(a). Although the courts have avoided giving this section mandatory effect, this is because of another provision in Title II exempting cases involving constitutional violations,* not because of any judicially perceived limitation on the reach of the section 1714 prohibition with respect to school pairing or clustering plans. See, e.g., *Brinkman* v. *Gilligan*, 518 F. 2d 853 (C.A. 6 1975); *Newburgh Area Council, Inc.* v. *Board of Jefferson County*, 521 F. 2d 578 (C.A. 6 1975). Unlike Title II of the 1974 law, the Byrd Amendment contains no "escape" clause for cases involving constitutional violations. Moreover, HEW has stated that the Title II restrictions precluded it from requiring implementation of a school pairing plan to desegregate the schools in the Fresno, California school district. See, Washington Post, A-2 (November 10, 1975).

There is another possibility, however. The U.S. district court for the District of Columbia has, in a series of decisions, held HEW in defaults of its administrative responsibilities for failing to take enforcement action with respect to numerous school districts across the country with substantial racial disproportions in their schools, placing them in presumptive violation of the law under *Swann* v. *Board of Education*, 402 U.S. 1 (1971). *Adams* v. *Richardson*, 351 F. Supp. 63 (1972), aff'd 480 F. 2d 1159 (C.A.D.C. 1973); *Adams* v. *Weinberger*, 391 F. Supp. 269 (D.C.D.C. 1975). It might be argued that in these and similar situations, the agency might still take action to terminate assistance under Title VI where it ultimately determines that the offending racial disproportion is the consequence of forbidden discrimination and cannot be redressed without busing students. Put another way, while HEW could not require student busing under the Byrd Amendment, the agency may not be precluded from imposing sanctions where the failure to take remedial action results in continued noncompliance. Indeed, it may be under constitutional compulsion to do so since to continue federal assistance to racially discriminatory programs might raise Fifth Amendment due process issues. See, e.g. *McGlotten* v. *Connelly*, 338 F. Supp. 448 (D.C.D.C. 1972); *Norwood* v. *Harrison*, 413 U.S. 455 (1973).

This interpretation may be questionable, however, since the effect of such action would seem to be to "require" busing in violation of the Byrd Amendment. The Amendment might be read as prohibiting the agency from terminating assistance in these situations. Instead, HEW may be required to pursue the alternative enforcement route of referring such cases to the Justice Department for court action under Title VI.

It is hoped that this will assist in your consideration of this matter.

CHARLES DALE,
Legislative Attorney.

*That provision, following the declaration of Congressional findings, states that nothing in Title II is "intended to modify or diminish the authority of the courts of the United States to fully enforce the fifth and fourteenth amendments to the Constitution of the United States." 20 U.S.C. 1702(b).

Mr. BROOKE. Will the Senator yield for a question?

Mr. EAGLETON. I yield for a question on the time of the Senator from Massachusetts.

Mr. BROOKE. The Senator has repeatedly said to the Senate that there has been white flight due to court ordered desegregation. Then he cites as an example of this the District of Columbia. But there is no court ordered desegregation for the District of Columbia. There never has been. Is that not true?

Mr. EAGLETON. That is absolutely correct. I did not say that the only reason was desegregation orders. I find it a very serious thing that after 20 years of debating this in this Chamber, no civil rights organization, nor the Department of Justice, nor HEW has ever filed a suit to desegregate the schools of the District of Columbia.

Mr. BROOKE. Why mislead the Senate?

Mr. EAGLETON. I am not misleading. The Senator is trying to put words in my mouth which would cause me to mislead the Senate. I did not say that the problem in every school system was attributable to busing. I said in certain areas where busing had gone into effect they had shifted the citizenship from the cities to the suburbs. In Detroit, where they first got into the school busing business, the Detroit figures were about 60-percent black and 40-percent white. Since they have embarked on the busing program, it has gone from 60 to 80 percent.

Mr. BROOKE. The Senator referred to Chicago. There has never been court-ordered busing in Chicago.

Mr. EAGLETON. That is where HEW plans to light next, right after Kansas City.

Mr. BROOKE. It plans to light?

Mr. EAGLETON. Right after Kansas City, which is 68-percent black, the next order of business is Chicago, which is 70 percent.

Mr. BROOKE. Then the Senator said HEW-ordered busing. HEW cannot order busing.

Mr. EAGLETON. HEW has ordered it in Kansas City. They called in a Social Security Administration hearing examiner. Listen to this. They sat him down and said, "We want to give you, Mr. Social Security Hearing Examiner, some figures. Here are some schools in Kansas City and here is the racial mix. We want an order out of you, social security examiner, to desegregate the schools of Kansas City." By God, that wizard on social security gave them the order. How about that? It was an order of a social security examiner, but, nevertheless, Kansas City is under the gun and will lose all Federal aid unless they comply with the ruling of the social security examiner.

Mr. BROOKE. HEW does have the authority to cut off funds if they find there has been a constitutional wrong. They can cut off funds, but they cannot order busing.

Mr. EAGLETON. There was no judicial finding of a constitutional wrong. If they went to the Kansas City district court and got an order of the court that there had been de jure segregation in Kansas City, they would have to order them bused. A social security hearing examiner is not quite a judicial process.

Mr. BROOKE. Let us use my own city of Boston. The Senator said there has been white flight because of desegregation.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. We are on my time, I take it. The Senator has taken three-quarters of the time.

Mr. EAGLETON. We have to limit it a little bit because I have other colleagues who want me to yield. Let us finish on Boston.

Mr. BROOKE. The Senator from Missouri would have our colleagues believe there has been white flight in Boston because of the court-ordered busing. That is not the case. The mayor of the city of Boston appeared before our delegation just the other day. And he states there has been some white flight, but it has been due mostly to increased taxes and insurance costs, not to court-ordered busing in the city of Boston. I want the Senator to be correct in the information which he gives to the Senate.

If we were to look through these other cities, we would find out that court-ordered busing has not been responsible for white flight.

Mr. EAGLETON. I do not think I mentioned Boston. I was talking about New York and Chicago and five cities in the South.

Mr. BROOKE. But there has been no court-ordered busing in New York City.

Mr. EAGLETON. Mr. President, I reserve the remainder of my time.

Mr. BROOKE. There is no court-ordered busing in New York City. If there is white flight, again it has been done because of taxes and not through court-ordered busing.

Mr. EAGLETON. Everybody has left New York just because of taxes?

Mr. BROOKE. No. The Senator from

Missouri said they have left because of court-ordered busing.

Mr. EAGLETON. I said people will move for a whole host of conceivable reasons, some imagined, some actual, some fantasies, and in some of these districts there has been white flight. I am willing to stake my reputation on it. A year from this September if the Kansas City order goes in, I guarantee the Kansas City system will be at least 78-percent minority instead of 68 percent.

Mr. BROOKE. I would suggest that most of this is fantasy, not fact. There is no fact to support the contention that what has caused the whites to leave these cities is court-ordered busing. In many of the cases listed here there never has been court-ordered busing.

Mr. EAGLETON. I yield 8 minutes to my colleague from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, again we are called to the floor to deal with an issue that we disposed of, or thought we disposed of, almost 2 years ago. During the debate on this issue in 1975, the Senator from Massachusetts and I spent several days in the Chamber going over this issue.

We tried on occasion to focus on the issue. Senator JAVITS, of New York; Senator BROOKE, of Massachusetts; and others in this Chamber have real cause to be concerned about this amendment. Make no mistake about it, if this amendment goes into the books and is enforced, we are going to drastically cut the number of children that are being bused as a consequence of a court and/or administrative order. It is hard to pin down the civil rights division, but there is something approaching 700 cases for HEW.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. BROOKE. Does the Senator truly believe that his amendment would stop court-ordered busing?

Mr. BIDEN. No. It has nothing to do with court-ordered busing. But we are talking about busing.

Mr. BROOKE. We are talking about court-ordered busing.

Mr. BIDEN. Begging the Senator's pardon, I am making a comparison here. Most of the children who are on buses going to school different than the one that they want to go to in their neighborhood are on that bus not because of a court. They are on that bus because of an HEW threat to withhold funds. There are the numbers.

I only have 8 minutes. Let me get into this. We are back to the same old fact and fiction routine. I cite Dr. Armour's testimony before the Judiciary Committee with regard to the white flight from these very cities. I referred the staff of the Senator from Massachusetts to that study. There is evidence, at least according to one eminent sociologist, that white flight is drastically increased as a consequence of both court-ordered and administratively-ordered busing.

The Senator says that HEW is not ordering anything here, that they cannot order busing. All they can do is threaten to withhold funds.

That is true, but I do not see how that is any different. They go into a school district and say, "Unless you comply with this desegregation order that we have decided upon, we are not going to send any Federal funds into your district."

That is like saying to me, "If you do not cut off your left arm, I am going to shoot you. I am not going to cut your left arm off, but if you do not, I am going to apply the ultimate sanction. You do not get any money."

Let us stop kidding here. We are talking about administrative-ordered busing. I happen to be a proponent of the point of view that whether or not a court ordered busing certain standards should apply. We are only talking here about administrative busing. We are not talking about court-ordered busing. What we talked about in the past was, very simply, in this last discussion we had 2 years ago with the Senator from Massachusetts, whether or not, if, in fact, there is going to be an order to place a child on a bus, that order should come from an administrative agency.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. On the Senator's time, I will.

Mr. BROOKE. All right, on my time.

Does the Senator realize that in the last decade, HEW has only defunded one school district in this country, at Ferndale, Mich.? The Senator would lead our colleagues to believe that HEW is withholding funds all the time from school districts. It is just not the fact. The Senator should know that.

He did not expect HEW to defund under Richard Nixon and under Gerald Ford. Now he has his own administration in there. Let us see what is going to happen. They did not defund them then. What does he think they are going to do under Joe Califano?

Mr. BIDEN. Are we back on my time?

They only did defund one, because only one school district had the guts to say, "We don't want your funds."

Mr. BROOKE. Where was Delaware?

Mr. BIDEN. Delaware bused. De La War school district said, "OK, Jack, we'll bus." Not to the court; that was administrative busing. HEW came into our school district and said—not in the Wilmington case, this was the De La War school district; they said, "Unless you bus, you get no money." What did they do? They said, "OK, we need the money."

Mr. BROOKE. They said, "We are guilty," first.

Mr. BIDEN. Oh, my gosh.

Look, let us try to get three things straight here. No. 1, those of you who are going to vote with the Senator from Massachusetts are making one decision: That you think, absent a court order, a bureaucrat downtown or out in the district can make a judgment that there is a constitutional violation that exists. I say to you that the only person who should be able to make that decision is a duly constituted Federal court. It is not for some bureaucrat to say, "We think you violated the Constitution; therefore, we make the judgment that unless you comply with our order, you do not get any Federal money." That is No. 1 point.

No. 2 point: We talk about whether or not there is an analogy—this is an amazing debate. Here I am, BIDEN and HELMS versus BROOKE and MORGAN. Let me ask you, is that not something for the books?

Talk about politics making strange bedfellows. Well, we are in a situation here where we get constant analogies to the South. Let us talk about the facts in the South and the North. They are completely different living patterns.

When they came along and emancipated the slaves, the slaves did not move off the plantation, they did not move into cities. In small towns, all through the South, my southern colleagues and northern colleagues who are familiar with it, know it: It is not a question of segregated neighborhoods. There are integrated neighborhoods and segregated facilities.

Now we have busing orders in major metropolitan areas where there has been a migration to those cities in a traditional American fashion—sometimes as a consequence of pure prejudice and encumbrances placed upon blacks, but also as a consequence of normal migration patterns.

When blacks moved into the cities, they moved in with blacks. When the Irish moved in, they moved into Irish ghettos. They moved in that way in all other ghettos. That is the way it developed.

What do we have? We have essentially integrated facilities and segregated neighborhoods in the North.

Mr. BROOKE. Will the Senator yield?

Mr. BIDEN. I will not yield.

We are applying the same standard to correct two different ills. It always perplexes me when my colleague from North Carolina (Mr. MORGAN) stands up and talks about this issue. He has the same problem in his cities, they have the same problem in Atlanta, they have the same problem in every major metropolitan area in the South. But they are different situations we are dealing with. When you add it all up and shake it all down, it comes down to one thing: Do you want the Department of Health, Education, and Welfare, and the most able, most brilliant young lawyer, Drew Days, in the Civil Rights Division, making a decision whether a constitutional violation exists or not? That is what we are talking about.

I thought we settled it all the last time out. We did. Then we got the most ingenious memorandum. It came from my administration.

Here I am, Jimmy Carter's national campaign chairman, or whatever the title was, fighting his administration down there. I cannot make apologies for that. I can only talk about what has happened.

The Justice Department got a little request from Secretary Califano asking whether or not the Biden amendment, which later became the Byrd amendment, can essentially be preempted.

It asked whether they can make an Executive order. Secretary Califano asked the Attorney General for an opinion, and the Attorney General and Drew Days wrote a brilliant opinion that comes out as a memorandum of advice, 17 pages. It says little things like, there was minimal discussion on the Byrd amendment—be-

cause we spent 3 days on Biden 1 and Biden 2. And thank God for the majority leader, who came along and got me out of a procedural snag. I could not amend my amendment because of Senate rules. So we had the Byrd amendment that came along and clarified it.

I shall not bore you with this memorandum, but I ask unanimous consent to have it printed in the RECORD at this point in my remarks.

(Mr. MELCHER assumed the chair.)

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

MEMORANDUM FOR THE ATTORNEY GENERAL

Re HEW Interpretation of Byrd Amendment in Proposed Letter to Senator Eagleton.

This memorandum is in response to the referral to me of Secretary Califano's April 12, 1977 letter to you. That letter asked whether you agree with the Secretary's interpretation of the Byrd Amendment to HEW's current appropriation. The Secretary's draft letter to Senator Eagleton expressed the view that the Byrd Amendment's prohibition of transportation of students beyond the school nearest their home, for purposes of compliance with Title VI (42 U.S.C. §§ 2000d *et seq.*), should be applied after grade structure reorganization for the purpose of desegregation is implemented.

A review of the legislative history reveals support for both sides of the issue. However, the interpretation which would apply the transportation limitation before a remedy is proposed would conflict with Title VI and raise constitutional questions; the principles of statutory construction require that a statute be interpreted, if possible, to avoid conflict with the Constitution and with other statutes. Accordingly, I recommend that we support the Secretary's interpretation by sending him a copy of this memorandum and by defending his position in any litigation which may arise on the subject.

QUESTION PRESENTED

Can the Byrd amendment be interpreted to permit HEW to attempt to withhold funds under Title VI of the Civil Rights Act of 1964 from an unlawfully segregated school district operating a neighborhood assignment plan and to apply the transportation limitations of the amendment to grade structures existing in the remedial, as opposed to original, student assignment plan.

STATEMENT

The Byrd Amendment, sec. 208 of Pub. L. 94–439, HEW's appropriation for fiscal year 1977, was originally passed as part of HEW's appropriation for fiscal year 1976, see sec. 209 of Pub. L. 94–206. The Byrd Amendment was added to the bill after it had passed the House, and the Senate Appropriations Committee, and was pending on the Senate floor.

Prior to the amendments added on the Senate floor, the bill included the following provisions: [1]

SEC. 207. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 208. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district, or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

Just before its consideration of the Byrd Amendment, the Senate considered two other amendments which were directed to HEW's actions on school desegregation, particularly "forced busing." The first, introduced by Senator Helms, would have prohibited HEW from requiring school districts, as a condition for receiving federal funds, "to classify teachers or students by race, or national origin; assign teachers or students to schools, classes, or courses for reasons of race, or national origin," or to maintain racial records on students or teachers. See 121 Cong. Rec., pp. 29101–102 (September 17, 1975). This amendment was ultimately tabled. *Id.* at p. 29113. Following that, Sen. Biden introduced an amendment, also directed at "forced busing," which stated:

None of the funds appropriated under this Act shall be used to require any school, school system, or other educational institution, as a condition for receiving funds, grants, or other benefits from the Federal Government, to assign teachers or students to schools, classes or courses for reasons of race."

Id. at p. 29113. That amendment was passed by the Senate. *Id.* at pp. 29122–123.

Following the passage of Sen. Biden's amendment, Sen. Scott introduced an amendment which read:

"None of the funds contained in this Act shall be used in a manner inconsistent with the enforcement of the fifth and fourteenth amendments to the Constitution of the United States and title VI of the Civil Rights Act of 1964."

Id. at p. 29544 (September 19, 1975).

Sen. Scott indicated that he felt Sen. Biden's amendment had effectively repealed Title VI, and that Sen. Scott intended to narrow and clarify Sen. Biden's amendment. Id. However, before a vote on that amendment could be held, and before substantial debate on it was conducted, Sen. Robert Byrd introduced his amendment as a perfecting amendment to that of Sen. Scott. Sen. Byrd's amendment altered Sen. Scott's proposed amendment to read as follows:

"None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964."

Id. at p. 29551.

Sen. Byrd said that his bill was also designed to stop HEW from requiring busing, but was more narrowly drawn than Sen. Biden's amendment concerning HEW's other Title VI activities. *Id.* at p. 29551 (colloquy of Sen. Byrd and Sen. Haskell). See also id. at p. 30042, where Sen. Byrd states that Sen. Biden's amendment would effectively repeal Title VI. Sen. Byrd made it clear that his amendment was directed only to the issue of busing.

My amendment is strictly a busing amendment.

It addresses itself only to busing and not to the assignment of students—only to busing.

Id. at p. 29813 (September 23, 1975). Several other Senators stated that they viewed Sen. Byrd's amendment as dealing with the issue of busing. See statement of Sen. Haskell, id. at p. 29551 (September 19, 1975); Sen. Eagleton, id. at p. 29810 (September 23, 1975); Sen. Helms, id. at p. 30042 (September 24, 1975).

The Senate passed the Byrd amendment. Id. at pp. 30044–30046.

Following the passage of the Byrd amendment, Senator Brooke introduced an amendment to the Bryd bill which contained language identical to that of the original Scott amendment (see p. 3, supra). Id. at p. 30346 (September 25, 1975). That amendment was ruled out for a procedural failure on a point of order, and was the subject of neither extended debate nor vote. Id. at p. 30354. Sen. Biden then introduced an amendment for the purpose of conforming the effect of his original amendment to the effect of the Byrd amendment.[2] Id. at p. 30356. Sen. Biden's amendment stated:

"Notwithstanding any other provision of this Act, the funds contained in this Act shall be used in a manner consistent with the enforcement of the fifth and fourteenth amendments to the Constitution of the United States and title VI of the Civil Rights Act of 1964; *Provided*, that the funds contained in this Act shall not be used so as to require the transportation of students for reasons of race unless such transportation is specifically required by a final decree of a court of law."

Sen. Biden said that he was attempting to insure that his original legislation was interpreted to leave HEW's Title VI authority intact, except "to prevent HEW from busing."

Id. at p. 30359. This legislation was passed by the Senate. *Id.* at pp. 30364–365.

The appropriations bill was then sent to conference. The conference recommended that the Senate recede from both Biden amendments. See Conference Report, H. Rep. 94–689, 94th Cong., 1st Sess., at 19. The full House and Senate adopted the report and agreed to the deletion of the Biden amendments. 121 Con. Rec. p. 38713 (December 4, 1975), and p. 39040 (December 8, 1975).

The House conference managers recommended that the full House seek to amend the Byrd amendment by adding "or next nearest" to the legislation following "school which is nearest." See Conference Report at 17. Rep. Flood offered the appropriate motion, 121 Cong. Rec. p. 38714 (December 4, 1975), in order to conform the bill to the existing law in sec. 215(a) of the Equal Educational Opportunities Act of 1974, 20 U.S.C. 1714(a).[3] *Id.* at p. 38715. The full House voted to reject the motion and to concur in the Byrd amendment as passed by the Senate. *Id.* at pp. 38718–719. The appropriations bill was finally passed over a presidential veto unrelated to the busing provisions. See text of presidential veto, *id.* at p. 41880 (December 19, 1975) and vote of House, *id.* at p. 1035 (January 27, 1976), and Senate, *id.* at p. 1326 (January 28, 1976).

There was minimal discussion of the Byrd amendment in Congress' consideration of HEW's appropriation for fiscal year 1977. During debate on the House floor, a point of order was raised that the amendment is legislation in an appropriations bill, and as such is out of order. The Chair rejected the point of order, characterizing the amendment as a limitation on the expenditure of the funds. See 122 Cong. Rec., pp. 29689–690 (June 24, 1976). The Senate report briefly discussed the amendment by printing a letter from HEW Secretary Mathews

Footnotes at end of article.

to Sen. Magnuson, which stated that the amendment "would effectively bar the Department from requiring transportation in virtually every desegregation case." S. Rep. 94-997, 94th Cong., 2nd Sess. at 115. The Report noted that HEW had not submitted a formal opinion of its General Council although such had been requested.

No similar anti-busing amendments were discussed on the Senate floor, and the Byrd amendment was discussed only briefly, See 122 Cong. Rec., pp. 21196-21198 (June 29, 1976). The bill was enacted with the Byrd amendment language intact.

DISCUSSION

I. HEW's Title VI Authority

The Byrd amendment was intended to affect HEW's administrative Title VI activity. A brief review of the methods by which Title VI is enforced is appropriate.

Title VI prohibits discrimination by recipients of federal funds, and requires each federal agency which extends federal assistance to "effectuate" the prohibitions of the Act. 42 U.S C. 2000d. This duty is mandatory, not discretionary. *Adams* v. *Richardson*, 351 F. Supp. 636 (D.D.C. 1972), *aff'd* 480 F.2d 1159 (D.C. Cir. 1973). An agency can enforce Title VI by (a) terminating or refusing to fund a recipient which has been found, after a hearing, to fail to comply with Title VI, or (b) by any other legal means. 42 U.S.C. 2000 d-1.

HEW regulations establish the methods by which it seeks administratively to enforce Title VI with respect to school districts. The district must submit a plan of assignment which HEW determines complies with Title VI, and must provide assurances to HEW that it will carry out the plan. See 45 C.F.R. 80.4(c)(2).

In the event that HEW determines a district's present plan is violating Title VI, HEW must first seek informally to resolve the problem. 45 C.F.R. 80.8(a). Presumably this informal resolution would require HEW to accept or reject various remedial plans offered by the school system [4] If a dispute cannot be resolved informally, HEW may either (a) attempt to terminate federal funds through an administrative hearing or (b) refer the case to this Department for suit to enforce any rights of the United States under any law or contractual assurance. The administrative hearing is to determine if the school district's present assignment plan violates Title VI.

Any remedial plan the school district submits to correct the Title VI violation must be approved under 80.4(c)(2) by the "responsible Department official." See 80.10(g)(1). A decision of the Department official which is unfavorable to the district is reviewable in a hearing. 80.10(g)(3).

Accordingly, unlike a court, HEW may not *order* a desegregation plan into effect. HEW can move to withhold funds, alleging that an assignment plan is in violation of Title VI, and can approve or disapprove alternative plans submitted by the school district. The only order it can enter is one which would terminate federal funds.

II. The Statute and Legislative History

It is against this background that the Byrd amendment operates. The legislative debate on that and other anti-busing amendments suggests that by stating HEW can not use federal funds to "require [certain actions] directly or indirectly," the Senate meant "indirect" to refer to the process of threatening to withhold funds unless a new plan is adopted. See statements of Sen. Biden, 121 Cong. Rec., p. 30357 (September 25, 1975); and at p. 30359; statement of Sen. Allen *id.* at p. 30357, statement of Sen. Eagleton, *id.* at p. 30360.

The language of the Byrd amendment, unlike that of the original Biden amendment, does not clearly prohibit all HEW action to desegregate systems operating discriminatory plans of student assignment. Instead, the Byrd amendment limits transportation. The question presented herein arises because the act does not clearly say whether the transportation limitation—no student to be transported "to a school other than the school which is nearest the student's home and which offers the courses of study pursued by such student" refers to the school nearest a student's home under a plan HEW determines to be discriminatory, or to the school nearest the student's home under a plan the school district submits to HEW as compliance with Title VI.

When HEW is faced with a school district which it alleges is operating a discriminatory neighborhood system,[5] see *Swann* v. *Board of Education*, 402 U.S. 1, 28 (1971), the two interpretations cause vast differences in the effects of the legislation. If the legislation is interpreted to refer to the closest school under the original discriminatory plan, HEW would be effectively precluded from taking any action. Under that interpretation, Congress would be saying that none of HEW's funds can be used indirectly to require (i.e., through threat of fund termination) transportation beyond that which the district described above is already doing—transportation to the closest school.[6] HEW therefore could not move to terminate funds in order to seek assurances from the district that it will adopt a plan which, in this case, would necessarily involve transportation which Congress specifically said could not be required as a condition to continued federal funding.

The alternative interpretation would apply the transportation limitation to the plan HEW determines will correct the title VI deficiencies. Under this interpretation, HEW could institute termination proceedings against a district operating a neighborhood plan. However, in determining whether remedial plans submitted by the school district will or will not bring the district into compliance with title VI, HEW could not require more desegregation than is possible through the assignment of students to the nearest school which serves their grade under the remedial plan. In other words, HEW could not reject a plan submitted by the district on the ground that the plan would not result in sufficient desegregation if the plan would accomplish as much desegregation as possible (see n. 4, *supra*) without transporting students beyond the closest school under the remedial plan.

Under this interpertation, Congress would appear to be saying that HEW may not, by rejection of submissions, require a plan that provides for transporting students beyond the closest school under the remedial plan. The limit on transportation for a desegregation plan adopted pursuant to title VI would therefore be transportation to the closest school which, under the new plan, serves the student's grade. However, compliance with title VI would still require a plan which will achieve the greatest possible desegregation (see n. 4, *supra*); therefore, HEW could reject remedial plans which did not attempt to desegregate through pairing (with appropriate restructuring of grade levels and assignment of students to the closest school serving their grade level following grade restructuring) if such a properly constructed pairing plan would result in the greatest degree of desegregation of any possible remedial plan.

As stated before, the language of the amendment does not clearly support one interpretation over the other. Either interpretation is reasonably supported by the statutory language; the statute does not clearly state at what point in the desegregation process the transportation limitation applies.

The legislative history also fails directly to address this question. A major difficulty in interpreting the floor debate is that nearly all references to desegregation were to "forced busing;" there was minimal discussion by the proponents of the bill of other methods by which schools may be desegregated.[7] Although some portions of the debate suggest that the Senate's intent was to stop HEW from taking any action with regard to desegregation of a neighborhood system, which would effect a broad limitation on HEW's title VI authority, other portions of the debate suggest that some Senators intended only to limit remedial transportation, and to leave methods of desegregation not involving long distance busing intact.

Although the intent of Senator Robert Byrd, the sponsor of the amendment, is not totally clear from the floor debate, it appears that he intended a broad limitation on HEW's authority to seek to remedy school segregation through the administrative process. It appears that Senator Byrd viewed "forced busing" as the sole method by which HEW acts in this area, and his legislation was, therefore, directed at that practice. Senator Byrd did not address the question of imposition of a remedy through re-structuring of grade levels.

Senator Byrd stated that his amendment was designed to prevent "forced busing to bring about an arbitrary racial balance in the public schools." 121 Cong. Rec., p. 29814 (September 23, 1975). The term "racial balance" has been used primarily to indicate a "de facto" situation where, based on prior judicial decisions, a remedy would not be constitutionally required. See Title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c-6(a), and *Swann, supra*, 402 U.S. at 17. Senator Byrd's use of the term "racial balance" would, if his use were consistent with the prior use by Congress of that term, indicate an intent to leave HEW's authority intact when it is seeking to remedy an unconstitutionally segregated system.

However, Senator Byrd indicated that he felt the courts had misapplied the Constitution in many cases, see 121 Cong. Rec., pp. 29936-937 (September 24, 1975); he stated that many judicially ordered remedies were, in his view, designed to secure "racial balance." *Id.* at p. 29937.[8] Accordingly, Senator Byrd appeared to intend his amendment to prevent HEW from ordering a transportation remedy even when a district was operating assignment practices which a court, under prevailing judicial standards, would find to be racially discriminatory.

Senator Byrd's comments were, however, limited to remedial action by busing and may apply primarily to techniques such as satellite zoning. It is unclear whether he was aware of other methods—i.e., pairing and clustering—by which schools are desegregated. In fact, at one point he stated, "My amendment is strictly a busing amendment. It addresses itself only to busing and not to the assignment of students—only to busing." *Id.* at p. 29813 (September 23, 1975). This comment indicates that Senator Byrd did not consider the effect of his amendment on other methods of desegregation. However, his comments are very broad; he appears to have intended to foreclose HEW action in many circumstances where a court would order a remedy. A fair reading of Senator Byrd's language would suggest that he would have wanted to prevent any alteration in an existing "neighborhood" plan, under his view that such a plan is based on geographical proximity, and is never racially discriminatory.[9]

However, the legislative debate suggests that some Senators who supported the amendment did so under the view that while it would prohibit HEW from requiring remedial busing, it would not prohibit other meth-

Footnotes at end of article.

ods of desegregation. Senator Eagleton, for example, recognized the traditional definition of "racial balance" as reflected in Title IV, *id.* at p. 29810 (September 23, 1975), and viewed the problem to be addressed as one of stopping HEW from requiring alterations in plans of student assignment for the sake of "racial balance." *Id.* Senator Eagleton stated that the Byrd amendment would "not limit HEW in mandating other methods of school desegregation, but would simply remove the authority of HEW to require busing." *Id.* at p. 29811. Senator Eagleton also stated that the Byrd amendment would "permit [] the Department to employ other remedies [than busing] not incompatible with previous strictures already legislatively imposed by Congress." *Id.* See also statement of Senator Haskell, *Id.* at p. 29551 (September 19, 1975), statement of Senator Huddleston, *id.* at p. 30042 (September 24, 1975) and statement of Senator Biden. *id.* at p. 30359 (September 25, 1975). But see statement of Senator Biden, *id.* at p. 30357.

These comments suggest that some members of Congress were attempting to limit HEW's authority to require busing as a remedy for a school system which is unconstitutionally segregated, but to permit other methods of desegregation to remain available. Again, although the precise use of pairing was not discussed, there is support, particularly in Senator Eagleton's comments, for an interpretation of the amendment which would permit HEW to apply the amendment in such a manner as to seek to require the adoption of a pairing plan. However, both interpretations have support and the legislative debate on the Byrd amendment is far from conclusive.[10] The tabling of the Helms amendment and the ultimate rejection of the first Biden amendment, both of which would have very broadly restricted HEW's Title VI authority, may support to a small degree the view that Congress intended a limited effect on HEW's Title VI authority. However, this can be as easily interperted as an intention to leave unaffected HEW's authority on issues other than student assignment. See statement of Senator Biden, *id.* at pp. 30357–358 (September 25, 1975). The weight to be accorded these comments suffer from their reference only to busing, not to all methods of desegregation.

Congress, in past years, had avoided a direct conflict with the prohibition on discrimination by recipients of federal funds which it previously enacted in Title IV. For example, previous appropriation bills contained language prohibiting HEW from requiring alterations in assignment plans of school districts which were "desegregated as that term is defined in Title IV of the Civil Rights Act of 1964." See Sec. 208 of Pub. L. 93–192. Provisions were enacted prohibiting transportation to overcome "racial imbalance," which would of course permit HEW to act to desegregate unconstitutionally segregated schools. See sec. 209(b) of Pub. L. 93–517. In fact, when Pub. L. 93–517 was finally enacted, provisions which would have prevented HEW from requiring busing in any circumstances were eliminated during the conference. See H. Rep. 93–1489, 93rd Cong., 2d Sess., at p. 19. The provisions enacted in that bill left HEW's Title VI responsibilities virtually unaffected, and Congress rejected provisions that would have dramatically curtailed Title VI authority.[11]

In addition, in the Education Amendments of 1972, Congress passed a provision which stated that there was nothing to require alterations in neighborhood assignment plans "drawn on a racially nondiscriminatory basis." Pub. L. 92–318, Sec. 719. Congress was expressing support for the concept of neighborhood schools, a concept Senator Byrd would support, see 121 Cong. Rec., p. 29813 (September 23, 1975), while not precluding action against discriminatory neighborhood plans.

III. Principles of Statutory Construction

It is an accepted rule of statutory construction that when the language of an act is ambiguous, similar language in other legislation may provide an interpretive guide. See *United States* v. *Stewart*, 311 U.S. 60, 64 (1940), *Huddleston* v. *United States*, 415 U.S. 814, 826 (1974). When passing the Education Amendments of 1974, 20 U.S.C. 1701 *et seq*, Congress set out in section 214, 20 U.S.C. 1713, a priority of the remedies to be used by courts or administrative agencies when desegregation plans were to be devised.[12] Part (d) of that section permits pairing and clustering of schools ("revision of attendance zones or grade structures"). However, any such remedial plan was specifically limited by the provisions of section 215(a), U.S.C. 1714(a), which states:

"(a) No court, department, or agency of the United States shall, pursuant to section 214 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student."

This language suggests that the transportation limitation applies to the grade structure of a remedial plan. Section 214(d) of the 1974 Act permits pairing as a remedial plan, subject to the transportation limitation of section 215(a). Both sections refer to the construction of the remedial plan. Section 215(a) is worded in the present tense, and refers to the school "which provides the appropriate grade level" for the student. Placing the limitation in the present tense, and referring to the plan to be implemented, appears to suggest that the limitation applies to the grade structure of the remedial plan, and not of the old, discriminatory plan. Accordingly, the language in the Education Amendments of 1974 suggests that Congress intended its transportation limitations to apply to the grade structure in the remedial plan, and not that of the plan to be remedied. The similarity of the Byrd amendment to section 215(a) suggests that its transportation limitation be similarly interpreted.[13]

Two additional tenets of statutory construction suggest that the amendments should be interpreted to apply the transportation limitation following the drafting a remedial plan, which would permit HEW to seek to require remedial plans through the threat of fund cutoffs. The first states that "when two statutes are capable of coexistence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective." *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974). If the transportation limitation is read to describe school locations prior to the development of a remedial plan, HEW would be precluded from taking any action to enforce Title VI against a school district operating a discriminatory neighborhood plan, and would be forced to continue funding a discriminatory program. This result conflicts directly with Congress' previous enactment of Title VI, which directed agencies to enforce Title VI and to insure that federal funds do not flow to programs which discriminate. In fact, an agency's continued funding of a discriminatory program is in direct violation of the Act. See *Hicks* v. *Weaver*, 302 F. Supp. 619 (E.D. Pa. 1969). Interpreting the two statutes (Byrd and Title VI) in such a way as to permit HEW to exercise its Title VI responsibilities, even in a manner circumscribed by the transportation limitation,[14] would be consistent with a court's duty to avoid a direct statutory conflict.

The second tenet states that "when a statute is ambiguous, 'construction should go in the direction of constitutional policy' ". *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 134 (1974). See also *United States* v. *Johnson*, 323 U.S. 273, 276 (1944). "Our task is not to destroy the Act if we can, but to construe it, if consistent with the will of Congress, so as to comport with constitutional limitations." *CSC* v. *Letter Carriers*, 413 U.S. 548, 571 (1973).

The interpretation of the amendment which would preclude HEW action could lead to a challenge to the statute's constitutionality. A federal statute which would force an agency to fund a racially discriminatory program would be held unconstitutional, *Gautreaux* v. *Rommey*, 448 F.2d 731, 739 (7th Cir. 1971), *Green* v. *Kennedy*, 309 F. Supp. 1127 (D.D.C. 1970), and a statute which authorizes segregation by state officials has been held unconstitutional, *Simkins* v. *Moses H. Cone Memorial Hospital*, 323 F.2d 959 (4th Cir. 1963), *cert. den.* 376 U.S. 938 (1964). A constitutional test of the statute could raise the question, which Congress has thus far been careful to avoid, of Congressional power to overrule, through legislation, the *Swann* decision. The interpretation of the legislation which would enable HEW to seek to terminate federal funds to school districts operating discriminatory neighborhood plans might well avoid a collision between the statute and the Constitution, and for that reason that interpretation is supported by principles of statutory construction.

Thus far, we have discussed possible interpretations of the Byrd amendment in a theoretical context. The amendment may soon be subjected to judicial review. The Kansas City, Missouri school system has sued HEW, alleging that HEW's deferral of funds violated procedural requirements in Title VI. *School District of Kansas City, Missouri* v. *HEW, et al.*, No. 77–0238–CV–W–3. In its complaint, the school system stated that HEW failed to explain its interpretation of the Byrd amendment.

CONCLUSION

The question presented by the Byrd amendment and by Secretary Califano's letter turns, in my view, on the need to reconcile the Byrd amendment with Title VI, and on the apparent Constitutional issue which could arise from applying the transportation limitation in such a way to preclude all HEW action to desegregate schools. For that reason, the Secretary's position is supportable.

We should so indicate to him, and suggest that if that interpretation leads to the necessity for a judicial resolution of the statute's meaning, we would support his interpretation in subsequent court proceedings.

A draft response to the Secretary is attached.

DREW S. DAYS, III,
Assistant Attorney General,
Civil Rights Division.

FOOTNOTES

[1] The provisions were also part of HEW's 1975 appropriations bill. See sections 208 and 209 of Pub. L. 93–517.

[2] Rules of the Senate prohibited Sen. Biden from withdrawing or moving to delete his original amendment. See *id.* at S16791 (colloquy with Sen. Eagleton).

[3] Section 215(a) states:

"No court, department, or agency of the United States shall, pursuant to section 214 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student."

[4] HEW's decisions on what constitutes compliance with Title VI are of course guided by court decisions on discrimination. Courts

require remedial plans in school desegregation cases to achieve the "greatest possible degree of actual desegregation," *Davis* v. *School Comm'rs of Mobile County*, 402 U.S. 33, 37 (1971). HEW, in accepting or rejecting various plans submitted by a school district to bring it into compliance with Title VI, may therefore accept only a plan which will achieve the greatest degree of desegregation and HEW must reject plans which do not meet this standard.

[5] For purposes of this memorandum, "neighborhood system" or "neighborhood plan" refers to one where students are assigned to the closest school serving their grade.

[6] This assumes that the students are transported.

[7] Senator Brooke, an opponent of the bill, stated that the amendment "would deny HEW all other means of achieving desegregation," 121 Cong. Rec., p. 29811 (September 23, 1975.) However, the proponents of the bill referred only to forced busing as the problem they wanted to address.

[8] Senator Byrd expressed his disagreement with the courts' views that the Fourteenth Amendment established an "affirmative duty" to eliminate the vestiges of discrimination, and permitted the use of racial criteria in remedial stages. Senator Byrd expressed disagreement with *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836 (5th Cir. 1966), *Green* v. *County School Board*, 391 U.S. 430 (1968), *Swann, supra*, and *Keyes* v. *School District No. 1*, 413 U.S. 189 (1973).

[9] Senator Byrd describes the assignment plans at issue in *Swann* and *Keyes* to be based on "geographical proximity," a "nonracial basis." *Id.* at pp. 29936–937 (September 24, 1975). Accordingly, we can presume Senator Byrd would oppose any interpretation which would permit HEW to suggest an alteration of a "neighborhood" plan.

[10] The Byrd amendment was mentioned in the Senate report in HEW's appropriation for fiscal year 1977. See S. Rep. 94–997, 94th Cong., 2nd Sess. at 115. The report attached a letter from Secretary Mathews which, while stating that the amendment would bar HEW from requiring transportation, did not address the effect of the statute on other remedies.

[11] During debate on the Byrd amendments, the busing amendments of previous appropriations bills were briefly discussed. The only conclusion reached was that the Byrd amendment and the prior amendments would not be in conflict; the previous amendments (see pp. 2–3, *supra*) referred to schools which have been desegregated as defined by Title IV; the Byrd amendment had no such limitation. See colloquy of Senators Magnuson and Allen, 121 Cong. Rec., pp. 29689–690 (September 22, 1975).

Accordingly, what debate there is on the effect of the Byrd amendment on previous legislation is as vague as the remainder of the debate.

During consideration of the first Biden amendment, Senator Biden said his amendment was different from the previous legislation on busing in appropriations bills. Previous bills referred to districts which are desegregated; his bill would have kept HEW from acting in any district, desegregated or not.

See *id.* at p. 29116 (September 17, 1975).

Senator Biden also stated that previous legislation stated that funds could not be used "for the transportation of students," (see sec. 208(b) on p. 3, *supra*), but that the appropriations bill did not appropriate funds for transportation in any event. However, Congress' ultimate rejection of the Biden amendment makes Senator Biden's comments of limited value.

[12] On several occasions various members of Congress pointed out that the Byrd amendment was merely a further limitation on the transportation permitted by the 1974 Act. See statement of Rep. Flood, 122 Cong. Rec., p. 22370 (June 24, 1976); Rep. Conte, 121 Cong. Rec., p. 38715 (December 4, 1975). See also S. Rep. 94–997, discussed at p. 6 and no. 10 *supra* wherein Secretary Mathews' letter describes the Byrd amendment as a further limitation on the transportation permitted by Section 215(a) of the 1974 Act.

[13] Section 214 (a) of the Act states that the assignment of students to the closest school which provides the appropriate grade level is the first remedy which should be considered. Section (d) permits pairing within the "closest or next closest" limitation of section 215(a). Insofar as the Byrd amendment's transportation limitation is to the closest school, it effectively limits the transportation possible after pairing to the same limit as the first remedy—assignment to the closest school. However, insofar as each part of section 214 describes a remedial plan, the closest school limitation of section 215(a) is determined under the new plan, including any grade restructuring permitted as part of a remedial plan.

[14] See p. 9, *supra*.

Mr. BIDEN. This memorandum says little things, like:

> There was no question that if Biden language had been upheld and voted on and been the named amendment, you would not be able to do this, Mr. Califano. You would not. But because Byrd came along and there was little legislative history discussing Byrd, we think you have got an out. We think you have got a loophole.

I thought we fought this fight. We talk about rearguard actions. If I may be so bold as to suggest—I ask my colleague to yield me 2 more minutes.

Mr. EAGLETON. I yield 2 more minutes.

Mr. BIDEN. If I may be so bold as to suggest, my distinguished colleague from New York stands up and talks about this rearguard action. You are not going to like what I am about to say, but let me tell you something: This is the front-guard action. There is nothing rear about this. If the Eagleton amendment is not sustained, if we do not move to address this question of busing and put it in its proper perspective—and note, we are not saying this amendment that the young Senator from Delaware will bring to the floor, hopefully, some time in this month—we are not saying the courts cannot find constitutional violations. We are saying there are certain restrictions. If, in fact, we do not address this question, we are going to see the civil rights movement in this Nation—which has already come to almost a screeching halt over the last 8 years—kicked in the teeth and it may not recover for another 10 or 20 years.

Let me tell you, there are a lot of folks out there who are good-thinking folks, who are committed to equal opportunity, who see the absurdity of some of these busing orders. What do they do, out of their frustration? They turn around and they leave the cities, as the Senator from Missouri indicates. And/or they begin to put blame where it does not belong. They turn around and say, "Were it not for blacks, my child would be able to go to this good school." And it builds resentment and it builds hostility.

I am not talking about violence. That does not happen in 99-44/100 percent of the cases. But let me tell you something: People are beginning to get fed up and when, in fact, you lose the basic support of that so-called great unwashed, that middle class—of which I am a part—you are not going to get any social policy in this Nation to continue to move.

I do not know why we keep talking about the citadels of virtue, or the Constitution. The distinguished Senator from New York stands up and says "those who honor the Constitution."

Well, I revere the Constitution. I introduced an amendment which caused all blank to break loose.

All "blank" broke loose. And do you know what it said? That the court must find that there was a specific intent to segregate before they could order busing.

I was told how that was going to be the end of the free system. One of the greatest men in the 20th century in America, Clarence Mitchell, stood before my committee and said:

> If this amendment passes, we will soon have rats crawling in the citadel of justice, the Supreme Court of the United States. It will become a hollow building.

And I am paraphrasing.

What did that citadel of justice say yesterday? It said that you need to find a specific intent to segregate. It is about time that institution went beyond the Eagleton-Biden amendment and addressed itself to the question of what the Constitution requires. Does it require that we affirmatively integrate for the purpose of integration? Or does it say that we must knock down all impediment to equal opportunity and desegregate wherever we find a constitutional wrong?

We have had too much knee-jerk reaction in this institution. And, quite frankly, I am always disturbed, and more and more disturbed, when we keep talking about who has the citadel of virtue, who is the possessor of wisdom, and who understands the Constitution. Obviously, the court is beginning to understand the Constitution.

I thank this body for its indulgence; but please understand, this is not court-ordered. This is merely saying, do you want an administrator to have the power to determine whether or not a constitutional violation exists and then not order but threaten to withhold all Federal funds unless they act?

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 minutes. The Senator from Missouri has 2.

Mr. BROOKE. Mr. President, the Senator from Delaware, among other things, has talked about ethnic groups moving into a city and living in areas where the same ethnic group would be found. That, Mr. President, is de facto, not de jure segregation.

The Supreme Court has never at any

time in its history said that we must desegregate schools because of de facto segregation. It does not say so now.

All the Supreme Court has said is that where a school district has become segregated by official action, as was found in my city of Boston and in the Senator's city of Wilmington, as the Senator from Delaware knows, that school district must desegregate its school system. The Court gives the school district time to bring about the desegregation of that system. If it does not, if it blatantly refuses, as it has in the Senator's city and in mine, then the court will order desegregation.

That is all the court does.

Mr. BIDEN. Will the Senator yield for a brief question?

Mr. BROOKE. No. I listened to the Senator. I had to listen to him, and I just have a few more things.

Mr. BIDEN. I just wonder what that has to do with this amendment.

Mr. BROOKE. I just want to speak about court-ordered busing.

Now, at no time has the court given authority to HEW to order busing. HEW is the department of this Government, of the executive branch of the Government. HEW does not make the law. It carries out the law.

There are funds in this bill which HEW can use. But HEW cannot use it when a school district is in violation of the law, when there is a constitutional wrong.

What HEW does, after a finding of constitutional wrong, is threaten the withholding of funds, as it has done in several instances.

But as I pointed out, and the Senator from Delaware agreed, only in one instance has HEW ever defunded a school district in the history of this country.

There, obviously, has been no harassment by HEW in the past, there is not in the present, and I do not think we can anticipate any in the future.

The Supreme Court says that busing is a constitutional tool that can be used. It does not say that it has to be used. It has inferred that it is a constitutional tool of last resort. When everything else has failed, then busing has been used by courts to desegregate school systems.

What the Senator from Delaware would do with his amendment, with the Senator from Missouri, is take away the options of pairing, of clustering, and would deny the court other remedies to alleviate and to relieve constitutional wrongs.

If we do that, we have really abrogated title VI, as the Senator knows.

So it is a very dangerous amendment, no matter what the Senator says. He may stand up and walk the floor and wave his hands and say this and that, but we are not talking about de facto segregation, and we are not talking about HEW-ordered busing. We are talking about taking away a remedy that has been used and is available to remedy a constitutional wrong, and no more. And the Senator knows it.

So I hope that the Senate in its wisdom will recognize what this amendment would do.

This amendment actually goes beyond the Byrd amendment. And the Senator will remember that 2 years ago he joined in with the Senator from West Virginia (Mr. ROBERT C. BYRD), when we finally and reluctantly agreed to the Byrd language.

Now, the Senator would go beyond Byrd. This amendment is a further retreat from our commitments to equality of educational opportunity.

Why does the Senator want to take that action now when desegregation of public schools is going along peacefully, when there is no evidence of white flight, as the Senator from Missouri has mentioned?

What is the reason in 1977 for coming up with another amendment to deny equal educational opportunities to children in this country?

It is difficult to understand why the Senator comes forth with this amendment at this time. For there is no reason for it. There is no logic for it, unless, of course, the Senator does want to deny equal educational opportunity, which he says he does not want to do. And I believe him when he says it, but I cannot understand how that is consistent with the amendment he has introduced.

I would be very pleased to yield him an opportunity to respond to that question.

Mr. BIDEN. I beg the Senator's pardon. I did not hear the last part of the question. I was conferring with Senator EAGLETON.

Mr. BROOKE. I asked why the Senator at this time in 1977, when the desegregation of public school systems in this country is progressing without violence, when those districts that are under court order are desegregating their school systems without violence, feels that it is necessary to take a step even further back than the Byrd amendment which we adopted in 1975?

Mr. BIDEN. For several reasons. First of all, this amendment goes no further than the Biden amendment the first time out. We all thought at that time—at least I thought at that time—the Byrd amendment was merely a measure to get out of the procedural thicket we were in to adopt the Biden amendment. This is, sum and substance, the same thing.

The second question is, there is no reopener in this, no reopener clause in the other legislation I referred to that I plan to introduce.

It will not affect districts where it is already in place, which is what upsets the Senator from North Carolina.

It will upset administratively ordered busing because that school district could say that we are going back the way we were. We cannot withhold our funds.

But it would not affect court-ordered busing. The amendment I referred to would not affect it.

The Senator asks why, in light of the fact we have come from 8 percent integration to 92 percent integration, and the answer is very simple. It is obvious why that occurred, because when Brown came down and was finally imposed upon the South, there was a situation where they said, "You've got to go to school in the neighborhoods in which you live," and those neighborhoods were already racially integrated.

That is the reason why that percentage so drastically increased, other than in the major metropolitan areas of the North and South.

Mr. BROOKE. The Senator knows that while Brown established the law of the land, title VI of the 1964 Civil Rights Act was actually responsible for the effective implementation of that law.

Mr. BIDEN. I was responding to the court-ordered question.

The reason for that integration in the South initially was a consequence of court-ordered unitary schools——

Mr. BROOKE. No. Title VI was responsible for the major part of desegregation in the South, as I am sure the Senator must know.

Mr. BIDEN. The reason still holds, that what we were talking about was integrating schools, facilities, where the neighborhood was already integrated, and these situations, we are talking about integrating the facility in a segregated neighborhood. That is the difference, and it is a very obvious difference.

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

Mr. BROOKE. I yield.

Mr. HELMS. The Senator from Delaware made reference to the Senator from North Carolina. It was not this Senator from North Carolina to whom he referred.

Mr. BIDEN. I beg the Senator's pardon.

Mr. HELMS. This Senator regretfully demurs from the stated position of the Senator from North Carolina (Mr. MORGAN) with respect to the pending amendment. I feel it essential that the record be clear on that point.

Mr. BROOKE. I have a few minutes. I certainly do not intend to yield time for further discussion which would argue against the amendment. I certainly want to give the Senator an opportunity to correct the record.

Mr. HELMS. I have 2 minutes, and I will let the Senator from Massachusetts have 1 of those minutes if he needs it and I think he will need more than that to prove his case.

Mr. BROOKE. It certainly was not the distinguished Senator from North Carolina (Mr. HELMS) who agreed to that. It was Senator MORGAN.

Mr. HELMS. That is right. I thank the Senator.

Mr. BROOKE. Mr. President, while we have debated this matter again at some length, I can only reiterate what I said before: That the amendment offered by the Senators from Missouri and Delaware would go far beyond the Byrd amendment which we adopted in 1975. It would deny the remedies of clustering and pairing. And it certainly would put us further back in our effort in this country to desegregate public school systems that have been segregated only by official action.

All that has been said today only reiterates the need for the U.S. Senate to stand up at this time in our history and say to all children in this country, "We guarantee you an equal educational opportunity. We do not guarantee you integrated education, but we do guarantee

that you will not be segregated by any arm of Government."

That is what we are talking about. We are talking about no more than that. We never have talked about any more than that.

I hope that the motion I have made to strike out this language—which would include the so-called Eagleton-Biden language—will be agreed to by this body.

Mr. EAGLETON. Mr. President, I have 2 minutes remaining. I yield 50 seconds to the Senator from Delaware (Mr. ROTH).

Mr. ROTH. Mr. President, I will be brief. Practically everything which needs to be said about this amendment has already been said at one time or another, whether it was in the committee or here on the Senate floor. But there are a couple of points I would like to make.

First, I think it is absolutely clear that the Secretary of Health, Education, and Welfare and the Attorney General of the United States have been seeking to circumvent the express will of the Congress of the United States with respect to the use of Federal funds for forced busing. I trust that their actions in the case of Kansas City have been the product of an excess of ill-placed zeal, but whatever their motives, Mr. Califano and Mr. Bell are wrong.

The purpose of this amendment is to keep the bureaucrats out of busing. They have no business meddling in what ranks as the premier social issue of the day in a score or more cities and counties. I do not like the involvement of courts, but at least from them there is some appeal to higher court and a rule of law. But there can be no appeal from the informal intimidation exerted by a bureaucrat who threatens to cut off a city's or county's education funds.

Mr. President, that was our intent when this amendment was originally enacted, and the purpose of the current language is to clarify this intent beyond mistake. If the errors of Mr. Califano and Mr. Bell were well intentioned, then we will disabuse them: Federal funds should not be used directly or indirectly to pay the costs of forced busing, nor are members of the executive branch to involve themselves as advocates of busing.

Mr. President, I am deeply disturbed by the accusation made that Delaware was involved in a blatant case, because that is contrary to fact.

First of all, I want to point out that in the 1950's, when the Supreme Court held so-called equal but separate schools were unconstitutional, our State proceeded with dispatch and good faith in developing a unitary system. It did so well that, in the 1960's, HEW applauded Delaware for doing the best job that had been done in any State.

What happened was that, in later decisions—and I must respectfully disagree with my distinguished colleague from Massachusetts—the Supreme Court came very close to doing away with the difference between de facto segregation and de jure. In the recent Delaware case, there was no finding that Delaware had intentionally discriminated, as was brought out so eloquently by my junior colleague. I believe—and strongly believe—on the basis of the Dayton case, that there are good chances for reversal of this latter decision if the procedural situation will permit the Delaware case to be reviewed by the Supreme Court.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAGLETON. Mr. President, I yield 50 seconds to the Senator from North Carolina (Mr. HELMS).

Mr. HELMS. Mr. President, there is no question about the beneficial effect that the Eagleton amendment, as contained in the bill and which the Brooke amendment proposes to strike, will have in North Carolina and other States. I respectfully and regretfully disagree with the position taken by my able colleague from North Carolina. We do not often disagree, but this is one time that we do. If we eliminate the heavy bureaucratic hand of HEW from our schools in North Carolina, it will be a great relief to our people.

This is the point, Mr. President: What are we doing to the schoolchildren in this country by permitting HEW to run wild? The majority of the American people are absolutely opposed to forced busing. Every poll shows it. Education is deteriorating. I challenge anybody to present any evidence to the contrary.

Furthermore, if we are serious about conserving energy, let us bear in mind that busing is consuming the equivalent of the total output of 600 oil wells each year.

I thank the Senator for yielding to me.

Mr. BROOKE. Mr. President, I just want the record to show that those barrels of oil that the Senator is so worried about certainly are not being used to desegregate the school systems. Fifty-five percent of all the children in this country ride to school on buses. But only 4 percent of them ride to school on buses because of desegregation.

I hope the Senator will not leave it on the record that he believes we are spending all this money on oil for the desegregation of public schools. Let us worry about energy when we get to it. That is not the case at all.

If the Senator believes that the amendment offered by Senators EAGLETON and BIDEN is going to stop court-ordered busing, the Senator again is wrong. The Senator from North Carolina (Mr. MORGAN) is absolutely right: It is not going to stop court-ordered busing, and I do not think we should give the impression that it is. If anybody votes on this amendment in the belief that they are going to stop court-ordered busing, they are being misled.

Mr. HELMS. This Senator has not mentioned court-ordered busing. The record will show that. I have referred to the unnecessary and destructive meddling by HEW bureaucrats.

The PRESIDING OFFICER. The Senator from Missouri (Mr. EAGLETON) has 20 seconds remaining.

Mr. EAGLETON. Mr. President, what the Eagleton-Biden amendment will do is stop HEW-ordered busing—now in Kansas City, next in Chicago, and next will come Philadelphia and Baltimore. They are on the next hit list of HEW-ordered busing. The Eagleton-Biden amendment will prohibit that.

ADDITIONAL STATEMENT SUBMITTED

Mr. METZENBAUM. Mr. President, I rise to express my support of Senator BROOKE's amendment striking language from the 1978 Labor-HEW appropriations bill that restricts HEW's ability to eliminate funding for unlawfully segregated schools.

I am not here today to say I support busing, because, frankly, I do not. I have said it before, and I repeat it today—in the short time that it has been used, busing has not proved to be a workable and practical solution to achieve racially balanced schools.

In plain and simple terms, this language restricting busing is just another piecemeal approach to a highly complex and emotional issue. The language in question eliminates one remedy presently available to achieve racially balanced schools, but leaves unresolved the basic and fundamental issues which busing raises.

It is not enough to stand here in opposition to busing and say "busing is bad" without providing any alternative solutions which address the problems of illegally segregated schools. Last session, my distinguished colleague from Ohio, Senator GLENN, proposed an alternative to busing—magnet schools. I supported his efforts then, and I continue to do so today. I urge my colleagues to give serious consideration to this and other proposals which provide a means by which children can receive a quality education.

The burden is on everyone—Congress, school boards, local officials, and parents—to provide viable alternatives consistent with the equal protection and due process clauses of the Constitution. While I disagree with busing as a means of integrating our schools, I will not attack it in a piecemeal fashion, without offering positive alternatives.

Mr. BAKER. Mr. President, I believe all of my colleagues share a commitment to carry out the mandate of the Supreme Court in the 1954 Brown decision, to uphold the policy of desegregation in title VI of the Civil Rights Act, and, at the same time, to improve the quality of education available to children of all races.

Considerable progress has been made in the last 23 years toward achieving these goals, especially in the South. In the past few years, however, the courts have turned increasingly toward the use of a desegregation "tool" which results in assignment of students to particular schools because of their race—the practice which the Brown decision condemned as unconstitutional. That "tool"—busing—has caused an upheaval in affected communities and has created more problems than it has solved.

As a result, thousands of families in Tennessee, for example, view busing as an infringement upon personal liberty, a threat to the health and safety of their children, and a disruption to their children's lives and education. These concerns are expressed by white and black families alike and opposition to busing in Tennessee is no longer even remotely

synonymous with opposition to desegregation.

I believe that the Congress and a majority of Americans concluded long ago that busing is not the solution to the problems of desegregation. In fact, busing has jeopardized the quality of education for all students by undermining parental participation and public support for the schools, two factors vital to a successful public school system.

I believe the Congress clearly expressed its opinion on school busing when it adopted the Byrd amendment to the fiscal year 1976 Labor-HEW appropriations bill. That amendment specifically prohibited HEW from requiring busing beyond the school closest to a student's home which offers the appropriate curriculum for that student. In approving this language, a majority of the Congress espoused the view that forced busing is disruptive of childrens' lives, that it is not desired by most Americans, and that it is not the best means of achieving integration, much less improving the quality of education.

Since enactment of the Byrd amendment, however, the Departments of Justice and HEW have circumvented the will of Congress by the practice of pairing or clustering of schools. By this practice, grade levels are restructured and children, who formerly could attend classes in their neighborhood school, must be bused across town in order to obtain instruction in their particular grade level. The result is that school districts throughout the Nation, who are subject to HEW-imposed desegregation plans, could be exposed to massive, forced busing in order to implement pairing and clustering projects.

Mr. President, I believe that it should be evident by this time that to achieve desegregation and the provision of equality of educational opportunity to every child, we must turn our attention to other, more effective means than busing. The truth is that desegregation comes about most efficiently and with the least disruption when local communities are given the flexibility to devise a plan tailored to their own needs. Such efforts can include voluntary transfer programs, the construction of new schools in neutral sites, and the pairing of public schools with specific colleges and businesses. In addition, the magnet school concept, which offers special programs designed to attract students from other schools, has proven especially successful in several communities.

In an effort to encourage school districts to experiment with these alternatives to busing, the Senate last year approved an amendment offered by the distinguished Senator from Ohio (Mr. GLENN) to increase by $50 million the authorization for the emergency school assistance program. With the help of similar Federal assistance programs, I believe that we can continue to progress toward eliminating segregated school systems without utilizing busing on a massive scale.

For these reasons, I believe that the language of the Eagleton-Biden amendment, which has been approved by the Committee on Appropriations, is consistent with the intent of the Congress in seeking to limit the use of busing through the Byrd amendment; I support the committee amendment, and urge all my colleagues to do likewise.

Mr. HUMPHREY. Mr. President, I rise in support of Senator BROOKE's amendment.

The history of the last decade has placed the Congress, and especially the Senate, decisively on the side of strong educational antidiscrimination policies. That history is threatened by the Eagleton-Biden amendment, section 208 of the Labor-HEW appropriations bill, that cuts out the heart of that commitment.

Once, not so very long ago, the United States was regarded as a land of bigotry, of lawlessness, of lynchings and cross burnings—of slavery. It was impossible to travel outide the country without having someone ask about the treatment of Negroes in the South. Indeed, the story of our treatment of blacks, Hispanics, and, of course, the American Indian, was a blight on the name of the Nation.

More recently, through the courage and restraint of our civil rights movement, when people of all colors and all religious persuasions joined hands in affirmation of the goals for which this country was founded, the world was treated to a different image of America. To be sure, it saw churches bombed and little girls killed. It saw Federal troops called out to protect children entering schools. And it saw school buses attacked by mobs of angry adults.

But through it all, it also saw the images of John Fitzgerald Kennedy, Lyndon Johnson and Martin Luther King. It saw a generation of young people linking arms and singing "we shall overcome." It saw good men, like Phil Hart, lend us their vision of what this Nation could become. And in the end, it is this image of America that has prevailed. In the eyes of the world, a country that was once condemned for its peculiar institution, has come to represent freedom and justice for all its people.

And what a good thing it is for us that this has happened. Because today we face a world in which the issue of human rights is, more than anything else, the cutting edge between totalitarian ideologies and our own system of free and open democracy. The United States, that country that was once half-slave and only half-free, has emerged as the model for human rights throughout the world.

And the Congress has demonstrated its willingness to assume that responsibility. Just 2 weeks ago, we voted a concurrent resolution, expressing the sense of this body that every effort be made to insure that the issue of human rights is placed high on the agenda of the Conference on Security and Cooperation in Europe. We have criticized certain nations in particular for their record on human rights. What I am saying is that this Congress has taken a very firm stand on the issue of human rights in other countries. What remains for the world to see is what we will do at home.

Today, Mr. President, we have a crucial human rights decision before us. We can tell Latin America that we are hypocritical. We can tell Africa that our attitudes really have not changed fundamentally since the days when we enslaved her sons and daughters. To the Middle East, we can say that we do not mean what we say. To Europe, that we preach one thing for the rest of the world and practice another at home.

To our own people, we can create false hopes that these problems simply will go away. That the clock can be turned back 25 years, which it cannot. We can give a signal that would encourage new resistance to a change that is imperative and inevitable. We can make a mockery of the many good men and women of the South, who put aside their own misgivings and traditions for the good of the country and the promise of a better tomorrow.

Or, my friends, we can act responsibly and get on with the implementation of the law of the land. We can vote against all provisions which back us away from our commitment to the full civil and human rights of all Americans.

The issue here today is not busing. As my colleague from Massachusetts pointed out, 55 percent of the school children in this country ride buses, and that has nothing to do with desegregation. Fifty-five percent ride buses every day. And only 4 percent of those are involved in any sort of desegregation plan. Four percent! The issue here is not busing. The issue is school desegregation, equal educational opportunity, and the basic justice of our society.

Will we have the strength and the foresight to get on with it? To see it through? Or will we just allow the present situation to drag on forever, destroying communities, crippling cities, turning neighbor against neighbor?

I am proud to be a member of this body, to call myself a Senator of the United States. There are many times when I have seen the members of this body put the interests of the Nation above rivalries, sectionalism and personal prejudice or ambition. This is one such moment, when all the world is watching. I hope we, too, shall rise to the occasion by passing Senator BROOKE's motion to strike section 208 from this bill.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment offered by the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Kentucky (Mr. FORD). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the

Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The result was announced—yeas 42, nays 51, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—42

Abourezk	Hathaway	Morgan
Anderson	Heinz	Moynihan
Bayh	Humphrey	Muskie
Bellmon	Inouye	Nelson
Brooke	Jackson	Packwood
Case	Javits	Pearson
Chafee	Kennedy	Pell
Church	Leahy	Percy
Clark	Mathias	Ribicoff
Cranston	Matsunaga	Schmitt
Culver	McGovern	Stafford
Glenn	Melcher	Stevenson
Hart	Metcalf	Weicker
Hatfield	Metzenbaum	Williams

NAYS—51

Allen	Goldwater	Randolph
Bentsen	Gravel	Riegle
Biden	Griffin	Roth
Bumpers	Hansen	Sarbanes
Burdick	Haskell	Sasser
Byrd, Harry F., Jr.	Hatch	Schweiker
Byrd, Robert C.	Hayakawa	Scott
Cannon	Helms	Sparkman
Chiles	Hollings	Stennis
Curtis	Huddleston	Stevens
Danforth	Johnston	Stone
DeConcini	Laxalt	Talmadge
Dole	Long	Tower
Domenici	Lugar	Wallop
Eagleton	Magnuson	Young
Eastland	McClure	Zorinsky
Garn	Nunn	
	Proxmire	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Durkin, for.

NOT VOTING—6

Baker	Ford	McIntyre
Bartlett	McClellan	Thurmond

So Mr. BROOKE's amendment was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 578

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) for himself, Mr. JAVITS, Mr. HUMPHREY, and Mr. MOYNIHAN proposes unprinted amendment No. 578.

On page 41, strike out lines 5 through 19 and insert in lieu thereof the following:

SEC. 208. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

The PRESIDING OFFICER. Time on this debate under previous order is limited to 40 minutes, 20 minutes on each side.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, if I may have the attention of my colleagues—Mr. President, may we have order?

The PRESIDING OFFICER. The Chair observes the Senate is not in order, and there is a time limitation on the amendment. Could we have the attention of the Senate?

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, though there is a time limitation of 40 minutes on this amendment, I wish to assure my colleagues that at least for the proponents of the amendment I will not take the 20 minutes which has been allotted to me.

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

Mr. BROOKE. I yield.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that my staff aide, Martha Rogers, be permitted the privilege of the floor during debate and vote.

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

Mr. JAVITS. Mr. President, will the Senator yield for a similar request?

Mr. BROOKE. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Don Zimmerman, of the Human Resources Committee staff, be accorded the privilege of the floor.

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

Mr. BROOKE. Mr. President, this is an amendment which is cosponsored by Senators JAVITS, HUMPHREY, MOYNIHAN, and others. This amendment, Mr. President, would merely restore the Byrd language of 1975. As many Senators who were here at that time will remember we had a lengthy debate before we finally came up with compromise amendment language which was introduced by the then majority whip, now distinguished majority leader.

In substance, Mr. President, this amendment would allow the desegregation remedies of restructuring, clustering, and pairing. And it is an amendment with which we have lived with very well for 2 years.

It is certainly less restrictive than the amendment that we just voted upon. It does not allow busing any more than the present state of affairs, as we have already indicated. But it would still allow HEW and school districts to fashion and to use a remedy which they need, namely, pairing, clustering, or restructuring.

I hope that Senators in their wisdom will agree to this amendment which, as I said, is the old Byrd language of 1975 and which we have lived with.

It does not go as far as I would like to see it go by any means. And it is rather strange that I should be the one offering this amendment when I fought against it initially. But we compromised and accepted it in 1975, and I present it at this time.

I now yield to the distinguished Senator from Minnesota (Mr. HUMPHREY).

Mr. HUMPHREY. Mr. President, the action which has been taken by this body in the previous vote for all practical purposes, may I say, destroys what we tried to do in the State of Minnesota.

We do not have, obviously, large numbers of what we call minority students, even though we do have them in Minneapolis and St. Paul.

We have really set a pattern for what we call clustering and pairing, as a way of improving educational opportunities, and we have been able to work out, without the benefit of court order, or however you wish to term it, a program of desegregation.

Of course, the issue here is not the issue of busing because most children are bused going to school, and we know that. My grandchildren are all bused. They go to school on buses.

In the entire county where I live we have busing that takes children from the little town where my home is to the next town, Howard Lake. We have busing that takes children from one community to another in order to give what we call a better advantage in education. But the issue is, of course, desegregation.

The amendment which is offered by the Senator from Massachusetts does exactly what we did do under very difficult and trying times a couple of years ago. We did not think it was the most desirable amendment at that time, but it was sure better than what is presently in legislation, and I am hopeful that the Senate will see fit to support us.

I believe that it will result in constructive efforts on the part of many of our communities.

It does protect the neighborhood school. It does give protection to methods that have been used in desegregation that are proven to be sound. And clustering and pairing have proven to be sound methods of desegregation and not only of desegregation but of quality education and of economics.

It boils right down to the issue of how do you give a child a good education experience? And we should do nothing here that will in any way interfere with that.

The amendment of the Senator from Massachusetts does not go all the way, as we would have said before, but it does go part of the way in terms of giving protection for desegregation or, I should say, some impetus to desegregation for quality education.

I thing that is the issue, and I hope it will be supported.

Mr. EAGLETON. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I am delighted that so many of our colleagues are in the Chamber. Hopefully we can put this in proper perspective.

Our colleague from Massachusetts stood up and spoke in regard to court-ordered busing. Let us get something straight: This has absolutely nothing to do with court-ordered busing. A court, with or without this amendment, can come along, find a constitutional violation, and order whatever remedy it may choose, including busing, if it desires. So let us understand, the issue has nothing to do with court-ordered busing, period.

Our colleague from Minnesota says, "Let us talk about the issue; the issue is desegregation."

That is not the issue. The issue is, can an administrative agency, the Depart-

ment of Health, Education, and Welfare, absent a finding by any court in this Nation—absent a finding, absent a court order, absent a court ruling that there is a constitutional violation—can an administrative agency make a determination that, in their judgment, there is in effect a constitutional violation; and that therefore, unless a school district or a series of school districts enter into a plan suggested by or sanctioned by HEW, that district or those districts will have their Federal funds withheld? That is the issue. Do Senators want to give that power to an administrative agency?

One of our colleagues, the distinguished Senator from Washington, said, "Joe, this is all right, but you have constitutional problems."

There is no constitutional problem. No one has suggested a constitutional problem. No court has ever mentioned the possibility of a constitutional problem. Even Drew Days, in his memorandum from the Attorney General's office to HEW, does not even venture to say there is any constitutional problem. So let us get that straight. We are not talking about a constitutional problem.

We are talking about a social policy and an administrative policy. You gentlemen have to decide whether or not you want HEW to make that decision. JOE BIDEN is not standing here and saying we should not have busing under any circumstances. If a court finds a violation, and decides the only remedy under the Constitution is busing, so be it. But that has nothing to do with what is happening here, nothing whatsoever.

Let me read from the memorandum from Drew Days to Mr. Califano regarding the Byrd amendment, which is what we want now to make the law. It says:

> The language of the Byrd amendment, unlike that of the original Biden amendment, does not clearly prohibit all HEW action to desegregate systems operating discriminatory plans of student assignment. Instead, the Byrd amendment limits transportation. The question presented herein arises because the act does not clearly say whether the transportation limitation—no student to be transported "to a school other than the school which is nearest the students' home and which offers the courses of study pursued by such student"—refers to the school nearest a student's home under a plan HEW determines to be discriminatory, or to the school nearest the student's home under a plan the school district submits to HEW as compliance with Title VI.

Mr. President, if that is not an exercise in sophistry, I do not know what is. They say, in this 17-page opinion, time and again, that "if the Biden language stood, we could not do this; we could not order busing. But the Biden language is unconstitutional."

No one has suggested, other than my opponents on this floor, one shred of evidence that that amendment was unconstitutional. Nor is this.

I say to the Senate, if you go back and say, "We are going to put the Byrd language in," you are saying that the amendment we just passed is out the window. That is all right, if that is what you want to do, but understand what you are doing. Do not dance around the issue. Do not pretend.

All of you knew, when you voted for the Byrd amendment last time, you thought you were voting to limit the right of HEW to order busing.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. Two more minutes, if I may.

Mr. EAGLETON. Two more minutes.

Mr. BIDEN. Well, I bet you, those of you who voted for that amendment, were surprised to find out it did not mean a darn thing, because of the interpretation of the legislative record written by a very ingenious, very bright, and very dedicated lawyer who heads up the Civil Rights Division. I do not have time to read it all to you, but I hope you will read, before or after you vote, the 17-page opinion I put in the RECORD of Drew Days. It is beautiful. It is absolutely beautiful. If I ever get arrested, I want him to represent me.

He points out in here time and again, in paragraph after paragraph, that if the original language were sustained, they could not do what they are contemplating. But he admits that because of a procedural necessity precluding BIDEN from amending his own amendment, we had to put in the Byrd amendment, and the Byrd amendment did not have attached to it enough legislative history on the Senate floor, even though we all here thought we knew what it meant; we all thought it meant exactly what BIDEN was trying to do in the Biden amendment.

So understand, fellows, if you vote for this little old Byrd amendment, you are saying HEW can make constitutional determinations on their own, absent a court order, and bus students at their discretion. Not a court. Nothing to do with the courts; not a single thing.

Mr. HUMPHREY. Mr. President, will the Senator from Massachusetts yield me about 5 minutes?

Mr. BROOKE. I yield the Senator from Minnesota 5 minutes.

Mr. HUMPHREY. Mr. President, I had not even planned to get involved in this argument.

Mr. BIDEN. I wish you had not.

Mr. HUMPHREY. But I want to say this: each of us, in our own way, tries to promote what he believes is right.

Of course, the distinguished Senator from Delaware has given a great deal of attention to this question, as has the Senator from Missouri. But I know what the language in the bill as it now stands does to my State, and I tell you we have less school trouble there than most States. We have clustered and paired, and it saves money and gives more education to our kids.

That is denied under the existing legislation, as it now stands. I also know that the language of the amendment before us by the Senator from Massachusetts permits HEW to work with school boards and school districts, to work out a suitable plan, using alternatives that have proven effective.

There is not any way that you are going to make this easy. I say to the Senate that there will be enough court cases under the language of the bill that we will have more court ordered busing than we ever dreamed possible. We will have citizens coming in demanding that their constitutional rights be obtained and maintained. When you deny pairing and clustering, which is a way of operating schools for higher quality education, you are going to have lawsuits, and you are going to put the courts more and more into what we call forced desegregation.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I happen to believe it is better to take the language that the Senator from Massachusetts has suggested, which is clear, and we can make the language clearer here by legislative history.

It says:

> None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, and which offers the courses of study pursued by such student, in order to comply with title VI of the Civil Rights Act of 1964.

It does deny the use of funds for busing for desegregation purposes, but it does not deny the use of funds for clustering and pairing. It does preserve the neighborhood schools.

We did this once, and I think that with an administration that wants to make this work, we can have a sensible, reasonable application of the law.

Mr. BIDEN. Will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. BIDEN. Does the Senator understand that this does not preclude pairing and clustering of schools? There is nothing in the present language of the amendment we just agreed to which prevents pairing or clustering.

Further, does the Senator understand that the interpretation given by the Justice Department was that they can bus beyond the physically nearest school? Really, what we are talking about here, according to HEW, is their determination of what the nearest school is. It is not physically the nearest school. It is that sophistry I referred to.

I refer Senators to this decision. It clearly does allow busing.

If Senators in fact vote for this amendment, clearly the present amendment does not preclude pairing or clustering

Mr. HUMPHREY. That is not what the Civil Rights Commission says at all. I have a letter here from the Civil Rights Commission, which the Senator from Massachusetts undoubtedly has placed in the RECORD, which says, speaking of the Eagleton-Biden amendment:

> For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structures of the school, the pairing of schools or the clustering of schools or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

That is the only one.

Mr. BIDEN. With all due respect, they are dead wrong. They have not read the decision or the memorandum from the Justice Department justifying the abrogation of the intent of the Byrd amendment. I just wish for once in this body we

would read and know what is at stake. Has anybody, besides the Senator from Massachusetts, the Senator from Missouri, and the Senator from Delaware, read the decision which brought on this whole fuss? Just read it. It is clear.

Mr. EAGLETON. Mr. President, I yield myself such time as I may need, and it will be brief, after which, unless some other Senator desires to speak, I will move to table the Brooke amendment. In so doing, I do not want to foreclose any other colleague who may wish to address himself to this point. I shall be brief.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. The Senator from Delaware is absolutely correct. The reason that Senator BROOKE from Massachusetts is for the Byrd amendment tonight, in 1977, is the fact that HEW Secretary Califano and the Justice Department just a few days ago said the Byrd amendment did not mean a darn thing. Naturally, since it does not mean anything, the Senator from Massachusetts is for it.

The Senator from Minnesota, my beloved colleague (Mr. HUMPHREY) reads from it, all of its glowing words, and says this is reasonable, this is a compromise.

The only problem is Secretary Califano and Attorney General Griffin Bell said, "It ain't worth the paper it is written on."

So what Senators BROOKE and HUMPHREY would have us do is to vote into the bill language that HEW has already read off the map.

I cannot help but reminisce, since the Senator from Minnesota has addressed himself to this issue, back to March 23, 1964, when the authorization bill that created title VI was before the body. It was being managed by the Senator from Minnesota, who was under heavy attack as to what did this section mean, title VI, which gives HEW the right, unilaterally, without a court order, to go into Kansas City and say, "We want you to bus there," and next to go into Chicago, with 70 percent black, and say they want intracity busing there. They cannot bus to the suburbs. That was reaffirmed yesterday. They want all the busing in Chicago and then later on in Philadelphia.

Senator HUMPHREY was under heavy attack then. This is what he said he thought the title would do:

> QUESTION. Will the bill force some children to ride buses to schools outside their own neighborhood?
>
> ANSWER. No. The bill specifically rules out Federal action to require racial balance in schools. The original draft of the civil rights bill did authorize the Federal Government to get involved in efforts to 'adjust racial imbalance in public school systems caused by neighborhood housing patterns or so-called de facto segregation.' But this authority was removed by the House Judiciary Committee. An amendment was later added on the House floor clearly banning Federal action in this field.

That is what the floor manager of the bill said that bill did back in 1964.

> QUESTION. Will the bill force some children to ride buses to schools outside their own neighborhood?

Answer by Senator HUMPHREY: "No"

Ever since 1964, HEW has been going into school systems, most recently Kansas City, and saying,

> We hereby tell you, we have a social security hearing examiner who has just had a little old hearing and he says there is a little old segregation around here, this social security hearing examiner.

That is what happened in Kansas City.

> We now order you to bus in a racially imbalanced school system that is already 68 percent minority. Don't bus out to the suburbs because you cannot do that, but bus in that city.

And in Senator STEVENSON's home city, Chicago, 70 percent; Senator SCHWEIKER's, 62 percent, they are going to order intradistrict busing without a court order. Incredible? HUMPHREY said in 1964 it could not happen.

Mr. HUMPHREY. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. HUMPHREY. First of all, the amendment in which I have joined with the Senator from Massachusetts says exactly that. It says no funds in this act shall be used to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home. That is No. 1.

Second, it was not the administration which made the interpretation of title VI. It was the court. The court made a different interpretation of title VI than did Senator HUMPHREY, who was managing the bill.

Mr. EAGLETON. That being the case, I know of no Humphrey amendment which has been offered to any subsequent legislation on civil rights which sought to redress the erroneous interpretation by the courts. We are not talking about the Constitution. Senator BIDEN has made that clear. If there is an equal protection clause violation, there is a remedy. The Civil Rights Division can go into the Department of Justice and seek it. HEW can seek it. Aggrieved parents and schoolchildren can seek redress in Federal district courts for constitutional violations. Senator BIDEN and I do not tamper with that and do not want to. All we are talking about is a unilateral, in-house, bureaucratic, HEW administrative order which orders busing, because they force them to. If they do not bus, they take away all of their Federal funds, impact aid, title I, just name it. "We take it away."

Mr. HUMPHREY. First of all, may I say the Senator from Minnesota has voted for the title VI clarification as I thought it was. That is No. 1.

No. 2, like the Senator from Missouri, I have to abide by the court's decision.

No. 3, HEW, properly used, can be a help in bringing about programs of desegregation. Improperly used, like any agency of Government, it can violate the purpose and intent of the law. All I happen to believe is that HEW, with careful administration, can help a school district get a program which is workable. I do not think we ought to leave all this in the hands of a judge who thinks somehow or other he can order anything he wants to. I think it is a whole lot better, in most instances, to have the kind of reasonable consultation and the agreements which can be worked out on a voluntary basis. Lord only knows, none of them are going to be very desirable when we have population ratios of minority population such as we have today in these major cities.

Mr. EAGLETON. Will the Senator yield for a question? He asked me a question. Let me ask him a question. Let us forget Kansas City because that is my hometown. I do not have Minneapolis on this chart. Let us pick another city. Let us take Chicago. The Chicago school system at the present time is 70-percent minority. Under the recent Supreme Court opinions, including the two yesterday, they cannot bus from the Chicago city school districts to Evanston or the suburbs.

Mr. HUMPHREY. That is correct.

Mr. EAGLETON. Yes; is there any way under the sun that a system that is already 70-percent minority can be racially balanced or can be integrated?

Mr. HUMPHREY. No. I think the Senator is right. Let me say this: There is a way by clustering and pairing that they can provide better education. While I know the Senator from Delaware disagrees with my interpretation of the amendment, may I say that the Civil Rights Commission and its lawyers do not disagree with it. Just as the Senator is opening up a Pandora's box in one issue, he is opening it up in another.

Mr. EAGLETON. I yield 1 minute to my colleague from Delaware and then I will move to table the amendment.

Mr. BIDEN. Does the Senator from Minnesota and do the other Senators in this Chamber understand that the Justice Department of the United States of America, in conjunction with the Department of Health, Education, and Welfare, said that the amendment which is being proposed, which Senator HUMPHREY is cosponsoring, does not mean anything? Do Senators understand that?

In that 17-page opinion, the Justice Department said, in giving advice to the Department of Health, Education, and Welfare—

> As we read the Byrd amendment, do not worry about it, fellows; go ahead and do it. Nothing is really changed.

It is just so Senators understand that. That judgment has been made.

Mr. HUMPHREY. By whom?

Mr. BIDEN. By the only people who can make it. By the Justice Department and the agency that exercises this power, HEW. They decided to ignore Byrd, period. That is hard to do. But they have decided to do it.

Now, if we write back into the law the Byrd amendment, we are saying, "Right, HEW, you were right, ignore it. It doesn't mean a thing. It doesn't restrict you. Go ahead."

That is what they said.

Mr. SCOTT. Will the Senator yield?

Mr. EAGLETON. I yield 1 minute to the Senator from Virginia.

Mr. SCOTT. Mr. President, I am willing to support the motion to table by the Senator from Missouri. But I believe that, with the overwhelming majority of the American people being opposed to racial busing, we are not going to solve

the matter by any amendment to an appropriation bill. We are going to have to address this matter directly by a law that is valid, or by an amendment to the Constitution. I hope the Committee on the Judiciary will address itself to this problem.

The PRESIDING OFFICER. Who yields time?

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

Mr. BROOKE. Mr. President, I would just like to say that I disagree with what the Senator from Missouri and what the Senator from Delaware have said. Lawyers do disagree. We disagree on the interpretation of what the Byrd language does. But I think Senator HUMPHREY was absolutely correct when he said that all we are concerned with in the Byrd language is that HEW has the right to use the remedy of pairing and clustering.

Under the present law, we have that right, because the Byrd language is the law at the present time. If the Senate position that was taken on the vote on the Eagleton-Biden language is confirmed, the law would change and we would deny HEW the right to use clustering and pairing. So we would remove two remedies—no, three, because the remedy of restructuring would also be removed. We would lose three remedies presently available to HEW which they could use without resorting to court-ordered busing.

Court-ordered busing is something that many of you here who have voted today indicate you do not want. If you do not want it, then do not deprive HEW of the only other means they have of remedying the situation by resorting to the remedies of pairing, restructuring, and clustering.

That is very simple. That is what we are talking about and no more. If we do not adopt the Byrd language, then we are forcing more court-ordered busing, because we have removed alternative remedies.

I cannot understand how Senator EAGLETON and Senator BIDEN do not make this clear to their proponents, because that is what they are talking about. If you are against court-ordered busing, then you do not want to deny these alternative remedies to HEW.

That is important. All three of these remedies are important. As the Senator from Minnesota said, it has worked very well in his State. It has worked elsewhere successfully, across the country. Now we are saying to HEW, "You cannot do that any more."

They both agreed that nothing in this bill is going to stop court-ordered busing, because that is the law. The Supreme Court has said it, time and time again. They are not going to stop court-ordered busing where they find a constitutional wrong. They are going to use that remedy.

What we are doing if we do not vote for the Byrd amendment is narrowing the remedies. In fact, we are restricting it to one and we are restricting it to the one remedy that many of you do not want, and that is court-ordered busing.

So I ask the Senate to vote for the Byrd amendment, just as you did before, because that is what you have ordered, despite what the Senator from Delaware has said.

I am pleased to yield to the Senator from Illinois.

Mr. PERCY. I shall take just a moment.

The Senator from Minnesota has said that the amendment the Senator from Massachusetts is offering would work better in Minnesota. I can speak only for myself and for the good of my State. Busing is no more popular there than any place else. But, speaking on their behalf, certainly, as I understand the needs of our constituency, this amendment would serve their needs better. That is why I support it.

I ask unanimous consent that Lawrence Grisham of my staff may be accorded the privilege of the floor.

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

Mr. BROOKE. I am sure the Senator from Illinois realizes that busing is not popular in my city of Boston. I am sure he realizes that. I am not suggesting that we have to resort to busing, but I do suggest that if we do not pass the Byrd language, we shall have to have more court-ordered busing in this country.

I again want to correct the Senator from Delaware when he says HEW-ordered busing. HEW does not order busing, cannot order busing, and I do not believe it should ever be given the authority to order busing. All HEW can do is act in accordance with the law as we pass that law. That law does not give them any authority to order busing. They can withhold funds where they find a constitutional wrong and, as I pointed out earlier, they have only done it in one instance in the history of the United States. So that cannot be the fear.

All I can understand from the opponents of this language is that they do not want the remedies of pairing, restructuring, and clustering. So I hope that the Senate will vote for this amendment.

Mr. BIDEN. Mr. President, does the opposition have any time?

Mr. EAGLETON. I yield the Senator 1 minute.

Mr. BIDEN. Gentlemen, it is true that HEW cannot order busing if you take it literally. But how many of you think the threat of withholding all funds to your district unless they bus is any different than ordering busing?

Mr. BROOKE. Unless they desegregate. Then they have a right of appeal to the courts, as the Senator knows.

Mr. BIDEN. Right. And as the Senator points out, HEW determines a constitutional violation.

Mr. EAGLETON. Let me interrupt my colleague. It is the social security hearing examiner—that is literally true. That is who they called in: a beloved, archaic social security hearing examiner, who came hot off the trail of widows' benefits and sat down there and said, "Now, look, I find something wrong with the racial balance in this school district." A social security hearing examiner said, "Then you lose all your money if you don't bus."

It happens to be true.

Mr. HUMPHREY. I say to the Senator, grandfathers and grandmothers love children. That is why they love that social security examiner.

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

I move to lay on the table the Brooke-Humphrey amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LEAHY). Until the time of the Senator from Massachusetts has been yielded back, the motion is not in order.

Mr. BROOKE. I yield back the remainder of my time, unless the Senator from New York wants time.

Mr. MOYNIHAN. No, Mr. President.

Mr. BROOKE. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Missouri renew his motion?

Mr. EAGLETON. Yes, Mr. President, I move to lay the amendment on the table. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the Brooke amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Louisiana (Mr. LONG) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 47, nays 43, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—47

Allen	Eastland	Randolph
Bentsen	Garn	Riegle
Biden	Goldwater	Roth
Bumpers	Griffin	Sarbanes
Burdick	Hansen	Sasser
Byrd, Harry F., Jr.	Haskell	Schmitt
Byrd, Robert C.	Hatch	Schweiker
Cannon	Hayakawa	Scott
Chiles	Helms	Sparkman
Curtis	Hollings	Stennis
Danforth	Huddleston	Stone
DeConcini	Laxalt	Talmadge
Dole	Lugar	Tower
Domenici	McClure	Wallop
Eagleton	Nunn	Young
	Proxmire	Zorinsky

NAYS—43

Abourezk	Hathaway	Moynihan
Anderson	Heinz	Muskie
Bayh	Humphrey	Nelson
Bellmon	Inouye	Packwood
Brooke	Jackson	Pearson
Case	Javits	Pell
Chafee	Kennedy	Percy
Church	Leahy	Ribicoff
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	Matsunaga	Stevenson
Durkin	Melcher	Weicker
Glenn	Metcalf	Williams
Hart	Metzenbaum	
Hatfield	Morgan	

NOT VOTING—10

Baker	Johnston	McIntyre
Bartlett	Long	Thurmond
Ford	McClellan	
Gravel	McGovern	

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 575

The PRESIDING OFFICER. The question recurs on unprinted amendment No. 575, offered by the Senator from Idaho (Mr. McCLURE). There are 30 minutes, equally divided.

Who yields time?

Mr. MAGNUSON. Mr. President, for the information of the Senate, we are going to continue for a short while. How long this will take, I do not know. However, after the amendment of the Senator from Idaho, we will have an abortion amendment. I do not know how long that will take. No time limit has been placed on it.

So I think we should proceed, if the majority leader agrees, with the Senator's amendments; then we have, as I said earlier, a few legitimate amendments to this bill. [Laughter.]

Those amendments deal with appropriations and money and will not take too long. Those are the amendments I am more interested in than some of the others that do not belong on the bill at all.

Mr. PACKWOOD. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. PACKWOOD. The Senator mentioned the abortion amendment. I have talked to the majority leader. I do not expect, so far as I am concerned, that this will be a lengthy amendment. I want to make opening remarks, and after that I think I would accept a time limit.

I do not speak for any other Senators. This is an issue that has been discussed over the years, and I do not think it will take us into the early hours of the morning.

Mr. ROBERT C. BYRD. I suggest that we proceed with the McClure amendment, and then let us see if we can work out an arrangement on the other matter in the meantime.

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

Mr. ROBERT C. BYRD. I yield.

Mr. BAYH. I hope the leadership in the Senate is not under the impression that there is only one amendment on abortion.

Mr. ROBERT C. BYRD. The leadership understands that.

Mr. BAYH. If the Senator from Oregon succeeds, I think there would be only one. If that is not the case, I imagine there would be others.

Mr. ROBERT C. BYRD. I understand.

Mr. McCLURE. Mr. President, the amendment I have offered, which was read by the clerk earlier, is now before the Senate for disposition. It is a very simple amendment. It can be described in a very few words.

Nearly 2 years ago, the President issued an Executive order concerning inflation impact statements. That executive order was later amended to require an economic impact statement on OSHA regulations as they were promulgated. The Department has been making those economic evaluations, and it has been helpful to the Department of Labor in making the regulations to determine what the economic impact is. As a matter of fact, it has led to the choice of alternatives that do nearly as much for the safety of the worker but with a much smaller economic impact.

Mr. SCOTT. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCLURE. I thank the Chair, and I thank my colleague from Virginia.

This amendment simply says that the Executive order must be complied with and that the economic impact statement now required by the Executive order and now being complied with by the Department will continue to be complied with.

Mr. President, there is no point in going through a long, sad litany of the excesses of OSHA in the kind of regulations they have issued. We have gone up and down that hill far too often.

But let me just remind the Senate that this amendment is precise language that was adopted on the floor of the House and was in the House bill when it came to the Senate.

All I seek to do is to restore the language which the House, in its wisdom, adopted, and which the committees sought to drop by the action on this bill within the committee.

I think it is important for us to look not just at what OSHA does, but also at the entire burden of regulation.

This new administration has indicated they are going to turn OSHA around, that they are going to stop the nitpicking tactics that so characterized it in past years, and have them concentrate on the really meaningful and really important actions that can be taken to enhance worker safety, and I think we all applaud that action on the part of the administration.

At the same time, I think it would be incredible that this administration, which has so pledged itself to reduce the regulatory burden, to reduce the paperwork burden upon businesses, to have the kind of openness which has characterized the Carter administration to this point, saying, "Now we are not any longer going to look at the economic cost of the regulations that are being promulgated in this agency and by this agency."

It seems to me, Mr. President, we ought to begin to translate into concrete action in this body what we have given lip service to upon many, many occasions in terms of reducing the burden of Government and make it work more efficiently.

A study by OMB showed that the total cost of regulation to the U.S. economy may be as much as $130 billion. That is 8.1 percent of gross national product for the calendar year just finished.

The Federal Paperwork Commission has estimated that Federal paperwork alone is $40 billion in cost. A study by Dow Chemical Co. covering an average size division showed the cost of compliance with Federal regulations had risen from $164,000 in 1970 to $1.5 million in 1975, in just 5 years. That is 13 percent of their corporate budget.

Eli Lilly Co. has estimated they fill out 27,000 forms each year, and I suspect every Member of this body has at one time or another talked to someone of their constituents, as I did, who said, "I am going to pay a $500 fine rather than fill out that form because that form is going to cost me more than the $500 fine just to fill it out."

I asked the man why he was willing to expose himself to that kind of penalty, and he said, "That form is 63 feet long." And I said, "You have to be kidding." And he said, "I am not." And he got that form and strung it around the office, so I could see a Federal form, as he indicated, 63 feet long.

All I am asking in this particular instance is to do what is already being done, to write into this particular appropriation measure the requirement that the Department of Labor and OSHA comply with the Executive Order which is now in effect and with which they are now complying.

I had hoped the managers of the bill might see fit to accept this amendment. The Senator from Massachusetts indicated he could not accept it, that he wanted to discuss it. I suggest that, perhaps, he might wish to discuss it.

I would be prepared to yield 5 minutes to the Senator from New Mexico who has taken a very strong lead in the field of regulatory reform.

Mr. SCHMITT. I thank the Senator from Idaho. I will not require 5 minutes.

I do want to be sure that he knows he has my very sincere support in this amendment. I had planned to offer the same identical amendment myself, but I defer to his greater experience on this subject, and on many others.

I think it is important that the Senate and the Congress, as a whole, realize that the idea of economic impact analysis is an idea whose time has come; that in calling upon the officials of OSHA to use their experience and background to evaluate the impact of their actions before these actions are taken, we are only doing what I think is purely rational and that is certainly what the people of this country would ask us to do.

I hope this same concept is applied to an increasing degree throughout the Government. We have attempted in other forums and in the committee to

apply it to various agencies and departments, sometimes successfully and sometimes not, but I do believe it will be the order of the day for the U.S. Government before too many months or years have passed.

Economic impact analysis which, of course, would include the analysis of the amount of paperwork required to comply with Federal regulations is something that we in Congress can, I think, use very effectively to determine whether certain rules or regulations are really reaching to the heart of the problem that we treat in legislation.

So I wish to commend the Senator from Idaho for his initiative in this area. He certainly has my support, and I hope he has the support of all of our colleagues.

Mr. McCLURE. Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 15 minutes for debate, not to exceed 15 minutes, at which time the vote occur.

Mr. McCLURE. Reserving the right to object, and I shall not object, the opponents of the amendment have 15 minutes remaining, and I assume they can use all of it. Under the unanimous-consent request I would hope I would have 5 of that.

Mr. BROOKE. I do not think we would need that 15 minutes.

Mr. MAGNUSON. Mr. President, the Senator from Kansas asked me earlier about this. He has an amendment. The Senator from New York wants to talk on this.

Mr. ROBERT C. BYRD. On the McClure amendment?

Mr. MAGNUSON. Yes.

Mr. DOLE. Mine is a little different.

Mr. MAGNUSON. The Senator from New Jersey would like to make a statement, and I think we ought to say something on it.

Mr. CURTIS. I thought the Senator already had 30 minutes.

Mr. ROBERT C. BYRD. Half of that is gone.

Mr. MAGNUSON. Is the Senator from Idaho through?

Mr. McCLURE. Yes, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, for the benefit of the Senate, the amendment that the Senator from Idaho is talking about was adopted in the House by a voice vote, and it prohibits the use of OSHA funds to issue safety and health standards unless accompanied by economic impact statements.

In the last year both the House and Senate Appropriations Committees cut President Ford's request for economic impact statements, and these cuts were retained in conference and in the final enacted bill for various good reasons.

Now the Executive order requiring economic impact statements issued by President Ford in 1976 is being reviewed after Congress had turned down the idea, reviewed by the Carter administration, pending a final decision by the new administration, and I would think this language would tie the hands of the President and it should not come into the bill.

The language has nothing to do again with appropriation levels and should be considered by an authorizing committee. Here we go again. I do not think this matter has been presented to the authorizing committee this session, but they want to bring it in on an appropriations bill.

The Secretary of Labor has indicated that economic impact statements would impose a burden unnecessarily slowing down the development of health and safety standards.

Last year's Senate report said the same thing. Economic impact statements require cost-benefit studies, and no one yet has shown how the value of human life can be priced out in evaluating benefits of OSHA. That is the trouble with the amendment to begin with.

I wish people who have these kinds of amendments would go up to the committee and present their case and have a hearing on it. But it is an amendment that the House did put in by a voice vote. There was no—I do not think in the House, I have looked at the testimony quite carefully, and I do not recall that there was any—testimony before the House Appropriations Committee on this particular matter. There may be, but I doubt it.

Does anybody else want to speak?

Mr. DOLE. I have a little different amendment.

Mr. MAGNUSON. I yield to the chairman of the committee such time as he wishes.

Mr. WILLIAMS. Mr. President, I certainly want to join the chairman of the subcommittee and ranking member in opposition to this amendment. We know the frustration Members have had with the Occupational Safety and Health Administration. That frustration and annoyance has been expressed in many ways, and this has been a traditional way—cutting off appropriated money for certain activities.

In this case, however, to require an economic impact statement under law I think would be very unwise—unwise for the working people of this country, because their health and their safety requires standards that employers can understand and which will provide them with the guidance they need to run their business and protect their workers.

This amendment, of course, does not deny standards, but it does require under law an impact statement that we know can delay inordinately the food promulgation of regulations necessary to literally save lives.

Let me tell you about one proposal which comes under the Executive order that is in progress right now. It is a proposal to revise the current standard on asbestos. Asbestos exposure at certain levels can cause a number of diseases which can kill the worker who is exposed to asbestos.

The first of these is the scaring of the lung, and this is called asbestosis. The second asbestos-related disease is cancer of the lung. If the worker manages to escape these, there is still a type of cancer then he might get which is the most insidious kind of cancer, and that is mesothelioma, a very rare thing that only happens to people exposed to asbestos. This is cancer of the lining of the lung cavity.

Right now OSHA is in about the 15th month of evaluating the economic impact statement on the revised asbestos standard, and the standard has not been promulgated yet. And we do not know how many thousands of workers there are out there exposed to asbestos, but every day their risk increases. This is what we get into with these economic impact statements.

The Executive order is there. If the President is going to change it, I would think that there are certain impact statements that he could require which would not inordinately delay the protection, safety, and health of the American worker.

Certainly an economic impact statement on one of these awful disease creating agents, slowing up the final promulgation of a regulation almost forever in terms of the lives of some of the workers, is a cruel, cruel thing to have imposed on people who are living with this kind of risk.

Therefore, I think this is the wrong way to try to correct some of the frustrations we have with OSHA.

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

Mr. WILLIAMS. I am happy to yield.

Mr. JAVITS. Mr. President, I am the ranking member of the same committee. We defeated an amendment exactly like this on the mine safety bill right here in the Senate just the other day 57 to 29.

The reason is the delay and the danger of collateral attack when you have an impact statement and a matter which involves life and death and the body of an individual worker.

Let me give the Senate some examples of the delay. In fixing a standard respecting inorganic arsenic because of the need for the impact statement 17 months lapsed before the standard could be fixed. And my colleague spoke of asbestos. They have not set a standard yet. They have been going 10 months on that. Carbon monoxide, 15 months, and they have not yet set standards, and so on.

The facts are contained in a report to Congress by the Comptroller General of the United States entitled "Delays in Setting Work Place Standards for Cancer-Causing and Other Dangerous Substances, May 10, 1977."

Mr. President, I think these responses are exactly directed toward the defeat of this amendment because of the purpose of the law which does not brook these delays, and that is why the whole Executive order is being reviewed as it must because it has worked out counterproductively for the purpose of the basic law itself in the most serious industrial illnesses that we know, those I have just mentioned and those described by my colleague from New Jersey.

I hope the Senate, therefore, will reject this amendment.

Mr. BROOKE. Mr. President, I thank the Senator.

If the Senator from Idaho will, we will yield back the remainder of my time.

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

Mr. McCLURE. I am happy to yield briefly to the Senator from Virginia.

Mr. SCOTT. Mr. President, of course, I shall be brief.

I listened to the distinguished Senator from New Jersey (Mr. WILLIAMS) about the adverse effect of asbestos, and certainly I am no scientist, but I do not know how some of us lived to be the age that we are today.

I remember my own home in a small community. We had enough rooms, perhaps a dozen, but we had gas fireplaces in each room. We had chimneys in each room, and we had these gas burners, and on the back, to make the fire come out into the room, we had some sort of a board, fireproof board, and asbestos, in every room of the house.

I am not aware that anyone within my family was hurt by that asbestos, and I wonder if each of us would recall some of these things in our own lives, and I just wonder how people lived before the Government got into the business of regulating their lives.

I think that is what the distinguished Senator from Idaho intends to bring to our attention, to make us think a little bit about all these environmental impact statements and he is just saying that we should have an economic impact statement.

He is not saying we should have a lot of paperwork. In fact he says no more paperwork, just a statement as to the economic cost.

We have gotten along pretty well for several hundred years without the Government attempting to run the lives of the individual citizen.

I appreciate the Senator yielding.

Mr. McCLURE. Mr. President, I thank my colleague.

Let me just respond to the Senators who have been arguing in opposition to the amendment.

Before I do that, Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLURE. First of all, it is stated that the economic impact statement money was cut, but actually, as a matter of fact, this amendment will cost nothing more than is being spent now because they are already doing it. It is not a question of asking them to do something they are not now doing. They are doing it now.

The Council on Wage and Price Stability, as a matter of fact, issued recent requests to OSHA to review what they are doing because of economic impact, to take a look at what the economic impact is.

What is so wrong with knowing what it is going to cost? What is so wrong about knowing in advance what the alternatives are to be fully informed on the alternatives before the regulation is issued?

It has been suggested that these Senators who are opposed to my amendment are concerned with health, and I assume that in raising the possibility of cancer it is implied that if this amendment is passed more people are going to get cancer.

What is OSHA actually doing? They are coming out with things like we had last year saying manure is slippery when it is wet. They are saying things like, and I shall quote from some of their regulations now:

All employees shall be instructed that danger signs indicate immediate danger.

What in heaven's name is a danger sign supposed to mean? Why do we have to have regulations issued requiring that kind of instruction to the employee?

All employees shall be instructed that caution signs indicate a possible hazard.

Is that not amazing? We have to have someone going around telling people that caution signs mean caution.

And that is not said just once; it is said two different places. Both of those require separate instructions of employees.

The driver shall be required to look in the direction and keep a clear view of the path of travel.

We have to have the OSHA inspector telling us that?

Stunt driving and horseplay shall not be permitted.

It is as though in the absence of that kind of regulation that will be permitted.

What kind of nonsense are we involved in?

The Senator from New Jersey says it is cancer we are worrying about. But it is this kind of regulation we are getting.

Why do we not have some economic impact statements that will make OSHA concentrate its efforts on the real hazards to the health and the welfare of the worker rather than fooling around with this kind of nonsense?

Do Senators know what they say about flush toilets?

Flushing shall be accomplished by a single control so arranged as to be operated without special knowledge or effort.

[Laughter.]

For heaven's sake, what are we involved in here?

Then I am told that we should not be asking to know what the cost is before that kind of regulation is issued.

No employee shall be allowed to consume food or beverages in the toilet room.

And on and on and on.

That seems to justify the action.

I hope the amendment will be agreed to.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

Mr. BROOKE. Mr. President, I want to say just one thing, and then yield back the time.

The Senator has talked about massive paperwork. What he is proposing in this amendment would be monumental paperwork; is that not true?

Mr. JAVITS. Exactly right; and that is why all these delays. Why do you think it takes 17 months to get a standard for arsenic poison? Because this impact statement business bogs down the works.

Mr. WILLIAMS. Mr. President, will the Senator from Massachusetts yield for one observation?

Mr. BROOKE. One observation.

Mr. WILLIAMS. I oppose this proposal, although I recognize there have been a lot of nitpicking regulations.

We are talking about those standards we absolutely need, as a matter of life and death. There is an economic impact statement that would make a lot of sense to me: What the economic impact is when there is not a standard, and one of these toxic materials becomes a problem in industry. Kepone, for example; just what has been the economic cost of no standard dealing with kepone? Those are the kinds of questions we should be asking.

Mr. JAVITS. If the Senator will yield for one other fact, that is that the economic impact statements called for by this amendment are for major matters. They do not even deal with nitpicking.

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

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, it is obvious that the Senate cannot complete its work on this bill tonight without staying past midnight. I ask unanimous consent that upon the disposition of the amendment of Mr. McCLURE, there be 1 hour on the amendment by Mr. PACKWOOD. Mr. PACKWOOD wants a vote tonight on his amendment. He is agreeable to a 1-hour limitation on it.

I ask unanimous consent that upon the disposition of that amendment, the Senate go into morning business, and that the work on this bill continue tomorrow, in this fashion:

That tomorrow morning the Senate proceed to the consideration of the Agriculture appropriation bill, upon which there is a time agreement;

That upon the disposition of that bill, the Senate proceed to the consideration of the Military Construction bill, upon which there is a time agreement; and

That upon the disposition of that bill, the Senate resume the consideration of the HEW appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, may I ask a question? It was our understanding here that amendments were going to be offered to the Packwood amendment, and that therefore a final vote on Packwood could not be had unless we stayed in session.

Mr. ROBERT C. BYRD. I knew nothing about amendments to the Packwood amendment.

Mr. MAGNUSON. Oh, yes.

Mr. BROOKE. Amendments to Packwood?

Mr. JAVITS. Amendments to Packwood, that is right.

Mr. BROOKE. If the Packwood amendment failed, of course, the bill would be open to further amendment.

Mr. JAVITS. I understand; but in the absence of the Senator from North Carolina or the Senator from Indiana—oh, there he is; perhaps he can reply.

Mr. BAYH. A little bit late, apparently.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana, however attired.

Mr. BAYH. I say to my friend from New York, I think I have already been highly recognized. Will the majority leader permit a question to be addressed to whomever it might be appropriate?

Mr. ROBERT C. BYRD. Yes.

Mr. BAYH. I had understood there was going to be an amendment to the Packwood amendment, but have since learned that perhaps it will be up or down on Packwood, and then do your piece later on.

The Senator from North Carolina, I understood, might have an amendment.

Mr. PACKWOOD. I did not hear what the Senator from Indiana said.

Mr. BAYH. I think the Senator from New York raised a very good question as far as time limits for the disposition of this matter are concerned. If it is going to be up or down on the amendment of the Senator from Oregon, that can be disposed of in an hour; but if the Senator from North Carolina and others have a different view, I think it would take perhaps a good deal longer.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 more minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I knew nothing about amendments to the Packwood amendment. I thought that was all we were talking about.

Why do we not proceed with the vote on the McClure amendment, and during the rollcall perhaps we can work something out.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from Washington is correct. The Chamber is not in order. The Chair asks Senators to cooperate in maintaining order.

The Senate is still not in order. The point of the Senator from Washington is still well taken. The Senate is not in order.

The clerk may proceed.

The second assistant legislative clerk resumed the call of the roll.

Mr. MAGNUSON. Mr. President, may we have order so we can hear the voting?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Senators will please cease their conversations. The clerk is unable to hear the responses.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BARTLETT) is absent due to illness.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 41, nays 47, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—41

Allen	Eastland	Packwood
Bellmon	Garn	Pearson
Bentsen	Goldwater	Roth
Byrd, Harry F., Jr.	Hansen	Schmitt
	Hatch	Scott
Cannon	Hatfield	Sparkman
Chafee	Hayakawa	Stafford
Chiles	Heinz	Stennis
Church	Helms	Stevens
Curtis	Laxalt	Talmadge
Danforth	Lugar	Tower
DeConcini	McClure	Wallop
Dole	Morgan	Young
Domenici	Nunn	Zorinsky

NAYS—47

Abourezk	Haskell	Metzenbaum
Anderson	Hathaway	Moynihan
Bayh	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Humphrey	Pell
Bumpers	Inouye	Proxmire
Burdick	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Case	Kennedy	Riegle
Clark	Leahy	Sarbanes
Cranston	Magnuson	Sasser
Culver	Mathias	Schweiker
Durkin	Matsunaga	Stevenson
Eagleton	McIntyre	Stone
Glenn	Melcher	Williams
Hart	Metcalf	

NOT VOTING—12

Baker	Griffin	McGovern
Bartlett	Johnston	Percy
Ford	Long	Thurmond
Gravel	McClellan	Weicker

So the amendment was rejected.

Mr. BROOKE. I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MUSKIE). The Senator from West Virginia.

ORDER FOR RECESS UNTIL 9 A.M. AND SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Oregon (Mr. PACKWOOD) wanted very much to have a vote on his amendment tonight. In view of the fact that the Senate has now been on this bill today since 10 a.m., and the distinguished managers of the bill have been on their feet now almost 12 hours, the distinguished Senator from Oregon has indicated that he is agreeable to waiting until tomorrow to take up his amendment and to have a vote thereon.

Therefore, I make the following unanimous-consent request.

I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning; that immediately after the two orders for recognition of Senators on tomorrow, the Senate proceed to the consideration of the Agriculture appropriations bill, on which there is a time agreement; that, upon the disposition of that bill, the Senate proceed to the consideration of the military construction bill, on which there is a time agreement; that there be an understanding that there be no rollcall votes, if ordered prior to 12 o'clock tomorrow, prior to the hour of 12 o'clock tomorrow so that committees may meet; that, upon the disposition of the military construction bill tomorrow, the Senate resume consideration of the Labor-HEW appropriations bill; and that there be no more rollcall votes tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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.

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

REPORTS OF THE COMMITTEE ON THE BUDGET

Mr. MUSKIE. Mr. President, on behalf of the Committee on the Budget I wish to inform the Senate that the committee met this afternoon and has reported favorably on eight resolutions referred to the committee in recent days. In each case, the committee had been asked by an authorizing committee to waive section 402(a) of the Congressional Budget Act with respect to consideration of authorizing legislation presently on the Senate Calendar.

Mr. President, section 402(a) of the Budget Act provides that it shall not be in order in either the House or the Senate to consider any bill or resolution which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year. Because these eight measures, which authorize enactment of new budget authority which would become available in fiscal 1977 and fiscal 1978 were reported by the authorizing committees after the statutory deadline, resolutions waiving section 402(a) of the Budget Act must be adopted before these bills can be considered by the Senate.

Mr. President, I wish to emphasize that in reporting favorably on these resolutions, the Budget Committee is simply recommending that the Senate proceed to consideration of the bills but is not prejudging the merits of these measures. In several cases, some members of the Budget Committee have serious misgivings with respect to the merits of the bills, but recognized that those concerns were more appropriately expressed at the time of floor consideration rather than in the course of discussion on the waiver resolutions.

Mr. President, the Budget Committee is extremely reluctant to recommend the adoption of a resolution waiving section 402 of the Budget Act. This section was

included in the Budget Act to assure all authorizing legislation is considered as far as possible in advance of the fiscal year in which it will take effect so that it could be considered in the formulation of the budget resolution. Even more importantly, this section was included to provide the Appropriations Committee with some reasonable notice of needed appropriations for the coming fiscal year. This notice is essential for the Appropriations Committee to meet the appropriations timetable spelled out in the Budget Act.

Mr. President, legislation authorizing enactment of new budget authority which is reported to the Senate after the May 15 deadline could delay the enactment of appropriations bills past the Budget Act deadline of 7 days after Labor Day for the completion of the entire appropriations process. The legislative history of the Budget Act indicates that the May 15 reporting deadline is not to be lightly waived. Under these circumstances the Budget Committee, in deciding whether to favorably report resolutions waiving section 402(a), has considered factors including: the effect of delaying consideration of the authorizing bill, the reporting committee's effort to meet the May 15 deadline, the delay in the appropriations process engendered by the late reporting of the authorization, and the impact of the authorization on the national priorities established in the congressional process.

I am pleased to observe, Mr. President, that this year the cooperative effort of the Budget Committee and the Appropriations Committee has produced a timetable which brings us to the beginning of July with all but four appropriations bills passed by both Houses of the Congress. This is an extraordinary record for which the distinguished chairman of the Appropriations Committee, Senator McCLELLAN, is to be congratulated.

Mr. President, the Budget Committee has taken a firm position with respect to the enforcement of the May 15 deadline. This year we have sent numerous letters to committee chairmen and their staffs with respect to strict enforcement of this reporting date. As an illustration of the multiple contacts with authorizing committees, I ask unanimous consent that copies of letters regarding this deadline be printed in the RECORD at this point.

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

[Sent to all committee chairmen]

U.S. SENATE,
Washington, D.C., March 22, 1977.

Hon. ——— ———:
Chairman, Committee on ———, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Recently Congress completed final action on the Third Concurrent Resolution on the budget for fiscal year 1977 and commenced Budget Committee hearings on the First Concurrent Resolution for fiscal year 1978.

As we commence the budgetary process for fiscal 1978, we wish to commend you and your committee staff for meeting the May 15 deadlines for fiscal 1977. That excellent cooperation of all standing committees last year greatly facilitated the smooth operation of the congressional budgetary process. However, many committees are now examining legislation which authorizes both additional budget authority for fiscal 1977 and new authority for fiscal 1978, and questions continue to arise with respect to the Budget Act. Therefore, we wanted to take this opportunity to review the statutory requirements of the Act with respect to such legislation.

As you know, the Budget Act contains the statutory deadline of May 15, for the reporting of legislation authorizing the enactment of new budget authority for a fiscal year. In the case of the present fiscal year, FY 1977, all such legislation must have been reported by May 15, 1976, or be subject to a point of order. The Budget Act provides that the Senate may adopt a resolution waiving the application of this provision of the Act as to legislation reported after May 15.

Senate committees are now or will soon be considering measures which are a response to the Administration's request for economic stimulus as well as measures which have been reintroduced this session of Congress and which will require additional authorizations for FY 1977. We would like to remind you that any measures which constitute an authorization of new budget authority for FY 1977 must be accompanied by a resolution waiving the May 15 deadline of Section 402. Under Section 402, the waiver resolution must be reported along with the substantive bills to expedite the process. The waiver resolution is then referred to the Budget Committee. We assure you we will act as expeditiously as possible in order to facilitate the work of the Senate.

A question has been raised as to whether the Budget Committee would be willing to overlook the May 15 deadline in view of the fact that the economic conditions inherited by the new President have required the submission of additional authorizing requests and that the Carter Budget Amendments were submitted to Congress late in February. The suggestion has also been made that the May 15 deadline should be overlooked because the reorganization of the Senate committee system as a result of S. Res. 4 has brought about shifts in committee jurisdictions which may possibly delay the reporting of legislation. None of these points justify abandonment of the May 15 deadline which is mandated by the Budget Act.

The Budget Committee cannot overlook the requirements of the Budget Act and must insist that all committees adhere to the statutory deadlines. This Committee is proceeding expeditiously with its hearings and mark-up preparations for the First Concurrent Resolution and intends to meet the May 15 deadline for passage of the Resolution.

There is an additional provision of the Budget Act which we would like to bring to your attention, and that is Section 303. Those committees which are planning to report entitlement or spending legislation should keep in mind that, prior to the adoption of the First Concurrent Resolution for FY 1978, any spending legislation or entitlement measure effective on October 1 for such fiscal year, is also subject to a point of order unless a waiver resolution is adopted by the Senate.

Again, we appreciate the tremendous effort your committee and other standing committees of the Senate are making to meet these deadlines. We simply wish to underscore that the success of the Congressional budget process very much depends on the success of that effort.

The staff of the Budget Committee is available to assist your staff in the drafting of appropriate waiver resolutions or in any other matter. If there are any questions regarding the Budget Act in general or its application to FY 1977 authorizations or entitlement or spending measures, please contact Karen Williams, Chief Counsel, on 4-0532.

With best wishes, we are

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

[Sent to All Committee Staff Directors]

U.S. SENATE,
Washington, D.C., April 8, 1977.

Mr. WILLIAM B. CHERKASKY,
Staff Director, Senate Select Committee on Small Business, Russell Senate Office Building, Washington, D.C.

DEAR BILL: On March 22, Senators Muskie and Bellmon wrote the chairman of each standing committee of the Senate to review the budget procedures with respect to legislation within the committee's jurisdiction. Since your select committee also has jurisdiction over authorizing legislation, I thought this information might also be useful to you.

With the excellent cooperation of the committee staffs, you met the budgetary deadlines last year. We are confident that you can achieve the same outstanding record for fiscal 1978. Since, however, a number of inquiries have been received by the Budget Committee staff—generally from subcommittee staff directors—regarding the reporting requirement and other matters, I thought it might be helpful to write you separately.

As you may recall, the Congressional Budget Act provides a May 15 reporting deadline for legislation which authorizes new budget authority for fiscal year 1978. Under the Budget Act, such authorizing legislation reported in the Senate after May 15 is subject to a point of order unless the Senate adopts a resolution waiving the application of this provision of the Act to that legislation. This is true even if a companion bill has been reported by May 15 in the House.

The purpose of this provision is to facilitate the appropriation process, which must be finished on a timely basis in order to complete the budget cycle in time for the adoption of the Second Concurrent Resolution on the Budget before October 1, as the Budget Act requires.

Should other questions arise with respect to fiscal 1978 authorizations or any other matter, please do not hesitate to contact us. As always, if the Budget Committee staff can be of any help to you, I hope you will call on us. Please call me or Karen Williams, the Committee's Chief Counsel, directly. You can reach me at 4-0535 and Karen at 4-0532.

Sincerely,

JOHN T. MCEVOY,
Staff Director.

[Sent to all committee general counsel]

APRIL 8, 1977.

Mr. EDWARD P. SCOTT,
General Counsel, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR ED: On March 22, Senators Muskie and Bellmon wrote the chairman of each standing committee of the Senate to review the budget procedures with respect to legislation within the committee's jurisdiction.

With the excellent cooperation of the committee staffs, you met the budgetary deadlines last year. We are confident that you can achieve the same outstanding record for fiscal year 1978. Since, however, a number of inquiries have been received by the Budget Committee staff—generally from subcommittee staff directors—regarding the reporting requirement and other matters, I thought it might be helpful to write you separately.

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Should other questions arise with respect to fiscal 1977 authorizations or any other matter, please do not hesitate to contact us. As always, if the Budget Committee staff can be of any help to you, I hope you will call me at 4-0532.

Sincerely,

KAREN HASTIE WILLIAMS,
Chief Counsel.

Mr. MUSKIE. We have also had exchanges of correspondence with committee chairmen with respect to pending legislation.

Mr. President, as an example, I ask unanimous consent that copies of correspondence with the Agriculture Committee and the Energy Committee be included in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., April 29, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Senate Committee on Agriculture, Nutrition, and Forestry is presently considering omnibus farm legislation which will revise and extend the support prices for commodities. In actions taken to date, the Committee has tentatively agreed to a provision increasing the target price and loan rate for the 1977 crop of wheat. There is a possibility that this change would increase outlays in fiscal year 1977 by approximately $13.5 million and in fiscal year 1978 by approximately $500 million.

I would appreciate your advising me (1) whether the proposed increase in outlays for fiscal year 1977 would be within the level of outlays in the most recently agreed to concurrent resolution on the budget for fiscal year 1977, and, (2) whether the proposed increase in outlays for fiscal year 1978 would be within the contemplated level of outlays in the first concurrent resolution for fiscal year 1978.

I would also appreciate knowing whether a bill reported out of this Committee containing the proposed increase in the 1977 target price and loan rate for wheat would be subject to any point of order under the Congressional Budget Act.

I would appreciate a formal response from you on this issue as soon as possible.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

U.S. SENATE,
Washington, D.C., May 4, 1977.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR HERMAN: This is in response to your letter of April 29 requesting my advice concerning the budgetary effect of legislation tentatively agreed to by the Senate Committee on Agriculture, Nutrition, and Forestry.

An increase in outlays of approximately $500 million in fiscal year 1978 cannot be accommodated within the Function 350, Agriculture, target proposed in the First Budget Resolution for fiscal year 1978 unless major reductions are made in other Function 350 programs. In considering Function 350 during markup on the First Budget Resolution for fiscal year 1978, the Senate Budget Committee used the latest information available from CBO concerning the expected level of outlays in fiscal year 1978 for current law. In arriving at the recommended targets of $2.2 billion in budget authority and $3.7 billion in outlays, the Committee did not explicitly provide for any legislative increases in fiscal year 1978 outlays for price supports to farmers. Thus, an additional $500 million in outlays from new legislation could only be accommodated within the $3.7 billion recommended target if reductions were made in existing price support programs—changes I understand are impractical at this time—or in other programs in this function, chiefly agriculture research and services.

The Office of Management and Budget has recently reestimated total outlays for fiscal year 1978 for Function 350 as part of its April 1977 budget reestimates. Based upon initial review by CBO, the Senate Budget Committee determined that no adjustment to the reported targets for Function 350 for FY 1978 was necessary. There are likely to be significant reestimates both up and down in many functions between now and the adoption of the Second Budget Resolution for fiscal year 1978 in September. For that reason, the Committee decided there was no need to make adjustments in the presently recommended targets for the fiscal year 1978 First Budget Resolution.

I am deeply concerned, however, that administrative actions already announced by the Secretary of Agriculture could increase outlays for price supports to a much higher level, resulting in Function 350 total outlays much higher than the $3.7 billion included in the First Budget Resolution as reported in the Senate. In the event that the Senate Agriculture Committee also agrees to report an omnibus farm bill with substantial increases in target prices for the 1977 crop, the Agriculture function outlays could be in the range of $5.0 billion or more in fiscal year 1978, with probable increases in future years.

What I am saying is that if there is no restraint in the new farm bill, it will become increasingly difficult to find money for other worthy new programs and to balance the budget for fiscal year 1981.

With respect to fiscal year 1977, an increase in outlays of approximately $13.5 million would add further to the existing Function 350 ceiling which has already been breached. It would not necessarily exceed the overall ceiling on outlays in the Third Budget Resolution for fiscal year 1977 agreed to on March 3, nor would it necessarily exceed the amended fiscal year 1977 aggregate outlay ceiling now being proposed by the Senate Budget Committee in the Committee amendment to S. Con. Res. 19. The Third Budget Resolution for fiscal year 1977 contained an overall outlay ceiling of $417.45 billion, with an outlay ceiling for Function 350 of $3.0 billion. The Senate Budget Committee now recommends for fiscal year 1977 a revision to the Third Budget Resolution, with an overall outlay ceiling of $408.8 billion, including an outlay ceiling for Function 350 of $4.5 billion. An increase of $13.5 million in outlays would not exceed these revised ceilings. But, the pressures on these spending ceilings are very substantial, and many worthy programs are now competing for the remaining 1977 dollars.

With respect to technical points of order relating to a bill reported by the Agriculture Committee concerning target price and loan rate adjustments, I can only answer your question after review of the specific legislation. I can offer the following considerations: points of order under the Budget Act concerning spending levels relate to the budget as a whole, not to individual functions, so it would be necessary to review the entire relationship of proposed legislation to the relevant Resolution before a complete response could be given.

As you are aware, specific sections of a bill must be interpreted in the context of the legislation as a whole. With this understanding, I would point out the following:

Any new entitlement contained in the Omnibus Farm measure must have an effective date of October 1, 1977, or later in fiscal year 1978, to avoid a point of order under Section 401(b) of the Budget Act. It is my understanding that the section pertaining to wheat presently expires on December 31, 1977; thus any extension of an entitlement effective January 1, 1978, is not subject to a point of order. If, however, there is created a new entitlement affecting fiscal year 1977, the effective date of the authority for that entitlement must also be October 1, 1977, or later, or it, too, will be subject to a point of order under Section 401 (b).

As you know, if there are any authorizations for the enactment of new budget authority for fiscal year 1978 contained in the measure, the bill must be reported by May 15, which I believe is your intention. If there is any authorization for the enactment of fiscal year 1977 budget authority in the reported Omnibus Farm bill, then, as you know, a waiver resolution waiving Section 402(a) of the Budget Act must be reported as well for reference to the Budget Committee.

The Budget Committee staff is available for further consultation once a final draft of the Omnibus Farm bill is completed.

With best wishes, I am

Sincerely,

EDMUND S. MUSKIE.

U.S. SENATE.
Washington, D.C., April 21, 1977.

Hon. EDMUND S. MUSKIE,
Chairman. Senate Budget Committee, Washington, D.C.

DEAR SENATOR MUSKIE: As you are probably aware, President Carter further refined his policy on energy since his submission of a revised FY 1978 budget for the Energy Research and Development Administration on February 22. As a result of his statements on April 7th and April 20th, he will submit another FY 1978 ERDA budget to the Congress in about another week. This budget will propose major restructuring of the activities in certain programs rather than merely changing the level of support for existing programs.

In view of the magnitude of the proposed changes and the importance of the decisions to international and domestic energy policy, the Members of the Committee on Energy and Natural Resources have concluded that we can not responsibly report the full FY 1978 ERDA Authorization bill without further hearings and consideration of the Carter policies. As a result, although the Committee will proceed as expeditiously as possible, we probably will not be able to comply with the May 15th deadline established by the Budget Control and Impoundment Act and will need to seek a waiver from the Senate Budget Committee when the bill is reported. Our Committee may be able to complete action on the non-nuclear portion of the bill in time to report a separate bill for those programs by

May 15th, and we will advise your Committee of our progress.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

U.S. SENATE,
Washington, D.C. May 4, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SCOOP: We have received your recent letter regarding the difficulties faced by the Committee on Energy and Natural Resources in meeting the May 15 reporting deadline for the fiscal year 1978 ERDA Authorization Bill. We are encouraged that you are optimistic you can meet the deadline for the non-nuclear portion of that bill.

As you know, the May 15 reporting deadline in the Budget Act is intended to aid the appropriations process by assuring timely enactment of authorizations required before appropriations can be made. Section 402 also provides for the possibility of a waiver of the May 15 deadline in appropriate cases. The legislative history of the Budget Act suggests strongly that such waivers are to be sparingly granted, since delays in the appropriations process derail the entire legislative schedule and can disrupt the functioning of both the Federal and state governments by delaying and confusing program funding. In fact, such waivers are termed "emergency waivers" in the provisions of the bill relating to the House of Representatives.

We think the Congress can be proud that all but one appropriation were completed prior to October 1 last year. This success, unparalleled in recent times, is the direct result of unprecedented cooperation in early reporting of authorizing legislation. The Appropriations Committee pursued its responsibilities under the Budget Act with great energy. The authorizing committees met their responsibilities to the Appropriations Committee and the Congressional budget process by reporting their authorizations before May 15. In fact, a total of only 22 authorizations (including four from the Committee on Interior and Insular Affairs) were reported after May 15 last year by the 14 authorizing committees of the Senate.

We are confident the members of the Budget Committee will be sympathetic to the difficulties you face in processing the energy legislation the President has so recently submitted. We encourage you, however, to report as much of that legislation as is possible prior to the deadline. We also encourage you strongly to report all other legislation your Committee contemplates for authorization of new budget authority for fiscal year 1978 prior to that deadline.

We and our staff at the Budget Committee stand ready to assist you in any way we can. Please do not hesitate to call upon us.

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

U.S. SENATE,
Washington, D.C. April 21, 1977.

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Chairman.
CLIFFORD P. HANSEN,
Ranking Minority Member.

MEMORANDUM

For: Senator Muskie
From: John McEvoy
Date: May 3, 1977

Attached is a letter received from Senators Jackson and Hansen suggesting that the Committee on Energy and Natural Resources will be unable to complete work on the EDRA Authorization Bill for 1978 prior to May 15 as a result of the late submission of the Carter energy program. Also attached is a suggested response from Senator Bellmon and yourself to that letter. The response is calculated to achieve two results:

1. To ackowledge that the Energy Committee may need more time without committing you to give it to them; and

2. To prompt that Committee, which has been the most derelict in meeting the May 15 deadline, to meeting it in all possible cases this year.

U.S. SENATE,
Washington, D.C., May 4, 1977.

Hon. CLIFFORD P. HANSEN,
Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR CLIFFORD: We have received your letter regarding the difficulties faced by the Committee on Energy and Natural Resources in meeting the May 15 reporting deadline for the fiscal year 1978 ERDA Authorization Bill. We are encouraged that you are optimistic you can meet the deadline for the non-nuclear portion of that bill.

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We and our staff at the Budget Committee stand ready to assist you in any way we can. Please do not hesitate to call upon us.

Sincerely,

EDMUND S. MUSKIE,
Chairman.
HENRY BELLMON,
Ranking Minority Member.

Mr. MUSKIE. Mr. President, in addition, the majority leader, the distinguished Senator from West Virginia, has also corresponded with authorizing committee chairmen on the May 15 deadline and held several meetings with committee chairmen and staff directors early this spring to reinforce the importance of reporting all authorizing legislation.

I ask unanimous consent that his letters be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., March 23, 1977.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: May I take this opportunity to express my deep appreciation for the cooperation you and your committee members and staffs have shown me and the staff of the Democratic Policy Committee in processing the legislation within your jurisdiction in these early months of the session. With your help, the Senate has measured up to its responsibilities, though several weeks were consumed in our reorganization.

While we are "on track" at the moment we face an increasingly heavy schedule if we are to meet our several deadlines and hold to our prospective adjournment date of early October.

As you know the Budget Act provides that it is not in order for the Senate to take floor action on a measure authorizing the enactment of new budget authority for any fiscal year unless the measure has been reported by May 15. This provision applies to new program legislation as well as legislation reauthorizing existing programs.

For that reason it would be extremely helpful to the leadership in the scheduling process if, at your earliest convenience, you could supply me with a list of those measures your committee expects to report between now and May 15, and the anticipated reporting dates thereof.

I value your continued cooperation and I believe that working together we will write an excellent record for this first session of the 95th Congress.

Sincerely yours,

ROBERT BYRD.

U.S. SENATE,
Washington, D.C., May 13, 1977.

To All Committee Staff Directors:

Since the May 15 Budget deadline falls on a Sunday this year, I have obtained unanimous consent for reports to be filed until midnight, Monday, May 16. To avoid a back-up at the Government Printing Office, I hope that the majority of your reports will be filed before midnight, Saturday, May 14. Please bear in mind that while necessity may require you to file a so-called "dummy" report on a particular bill to meet the deadline, it is absolutely essential to the Budget process, and for floor scheduling purposes, that the complete text of the report be received by the Government Printing Office by midnight, Monday, May 16, except in the most extraordinary circumstance. This not only facilitates the availability of the printed report on the Senate floor to meet the requirements of the Legislative Reorganization Act, but also it is necessary before the Budget Committee can begin to assess a bill's impact on the Budget process.

The Leadership is very appreciative of your assistance during the last two months to expedite the work of the Senate. In the great majority of cases, committee cooperation with the Policy Committee and the Budget Committee has been outstanding. In the event that you have not done so, it would be helpful if you informed the staff directors of your subcommittees of the benefits of submitting a copy of your written report when it is filed in the Senate with either the Budget Committee or the Policy Committee. Your Chairman may also wish to so advise the subcommittee chairmen.

Because of the Budget Act requirement there will be a tremendous workload placed on the Budget Committee to clear measures for floor action within the next few weeks. At the same time, the printing office will face the same mechanical problems, thereby delaying the printing of many reports. To speed clearance of your bills, a xerox copy of your report, sent to the Budget Committee at the time the report is filed in the Senate, will allow the Committee to begin work on the required Budget clearance days before the printed report will become available.

Sincerely yours,

ROBERT C. BYRD,
Majority Leader.

U.S. SENATE,
Washington, D.C., May 10, 1977.

Mr. JOHN T. MCEVOY,
Staff Director, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR JOHN: The Congressional Budget Act of 1974 mandates that all authorizing legislation be reported to the Senate by May 15th of each year. Since that date falls on Sunday this year, the Majority Leader has obtained unanimous consent extending the reporting date to midnight on Monday, May 16th. Additional reporting authority has also been granted for Saturday, May 14th.

This letter is to advise you that our office will be staffed and available to your committee on both reporting dates. Due to the large volume of reports expected, the assistance and cooperation of your committee in the preparation of reports will greatly facilitate their processing and printing. It would be most beneficial to all concerned if your committee staff would take the following actions during the days prior to the actual reporting dates:

1. Contact the Bill Clerk (Ext. 4-2118 or 3-2120) to ascertain a current and complete list of co-sponsors of the legislation to be reported;

2. Make certain that calendar number and report number spaces are provided on the front and back page of the bill and the front page of the report;

3. Review the bill to ensure that the reporting action as indicated on the front page of the bill, i.e., without amendment, with an amendment, with amendments, etc., accurately reflects the action taken by the committee (see attached memorandum of October 10, 1975);

4. Clearly indicate on the report whether *Additional, Minority,* or *Supplemental* views are filed pursuant to the provisions of Sec. 133(e) of the Legislative Reorganization Act of 1949, as amended (2 USC 190(a)); and

5. Limit the listing of committee staff personnel on the inside cover page to Chief Counsel (Chief Counsel-Staff Director), Staff Director, Minority Counsel, and Chief Clerk pursuant to Joint Committee on Printing regulations.

Included for your reference are printed examples of correct styles of reports and reported bills with the pertinent information (mentioned in the five points above) underlined in red. Also enclosed are 20 blank report forms for use by your committee which conform to Joint Committee on Printing standards.

Please note new paragraph 3(b)(2) of Rule XXVI of the Standing Rules of the Senate (pursuant to S. Res. 4, reorganizing the Senate committee system) which states:

"Proposed legislation which is referred to two or more committees jointly may be reported only by such committees jointly and only one report may accompany any proposed legislation so jointly reported."

Your cooperation in this matter will be deeply appreciated.

With best personal wishes, I am

Sincerely,

STAN.

U.S. SENATE,
October 10, 1975.

To All Senate Committees.

When reporting bills back to the Senate, committees have in the past shown a Senator reporting in one of the following ways: without amendment; with an amendment; and with amendments.

In the future, for the sake of clarity, additional endorsements will be used by this office in printing reported bills and in the Calendar of Business to reflect such action, they are as follows:

With (an) amendment(s), and an amendment to the title.

With (an) amendment(s), and an amendment to the title and preamble.

With an amendment to the title, and (an) amendment(s) to the preamble.

With (an) amendment(s), and (an) amendment(s) to the preamble.

With an amendment to the title.

With (an) amendment(s) to the preamble.

The use of these additional endorsements, where applicable, will simplify considerably the procedure involving the passage of bills on the floor of the Senate and the reporting of same in the CONGRESSIONAL RECORD.

Your kind cooperation in using the appropriate endorsement will be appreciated.

FRANCIS R. VALEO,
Secretary of the Senate.

Mr. MUSKIE. The distinguished majority leader has been a strong supporter of the budget process and indeed has rearranged the entire schedule of Senate floor action to permit authorizing committees extensive periods for markup sessions to meet the Budget Act deadline for authorizing legislation. On behalf of the Budget Committee let me express our sincere appreciation to the majority leader for his cooperation in this process.

Mr. President, it is true that the bulk of the authorizing legislation has been reported by the authorizing committees in compliance with the May 15 deadline. However, for many reasons which are detailed in the reports filed today on the waiver resolutions, a few committees have not been able to get all of the legislation with committee amendments out of committee to meet the statutory deadline. Mr. President, the Budget Committee recognizes that there are extenuating circumstances which surround the eight requests for waiver resolutions and as a result, the committee has voted to favorably report all of these resolutions.

SMITH COLLEGE, NORTHAMPTON, MASS.

Mr. CURTIS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 276, H.R. 1404.

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

The assistant legislative clerk read as follows:

A bill (H.R. 1404) for the relief of Smith College, Northampton, Mass.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, the chairman of the committee (Mr. LONG) wanted this bill called up tonight. I asked him to discuss it with the distinguished Senator from Nebraska, who is the ranking member. There was agreement all around that the Senate would proceed to the consideration of the bill, because there are certain deadlines to be met in this bill.

There being no objection, the Senate proceeded to consider the bill (H.R. 1404) for the relief of Smith College, Northampton, Mass., which had been reported from the Committee on Finance, with an amendment, on page 2, beginning with line 1, insert the following:

FOOD STAMP ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

SEC. 3. Effective July 1, 1977, section 8 of Public Law 93-233 is amended by striking out "June 30, 1977" where it appears—

(1) in the matter preceding the colon in subsection (a)(1), and in the new sentence added by such subsection, and

(2) in subsections (a)(2), (b)(1), (b)(2), (b)(3), and (f),

and by inserting in lieu thereof in each instance "September 30, 1978".

EXTENSION OF FEDERAL FUNDS FOR CHILD SUPPORT COLLECTION AND PATERNITY ESTABLISHMENT SERVICES PROVIDED FOR PERSONS NOT RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 4. Section 455(a) of the Social Security Act is amended by striking out "June 30, 1977" in the matter following paragraph (2) and inserting in lieu thereof "September 30, 1978".

EXTENSION OF TIME FOR MAKING REPORT BY SECRETARY REGARDING CHILD DAY CARE SERVICES STANDARDS

SEC. 5. Section 2002(a)(9)(B) of the Social Security Act is amended by striking out "July 1, 1977" and inserting in lieu thereof "April 1, 1978".

DEFERRAL OF IMPLEMENTATION OF CERTAIN DECREASES IN MEDICAID MATCHING FUNDS

SEC. 6. Notwithstanding the provisions of subsection (g) of section 1903 of the Social

Security Act, the amount payable to any State for the calendar quarters during the period commencing April 1, 1977, and ending September 30, 1977, on account of expenditures made under a State plan approved under title XIX of such Act, shall not be decreased by reason of the application of the provisions of such subsection with respect to any period for which such State plan was in operation prior to April 1, 1977.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall admit free of duty thirty-three carillon bells (including all accompanying parts and accessories) for the use of Smith College, Northampton, Massachusetts, such bells being provided by the Paccard Fonderie de Cloches, Annecy, France.

SEC. 2. If the liquidation of the entry for consumption of any article subject to the provisions of the first section of this Act has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made.

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Mr. CURTIS. Mr. President, the provisions of H.R. 1404 include a number of items on which it is important that we act before June 30. The original form of the bill, as passed by the House, called only for the refund of duty paid by Smith College on the importation of bells needed to repair its carillon. The only source of matching bells is a French foundry; the refund would cost a one-time revenue loss of $2,250; and no objection was expressed in committee to the refund.

Added in committee were amendments which should be passed before June 30 and which are of critical importance to the continued functioning of a number of our AFDC, SSI, and medicaid provisions. All simply extend dates found in current law. The four items added are as follows:

(1) *Food stamp eligibility for SSI recipients.* The language in H.R. 1404 simply extends until the end of the next federal fiscal year (September 30, 1978) current provisions of law relating to the method whereby SSI recipients are eligible for food stamps. They are eligible in all States except California and Massachusetts, which provide amounts in the grant computations under other special formulae in the law. If we do not act, the benefit computations in all the other States will revert to a very complex individual determination, in effect at the time of the change from the old adult aid programs to SSI. No one, at the federal or State levels, appears to favor reversion to this complex formula; legislation to remedy it was enacted in 1973; the remedial language has been extended several times; and, because it does not appear that general food stamp legislation adopted earlier this year by the Senate (which will resolve the problem permanently) will be enacted by June 30, another extension is desirable.

(2) *Child support funding for nonwelfare families.* Under existing law (Title IV-D of the Social Security Act), assistance is provided by the States (with federal matching) for paternity and parent locator services directed toward maximizing child support. This assistance is made available to welfare and nonwelfare families, although federal matching for the latter would end on July 1, 1977, if no action is taken. Because it is important that such assistance be provided to nonwelfare families to keep them *off* welfare, H.R. 1404 continues federal matching for such families for another 15 months, until September 30, 1978.

(3) *Child care study deadline.* The staffing standards, and other requirements, under the Federal Interagency Day Care program have been the subject of scrutiny by the Congress over the last several years, and in legislation recently enacted, HEW is to report to the Congress on the appropriateness of FIDCR standards (under Title XX of the Social Security Act) by July 1, 1977. Additional time (until April 1, 1978) is provided the Department to complete this report.

(4) *Medicaid funding to the States.* Under existing language as interpreted by the Secretary of HEW, recent Medicaid funding cuts totaling $142 million, affecting 20 States, have been announced by the Secretary. These cuts relate to the statutory requirement that States have in place regular independent evaluations of long-term patients in skilled nursing homes, intermediate care facilities, and mental hospitals. The Secretary (pursuant to an opinion from the Comptroller General) believes that across-the-board cuts must be made to all States in which there is even one facility where the reviews have not been completed. In my own State of Nebraska, reviews had been completed in 290 out of 295 facilities, and of the remaining five, two have gone out of business. To halt a precipitate cut to 20 States, and to permit an orderly consideration of an alternative formula, the language added to H.R. 1404 provides for a 90-day delay in the imposition of this particular sanction.

Mr. President and Members, these all are critical extensions and should be adopted immediately. I ask for an "aye" vote.

Mr. DOLE, Mr. President, I know a number of my colleagues are concerned and dismayed at the prospect of reductions in medicaid matching payments to States. On Wednesday, June 8, HEW announced that it would reduce July medicaid payments to 20 States by a total of $142 million because of noncompliance with the independent professional review requirements during the first calendar quarter of this year.

The basic problem, as I pointed out in my remarks to the Finance Committee, is the severity of the reductions in terms of State budgetary difficulties balanced against the need to assure that Federal funds are expended only for patients receiving proper care in a proper setting.

It is my belief that the statutory requirements we have at present must be carefully examined before we proceed with any legislative efforts that would markedly change them. At the same time, the States cannot afford to experience reductions as severe as that presently facing them.

The House Interstate and Foreign Commerce Health Subcommittee has approved an amendment to H.R. 3 designed to address the problems with the present law in addition to protecting the States from the immediate imposition of the reductions. Unfortunately, this legislation would not have come to us in time.

It is the purpose of my amendment to H.R. 1404 to assure the time necessary to undertake statutory changes. I understand that the Department of HEW has begun to make the July 1 grant awards to States. The grant awards made to at least five States have been reduced in accordance with section 1903(g). However, since the amendment approved by the committee would postpone any reduction in payments to States until October 1, 1977, the committee expects that HEW will make a supplemental grant award to restore funds to these States and to any other States whose grant awards might be reduced for noncompliance with 1903(g) either before or subsequent to enactment of this amendment.

Senators BURDICK, EAGLETON, HEINZ, LUGAR, MORGAN, SASSER, SCHWEIKER, AND ZORINSKY have personally expressed their support for this amendment in addition to the cosponsors in the Committee on Finance, Senators TALMADGE, DANFORTH, and CURTIS.

I am hopeful that this legislation will receive rapid consideration by the House of Representatives so as to relieve the States from any immediate threat of reduced Federal payments.

Mr. CURTIS. Mr. President, I ask for a vote on the amendments.

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

Mr. HEINZ. Mr. President, I should like the Senator from Nebraska to explain these amendments in a little more detail.

Mr. CURTIS. I shall be happy to. I had a feeling of consideration for the employees here, who have waited all day.

The bill itself grants to Smith College the right to import some carillon bells free of duty. It is the only place they could get them.

The SSI amendment provides that SSI recipients are eligible for food stamps. If we do not extend that, it will revert back to the old law that existed before we had an SSI program, when

it was a matching old-age assistance program. It would be rather chaotic for the recipients as well as for the Government.

One of the other amendments extends the time for some child care studies; another amendment deals with a rigid feature in the law that is causing a great injustice. The law requires that if a State fails to complete all of its inspections of nursing homes, the money is withheld from all of them. About 20 States are involved. I can tell about Nebraska.

We have 295 licensed homes. The State completed their inspection of 290. It now develops that two of the remaining five have gone out of business. There are extenuating circumstances that they could not get the reports from the other three. Yet, under the law, they had to withhold the money from all 295.

Mr. HEINZ. If the Senator will yield, exactly how do we change the law with respect to those nursing homes?

Mr. CURTIS. Give them 90 days to clear it up. The Department favors it. There is no opposition to it.

They are all matters that must be taken care of by June 30. I have no interest in the bill. If there is objection to it, I, of course, am instructed by my chairman to withdraw it.

Mr. HEINZ. I thank the Senator.

Mr. CURTIS. Mr. President, I ask for the vote.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. CURTIS. Mr. President, I ask for a vote on the bill itself, as amended.

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

The bill was read the third time, and passed.

The title was amended so as to read:

An Act for the relief of Smith College, Northampton, Massachusetts, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. EAGLETON. Mr. President, I am pleased that the bill appropriating funds for fiscal year 1978 for the Departments of Labor and Health, Education, and Welfare has provided $500,750,000 for programs for the elderly, an increase of $96,450,000 over the 1977 comparable level, and an increase of $77,300,000 over the budget estimate.

As my colleagues will recall, the Older Americans Act was first enacted in 1965, at which time the total Federal appropriation under the act was $7.5 million. I am delighted that the overall budget has been consistently and significantly increased by Congress in order to implement programs to meet the needs of our older population.

In 1976, there were approximately 22 million persons in the United States aged 65 and over. While in this century the total U.S. population has doubled, the number of adults aged 65 and over has increased six times. Congress must continue to address itself to the very real needs of this sizable number of older adults in our contemporary society.

For the national nutrition program for the elderly, the committee has recommended $250 million. Over the years, there has been a concern about the manner in which funds have been obligated under the title VII nutrition program. In past years, not all funds appropriated for a given fiscal year have been expended within that fiscal year. A 1976 U.S. district court order required the States to accelerate their obligating practices so that all funds are obligated by the States in the same year in which they are appropriated. The committee reiterates its intent that the total $250 million contained in this bill is to be allocated and expended in fiscal year 1978. We intend that the Administration on Aging will allot title VII funds to State agencies on aging as soon as they are available. In turn, the State agencies must obligate these funds as soon as they receive them, to insure that local projects receiving these moneys, can spend them in fiscal year 1978. The nutritional needs of the elderly are of such magnitude that even this level of appropriations cannot fully meet the needs of all the States, and there should be no reason for the Administration on Aging not to expend the entire amount.

This bill also contains $188 million for expanding State agencies on aging activities, an increase of $2 million over the House allowance. The principal focus of activity under this title has been the establishment and operation of area agencies on aging to substantially expand programs of service.

The committee has also recommended $18 million for training programs, a $2 million increase over the House allowance. The Subcommittee on Aging of the Committee on Human Resources, which I chair, has documented the dearth of well-trained personnel to work in the field of aging. Clearly, a lack of well-trained professionals and practitioners is one of the major barriers in developing an effective service delivery system. A recent article in the New York Times dealing with the training of specialists further documents the need in this area. According to the article, 1,275 schools are now offering courses in gerontology, an estimated three times as many as were available 5 years ago. Mr. President, I ask unanimous consent that the text of this article be reprinted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EAGLETON. Two other programs contained in this bill, and not under the Administration on Aging, are also of particular interest to me. Title IX of the Older Americans Act established a part-time older workers program for unemployed low income persons aged 55.

I am delighted that the committee has recommended an appropriation of $200 million, an increase of $19.6 million over the House allowance. It is unusual that we appropriate the full authorization for any program but in my judgment, it is well justified in this instance because of the compelling need to remedy the poor employment prospects of our elderly citizens, while providing valuable community services. I hope that my colleagues will give their full support to full funding of this program and will assist me in persuading the House Members to adopt the Senate level.

Finally, Mr. President, I would like to express my concern that the funding level for the National Institute on Aging contained in this bill is $4 million below the House allowance. As I have indicated, because of the rapid growth in the elderly population, expanded research programs are desperately needed in order that we can better understand the process of aging and in that understanding be able to improve the health status of the elderly. I am pleased that the committee has included funds in the bill for 25 additional positions within the institute, and I am hopeful that in the final version of this bill those positions will be retained, and the funding level for research programs more in line with the House allowance.

EXHIBIT 1

[From the New York Times, June 19, 1977]

GERONTOLOGY IS STILL A VERY YOUNG SCIENCE

(By Robert Lindsey)

LOS ANGELES—On the top floor of a building at the University of Southern California here, researchers are trying to discover what chemical processes occur in the brain as people age. They hope to find the chemical mechanism, if there is one, that orchestrates the way people grow old and perhaps alter its effects.

Beneath these researchers, on the second floor, about 100 college students are taking courses in preparation for careers dealing with the aged, while personnel specialists of corporations such as General Foods, Xerox and Hughes Aircraft receive guidance on how to prepare their companies' employees for retirement.

And on the ground floor, there is an ebb and flow of gray-haired men and women seeking guidance in how to deal with the problems that can come with old age: loneliness, loss of memory and financial, emotional, sexual and family difficulties.

These activities are part of one of the nation's first, and most comprehensive, college programs in gerontology, a word whose origins are in the linguistic root for "old" in Greek.

Traditionally, gerontology referred to the scientific study of aging. Gerontology now is becoming a linguistic umbrella embracing not only research but the training of specialists to work with older people and specialized services for the elderly.

Over the last five years, gerontology has been one of the fastest-growing fields of study on American campuses, although the quality of such programs, according to some observers, varies widely. One survey indicated that 1,275 schools now offer at least one course in geronotology, probably triple the number five years ago.

"By the year 2000, there won't be a college or university in the country that doesn't have a program in gerontology; they'll have to," says Dr. James Birren, the 59-year-old director of the Ethel Percy Andrus Gerontology Center at the University of Southern California—and one of the pioneer scholars in the field. The center is named for the

founder of the American Association of Retired Persons and the National Retired Teachers Association.

Because it combines research, professional training and programs to help elderly people, the University of Southern California center is regarded by some specialists as a prototype for gerontology schools of the future.

The growing interest in gerontology is rooted in demographic trends; increased lobbying and influence by older voters; sharply increased Federal aid for older people and more local aid programs; and the beginning of career opportunities in a new field.

As census studies have repeatedly shown, Americans are living longer. "There are more older people alive today than the total of all the older people that ever lived in the world before," says Edwin Kaskowitz, executive director of the Washington-based Gerontological Society, whose membership, now 5,000, has tripled in the last decade.

Academic interests often march in step with the availability of government grants. The budget of the Administration on Aging, part of the Department of Health, Education and Welfare, has jumped to $420 million this year from $30 million five years ago, with most of the money going for nutritional assistance to the aged, but some of it for research, training and local assistance programs.

About $30 million is being spent annually by the National Institute on Aging. Special programs for the elderly are now a part of virtually every major Federal executive department, and many cities and counties have established agencies to deal with older residents.

The outlook is for continued acceleration of Government aid and of demand for professionals. One recent study concluded that over the next 10 years there would be a need for 1,000 additional psychiatrists, 2,000 clinical psychologists, 4,000 psychiatric social workers, 4,000 nurses, 8,000 nurses aides and 10,000 other specialists. Younger taxpayers will have to pay for them.

The granting of college degrees with gerontology majors is still rare. The University of Southern California program, established last year as an arm of an 11-year-old gerontology research center, offers bachelor's and master's degrees and special training for professionals already at work in the field.

School officials take care to distinguish geriatrics, a medical specialty, from their program in "social gerontology." Their purpose, they say, is to train students for careers in research and in public agencies and private enterprises. There are courses, for example, on legal and financial difficulties peculiar to the elderly, on nutrition and sexuality, and on how to help people deal with the depression felt by many old people.

Although many of the students are middle-aged women, a few college-age students have begun to enroll. Faculty members say that while most stay in the programs, some find that working with the elderly depresses them and drop out.

The stigma of old age is a problem for fund-raisers. "Some people tell you they just don't want to be associated with anything to do with old people," said Dorothea Adamson, a fund raiser for the center.

School administrators say the job outlook for college gerontology graduates is not yet a booming field. "It's a pioneering thing," Dr. Birren said. "I tell students: you have to create your own jobs; it's a new field, it's a little like homesteading; the land is out there to be cleared, and you have to do it."

He calls the growing population of older Americans a little understood "mammoth issue with so many ramifications it is staggering."

The issue "can be portrayed as a downer—you can emphasize the economic problems that are going to be caused by the old people, especially if the economy doesn't grow fast enough," he said. "I say that's bunk; it's not bad to be old; it's bad to be poor, it's bad to be unhealthy, it's bad to be lonely. Gerontologists can give leadership and awareness of what's going to be happening."

Mr. STEVENSON. Mr. President, I would like clarification of the committee's intent in requiring States to file AFDC, medicaid, and social service claims in a timely fashion. Does the committee intend the language on page 29 of the bill to preclude HEW's use of funds to settle any claims which the States file by September 30 of this year?

Mr. MAGNUSON. No.

Mr. STEVENSON. Does the bill affect in any way claims to be submitted by States for fiscal years 1977 and 1978?

Mr. MAGNUSON. No.

Mr. STEVENSON. In other words, the intent of this language is to warn the States that they have until September 30 of this year to submit claims more than 1 year old to HEW if they want reimbursement of those claims?

Mr. MAGNUSON. That is correct.

Mr. STEVENSON. Finally, Mr. President, because some States may experience difficulty in submitting all their claims for social service programs within 1 year of the service would the chairman be willing to make the issue of timely filing of these claims the subject of hearings, should the need arise?

Mr. MAGNUSON. Yes.

Mr. STEVENSON. I thank the Senator for his answers to my questions.

ARKANSAS AGING PROJECT

Mr. McCLELLAN. I would like to call Senator MAGNUSON's attention to the efforts of the Pulaski County Council on Aging in Arkansas. The council has utilized model project funds under title III of the Older Americans Act to provide over 19 different services to over 4,000 different individuals in Pulaski County. This has been an excellent program and I certainly trust every fair consideration will be given to its continued funding.

Mr. MAGNUSON. This is the type project that certainly should be given every fair consideration.

IMPACT AID: SHOULD CONGRESS INCREASE LOCAL PROPERTY TAXES

Mr. CHURCH. Mr. President, once again the Congress is resisting the administration over termination of the impact aid program. Every administration for the last 25 years has seen elimination of this program as an easy way to reduce the budget for the Department of Health, Education, and Welfare, and each Congress has overwhelmingly rejected it. The reason for the repeated outcome of this annual scenario is the real question Congress faces when termination is proposed: Should Congress vote an increase in local property taxes?

Education is funded at the local level almost exclusively through property taxes. The premise of impact aid is the fact that the Federal presence on land in a school district's tax base takes that land off the property tax rolls. If Federal funds are not furnished to the schools to compensate for the withdrawal of this land, then ordinary property taxes must be increased or the schools will not be sustained.

An October 1976 report by the General Accounting Office attempts to discount this case. The report argues that if impact aid were ended, the property taxpayers in 66 percent of the school districts studied would incur increases of less than 10 percent. But the report also found that in 15 percent of the districts, property taxes would have to be increased 25 percent or more. If Congress eliminated impact aid, these districts would be placed between the devil of degraded education and the deep blue of heavy tax increases.

If the GAO report were not enough to give Congress pause, then the fact that the report itself is now out of date should settle the matter. Although it was not issued until October 1976, it is based on financial data from the 1971–72 school year, and on eligible school districts in fiscal year 1973. Not only is this data outdated, but it precedes the substantial amendments to the program which were enacted in 1974.

A number of other questions occur in reading the report. GAO studied school districts in 16 States, finding that if impact aid were withdrawn there would be modest tax increases for some and sharp increases for others. But which districts are in these categories? Are they urban or rural, rich or poor, with large or small tracts of federally owned land? I asked GAO this question, and the only response GAO provided was a breakdown of how many school districts would be affected, to one degree or another in each studied State.

Mr. President, whatever the deficiencies of the GAO report, it at least makes the point that ending impact aid and increasing property taxes are identical propositions. The congressional response should be the same as it always has been: No.

Mr. CHILES. Mr. President, as a member of both the Labor-HEW Appropriations Subcommittee and the Special Committee on Aging, I would like to take this opportunity to express my support for the appropriation bill's provision of $250 million for the elderly nutrition program. As you know, the elderly nutrition program is legislated by title VII of the Older Americans Act and provides hot meals to senior citizens at congregate feeding sites. The program not only enhances the ability of our senior citizens to receive adequate nutrition, but also provides these meals in a conducive social setting.

In my State of Florida there are many elderly living on fixed incomes. The continually escalating cost of living renders many of these senior citizens destitute. As a result, thousands of elderly poor in Florida, and in every other part of the country for that matter, are in desperate need of the meals provided by the title VII program. Many others require the social and supportive services of the program. It is mandatory, therefore, that Federal, State, and local administrators of title VII operate the program so as to reach the greatest number of elderly

citizens. This means that HEW and the Administration on Aging must allot title VII fiscal 1978 appropriations as soon as they are available. State Offices on Aging, too, should obligate their fiscal 1978 allotments with dispatch. Finally, local project administrators should use these obligations to provide meals to their elderly population as quickly as possible.

In short, we intend to underline at this time that title VII fiscal 1978 appropriations must be spent in fiscal 1978, and not be carried over for use in fiscal 1979. Any fiscal 1977 funds that remain unspent at the end of fiscal 1977, which should not be the case, must also be available and used in fiscal 1978. We have read too many news articles, even seen too many television reports, and heard too many stories reflecting the plight of the elderly poor. Title VII funds must be used to the maximum extent possible to relieve their plight. While this small program is limited in the effect it can have, it should not be further limited by failure to use program funds as soon as they become available.

SUPPORT FOR FUNDING OF AGING PROGRAMS

Mr. CHURCH. Mr. President, as Chairman of the Senate Committee on Aging, I wish to express my support for the funding provisions for older Americans in the fiscal 1978 Labor-HEW Appropriations Act, H.R. 7555.

I am especially pleased that the committee has supported my recommendation for full funding for the title IX Senior Community Service Employment Program.

Nearly 15,000 low-income persons 55 or older are employed under this program. In July this number will increase to 37,400, including 165 in Idaho. In addition, a Green Thumb Program will be established in Idaho for the first time. Green Thumb provides job opportunities in a wide range of useful and fulfilling activities for the rural elderly, including planting trees and shrubbery, beautify our countryside, restoring historical sites, and antipollution control activities.

H.R. 7555 would provide jobs for almost 50,000 older workers beginning in July 1978. In Idaho, more than 200 individuals 55 or older would be employed in the Community Service Jobs Program.

NUTRITION PROGRAM FOR THE ELDERLY

The committee bill would also increase the number of meals under the national hot meals program for the elderly.

This is vitally important because older Americans typically spend about one-fourth to one-third of their limited budgets for nutrition.

Nearly 390,000 meals are now served daily under the nutrition program for the elderly, primarily in senior centers, schools, and other nonprofit settings. At the end of the fiscal year, this number is expected to rise to 420,000.

In my home State of Idaho, approximately 5,500 meals are now served daily under the nutrition program for the elderly. Approximately 5,900 elderly Idahoans are expected to participate in the program 5 days a week by September.

The Senate Appropriations Committee bill would increase the number of meals served to almost 467,000 throughout our Nation and to approximately 6,600 in Idaho.

The title VII program not only offers low-cost, nutritious meals for older Americans; it also provides an opportunity to meet with others. This social function can be as valuable as the meal itself—and in some cases even more valuable, particularly for lonely shut-ins.

COMMUNITY SERVICES

H.R. 7555 would help to make services under the Older Americans Act more readily available to the aged.

The title III State and community services programs of the Older Americans Act authorizes a wide range of services to enable senior citizens to live independently in their own homes.

Many elderly persons are prematurely and unnecessarily institutionalized, simply because few effective alternatives—such as homemaker or home health services—are available. Yet, institutionalization is our most expensive form of care.

H.R. 7555 would provide services to about 25,000 elderly Idahoans, including transportation, home health, homemaker, residential repairs, legal counseling, and employment referral.

ACTION'S OLDER AMERICAN VOLUNTEER PROGRAMS

I am also pleased that the bill would allow more older Americans to participate in the Foster Grandparent, the Retired Senior Volunteer, and Senior Companions program.

Many elderly discover that some of their most rewarding experiences occur when they help others in their communities.

Nearly 15,300 Foster Grandparents provide valuable supportive services for mentally retarded and other disadvantaged children in institutions. Witnesses appearing before the Committee on Aging have emphasized that the program permits thousands of older persons to use their talents and skills to help others, while helping themselves at the same time. In addition, it enables disadvantaged children to grow emotionally, socially, and psychologically.

RSVP—the Retired Senior Volunteer program—and Senior Companions also provide opportunities for persons 60 or older to help others in their communities.

Almost 250,000 older Americans now participate in these three programs: 15,300 Foster Grandparents, 228,000 Retired Senior Volunteers, and 2,600 Foster Grandparents. H.R. 7555 would increase this figure to more than 270,000: 15,700 Foster Grandparents, 250,000 Retired Senior Volunteers and 2,840 Senior Companions.

NATIONAL INSTITUTE OF AGING

The fiscal 1978 Labor-HEW Appropriations Act would continue the activities of the National Institute of Aging.

This Institute is responsible for conducting and supporting biomedical, social, and behavioral research and training relating to the aging process.

Nearly 23.5 million persons are 65 or older. By the turn of the century most experts project that there will be between 30 million and 35 million older Americans.

In terms of sheer numbers, our Nation should be concerned about the impact of the aging process. However, there are other important reasons as well. Health care cost, for example, may be reduced because of discoveries relating to the aging process. With this body of knowledge, greater emphasis can be placed upon preventive medicine, rather than waiting until an illness may reach the serious stage.

OTHER PROGRAMS

Finally, H.R. 7555 would fund other important programs for older Americans:

Multipurpose senior centers;

Training;

Research;

Senior opportunities and services;

The Age Discrimination in Employment Act; and

A home health demonstration program to expand and develop home health agencies and train personnel to staff these units.

Approximately 2,000 senior centers are expected to be funded this year. They can provide one-stop service to meet the elderly's diverse needs: nutrition, health, recreational, informational, and many others.

H.R. 7555 would expand the title IV training program under the Older Americans Act. About 75 colleges and universities now receive Administration on Aging funds to prepare students for careers in gerontology. One of the most serious problems in the entire field of aging is the critical shortage of adequately trained personnel to deliver essential services for older Americans.

Under the Senate bill, about 37,000 persons could be trained on a short-term basis to meet immediate needs at nutrition sites, senior centers, and elsewhere.

For these reasons, I reaffirm my support for the older Americans programs funded by the fiscal 1978 Labor-HEW Appropriations Act.

Mr. INOUYE. Mr. President, I speak in support of the committees' recommendation for the appropriations for nursing education.

Those of us that follow health issues closely know well the concern of the public and the administration, as well as ourselves, for the increasing cost of health care. Health services delivery agencies are big business and we need to have qualified people administering them.

Are you aware that 40 to 60 percent of hospital operating budgets are for the nursing department budget? Directors of nursing are responsible for millions of dollars a year. One hospital in Georgia for example, has a $12 million nursing budget, while one in Boston is more than $25 million. Surely we have to see that those directors of nursing have good educational preparation to assure good administration.

Likewise, with the billions of dollars going into nursing care nationwide, how can we possibly not approve the $5 million for nursing research projects as requested by the committee. In fact, I think that item is much too low.

I know how hard it is for low- and middle-income families to send children to college. Nursing loans and scholarships

have greatly helped us meet the country's need for nurses.

I heartily support this nursing budget and I urge our conferees to stick to it in the conference.

Mr. SASSER. Mr. President, I commend the distinguished chairman of the subcommittee, Senator MAGNUSON, and the ranking Republican member, Senator BROOKE, for their hard work in producing this bill.

This piece of legislation is certainly one of the most important bills which will come before the Congress this year.

It has aptly been called the people's bill. It provides funding for health, education, and job-training programs in addition to various public assistance payments to low-income Americans.

There have been press reports which indicate that the President might veto this bill. I hope he does not. It is true that this bill is a very large bill. It provides more than $60 billion for the various programs of the Departments of Labor and Health, Education, and Welfare. But this bill is a balanced piece of legislation. The Senate Committee on Appropriations, I believe, has acted very responsibly in reducing the amount approved by the House by almost $600 million.

There are two items in this bill which I would like to bring to the attention of the Senate.

First, the bill provides funding for capitation grants to medical, osteopathic and dental schools. This program is for general operating funds of these health profession schools. The funds are awarded to these institutions on a formula basis—each school gets a certain amount for each student.

The needs of this country's medical schools are increasing every year. Inflation is taking its toll in the education field as well as throughout the whole economy. At the same time, enrollments at these schools are increasing. There is little doubt of the growing need for qualified medical personnel in this country, and we must assist these institutions in every way possible in order to meet our national health manpower needs.

Adequate capitation funds are necessary for all medical institutions but they are vital if our minority medical schools are to remain a viable resource.

Let me say that I was disappointed that the Carter administration only provided $114 million for this program in the fiscal year 1978 budget request. This amount was actually $2 million less than was requested earlier in the year by the previous administration. However, this amount is an increase of $13 million over the current year, and I believe it to be a minimum amount necessary for this program.

The House of Representatives earlier in the month provided $120.1 million for MOD. capitation grants. I was hopeful that the Senate Committee on Appropriations would go along with the House and recommend this increased level of funding. However, the bill before us today provides only $101.1 million. This is the same amount as for the current year and is a reduction of $13.4 million from the amount recommended by the administration, and it is $19 million under the amount approved by the House.

Mr. President, it is my information that the amount in the Senate bill will not provide adequate assistance to our Nation's medical schools. I want to take this opportunity to encourage the Senate conferees to agree to the House-passed amount for capitation grants.

At a minimum, I would hope that the committee of conference will provide the amount originally proposed by the administration. This would be a compromise between the Senate and House figures and would provide a minimal increase over the current year and would continue to provide needed funds to these medical institutions.

Second, I want to point out that the Appropriations Committee approved a total of $4 million for financial distress grants to minority medical schools. This funding is twice the amount requested by the Administration and approved by the House.

I want to congratulate the committee for taking this action. There are several minority medical institutions in this country which are finding it very difficult to survive the inflationary pressures on education.

These additional funds will assist these schools by providing needed financial assistance funds which are available to only the neediest of institutions.

I want to encourage the Members of the Senate who will be participating in the Senate-House conference committee to insist that the $4 million for financial distress be maintained and approved. The amount provided in the bill is an increase of $2 million over the budget, but it is still $1 million short of the authorized level. These funds are needed; they are necessary. I hope the bill we finally send to the President includes the funding as proposed by the Senate.

Mr. President, in connection with financial distress funding, I want to direct the Senate's attention to the critical financial condition of Meharry Medical College in Nashville, Tenn.

Meharry is just entering its second century. For more than 90 years it has been at the forefront of minority medical education. More than half of our country's black physicians and dentists have been educated at this college.

Meharry is a truly national resource. Currently about 20 percent of all black American students attending medical schools and 30 percent of all black dental students are located at Meharry. It should be pointed out that all but 88 of the school's 642 students are from States other than Tennessee. Currently more than 500 persons are enrolled from 38 States, and the majority of these students will practice in States other than Tennessee once they graduate.

Relative to the school's total budget, Meharry receives about 16 percent of its financial support from private grants. This represents a far greater proportion of private grants than any other medical school in the country. Tuition and fees at Meharry provides 13.5 percent of the school's overall financial support, compared to only 4.3 percent of other medical schools. I also want to point out that the school receives only a limited amount of support from State and local sources. Meharry is a free-standing private medical college. This school has a per capita expenditure for each student that is 90 percent of the national average. In addition, it has a retention rate of 98.8 percent, the highest of all the national medical institutions. In other words, Meharry is doing more for less.

This institution, however, is facing an uncertain future. In the current school year Meharry is facing a deficit of several million dollars—a large sum for a relatively small institution. The school is facing this deficit although there has been a tremendous outpouring of public support. In 1968, Meharry began an effort to raise $55 million in private funds—six times as much as the school had raised before with any single fund-raising effort. Almost $40 million of this goal has been reached.

Meharry has found it necessary to increase tuition by $1,250 for the next school year. This increase will make the tuition $4,000 per year. It must be kept in mind that a majority of minority students enrolled in the medical and dental schools come from families with incomes under $5,000 per year. More than 80 percent of Meharry's students presently receive financial assistance in the form of scholarships and loans.

The school is attempting to solve its problems with a minimum of Federal help. However, despite all these efforts, I am concerned for the long-term viability of this national resource due to a lack of funds. I have just been informed that the dental school is facing the very real possibility of losing its accreditation this year because of the school's fiscal situation. Also, this year the Liaison Committee on Medical Education will review the accreditation of the medical school, and the financial needs of Meharry will certainly influence that committee's recommendations.

There is no doubt that there continues to be an overall shortage of minority health professionals throughout the country. Only 2 percent of the total physicians and dentists in the country are black. Each year Meharry is providing superior-trained medical personnel to help meet this shortage. Eighty percent of Meharry's students set up practice in the underserved rural and inner city areas of the country.

Mr. President, the Appropriations Committee has recognized the special needs of Meharry Medical College. During the committee markup, the distinguished chairman of the subcommittee, Senator MAGNUSON, called attention to the fact that of the Nation's financially distressed minority medical institutions, Meharry is probably in the worst condition.

In addition, the committee provided language which directs the Health Resources Administration to give special consideration to Meharry.

The committee also provided report language to the effect that financial distress grants should be allocated on the

basis of current need and greatest merit. I believe that Meharry Medical College certainly fits this category. Its financial situation is deteriorating although the school's administration is making every effort to improve its fiscal condition. I hope that the Department of Health, Education, and Welfare will review Meharry's applications for assistance for financial distress grants and other programs with the committee's report language in mind. I wish to point out that Meharry needs at least $3 million in Federal supports next year.

Mr. President, in summary, this is a good bill. I strongly support the programs and policies which are funded by this legislation. I hope the Senate will adopt the bill. I hope the conference committee will follow the recommendations I have made. And finally, I hope the President will sign it.

THE FIGHT AGAINST DIABETES

Mr. SCHWEIKER. Mr. President, I rise in support of the Labor-HEW appropriations bill, and wish to direct the attention of my colleagues to one important feature of the health portion of the bill, the continuation of the Federal effort against diabetes. As is probably well known, I have taken a special interest in this problem, and therefore it is with particular pleasure that I note the action of the Senate Appropriations Committee in this regard.

In the last several years we have become increasingly aware of the need to make diabetes a top health priority. For a long time, diabetes was thought to be controllable through the use of insulin. Gradually, though, we became aware that diabetes was linked to heart problems, vascular problems, eye problems, and other complications.

Seeing the need to define the nature and extent of diabetes, Congress in 1973, under legislation introduced by myself and others, created the National Commission on Diabetes. This distinguished body, led by Dr. Oscar W. Crofford of Vanderbilt University, called together leading diabetes researchers, held hearings across the country, and, in December 1975, issued a 10-volume report. The highlight of the report was the Long-Range Plan To Combat Diabetes, a coordinated program of diabetes research, training, and service developments to be implemented over the following 5 years.

One part of the commission's plan which I introduced as a legislative proposal was enacted last year, when Congress created the National Diabetes Advisory Board. This board, whose chairman is Dr. David M. Kipnis of the Washington University School of Medicine in St. Louis, has now met several times, and is actively engaged in reviewing the Federal diabetes effort and developing new programs for the future.

Perhaps the most important part of the long-range plan is the program for Federal research support, coupled with budgetary recommendations for the various National Institutes of Health. I would like to include in the RECORD at this point a summary table of these funding recommendations.

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

NATIONAL COMMISSION ON DIABETES NIH RECOMMENDATIONS BY INSTITUTE—INTRAMURAL AND EXTRAMURAL (FISCAL YEARS)

[In thousands of dollars]

		1976		1977			Commission recommendations [1]			
	1975 actual	Commission [1]	Actual	Commission recommendation [1]	Congressional action	NIH planned allocation	1978	1979	1980	1981
NIAMDD	18,373	28,116	18,348	46,717	39,826	39,826	64,453	87,877	105,032	120,250
NHLBI	5,588	7,109	[2] 7,070	8,933	9,700	9,700	12,350	13,585	14,845	16,330
NEI	4,763	6,931	5,246	9,840	10,041	[3] 9,065	11,500	14,000	15,500	17,667
NICHD	1,476	3,170	2,230	4,815	4,340	4,340	6,166	7,928	10,300	12,363
NINCDS	[4] 782	1,760	331	2,149	2,000	1,860	2,400	2,600	2,800	3,000
NIDR	427	769	400	1,099	600	600	1,467	1,866	2,281	2,766
DRR	5,733	6,658	6,075	8,093	6,324	6,324	9,186	10,284	11,334	12,712
Other [5]	2,053	2,250	2,515	2,462	2,437	2,437	2,661	2,843	2,997	3,160
Total	39,195	56,763	42,215	84,108	75,268	74,152	110,183	140,983	165,089	188,248

[1] Commission recommendations for fiscal year 1976 through fiscal year 1981 are stated in current dollars and, therefore, may differ from levels shown in the Commission's Dec. 10, 1975, report, which were stated in constant dollars.

[2] Additional $2,500,000 spent during the fiscal year 1976 transition quarter.

[3] NEI has based its allocation on an apparent misinterpretation by NIH on the effect of the House allowance. However, the House report indicates (p. 23) that there is a total increase for diabetes in NIH of $27,000,000. This amount can be arrived at only by using the $3,500,000 figure for NEI rather than the $2,500,000 assumed by NIH.

[4] Restated actual figure for fiscal year 1975. Previous report showed $1,365,000.

[5] Diabetes research effort in Institutes not directly affected by Commission's recommendations (National Institute on Aging, National Cancer Institute, National Institute of General Medical Sciences, National Institute of Allergy and Infectious Diseases, and National Institute of Environmental Health Sciences).

Mr. SCHWEIKER. Earlier this year, I was privileged to chair hearings on this bill where we heard from the National Institutes of Health on diabetes, and then later from representatives of the National Diabetes Advisory Board, the Juvenile Diabetes Foundation, the American Diabetes Association, and the Pennsylvania Diabetes Institute. These witnesses reviewed the progress we have made in the fight against diabetes at NIH. We have learned much about this disease, and we are moving faster than the commission expected in its 1975 report. Most of the nongovernmental witnesses endorsed the commission levels as the figures that should be approved by the Congress. From what I heard then and have learned since, I believe that these amounts could be effectively used in diabetes programs, and I have worked to have those figures adopted in this bill.

Therefore, I am very pleased with the levels for diabetes research provided in H.R. 7555. When this bill was considered in the full Appropriations Committee, we added $20 million for diabetes research in the National Institute for Arthritis, Metabolism, and Digestive Diseases. The Labor-HEW Subcommittee had earlier approved adequate levels for diabetes in the other institutes, but because of the concentration of diabetes research in NIAMDD, additional money was needed and was provided.

I would like to include at this point in the RECORD a chart indicating the amounts provided for diabetes in this bill. These amounts represent the judgment of the NIH Directors as to how they would divide up the amounts provided by the Senate committee, following the indications of interest in this problem contained in the committee's report filed with this bill. In some cases, notably at NHLBI and NINCDS, the Institute actually intends to spend more on diabetes than the commission had proposed 2 years ago. These increases reflect the progress that is being made in the important research areas of neuropathies and vascular complications from diabetes, which are the areas that cause the most frequent deaths from the disease.

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

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

APPROPRIATIONS FOR DIABETES RESEARCH, NATIONAL INSTITUTES OF HEALTH

	1976 actual	1977 appropriation	1978 President's budget	1978 House allowance	1978 Senate allowance
National Institute of Arthritis, Metabolism, and Digestive Diseases	$14,538,000	$35,727,000	$34,012,000	$40,012,000	$63,512,000
National Heart, Lung, and Blood Institute	7,000,000	11,900,000	12,400,000	12,800,000	14,200,000
National Eye Institute:					
Diabetic retinopathy	5,008,000	6,627,000	6,563,000	7,724,000	7,724,000
Diabetes total NEI	5,246,000	9,065,000	9,065,000	10,565,000	11,517,000

	1976 actual	1977 appropriation	1978 President's budget	1978 House allowance	1978 Senate allowance
Research resources	6,075,000	6,355,000	7,378,000	8,253,000	7,783,000
National Institute of Child Health and Human Development	2,230,000	4,619,000	4,750,000	5,750,000	5,900,000
National Institute of Neurological and Communicative Disorders and Stroke	1,606,000	1,860,000	1,931,000	3,380,000	3,380,000
National Institute of General Medical Sciences	775,000	1,000,000	1,000,000	1,300,000	1,300,000
National Institute of Dental Research	400,000	600,000	600,000	600,000	600,000
National Institute on Aging	490,000	563,000	575,000	650,000	575,000
National Cancer Institute	235,000	250,000	250,000	250,000	250,000
Total	38,595,000	71,939,000	71,961,000	83,560,000	109,017,000

Mr. SCHWEIKER. I believe that members of the subcommittee and the committee deserve a word of thanks for supporting these levels for diabetes. These figures will allow proper emphasis at NIH for diabetes, the third leading cause of death in this country.

Finally I would like to add some comments about the new administrative directions being taken at the National Institutes of Health with respect to diabetes. I have had several opportunities to speak with the very competent Associate Director for Diabetes, Dr. Lester Salans, who is located within NIAMDD but is charged with coordinating the entire diabetes effort. Dr. Salans is currently working to set up, under the sponsorship of the Director of NIH, Dr. Donald Fredrickson, the Intra-NIH Diabetes Coordinating Committee, which should begin operation later this summer.

This committe will contain top representatives from seven or eight institutes which carry on various aspects of diabetes research. It is important not only in the context of diabetes but also as a model for other systemic diseases that cross institute boundaries. I would like to salute Dr. Frederickson for this leadership in this effort, and hope that it can effectively span the jurisdictions of the various institutes of NIH that can sometimes get in the way of effective biomedical research. The Diabetes Committee will work to assure that the money we approve will be used effectively and innovatively, and that the various institutes cooperate in diabetes research, thereby guaranteeing the most productive use of these tax dollars.

Therefore, let me again say that this bill takes us a long way toward full implementation of the long-range plan to combat diabetes, and I think it deserves the support of every Member of this body.

FAMILY PLANNING

Mr. BAKER. Mr. President, I note with pleasure that the Appropriations Committee has recommended funding for family planning services authorized by title X of the Public Health Service Act at a level of $140 million for fiscal year 1978. This figure represents an increase of $26.3 million over the amount appropriated last year. While I wish the amount could be larger, it represents a renewal of the Congress' commitment to voluntary family planning services and will permit the many successful programs now in operation throughout the country to continue.

Mr. President, the family planning program has been among the Federal Government's most successful efforts. Since 1970, when title X was enacted, a total of $584.3 million has been appropriated. A recent article by Frederick S. Jaffe and Phillips Cutright in "Family Planning Perspectives" estimates that 1.9 million unwanted births among low- and marginal-income women have been averted, at a saving in Federal expenditures of $1.07 million. The benefit/cost ratio of the family planning program has been 1.8 to 1.

While the success of the program in terms of savings in Federal expenditures is good news, the benefits which have accrued to low-income women and families are also great and harder to measure.

I am proud that my own State of Tennessee is now the fourth largest provider of family planning services in the Nation. During fiscal year 1977, $6.6 million was spent to provide family planning services to almost 128,000 patients. Even with its remarkable record, however, there is room for improvement and expansion in Tennessee's program. One-half of the women in my State in need of family planning services did not get them in 1976 because of inadequate funding.

I hope, Mr. President, that we in the Senate will keep in mind the need for future increases in funding for title X in order to meet the goal of making family planning information and services fully available on a voluntary basis to all those who need them.

INTERDISCIPLINARY TRAINING PROGRAM

Mr. EAGLETON. Mr. President, I am very pleased that the bill, as reported by the committee, includes $5 million for the newly authorized interdisciplinary training and curriculum development program. As you will recall, the type of activity contemplated by this new authority is the same as that funded previously under the special projects program for schools of veterinary medicine, optometry, podiatry, and pharmacy.

I would like to briefly review some of the accomplishments of the special projects program. Of particular interest to me was the development, by the colleges of podiatric medicine, of a deferred cost of education plan for health professions students. As a direct result of this study, I offered an amendment to the Health Professions Educational Assistance Act of 1976 to establish a new federally insured student loan program specifically for health professions students. Although regulations for the program have not yet been promulgated, I believe that this new student assistance mechanism will, when implemented, shift a great part of the cost of health professions education from the Federal Government to the students.

Another project funded under this program led to the implementation of an interdisciplinary education program. Developed by one of the colleges of podiatric medicine in conjunction with schools of osteopathy, nursing, pharmacy, and optometry, it is designed to prepare students for team delivery of health care services, a concept which many believe will have significant impact on our entire system of health care delivery. This program is now completing its second year of operation, and I believe it is vitally important that it continue to be supported under the new funds contained in this bill.

Finally, Mr. Chairman, two feasibility studies relating to the establishment of new colleges of podiatric medicine in underserved areas are currently being conducted. The podiatric manpower shortage appears to be most severe in the South, and it may be that the studies will recommend the establishment of one or more regional podiatric medical schools. Here too, special project funds should be available to assist in developing that regional approach.

Mr. Chairman, I hope that the Senate will be able to prevail upon the House to accept these funds in conference.

Mr. MAGNUSON. I, too, fully support the Senate level of funding for the interdisciplinary training and curriculum development program. I believe that the innovative projects which the Senator from Missouri has described must continue to receive support to help us reach our goal of improving health professions education which will ultimately lead to improved quality of health care and greater accessibility to that care for all of our citizens.

A POSITIVE COMMITMENT TO JOB CREATION

Mr. HUMPHREY. Mr. President, the HEW and Department of Labor appropriations bill is one more positive commitment to provide decent employment to the people of this country. It is our pledge to continue the fight to alleviate high unemployment and to provide meaningful jobs for all Americans willing and able to work.

This appropriations bill carries our fight forward by providing the necessary level of funding for some of our key manpower programs. Most importantly, it provides for further funding of the Comprehensive Employment and Training Act, the cornerstone of our manpower policy. Although no forward funding for public service jobs into fiscal 1979 is provided in the bill, we will consider such funding in a supplemental appropriations bill later this year. We will also consider increased funding of the youth employment program in that supplemental bill.

The bill also reflects our continuing concern for disadvantaged youth. It increases the funding of the Job Corps program which provides low-income, dis-

advantaged youth with vocational training, education, counseling, and work experience. This program is a key component of our effort to help move disadvantaged youth into the mainstream of American life. America's youth want jobs, they want to be productive, they want to work for a living, they want a fighting chance and this program helps provide them with that opportunity.

In addition, this legislation substantially increases the number of summer jobs for youth. Last year we provided funding for the creation of just over 1 million jobs for the summer of 1977. This bill increases funding for the summer youth employment program so that next summer, 1.5 million job opportunities will be available.

While it will not provide job opportunities for all the young people who will be looking for work next summer, it does reflect our commitment to build and improve existing programs that have proven so effective for millions of young Americans.

Mr. President, although the bill reflects our strong commitment to alleviating unemployment, I think we need to realize how far we still have to go to achieve that goal. In May, more than 2 years after the economic recovery began, the official unemployment rate was 6.9 percent. Except for the 1957–58 recession, that is higher than the rate at the trough of any recession since the Great Depression. Unemployment continues to deal devastating blows to the hopes and aspirations of millions of Americans.

I am pleased to support this bill and hope that we will continue to support efforts to create jobs so that the millions of Americans, ready, willing, and able to work, can find meaningful employment.

NATIONAL CANCER PROGRAM APPROPRIATIONS

Mr. HUMPHREY. Mr. President, just last week I testified before the House Intergovernmental Relations and Human Resources Subcommitte oversight hearings on the national cancer program.

I testified because I believe there is a serious danger that those of us who conceived this program, and who are called upon to oversee and to fund it, may grow tired and discouraged, and weaken in our commitment.

It is important to reiterate that we began in 1971 a concerted attack against one of mankind's oldest enemies. We are determined to control and conquer this dread disease, but I do not think we can realistically expect to overcome an age-old enemy in a mere 6 years.

In assessing our progress, we should give due recognition to the strength of the enemy. Cancer is not one but many diseases. It has plagued men for centuries. We cannot hope for victory overnight.

But we can expect, and we have achieved, progress in both basic research and improved clinical care. The National Cancer Act did not promise us early victory, but a better program and progress. I maintain that our expectations have been met, in some cases dramatically.

I would like to ask unanimous consent that my testimony be printed in the RECORD at the end of my statement. It underlines the need for continued strong financial commitment.

To stand still is to fall behind and to waste human resources and facilities that are prepared and mobilized to move ahead. We must give this program the financing that will permit it to move ahead strongly and confidently.

Doubt was expressed at the House hearing as to the ability of the program to absorb limitless funding. But we are millions of dollars from reaching that saturation point. Because there are many strong competing demands on our limited Federal dollar, we have never matched authorization with appropriation and, after quite a few conversations with my good colleagues from the Senate Labor-HEW Subcommittee, I accept the realism of their proposed funding. But I want to emphasize very strongly that we need and can use every penny of this $920 million on this Nation's cancer program.

I congratulate the subcommittee for its wise and judicious increase over the House-proposed level. This amount is the minimum amount required to maintain the momentum of the remarkable research efforts underway. To provide less is to jeopardize the investments we have already made.

In light of the challenge we face, and measured against the terrible human and economic toll of the insidious enemy we confront, this is a very reasonable investment. Under no circumstances should this amount be bartered away.

I would like to clarify another aspect of this bill. I wrote the distinguished Appropriations Committee Chairman, Senator MCCLELLAN, of my interest in a specific program, the grant-supported bladder research at St. Vincent's Hospital in Worcester, Mass.

As I mentioned in my letter, Dr. Friedell, the project director feels that a continuation of current funding for the center would impose a serious constraint on plans to expand clinical investigation without neglecting basic research. The project was allotted $4 million under the National Organ Site Program of the Division of Research Resources and Centers. It will be very difficult to maintain research efforts in both basic and clinical areas without a large budget increase to $5 million in fiscal year 1978, $6 million in fiscal year 1979 and $7 million in fiscal year 1980. It was proposed that this funding priority be established as a line item designation in the appropriations bill. I am convinced personally that bladder cancer deserve greater research priority if we are to control or reverse 29,900 new cases each year, and to reduce the 9,800 bladder cancer deaths annually. It is important to note, as well, that bladder cancer is one of the most costly cancers, both in treatment and in reduced earnings.

I note that no line items appear in the appropriations bill. I would like to ask my colleague, the distinguished chairman of the subcommittee, Mr. MAGNUSON, if he does not agree with my assessment of the need for a greater emphasis and funding for this priority program?

Mr. MAGNUSON. I would like very much to accommodate my friend and colleague from Minnesota. However, our committee has consistently avoided including line item designations in cancer and all NIH funding. I am sure you understand that admitting one exception would open the door to a flood of equally worthy cancer projects, and pull this committee into program administration.

Mr. HUMPHREY. I do not suggest that research on any one type of cancer be done at the expense of other vital areas of research. But I believe it is legitimate to recognize that bladder cancer has been a neglected area of research, that the need for increased understanding and better treatment is acute, and that the project I cite is on the threshold of significant progress. It is not so much a question of priority as of timing. I believe that this consideration should guide the efforts of the NCI, and the timely support it dedicates to this worthwhile project.

Mr. MAGNUSON. I understand your concern. Certain areas of the United States have now been identified as producing a high incidence of certain types of cancer. I understand that the death rate for bladder cancer is especially high in New Jersey. Research priority should be given to bladder cancer as one of the more costly forms of this disease both in terms of treatment and lasting physical impairment. I will be glad to go on record with my distinguished colleague in identifying bladder cancer research as an appropriate focus for intensified research efforts.

Mr. HUMPHREY. I thank the distinguished Senator from Washington for his response to my concern. I trust that the National Cancer Institute will give careful consideration to the need to provide adequate funding for the programs under this important project on bladder cancer research.

Mr. President, I ask unanimous consent that my testimony to the House Subcommittee on Intergovernmental Relations and Human Resources regarding the National Cancer program be printed at this point in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, may I just very quickly thank you for permitting me to testify before your subcommittee. You are very gracious and generous to make this time available. I welcome the opportunity to place in the public record my opinion—and that is what it is, just my opinion—on the progress and achievements of the National Cancer program, as well as some of its problems.

The National Cancer Act, as we know, was passed in 1971 because Congress and the American public wanted to give a high priority to combatting the disease most feared by a majority of Americans.

I came back to the Senate in 1971 and this was one of the first pieces of legislation that I became involved in. The genesis of it was earlier but it came into being in 1971.

Each year we are called upon to justify the priority that we gave to the National Cancer Program, and rightly so. A simple statement of fact, however, does that.

Cancer is a scourge—it is a plague—that strikes two families in three or one person out of every four Americans. It kills more

children between the ages of 3 and 14 than any other disease. Cancer killed more Americans in 1971 than in the four years of World War II. Vietnam deaths from 1961 to 1976 took 46,498 lives—a terrible, tragic toll. However, in the same period, cancer killed five million Americans.

This just gives us a picture of what we are combatting—the nature of the struggle, the tenacity of the enemy called cancer. In addition to the personal tragedy and suffering, the economic loss is staggering. If you add the estimated cost of treatment to lost productivity, a conservative total cost is $25 to $35 billion each year. That is just the money part of it—it is impossible to estimate the heartache, the tragedy, the pain, the suffering, the uncertainty, the fear.

I do not think an investment of under $1 billion is too much to try to stem this tragic waste of human and material resources.

We are waging a war against an enemy that we cannot see, at times, in terrain that is unknown. Yet we have to wage it because this enemy continues to take a terrible toll of our people, and that toll has been increasing. It is almost at plague proportions, epidemic proportions.

In the Cancer Act, we declared war on this dread disease, and I do not think that we should retreat or put up the white flag.

Perhaps our original expectations were too high. That generally happens, you know. To sustain our determination year after year, to invest the necessary resources, to make advances little by little when afflicted individuals and families need and want help and a solution right now—that is a task that understandably tries human nature and patience.

People become desperate. They want answers. I saw a brother stricken down by the disease. I saw a son with Hodgkin's. By the way, that was 13 years ago. He is, today, a very healthy, active, successful young man.

It also is human nature to react to disappointment by seeking a culprit. We have mobilized our efforts against cancer. We have dedicated enormous resources to its eradication. But people still are suffering and dying from cancer.

So, theory and logic goes, somebody must be at fault. The logic may lead to sensational press copy, but not to sound public policy.

There is nothing sacrosanct about the National Cancer Program and it ought to be looked upon with complete objectivity. Congressional oversight is not only appropriate, I happen to think that it is essential.

Firm standards and clear objectives underlie any successful endeavor and this program, like any other, ought to be monitored, it ought to be checked, and Congress has that responsibility. I have no doubt that we can find instances of error and waste because we are waging a war against an enemy that is very elusive, an unbelievable coalition of enemies, because cancer is not any one disease, any one type.

In that process, there is no doubt that you will waste some resources in terms of getting results. That is the picture of war.

We can and we should demand that this element of waste and error be corrected, but I strenuously object to any attempt to discredit and abandon a noble venture simply because we are in a hurry. That is not a good argument for starting over or abandoning our efforts.

Research is a process of discovery, and results can never be guaranteed. Even the inevitable blind alleys, however, sometimes help to focus research on the real options. The significant questions to be asked concern the validity of our priorities, and whether progress has justified if not our unrealistic hopes, at least our investments.

Let me address briefly the question of achievements. In 1971, we began a concerted attack against one of mankind's oldest enemies. For centuries, man had been virtually helpless to prevent, arrest, or cure cancer. The difficulty is compounded because, as I have said, cancer is not one but many, many diseases.

The annual report of the Memorial Sloan-Kettering Cancer Center in New York City says, of the basic research required, "The net that must be cast is almost as wide as the whole field of biomedical science."

I mention this because we speak about cancer as though it were something like smallpox—one type. It is many things. There are many types, and there are so many unknowns.

In confronting this towering challenge, the National Cancer Program—I happen to believe—has made enormous strides in both basic research and improved clinical care. The National Cancer Act did not promise us an early victory, but it did promise a better program and it did promise progress.

I maintain that our expectations have been met and, in some cases—thank God—dramatically. This year, half of all the new cancer cases can and should be arrested or cured. I tell you, that is something. That is a remarkable achievement.

In the 1930s, less than one victim in five lived five years after treatment. In the 1950s, the ratio was one in four. Today, it is one in three. Progress. This translates into thousands of lives saved, an unbelievable amount of suffering avoided, an incredible amount of economic loss prevented.

There are three million Americans alive today with a history of cancer and most of them can be considered cured.

Promising developments are occurring in treatment. Retinoids, a combination of natural and synthetic Vitamin A, offer new hope for cancer prevention. At least, it is a hope and is being tested.

New methods—such as combined drug treatments, blood transfusion, immunotherapy, CAT scanning, and ultrasound detection of tumors—have been developed and disseminated. Modern surgery gets better results with less radical operations; radiation therapy has fewer side effects; and chemotherapy attacks some advanced cancers and prevents some tumor recurrence.

It is not easy to compile, ir six years, statistics for a disease which is not considered cured until a lapse of at least five years after treatment. You are running against your own timeframe, but there are some measurements by which we can assess the value of the program.

In less than ten years, the five-year survival rate for patients with Hodgkin's disease has risen from 68 to 90 percent for early cases, and from 10 to 70 percent for advanced cases. When my son got Hodgkin's disease, in 1964, I felt terror.

I will never forget when my wife told me that the exploratory operation that my son, Robert, had, confirmed that he had Hodgkin's disease. If somebody had taken a hot dagger or poker and plunged in into my heart, it could not have been worse.

However, 13 years have passed, and as a result of care that he received from the Cancer Center at the University of Minnesota, today he is healthy, strong, and I hope he will be successful.

Ten years ago, the survival rate for childhood leukemia was 15 percent. Today there is a 50 percent chance of survival.

I think Dr. Holland, from Mount Sinai Hospital in New York, testified on the remarkable progress in breast cancer. The same is true of bone cancer. The treatment for bone cancer has shown really remarkable advances.

Not all cancers have shown the same dramatic improvement, but each has shown a significant and heartening advance. Each person saved is a victory and vindication of our efforts.

Treatment could save 345,000 lives, or half of the persons who get cancer, each year. For others, research holds the only hope. It was just my luck to get a form of cancer in which they have not made that much progress, but I intend to have them use me as a sort of test. We are going to make the progress. It can be done.

We do not and should not make a distinction of value between the lives that can be saved or lengthened now and those that will be affected by long-term research. Patients today, throughout the United States, have greater hope because the National Cancer Program has established 18 comprehensive cancer centers as focal points for research, diagnosis, treatment, and rehabilitation to provide both standards of excellence and a resource for surrounding community hospitals.

These cancer centers give people by the hundreds of thousands hope that they will survive. In this battle against cancer, hope is a very significant part of the total equation.

Finally, the either/or purists charge that environmental causes of cancer have been neglected, and to a degree they are right. For many years, Americans saw industry and technology as the all-powerful twin engine powering America's welfare and progress.

There was a complacent belief that the ravages of technology could always be cured by a different dose of technology. We have learned to respect God's creations more in these last few years—both our natural surroundings and the fragile and marvelous human body.

This emphasis must be incorporated in our National Cancer Program which has reflected, to a degree, the bias and blindness of our society. In other words, more emphasis must be placed on the environmental aspects.

We know now that environmental conditions are factors in from 70 to 90 percent of cancer which is, thus, potentially preventable—but I want to say that it is going to take some doing and Congress and the public are going to have to pour in the resources if we really mean it.

It does no good to talk about a healthful environment—about the birds and the bees and the pure air—unless you are willing to put the money on the line. It is going to take billions, but you are going to save millions of lives. It is a question of whether you want to save your money or save your life.

There are no checking accounts or savings accounts in either Heaven or Hell, so I think what you have to do is try to save your life.

I support increased funding. I have in the Senate in the past, and I will continue to do so. I support emphasis on programs to explore, identify, and eliminate the environmental causes of cancer, and to clarify its relation to nutrition.

Let me put in a plug here for nutrition research and for nutrition education. I think that it is imperative that, in this cancer program, we put a great deal more emphasis upon nutrition. It is going to be a difficult problem to change the eating habits of the American people, but I am convinced that we are eating ourselves into cancer, Mr. Chairman, in part, and I am convinced that we have to place much more importance on this.

This is a place where we can combine the efforts not only of the NCI and the NIH, but of the Department of Agriculture and all that we do in the field of nutrition research as well.

Now, nutrition research is underway at Baylor University and other places, but it is new. Most of our doctors, Mr. Chairman, have had no more than minor courses in nutrition—it has never had a major place in their education.

Therefore, nutrition needs new emphasis. There is no doubt whatsoever in my mind

that prevention is always preferable to cure. NCI is expanding its test program for chemical compounds and we need to strengthen this priority, but we must also recognize that the National Cancer Institute's mission is to promote the use of cancer knowledge; to define, apply, and refine cancer treatment; and to seek new solutions and knowledge through research.

I repeat that research may lead you up a thousand blind alleys but, in each blind alley, you may find a little clue. Every once in a while, you find a clear channel.

We are learning so much today about the cell, we are learning so much about our bodies, and we have learned most of it in the last 10 to 15 years. Much of it is due to the fact that the Government of the United States—working in cooperation with private organizations, our great universities and laboratories, and the pharmaceutical institutions and others—has pushed ahead on research to discover the causes of cancer and its treatment.

In that process, we are discovering many other things that have no relationship to cancer, but which are very definitely helpful to our general mental and physical health.

I would remind you that the National Cancer Institute is not a regulatory agency. I do not need to remind you, you know it. I just want to emphasize it. It is a research, diagnostic, and treatment instrumentality.

In short, the National Cancer Program now—to put it in perspective—is not above criticism and doctors, as well as Congressmen, find that it has shortcomings.

However, its priorities, I submit, can be defended. Its progress can be defended. It does not do any good for the media of this country or anybody else to downgrade its effectiveness and its achievements.

When you have this disease, you have to have hope that you can live. You have to have hope that your loved ones will not get it.

When you read these spreads where somebody points out that something did not work or that some money was wasted, it sends a terrible jolt through you. You begin to feel it is all useless, all hopeless.

I am here to give some good news. I know that there is a lot of bad news in the world.

The good news is that we have made progress. I do not know if that is going to make any headlines, but it will save some lives.

I think it is time that America starts to get some good news about something. That is why I am over here. That does not in any way—nor should it in any way—deter us from being analytical and constructively critical about everything that we are doing.

We need to constantly improve. There are young men and women coming out of our universities and our medical schools who are literally geniuses, who are working in this field trying to find the causes, the treatments, and the cures for cancer.

In the process of doing this, they are improving our total health. We have built a solid platform of knowledge, institutions, and organizations and trained specialists.

Fortunately, my fellow Members of Congress, these great cancer centers that are spotted around our country are within reach of our people. The outreach of information from these cancer centers to the local doctor is phenomenal.

Today, doctors know where they can send their patients, they know where the treatmet can come from for any particular type of cancer, they know where the specialists are. If we did not get anything else out of this program other than simply to know where to go, it would be worthwhile.

As new ideas develop, we have the skilled workers and the equipment to test them quickly. Moreover, there is a geometric progression to knowledge. We would be ill-advised to begin weakening, retreating, or dismantling the world's most intense professional and coordinated attack on cancer.

If we can break through on cancer, we will do more for the world than the mind of man can even imagine. This would be an incredible benefit because cancer knows no race, no geographical area, no sex, no color, no religion. It hits us all.

I am proud that America is willing to put huge resources into cancer research and the cancer treatment program. This is what we ought to be known for, not that we are going to get a B-1 bomber or not that we have a huge missile. The Russians have that, too, and they can build them as good as we can.

But we have the finest technicians, doctors, scientists, researchers, and specialists in the world in this field, and we are spreading that knowledge out and bringing other people in, in a great international effort to find the answer to this dread killer.

I conclude by saying—and you know it and I know it—that nothing worthwhile is achieved easily. You have to live with frustration as a Member of Congress. It takes so long first, to get anything done because we have all the different points of view—which is good—and then, when you finally get something set up, it takes time to get it moving.

Once you get it set up, you have all the counterforces that think they know how to do it a little better than the other fellow, but that is the competitive nature of our system. That is why we do better.

Sometimes it is a little inefficient. Sometimes it is a little slow. But, it works—and I think the record speaks for itself.

To reverse the strides already made would be an unconscionable waste of our previous investments but, more importantly, it would literally be a retreat from what we know is right. We must maintain and expand—and I underscore the word "expand"—the war on cancer, and we must do so under the scrutiny and healthy skepticism of the public and its elected representatives.

You see, I want to win this war before it is too late. I have a personal stake in it, and I am going to be very unhappy if they find a cure to what I had just about two days after I am dead. That would make me very, very unhappy. I would most likely rise up and complain. I just wanted to express my heartfelt feelings and sense of purpose.

NUTRITION EDUCATION FOR THE ELDERLY

Mr. HUMPHREY. Most American consumers have remarkably little understanding of the foods they should eat. Understanding dietary requirements, however, is particularly difficult for the aged. The metabolic changes that accompany aging reduce an individual's caloric needs while necessary levels for protein, vitamins, and minerals remain constant. The lack of nutrition comprehension among the elderly is reflected in our skyrocketing health care costs and the huge numbers of elderly requiring institutional care.

There is, I believe, an immediate need for a comprehensive program of nutrition education for the elderly, and such a program is feasible.

Mr. MAGNUSON. I certainly support and endorse the Senator's efforts to address the needs of the elderly.

Mr. HUMPHREY. No comprehensive nutrition education program has been tested but a health education program in the area of physical fitness for older persons has been demonstrated effectively through a Federal initiative taken in 1975 by the Administration on Aging. I refer to the health education and fitness program for older persons which is involving both the public and private sectors in communities throughout the country and includes training and education of community leaders and the enrollment of hundreds of thousands of older persons in exercise and activity programs.

The same methods could be employed in a comprehensive nutrition education program for the elderly.

The proposal offers a grassroots approach focusing on the application of diet objectives and has, as a main objective, the widespread dissemination of information with motivational incentives for the practical application of sound nutrition principles for the elderly. Utilizing mass media as was employed in the fitness project, the proposal provides an action-oriented program for coordinating all efforts, community by community.

Senator MATSUNAGA is truly an expert of the programs and issues concerning the elderly. Would my distinguished colleague from Hawaii share his views on the need for a strengthened approach to nutrition education for the elderly by our Government?

Mr. MATSUNAGA. During my chairmanship of the Subcommittee on Federal, State, and Community Services of the House Select Committee on Aging, my subcommittee held a number of hearings relating to the problems of the elderly. Several of these hearings demonstrated the profound need to make available more adequate nutritional information for our older Americans. I am particularly concerned that we develop policies and programs to assure sound dietary habits among older Americans. There is no doubt in my mind that we need to enhance the Government's effort in the area of nutrition education.

NATIONAL CANCER PROGRAM

Mr. DOLE. Mr. President, except for peace, there is probably nothing the American people want more from their Government than a cure for cancer. Here in Congress, we may debate antitrust legislation, common-situs picketing, or welfare reform; but to most Americans, those are only tangential concerns. Rarely do they touch to the quick of our lives. But in one way or another, cancer touches us all. It is hard to find someone who has not lost a friend or loved one to that disease. It strikes at the poor and rich without distinction. It touches the Congress, the White House, the kindergarten, the farmhouse. And there does not seem to be too much we can do about it.

What the Congress can do it has done. We have appropriated increasing sums to the National Cancer Institute for research against this country's most fearful internal enemy. That medical battle is in the hands of scientists, as it should be; and the Senator from Kansas for one, would not presume to second-guess their decisions. It is, therefore, with mixed emotions that I have requested the General Accounting Office to evaluate the effectiveness of the National Cancer Institute, and to review research program selection process so that the Congress can be assured of the effective use of these funds.

Serious questions have recently been raised concerning grants awarded by the Institute to certain organizations to which officials at the Institute have personal ties. During the consideration of the Labor-HEW appropriations bill by the House of Representatives, additional questions were raised about the financing of travel expenses for Institute officials and members of their families. I am certainly not in a position to pass judgment upon either the individuals involved or the Institute grants which are under scrutiny. But while we must avoid prejudging these matters, we can make clear—both to the Institute and to the taxpayers who fund its vital work—that the Congress will not abdicate its responsibility to guard carefully the dollars that are our first-line weapons against cancer. That is why I think it appropriate—and, more than appropriate, necessary—for the Government Accounting Office to take a close look at certain activities of the Institute, if only to dispel any lingering suspicion concerning them.

The Senator from Kansas has also requested the General Accounting Office to review the methods used by the National Cancer Institute for the selection of cancer research projects.

I believe we should pay more attention to the prevention of cancer, and as a member of the Select Committee on Nutrition, I am particularly concerned about the growing body of evidence pointing to relationships between nutrition and cancer. Dr. R. Lee Clark, the president of the American Cancer Society, and Dr. Frank J. Rauscher, senior vice president of the society and former Director of the National Cancer Institute, pointed out recently that a portion of other cancers may be extrinsically related to the kinds of food we eat. So far, the most likely culprit is the high animal fat diet, which is also implicated in abnormal blood cholesterol and heart attacks. By their estimate, smoking and diet are related to one-half to three-quarters of all killing cancers in the United States.

But we need to know more. Are we creating a future epidemic of cancer by the foods we are feeding our children now? Can we reduce an individual's vulnerability to cancer through better prenatal, neonatal, and childhood nutrition? Has nutrition been a factor in the escalating rate of cancer among black men over the last quarter century, an increase which the Director of the National Center for Health Statistics calls the most startling, most important rise in cancer mortality? Can alcohol be a carcinogen, either by itself or in conjunction with other chemicals? Should we be as vigilant about its advertising promotion as we have been about tobacco? I think it would be helpful if the Institute were engaged in the kind of research that could direct the Congress in its decisions. What good will it do if, while the Food and Drug Administration enforces a new prohibition by snatching saccharin out of the hands of dieters, the American people persist in other nutritional habits which result in greater susceptibility to cancer?

Mr. President, I intend my request to GAO to provide assurance that the funds appropriated for use in cancer research are properly directed. I do not want my concern mistaken as censure of the National Cancer Institute. I do not know if the institute's critics are correct; but they include scientists of the caliber of Nobel Prize winner James D. Watson, who has called our war on cancer a total sham, and Dr. Irwin Bross, chief of health statistics for Roswell Park Memorial Institute, who has charged that the program is producing more cancer than it is preventing. But even if the Congress is reluctant to take sides in this dispute among learned men and women of science, let us not neglect our responsibility to remind cancer researchers that both we and they are accountable for their Federal funds.

I ask unanimous consent that my letter to the General Accounting Office be inserted at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 28, 1977.

Mr. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: Criticism has been heard recently, in testimony before a House Subcommittee and in the press, on the lack of effectiveness of the National Cancer Institute, the principal Federal agency responsible for implementing our National Cancer Program. Despite this criticism, the appropriations committees of both the Senate and House have proposed to increase funding for the Institute.

My concern is not necessarily this additional level of funding, but whether the National Cancer Institute is making the best use of these funds in understanding and combating this dreaded disease.

Because of this concern, I am requesting that the General Accounting Office promptly conduct an audit of the National Cancer Institute, with the following goals:

(1) To evaluate the use of the Institute's special administrative and advisory structure for managing the functions and programs of the Institute; and

(2) To review the methods used by the Institute for the selection, evaluation, and reporting of cancer research.

In this latter context, I am particularly interested in how much consideration has been given to research on the relationship between nutrition and cancer and whether more emphasis on projects in this area is planned.

I will appreciate your prompt handling of this request. Members of my staff will be available to discuss this request further if you desire.

Sincerely,

BOB DOLE,
U.S. Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Nebraska.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. ALLEN, I ask unanimous consent that the Senate go into executive session.

Mr. ALLEN is interested in two nominations there and I ask him to call them up. They affect his State of Alabama.

Mr. ALLEN. Mr. President, I ask that the Senate consider the nominations under Department of Justice, they are Calendar Orders No. 304 and 305, and I ask unanimous consent that they be considered en bloc.

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

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Jesse Roscoe Brooks, of Alabama, to be U.S. attorney for the northern district of Alabama, and the nomination of William A. Kimbrough, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama.

Mr. ALLEN. Mr. President, these two nominees were recommended to the President by Mr. SPARKMAN and myself. They are both able attorneys, highly competent men of honor and character, and I feel that they will do a good job serving as district attorneys in the respective districts to which they have been named.

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

DEPARTMENT OF LABOR, COMMUNITY SERVICES ADMINISTRATION, AND DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the remaining nominations, Calendar Orders Nos. 306 through 309.

The PRESIDING OFFICER. Without objection, the nominations will be stated.

The assistant legislative clerk proceeded to read nominations in the Department of Labor, Community Services Administration, and the Department of Health, Education, and Welfare.

Mr. ROBERT C. BYRD. I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it so ordered.

The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

Xavier M. Vela, of the District of Columbia, to be Administrator of the Wage and Hour Division, Department of Labor.

COMMUNITY SERVICES ADMINISTRATION

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Julius Benjamin Richmond, of Massachusetts, to be an Assistant Secretary of Health, Education, and Welfare.

Julius Benjamin Richmond, of Masachusetts, to be Medical Director in the Regular Corps of the Public Health Service.

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

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 objection, it is so ordered.

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

ORDER TO HOLD JOINT RESOLUTION AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 525, to provide for a temporary extension of certain Federal Housing Administration mortgage insurance and related authorities and of the national flood insurance program, and for other purposes, be held at the desk pending further disposition.

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

INTERIM REGULATORY REFORM ACT—FEDERAL MARITIME COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 177.

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

The assistant legislative clerk read as follows:

A bill (S. 1532) to authorize appropriations for the Federal Maritime Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, the interim regulatory reform bills which we have before us today are the product of several years of oversight activities conducted by the Committee on Commerce, Science and Transportation, and its predecessor, the Committee on Commerce. During these investigations, the need for regulatory reform of the independent regulatory agencies was explored in depth. As a result of these investigations, the committee reported S. 3308 in the 94th Congress. This legislation, which passed the Senate in May 1976, would have made a number of procedural changes in the way independent regulatory agencies, subject to the committee's jurisdiction, conduct their activities. Each of the changes had been independently considered and enacted with respect to one agency or another, however, the committee felt that the soundness of these provisions was such that we could proceed with recommending to the Senate that they be enacted for the seven agencies under consideration.

These are only interim steps in the long and complex process of regulatory reform, but they are necessary steps. In the 95th Congress, the committee again considered the Interim Regulatory Reform Act, S. 263. Hearings on this measure were conducted in April 1977, and all who wished to testify were given the opportunity to testify. Others, wishing to submit comments, were permitted to do so and those are included in the hearing record. On May 16, S. 263 was reported, as well as a number of original bills, each one dealing with a different regulatory agency. This procedure was adopted by the committee in order to avoid problems in referral in the House of Representatives. For example, some of the agencies involved are within the jurisdiction of the House Committee on Interstate and Foreign Commerce, while others are within the jurisdiction of either the House Committee on Public Works and Transportation or Merchant Marine and Fisheries.

The Senate has already passed S. 263, the law revision provisions of the Interim Regulatory Reform Act. This bill grows out of section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976, which authorized and directed the Interstate Commerce Commission to prepare and submit to Congress a final draft of a proposed modernization and revision of the Interstate Commerce Act, and a proposed codification of all acts supplementary to the Interstate Commerce Act. The final draft submitted by the ICC must be designed to simplify the present law and to harmonize regulation with respect to the various transportation modes regulated by the ICC. The committee has been of the belief that the organic acts administered by the other independent regulatory agencies are also in need of review and revision. Indeed, one of these agencies, the Federal Maritime Commission, does not have such an act to define its powers, duties, and responsibilities. Although the Maritime Commission was created 16 years ago, it still operates under the authority of a reorganization plan pursuant to which it administers transferred functions rather than powers granted to it by act of Congress. This provision of the Interim Regulatory Reform Act was reported by the committee in S. 263, as it is apparently within the jurisdiction of only the Committee on the Judiciary in the House of Representatives. Other provisions, however, of the Interim Regulatory Reform Act are more limited in scope and amend either the reorganization plan or the organic act of the agencies. As a result, these provisions have been combined into separate bills for each agency.

Basically, the bills contain seven major provisions. These are: First, rules recodification; second, timely consideration of petitions; third, congressional access to information; fourth, representation in civil actions; fifth, avoidance of conflict of interest; sixth appointment and tenure of the chairman; and seventh, authorization of appropriations. The rules recodification provision requires each agency to submit to the Congress a proposal setting forth the recodification of all of the rules which the agency has issued and which are, as of the date of the submission, in effect or proposed. The recodified rules may recommend the transfer, consolidation, modification, and/or deletion of particular rules—or portions of rules—in the interest of clarity of presentation, comprehensibility, elimination of redundancy, simplicity, and similar objectives. After certain time periods for comments, the rules, as proposed to be recodified in a final proposal, shall take effect as the recodified rules of the agency, effective 180 days after submission of the final proposal. That would be approximately 2 years and 4 months after the date of enactment. Of course, any rules could be voided or appealed by act of Congress or joint resolution of the Congress.

The committee has been concerned with the failure of agencies to respond to petitions for issuance, amendment, or repeal of rule 5 which agencies are empowered to issue. As a result, the timely consideration of petitions provision of the bills, which has previously been enacted and applies to the Consumer Product Safety Commission and the Interstate Commerce Commission, would require the Commission to grant, deny, or take other appropriate action for each petition within 120 days after it is received. Additionally, the bills provide a remedy if the agency should fail to grant, deny, or take other appropriate action within the 120-day period.

The independent regulatory agencies are distinctive entities for a number of reasons. The independent regulatory agencies are a statutory exception, at least to some extent, to the doctrine of separation of powers since the typical agency exercises quasi-legislative—rulemaking—quasi-judicial—adjudicatory—and executive—enforcement—functions, pursuant to the mandate of Congress. Second, the independent regulatory agency is, for the purposes for which it is created, independent of the authority of the executive branch. As Mr. Justice Sutherland declared in *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935):

> Thus, the language of the Act, the legislative reports, and the general purposes of the legislation as reflected by the debates, all combine to demonstrate the congressional intent to create a body of experts who shall gain experience by length of service, a body which shall be independent of executive authority, except in its selection, and free to exercise its judgment without the leave or hindrance of any other official or any other department of the government.

The committee believes that the unique position of the independent regulatory agencies, and the unique responsibility of the Congress which created them, require that there be no impediment to communication between the agencies and the Congress.

A provision is thus included to amend the statutes to provide that whenever an agency submits certain information to the President or the Office of Management and Budget, it shall concurrently transmit that information to the Congress. The unique responsibility of the Congress toward each of these agencies, which have been termed "arms of Congress" requires unimpeded access to the views of the agencies without any prior review or clearance by the executive branch. At the same time, the executive branch should be informed of transmissions which it may wish to counter or concur in through its own recommendations or comments.

REPRESENTATION IN CIVIL ACTIONS

The independence and the effectiveness of an independent regulatory agency is jeopardized if the agency is barred from attempting to enforce its orders in the courts. At the same time, the position of the Federal Government as a single entity is jeopardized if one entity—the Department of Justice—is not permitted to represent, and thereby coordinate the legal positions of, all departments, agencies, and other instrumentalities of the Government of the United States.

The bills would achieve both objectives in the following manner. Each independent regulatory agency, as a consequence of provision already reported and enacted into law or as a result of amendments made by these bills, would be authorized to commence, defend, intervene in, and to supervise the litigation of, any civil action involving any statute administered by it (and any appeal of such action) if: one, the agency first gives written notification of such intent to the Attorney General and undertakes to consult with the Attorney General with respect to such action and two, the Attorney General fails, within 45 days after receipt of such notification, to commence, defend, or intervene in, such action.

During the 45-day period, while the Department of Justice decides whether or not it will undertake the presentation, the agency could go into court in its own name, by its own attorneys, to seek temporary or preliminary injunctive relief or to initiate a defense. If, and when, the Department of Justice undertakes representation in such a case, it would take charge of the preliminary relief proceedings or assume such a defense. The committee intends, by this provision, to promote a fruitful and harmonious working relationship between one, the substantive expertise of the agency, and two, the expertise in Federal court litigation of the Department of Justice and the 94 U.S. attorneys' offices. It is essential for regulatory reform that each independent regulatory agency have the authority to implement and enforce, through judicial action where necessary, its legislative mandate.

The Attorney General has expressed his grave concerns about this provision. He has suggested that this is a new day and that the Congress need not fear improper handling of agency referrals of cases by the Department of Justice. It has been Department of Justice problems which resulted in the committee's consideration of this provision of legislation. For example, the Federal Maritime Commission referred in November 1976, evidence of a rebate violation to the Department of Justice. The letter of transmittal advised the Department that unless the case was given immediate attention, that is before February 1977, the statute of limitations would bar any recovery. Unfortunately, the Department of Justice failed to take the appropriate action, and even though the regulatory agency fulfilled its responsibility in ferreting out violations of the Shipping Act, the Department of Justice failed. Failures of this sort are unconscionable and untenable. Historically, similar problems have resulted in delays in seeking injunctions and subpena enforcement. The Department of Justice has, on occasion, failed to seek the injunction sought by the agency with expertise or has failed to seek enforcement of the subpena, which has resulted in the Commission investigation falling on its face for want of the information which the agency was entitled to obtain by law. We cannot tolerate a continuation of this situation, and as a result have substituted the Department's judgment for the expertise of the agency. We cannot tolerate such an activity.

The Attorney General, however, has written to the chairman and ranking member of the committee, assuring him that in this new day he will work with each of the independent regulatory agencies and devise a memorandum of understanding between the Department and the agency clarifying the relationship between the agencies, the timetables for consideration, and the limits of each agency's participation in litigation. I think this is a fair approach and should be taken. Therefore, Mr. President, I will shortly submit an amendment to strike from each bill as it is called up section 5 of the bill concerning representation in civil actions.

The committee has been concerned about the importance of avoidance of conflicts of interest and the appearance of conflicts of interest. These are particularly important in independent regulatory agencies. Increasing confidence in the regulatory agencies is an important goal of the regulatory reform movement. Prohibiting a person who has been a commissioner or a policymaking employee from representing clients in a professional capacity before his colleagues on the same commission, for a limited period of time, eliminates a potential abuse and represents a step toward the achievement of this goal. As a result, the bills contain a provision which would prohibit a regulatory commissioner from representation before the commission in a professional capacity for 2 years after leaving the agency. Senators RIBICOFF and PERCY, who have worked diligently on this issue in the Committee on Governmental Affairs, have suggested some language which would improve the provisions on avoidance of conflict of interest which are contained in the bills, and these will be offered shortly.

The bills contain a provision providing that the chairman of the regulatory agency shall be appointed by the President and shall be subject to the advice and consent of the Senate. The chairman shall serve at the pleasure of the President, as is currently the case in all agencies except the Consumer Product Safety Commission. However, other than the National Transportation Safety Board, the chairman is not voted upon by the Senate for that position, he is voted upon and confirmed as an individual commissioner. Thus, the Congress will have an opportunity to consider an individual who may be completely qualified to serve as a commissioner or has so served as a commissioner, but may not be qualified to serve as chairman of a regulatory agency.

Authorizations for appropriations are provided for fiscal years 1978, 1979, 1980, and 1981. The Committee on Commerce has determined that enacting a statutory authorization for each independent regulatory agency will enhance the oversight process and better enable the committee to fulfill its responsibilities to conduct oversight investigations. By its very nature, the authorization process makes it incumbent upon the committee to monitor on a continuing basis, and to examine in depth, the activities of the Commission in a cyclical manner. The authorizations provided in the bill are based upon projections of needs during the 4-year period. Should these authorizations be low, it is incumbent upon the committee to examine the activities of the Commission at such time as it becomes evident that the authorizations are too low, and to determine whether or not the agency is engaged in activities which meet the expectations of the committee and the Congress. Additionally, the cyclical authorization process provides an excellent opportunity for the committee to consider the continuing activities of the commission with respect to its responsibilities.

I note here that this is an important step toward Sunset, a concept which has been raised by many Members of the Senate and by the administration as well.

Mr. President, after the Committee on Commerce, Science and Transportation reported the interim regulatory reform bills, conversations ensued with the staffs of Mr. RIBICOFF and Mr. PERCY and other members of the Committee on Governmental Affairs, to reconcile the language reported by the Committee on Commerce, Science, and Transportation with the views of the Committee on Governmental Affairs which have developed through the regulatory reform studies conducted by the committees jointly and independently. As a result of those deliberations, a number of amendments have been prepared by Senators RIBICOFF and PERCY which the Committee on Commerce, Science and Transportation is willing to accept. Let me go over these, in that they apply to each of the bills, although not necessarily in the same place in each bill.

In the rules recodification provision, we require that certain impact statements be included with the agency's submission of its recodified rules. As drafted, these impact statements would be required for each rule. This was not the intent of the committee, and so the first amendment proposed by Senators RIBICOFF and PERCY, is that immediately after "rule" we insert "or class of rules." Aditionally, there is some concern as to the reviewing test for the adequacy of the impact statements. It was the intention of the committee that these impact statements be reviewed solely by the Congress. To insure that that is the case,

the Ribicoff-Percy amendment proposes to insert "and not judicial review" after the statement concerning congressional review.

Another amendment proposed by Senators RIBICOFF and PERCY has to do with the conflict of interest provisions. The Governmental Affairs Committee has suggested that the language be tightened so that it be more comprehensive and not allow for loopholes which might otherwise be the case. Additionally, the Ribicoff-Percy amendment would raise the application of the conflict of interest standard to GS-16 or higher rather than GS-15 as proposed in the version reported by the Commerce Committee. This amendment would conform the bills with S. 555 which the Senate has already passed. Another important amendment proposed by Senators RIBICOFF and PERCY is an amendment which would retain the independence of the independent regulatory agencies by not subjecting super grade positions to OMB clearance. Of course, these positions would still be subject to clearance as to qualifications by the Civil Service Commission, but there would be no political clearance of the appointments.

A further concern addressed by the Ribicoff-Percy amendments is the qualifications of nominees. The Ribicoff-Percy amendment proposes that persons nominated to a commission be persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission and also that Commission membership should be well balanced with a broad representation of various talents, backgrounds, occupations and experience.

Lastly, provisions of section 8335 of title V provide that a Federal employee who reaches the age of 70 or has completed 15 years of service must retire unless a waiver is granted by the President. Since this has the effect of putting a commissioner, who might have a 7-year term but turns 70 at the end of his third year of service, on an annually renewable basis, the independence of the agency is considerably diminished. The last amendment proposed would waive the provisions for commissioners, and leave the decision as to whether or not a commissioner should continue to serve over the age of 70 in the hands of Congress at the time of advise and consent to the nomination.

Mr. President, as I said in my opening statement, the Attorney General through Senator EASTLAND has expressed grave concern over the representation in civil actions provisions of the bill and therefore for the reasons discussed in my opening statement, I will offer an amendment to delete these provisions on behalf of Senator EASTLAND.

Mr. PERCY. Mr. President, Senators MAGNUSON and PEARSON have introduced the Interim Regulatory Reform Act of 1977, which is now before us for consideration. The act is contained in seven separate bills: S. 263 and S. 1532 through 1537.

This is excellent legislation. It provides for important first steps along the road to regulatory reform. The measures apply to the Civil Aeronautics Board (CAB), the Consumer Product Safety Commission (CPSC), the Federal Communications Commission (FCC), the Federal Maritime Commission (FMC), the Federal Power Commission (FPC), the Federal Trade Commission (FTC), and the Interstate Commerce Commission (ICC). All seven bills have been reported favorably by the Committee on Commerce, Science, and Transportation.

The bills direct the independent regulatory agencies to prepare a thorough study of the organic acts, Executive orders, court decisions, and other orders and decrees pertaining to that agency, and the host of regulations which the agency has developed since its inception. Each Commission is then to report to Congress its recommendations for law revision and/or recodification.

In addition, Commissions would be required by this legislation to decide to grant, deny, or otherwise act upon most petitions within 120 days of their submission. This requirement is already operative at the CPSC and the ICC. It is my understanding that it has created no undue burdens, and has in fact speeded up decisionmaking within those agencies.

The Interim Regulatory Reform Act further requires the Commissions simultaneously to submit to the Congress any budget request or legislative comments which it submits to the President or the Office of Management and Budget. It also authorizes appropriations for a period not to exceed 4 years. Additionally, it makes designation as Commission Chairman separate from an individual's designation as Commissioner, so that if the Senate found a Chairman-nominee fit to be a Commissioner but not fit to be Chairman, he or she could be confirmed as Commissioner only.

S. 263 makes it a Federal crime to forcibly assault, resist, oppose, impede, or intimidate Commission enforcement agents in the performance of their official duties.

Finally, each Commission is authorized to litigate on its own behalf in certain cases.

I join with my distinguished colleague and chairman of the Governmental Affairs Committee, Senator ABRAHAM RIBICOFF, in calling for several important amendments to these bills. It is my understanding that these amendments are in keeping with the intent and scope of the legislation as reported and therefore are acceptable to the distinguished chairman and ranking minority member of the Committee on Commerce, Science, and Technology.

The amendments which we propose emerge from a comprehensive regulatory reform study conducted jointly by these two committees pursuant to Senate Resolution 71, which I authored. They provide, first, that the laws guiding the FPC, FMC, CPSC, CAB, FCC, and FTC be amended to require the President to nominate persons "who by reasons of training, education, or experience are qualified to carry out the functions of the Commission[s]." Too often regulatory appointments have been personal or political rewards to persons who are inexperienced or less than able.

Although these amendments—indeed any amendments—cannot guarantee that we will always have competent Commissioners, they write Congress desire for competence and professionalism firmly into the law, and provide an objective and defensible justification for the Senate to more vigorously examine nominees and to refuse to confirm an unfit nominee. The standard for nominees to these critically important positions—that have such an impact on the American economy and the health and safety of the American public—should be nothing less than excellence.

The amendments further require that FPC, FMC, CPSC, CAB, FCC, and FTC Commissioners be broadly representative of "various talents, backgrounds, occupations, and experience appropriate to the functions and responsibilities of the Commission[s]." Modern analysis has exploded the notions that only businesses are affected by regulation and that only lawyers and businessmen are competent to regulate. Businesses are affected by regulation, certainly, but so are businesses' customers, businesses' employees, and the economy as a whole. Likewise, businessmen and lawyers clearly have important contributions to make to the regulatory process, but they are not exclusive of the contributions which can be made, for example, by economists, labor specialists, consumer experts, public interest advocates, and others.

Presently, Commissioners are required by law to retire upon reaching the age of 70 and upon completing 15 years of Federal service, unless they are specifically exempted by the President each year. This procedure is fraught with problems for these quasi-judicial Commissions. There is an obvious potential for individual Commissioners to become beholden to the President for continuance in office, and hence lose their independence, or the appearance of independence. Moreover, since Commissioners are appointed for a fixed term, the President knows at the time of nomination whether a Commissioner-designate will be 70 or more than 15 years of Federal service by the end of the designated term. And the Senate knows it at the time of confirmation. If either the President or the Senate had any objections to an individual Commissioner exceeding these retirement criteria, the person would not have been nominated or confirmed in the first place. Therefore, to preserve the independence of independent regulatory commissions, the amendments provide that FPC, FMC, CPSC, CAB, FCC, and FTC Commissioners can serve through the end of their prescribed terms regardless of age or years of Federal service.

The amendments additionally aim to curtail any unhealthy coziness between the regulatory commissions and the regulated industries—the so-called revolving door problem. Former Commissioners and staff personnel of grades GS-16 or higher are prohibited from communicating with the Commissions on any substantive matter for 1 year after leaving employment. Moreover, on substantive matters as to which they had official responsibility during the last year of employment, they are prohibited from communicating with the Commissions for a period of 2 years.

Finally, top Commission staff members in GS grades 16 through 18 would be exempt from the normal civil service process. While the Civil Service Commission would continue to designate positions and their grades, it would not approve individual appointments to these "supergrade" positions in the independent regulatory commissions.

These appointments are to be made by the Commission Chairman with the approval of a majority of the Commissioners. In the past, Civil Service Commission approval has too often meant White House approval, hardly appropriate for staff policymakers in independent regulatory agencies. In addition, these policymaking staff members will not be permanently ensconced in the regulatory system. Exemption from the normal civil service process will make them more accountable for their actions to the Commissions themselves. As changing policies or needs arise, merely defending the status quo will hardly be sufficient to justify their continued usefulness to a commission concerned with revitalizing itself, its operations, and procedures.

At this point, I note that S. 1534, dealing with the ICC, has been approved by the Senate by unanimous consent. I had earlier requested that the legislation be held up to accommodate the concerns of the Governmental Affairs Committee as reflected by these amendments. But through a clerical error, it was allowed to remain on the unanimous consent calendar despite my request that it be removed. Thus, we cannot now amend it as we are amending the other bills. Nevertheless, the reforms we propose would benefit the ICC just as they will benefit the other Commissions, and I certainly hope they will be incorporated into S. 1534 when consideration is given to this legislation by the relevant house committees and by the full House of Representatives.

Taken together, the Interim Regulatory Reform Act and the amendments we are proposing reflect a Congressional commitment to improvement in Federal regulation. It is improvement which is vitally needed. But it must not stop here. We need to rethink the Federal Government's entire regulatory role: Where is regulation needed? How much is enough? What forms should it take? Do we need to restructure whole agencies, or even groups of agencies? These are not easy questions, and there are no easy answers. S. 600, the Regulatory Reform Act of 1977 now cosponsored by 40 Senators, provides a timetable and agenda by which we can approach these questions and work, within a sunset discipline, to timely arrive at answers that are relevant to today's economy.

When Senators ROBERT BYRD, ABRAHAM RIBICOFF, and I introduced S. 600, we did so knowing that regulatory reform is a legislative "must." The horror stories of regulatory harassment and tremendously high costs of regulation—$60 billion yearly by GAO estimates—make it imperative that we improve the regulatory agencies in every respect. The Interim Regulatory Reform Act, with the amendments we are proposing, and the upcoming Regulatory Reform Act of 1977 are a powerful offensive against misguided or oppressive regulation. Let us hope they succeed.

It is therefore with great pleasure, Mr. President, that Senator RIBICOFF and I join in proposing these amendments to the legislation at hand. We are both deeply appreciative of the thoughtfulness and assistance of Senator MAGNUSON and Senator PEARSON, on behalf of the Commerce Committee, in working out these amendments and accepting them as part of this interim reform measure.

We look forward to working with them and with other interested Senators, when the Regulatory Reform Act of 1977 is reported to the Senate floor. Just as this interim measure calls upon the agencies themselves to get their own house in order, S. 600 calls upon Congress and the President to likewise address itself to the overriding concerns of Federal regulation—not only from the standpoint of agency performance but also regulatory purposes, mandates, and structures. Only then can we assess how much regulation as a society we need and are prepared to tolerate.

UP AMENDMENT NO. 579

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. RIBICOFF and Mr. PERCY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. RIBICOFF and Mr. PERCY, proposes an unprinted amendment No. 579.

The amendment is as follows:

On page 3, lines 16, and 23, and on page 4 lines 4, 12, and 14, insert "or class of rules" immediately after "rule", each time such word appears.

On page 4, line 2, insert "s," immediately after "record".

On page 5, line 4, insert "and not judicial review" immediately after "only".

On page 13, delete lines 5 through line 14, and insert in lieu thereof the following:

"(e) No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(2) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.

On page 13, immediately after line 19, insert the following:

(c) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is further amended by inserting at the end thereof the following new subsection:

"(f) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

On page 13, line 20, insert "; QUALIFICATIONS OF MEMBERS" immediately after "CHAIRMAN".

In page 13, line 21, insert "(a)" immediately after "SEC. 7."

On page 14, immediately after line 6, insert the following:

(b) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding after the first sentence thereof, the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Reorganization Plan. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropirate to the functions of the Commission. Once appointed, a Commissioner may serve until conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

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

The amendment was agreed to.

UP AMENDMENT 580

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. Eastland and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. EASTLAND, proposes unprinted amendment No. 580.

The amendment is as follows:

On page 11, line 5, delete all through line 24, page 12, and renumber subsequent sections accordingly.

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

The amendment was agreed to.

UP AMENDMENT NO. 581

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an unprinted amendment on behalf of Mr. Magnuson and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. MAGNUSON, proposes unprinted amendment numbered 581.

The amendment is as follows:

On page 14, lines 14–17, delete, "$8,901,000", "$9,150,000", "$9,500,000", and "$9,800,000", and insert in lieu thereof, "$9,424,000", "$9,-700,000", "$10,000,000", and $10,400,000" respectively.

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

The amendment was agreed to.

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

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1532) was passed, as follows:

S. 1532

An act to authorize appropriations for the Federal Maritime Commission, to require the Commission to recodify its rules, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Maritime Commission".

RULES RECODIFICATION

SEC. 2. Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end of part I thereof the following new section:

"MISCELLANEOUS PROVISIONS

"SEC. 106. (a) (1) Within 480 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all the rules which the Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(A) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(B) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(C) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(D) include a comprehensive index to the rules in such recodification, cross-referenced by subject matter. Each such recodification proposal shall include the text of such rules, proposed to be recodified, in their entirety, and a comparative text of the proposed changes in existing rules.

"(2) Within 660 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in paragraph (1), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (A) an evaluation of the recommendations and comments received from any source; and (B) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(3) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this section—

"(A) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(B) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the manhours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in record keeping and report filing resulting from the issuance of each such rule or class of rules;

"(C) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(D) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this paragraph shall not be considered a part of the rulemaking process instituted by the Commission under this section, and the sufficiency of such material shall be subject to congressional review only and not sion finds that it would be impracticable judicial review. In the event the Commission finds that it would be impracticable or inappropriate to submit the information required under subparagraph (A) through (C) of this paragraph, the Commission shall submit a statement as to why it cannot so comply.

"(4) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this subsection and referred to such committee.

"(5) The text of each initial recodification proposal submitted under paragraph (1), and of each final recodification proposal submitted under paragraph (2), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to paragraph (2), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this section.

"(b) As used in this section, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(1) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(2) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(3) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(4) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Part I of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), as amended by this Act, is further amended by adding at the end thereof the following new section:

"TIMELY CONSIDERATION OF PETITIONS

"SEC. 107. (a) TIMELY CONSIDERATION OF PETITIONS.—(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition under paragraph (1) (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the Court (by a preponderance of the evidence in the record before the Commission) that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with the responsibilities of the Commission; and (D) the action requested in such petition is in the public interest, the Court shall order the Commission to initiate such action.

"(4) A Court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any lawful authority granted to the Commission.

"(b) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge,

employee board, or any other person authorized to act on behalf of the Commission in any part of the proceeding for the issuance, amendment, or repeal of any order, rule, or regulation under any lawful authority granted to the Commission.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. Part I of Reorganization Plan Numbered 7 of 1961, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CONGRESSIONAL ACCESS TO INFORMATION

"SEC. 108. (a) ACCESS TO INFORMATION.—(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendations, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit any legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement of the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, or any copy thereof.

"(b) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provision of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress, to any person other than another such employee or officer, a Member of Congress, or the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding at the end thereof the following new subsection:

"(e) No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in the amendment on and after the first day of the thirteenth full calendar month occurring immediately after the date of enactment of this Act.

(c) Section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is further amended by inserting at the end thereof the following new subsection:

"(f) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

APPOINTMENT AND TENURE OF CHAIRMAN; QUALIFICATIONS OF MEMBERS

SEC. 6. (a) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), is amended to read as follows:

"(b) The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

(b) Section 102(a) of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840) is amended by adding after the first sentence thereof, the following: "The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Reorganization Plan. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Part I of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), as amended by this Act, is further amended by inserting at the end thereof the following new section:

"SEC. 110. APPROPRIATIONS.—Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $9,424,000 for the fiscal year ending September 30, 1978, $9,700,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $10,400,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

INTERIM REGULATORY REFORM ACT—FEDERAL POWER COMMISSION IMPROVEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order 180.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1535) to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSTON. Mr. President, I would like to address a question to the chairman of the Committee on Commerce, Science, and Transportation. As the distinguished Senator from Washington (Mr. MAGNUSON) knows, pursuant to Senate Resolution 4, jurisdiction for the Federal Power Commission is now within the purview of the Committee on Energy and Natural Resources. It is my understanding that S. 1535 was originally part of a bill affecting seven independent regulatory agencies, and that when Senate Resolution 4 passed, we agreed not to request a rereferral provided that the Committee on Commerce did not make any further substantive amendments to the Federal Power Act. Now that the committee has reported the bill as several original bills, there is no reason why we could not request the rereferral.

Mr. MAGNUSON. The Senator is absolutely correct. The Committee on Commerce no longer has general jurisdiction over the Federal Power Commission. If this bill were to be introduced today, it should be referred to the Senator's committee and not the Committee on Commerce, Science, and Transportation.

Mr. JOHNSTON. If the House of Representatives were to make substantive amendments in this bill which necessitated a conference, or were to use this bill as a vehicle for other substantive amendments to the Federal Power Act, would the chairman be willing to have conferees appointed from the Committee on Energy and Natural Resources?

Mr. MAGNUSON. Of course. I would think that equal representation from the

two committees would be in order if a conference were necessary.

Mr. President, let me state three things: First, this bill is within the jurisdiction of the Committee on Energy and Natural Resources; second, its consideration and reporting by the Committee on Commerce, Science, and Transportation should not be construed in any way as a precedent for the future. It is purely through the good graces of the Committee on Energy and Natural Resources that we have considered this bill at all, and they have condoned this consideration because the Commerce Committee worked on this bill for several years prior to adoption of Senate Resolution 4; and third, should a conference with the House be necessary on this bill, the Committee on Energy and Natural Resources would have equal representation on the committee of conference.

UP AMENDMENT NO. 582

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF, Mr. PERCY and Mr. EASTLAND, I send to the desk amendments by Mr. RIBICOFF, Mr. PERCY, and Mr. EASTLAND, and I ask for their consideration en bloc.

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

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. RIBICOFF, Mr. PERCY, and Mr. EASTLAND, proposes unprinted amendment 582 en bloc.

The amendment is as follows:

On page 3, lines 17 and 24, and on page 4, lines 5, 14, and 16, insert "or class of rules" immediately after "rule".

On page 5, line 7, insert "and not judicial review" immediately after "only".

On page 9, line 16, insert "(1)", immediately after "(b)".

On page 13, line 13, insert "(1)", immediately after "(b)".

On page 14, immediately after line 8, insert the following:

(c) Subsection (b) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as designated by this Act, if further amended by inserting the following new paragraph:

"(2) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by and officer or agency of the Federal Government other than the Commission."

On page 14, line 9, after "CHAIRMAN" insert "; QUALIFICATIONS OF MEMBERS".

On page 15, line 14, after "Senate.", insert the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

On page 13, line 22, delete "and no employee of the Commission" and all that follows through and including line 3, page 14, and insert in lieu thereof the following:

"and no employee of the Commission classified as a GS-16 or higher, shall—

"(A) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(i) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(ii) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(B) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(i) make any appearance or attendance before, or

"(ii) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 11, line 18, delete all through line 11, page 13, and renumber subsequent sections accordingly.

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

The amendment was agreed to.

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

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1535) was passed, as follows:

S. 1535

An act to amend the Federal Power Act to authorize appropriations for the Federal Power Commission, to require the Commission to recodify its rules, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Power Commission Improvement".

RULES RECODIFICATION

SEC. 2. Section 29 of the Federal Power Act (16 U.S.C. 823) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Within 480 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all the rules which such Commission has issued and which are in effect or proposed, as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(A) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(B) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(C) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(D) include a comprehensive index of the rules in the recodification, cross-referenced by subject matter.

Each such recodification proposal shall include the text of such rules, as proposed to be recodified, in their entirety and a comparative text of the proposed changes in existing rules.

"(2) Within 660 days after the date of enactment of this subsection, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in paragraph (1), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of such submission. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(3) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this subsection—

"(A) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments, and the effects on productivity, competition, supplies of important manufactured products or services, employment, and energy resource supply and demand;

"(B) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records and fulfill any of the information gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(C) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(D) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The materials submitted to the Congress under this paragraph shall not be considered a part of the rulemaking process instituted by the Commission under this subsection, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission

finds that it is impracticable or inappropriate to submit the information required under subparagraphs (A) through (C) of this paragraph, the Commission shall submit a statement as to why it cannot so comply.

"(4) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this subsection and referred to such committee.

"(5) The text of each initial recodification proposed submitted under paragraph (1), and of each final recodification proposal submitted under paragraph (2), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to paragraph (2), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this subsection.

"(6) As used in this subsection, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(A) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(B) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(C) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(D) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; and

"(E) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Section 309 of the Federal Power Act (16 U.S.C. 825h) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b)(1) Whenever, pursuant to section 553 (e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of receipt of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition to which paragraph (1) applies (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States court of appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission) that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission; and (D) the action requested in such petition is in the public interest, such court shall order the Commission to initiate such action.

"(4) A Court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under this act or any other statute or lawful authority administered by or applicable to the Commission.

"(5) As used in this subsection, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule, or regulation.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. The first section of the Federal Power Act (16 U.S.C. 792) is amended (1) by designating the four paragraphs thereof as subsections (a), (b)(1), (c), and (d), respectively; (2) by striking out "That a" in subsection (a) as so designated and inserting in lieu thereof "A"; and (3) adding at the end thereof the following new subsection:

"(e)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission (for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reasons why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(4) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provisions of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress to any person other than another such employee or officer, a Member of Congress, or the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Subsection (b)(1) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as amended by this Act, is further amended by striking out "Said commissioners shall not engage in any other business, vocation, or employment." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(A) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(i) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(ii) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with the proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period 1 year prior to the termination of such responsility, or

"(B) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(i) make any appearance or attendance before, or

"(ii) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in that amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

(c) Subsection (b) of the first section of the Federal Power Act (16 U.S.C. 792(b)) as designated by this Act, is further amended by inserting the following new paragraph:

"(2) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made

by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

APPOINTMENT AND TENURE OF CHAIRMAN; QUALIFICATIONS OF MEMBERS

SEC. 6. Subsection (a) of the first section of the Federal Power Act (16 U.S.C. 792), as so designated by this Act, is amended by deleting all after "consent" through "office" and inserting in lieu thereof the following: "of the Senate. The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code. The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as Chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. Section 2 of the Federal Power (16 U.S.C. 795) is amended (1) by inserting "(a)" immediately before the first sentence thereof; and (2) by adding at the end thereof the following new subsection:

"(b) Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $44,549,000 for the fiscal year ending September 30, 1978, $46,410,000 for the fiscal year ending September 30, 1979, $48,373,000 for the fiscal year ending September 30, 1980, and $50,444,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

INTERIM REGULATORY REFORM ACT—FEDERAL COMMUNICATIONS COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 181.

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

The assistant legislative clerk read as follows:

A bill (S. 1536) to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 583

Mr. ROBERT C. BYRD. Mr. President, I send to the desk amendments by Messrs. RIBICOFF, PERCY, and EASTLAND and I ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Messrs. RIBICOFF, PERCY and EASTLAND, proposes unprinted amendment No. 583 en bloc.

The amendment is as follows:

On page 3, line 18, and page 4, lines 1, 7, 15, and 17, insert "or class of rules" immediately after "rule" each time such word appears. On page 5, line 7, insert "and not judicial review" immediately after "only". On page 9, line 19, delete "new subsection", and insert in lieu thereof "two new subsections."

On page 11, immediately after line 18, insert the following:

"(q) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

On page 13, line 23, delete "as a GS-15 or higher" and all that follows through and including line 3, page 14, and insert in lieu thereof the following:

"as a GS-16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of one year prior to the termination of such responsibility, or

"(2) for a period of one year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular matter which is pending before the Commission.".

On page 14, line 9, insert "Qualifications of Members and" immediately before "Chairman".

On page 14, line 10, insert "(a)" immediately after "7.".

On page 14, line 13, after "Senate." insert the following:

"The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code.".

On page 14, immediately after line 19, insert the following:

(b) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by—

(1) inserting "(1)" immediately after "(a)", and

(2) adding at the end thereof the following four new paragraphs:

"(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employment under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this Act), (B) the distribution of business among such personnel and among administrative units of the Commission, and (C) the use and expenditure of funds.

"(3) In carrying out any of his functions under the provisions of this section, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(5) There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.".

On page 11, line 19, delete all through line 12, page 13, and renumber subsequent sections accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment, en bloc.

The amendment was agreed to, en bloc.

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

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 1536) was passed, as follows:

S. 1536

An act to amend the Communications Act of 1934 to authorize appropriations for the Federal Communications Commission, to require the Commission to recodify its rules, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interim Regulatory Reform Act—Federal Communications Commission".

RULES RECODIFICATION

SEC. 2. Title IV of the Communications Act of 1934 (47 U.S.C. 401-416) is amended by adding at the end thereof the following new section:

"SEC. 417. (a) Within 480 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress an initial proposal setting forth a recodification of all of the rules which such Commission has issued and which are in effect or proposed,

as of the date of such submission. Each such recodification proposal shall, to the extent practicable and appropriate—

"(1) recommend the transfer, consolidation, modification, and deletion of particular rules and portions thereof, including reasons therefor;

"(2) recommend changes and modifications in the organization of such rules and in the technical presentation and structure thereof;

"(3) be designed to coordinate, to make more understandable, and to modernize such rules in order to facilitate effective and fair administration thereof; and

"(4) include a comprehensive index to the rules in the recodification, cross-referenced by subject matter.

Each such recodification proposal shall include the text of such rules, as proposed to be recodified, in their entirety, and a comparative text of the proposed changes in existing rules.

"(b) Within 660 days after the date of enactment of this section, the Chairman of the Commission shall develop, prepare, and submit to the Congress, in accordance with the requirements described in subsection (a), a final proposal setting forth a recodification of all of the rules which such agency has issued and which are in effect or proposed, as of the date of submission of the initial recodification proposal. Such submission shall reflect (1) an evaluation of the recommendations and comments received from any source; and (2) the results of additional study and review by the Commission and its employees and consultants. Such rules shall take effect 180 days after the date of submission of such final proposal.

"(c) To the extent practicable and appropriate, the Chairman of the Commission shall submit along with each recodification proposal submitted to the Congress under this section—

"(1) an economic impact analysis which takes into account, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments, and the effects on productivity competition, supplies of important manufactured products or services, employment, and energy resource supply and demand:

"(2) a paperwork impact analysis, for each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered), containing an estimate of the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under each such rule or class of rules; the nature and amount of the information required to be filed in such reports, and the frequency of such reports; the nature and number of records that would have to be kept by such persons, and the man-hours and costs required or incurred to keep such records and make such reports; and steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from the issuance of each such rule or class of rules;

"(3) a judicial impact analysis showing the probable consequences of each rule or class of rules proposed to be recodified in such proposal (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(4) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of each such recodification proposal.

The material submitted to the Congress under this subsection shall not be considered a part of the rulemaking process instituted by the Commission under this section, and the sufficiency of such material shall be subject to congressional review only and not judicial review. In the event the Commission finds that it is impractical or inappropriate to submit the information required under paragraphs (1) through (4) of this subsection, the Commission shall submit a statement as to why it cannot so comply.

"(d) Each appropriate authorizing committee of the Congress shall, in the exercise of its oversight responsibility, examine, study, and take other appropriate action with respect to each initial and final recodification proposal submitted to the Congress under this section and referred to such committee.

"(e) The text of each initial recodification proposal submitted under subsection (a), and of each final recodification proposal submitted under subsection (c), shall be published in the Federal Register pursuant to section 553 of title 5, United States Code, and written comments thereon shall be invited. Any rule issued by the Commission which is not included in the recodified rules which take effect pursuant to subsection (b), by the time required, shall be of no force and effect after such date. The provisions of chapter 7 of title 5, United States Code, shall apply to rules repromulgated under this subsection.

"(f) As used in this section, the term 'rule' includes the whole or any part of a statement of general applicability which is issued or promulgated by the Commission for future effect and which is designed to—

"(1) implement, interpret, or prescribe law or policy (including any rule for the approval or prescription of rates);

"(2) describe the central and field organization of the Commission, and the established places at which, and the employees from whom, and the method whereby, the public may obtain information, make submittals or requests, or obtain decisions;

"(3) describe the general course and method by which the functions of the Commission are channeled and determined, including the nature and requirements of all formal and informal procedures available;

"(4) describe any rules of procedure, forms available or the places where forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; and

"(5) contain and describe all statements of general policy or interpretations of general applicability formulated and adopted by the Commission.

This term does not include any order, as such term is defined in section 551(6) of title 5, United States Code, except to the extent that any order includes a statement of policy, or an interpretation of a policy or substantive law or rule, of general applicability for future effect.".

TIMELY CONSIDERATION OF PETITIONS

SEC. 3. Title IV of the Communications Act of 1934 (47 U.S.C. 406), as amended by this Act, is further amended by adding at the end thereof the following new section:

"SEC. 418. (a)(1) Whenever, pursuant to section 553(e) of title 5, United States Code, an interested person (including a governmental entity) files a petition with the Commission (other than a petition for rehearing) for the commencement of a proceeding for the issuance, amendment, or repeal of an order, rule, or regulation under any statute or other lawful authority administered by or applicable to the Commission, the Commission shall grant or deny such petition within 120 days after the date of filing of such petition. If the Commission grants such a petition, it shall commence an appropriate proceeding as soon thereafter as practicable. If the Commission denies such a petition, or takes no action on such petition within the 120-day period, it shall set forth, and publish in the Federal Register, its reasons for such denial or inaction.

"(2) If the Commission denies a petition to which paragraph (1) applies (or if it takes no action thereon within the 120-day period established by such paragraph), the petitioner may commence a civil action in an appropriate United States Court of Appeals for an order directing the Commission to initiate a proceeding to take the action requested in such petition. Such an action shall be commenced within 60 days after the date of such denial or, where appropriate, within 60 days after the date of expiration of such 120-day period.

"(3) If the petitioner, in a civil action commenced under paragraph (2), demonstrates to the satisfaction of the court (by a preponderance of the evidence in the record before the Commission); that (A) the failure of the Commission to grant a petition to which paragraph (1) applies is arbitrary and capricious; (B) the action requested in such petition is necessary; (C) the failure of the Commission to take such action will result in the continuation of practices which are not consistent with or in accordance with this Act or any other statute or lawful authority administered by or applicable to the Commission; and (D) the action requested in such petition is in the public interest, such court shall order the Commission to initiate such action.

"(4) A court shall have no authority under this subsection to compel the Commission to take any action other than the initiation of a proceeding for the issuance amendment, or repeal of a norder, rule, or regulation under this Act or any other statute or lawful authority administered by or applicable to the Commission.

"(b) As used in this section, the term 'Commission' includes any division, individual Commissioner, administrative law judge, employee board, or any other person authorized to act on behalf of the Commission in any part of any proceeding for the issuance, amendment, or repeal of an order, rule or regulation.".

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 4. Section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended by inserting at the end thereof the following two new subsections:

"(p)(1) Whenever the Commission submits any budget estimate, request, or information to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such budget estimate, request, or information to the Congress.

"(2) Whenever the Commission submits any legislative recommendation, testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit any legislative recommendations, testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(3) Whenever a duly authorized committee of the Congress which has responsibility for the authorization of appropriations for the Commission makes a written request for documents in the possession or subject to the control of the Commission, the Commission shall, within 10 days after the date of receipt of such request, submit such documents (or copies thereof) to such committee. If the Commission does not have any such documents in its possession, or if the Commission

(for good cause) cannot make the requested documents available within the 10-day period, it shall so notify such committee within such 10-day period. Any such notice shall state the anticipated date by which such documents will be obtained and submitted to such committee, or a statement as to the reason why such documents are not in the possession of the Commission, and information as to where such documents are located. This paragraph shall not be deemed to restrict any other authority of either House of Congress, or any committee or subcommittee thereof, to obtain documents from any Federal agency, department, or entity. For purposes of this paragraph, the term 'document' means any book, paper, correspondence, memorandum, or other record, including a copy of any of the foregoing.

"(4) Transmission of any information, report, or other document to the Congress under the provisions of this section shall not constitute an offense under section 1905 of title 18, United States Code. The provisions of such section 1905 shall apply, however, to the transmission of any such information, report, or other document by any employee or officer of the Congress (other than a Member of Congress), or of any Member or committee of the Congress, to any person other than another such employee or officer, a Member of Congress, or the Commission.

"(q) Any appointment of an employee of the Commission to any position in categories GS-16, GS-17, and GS-18 may be made by the Commission without regard to any provision of title 5, United States Code, other than section 3324 thereof where applicable, governing appointments to positions in the competitive service, and shall not be subject to approval by the Executive Office of the President or the Office of Management and Budget, or any officer thereof, or by any officer or agency of the Federal Government other than the Commission.".

AVOIDANCE OF CONFLICT OF INTEREST

SEC. 5. (a) Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended by striking out "Such commissioners shall not" and all that follows through "term for which he was appointed." and inserting in lieu thereof the following: "No Commissioner shall engage in any other business, vocation, profession, or employment while serving as a Commissioner, and no person who is appointed to a term as a Commissioner after the date of enactment of this sentence, and no employee of the Commission classified as a GS-16 or higher, shall—

"(1) for a period of 2 years beginning on the last date of service as such member of the Commission or employee—

"(A) act as agent or attorney for or otherwise represent anyone other than the United States in any formal or informal appearance before, or

"(B) make any written or oral communication on behalf of anyone other than the United States to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, in connection with any proceeding or other particular matter involving a specific party or parties which was under his official responsibility as a Commissioner or employee within a period of 1 year prior to the termination of such responsibility, or

"(2) for a period of 1 year beginning on the last date of service as such member of the Commission or employee—

"(A) make any appearance or attendance before, or

"(B) make any written or oral communication to, and with the intent to influence the action of

the Commission, or any officer or employee thereof, on any particular which is pending before the Commission.".

(b) The amendment made by subsection (a) shall apply to employees of the Commission specified in that amendment on and after the beginning of the thirteenth complete calendar month occurring immediately after the date of enactment of this Act.

APPOINTMENT AND TENURE OF QUALIFICATIONS OF MEMBERS AND CHAIRMAN

SEC. 6. (a) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by deleting all after the word "consent" through "chairman." and inserting in lieu thereof the following: "of the Senate. The President shall nominate persons for the Commission, who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. In nominating persons for the Commission, the President shall insure that Commission membership is well balanced, with a broad representation of various talents, backgrounds, occupations, and experience appropriate to the functions of the Commission. Once appointed, a Commissioner may serve until the conclusion of his term of office without regard to the provisions of section 8335, title 5, United States Code. The President shall appoint one of the Commissioners as the Chairman of the Commission, by and with the advice and consent of the Senate. The Chairman shall serve as chairman at the pleasure of the President. An individual may be appointed as a Commissioner at the same time he is appointed as Chairman.".

(b) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)), is amended by—

(1) inserting "(1)" immediately after "(a)", and

(2) adding at the end thereof the following four new paragraphs:

"(2) The Chairman of the Commission shall be the principal executive officer of the Commission, and he shall exercise all of the executive and administrative functions of the Commission, including functions of the Commission with respect to (A) the appointment and supervision of personnel employed under the Commission (other than personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman, and except as otherwise provided in this Act), (B) the distribution of business among such personnel and among administrative units of the Commission, and (C) the use and expenditure of funds.

"(3) In carrying out any of his functions under the provisions of this section, the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

"(4) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

"(5) There are reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriate funds according to major programs and purposes.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) Section 4 of the Communications Act of 1934 (47 U.S.C. 154), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(r) Amounts appropriated to carry out the functions, powers, and duties of the Commission shall not exceed $70,000,000 for the fiscal year ending September 30, 1978, $74,000,000 for the fiscal year ending September 30, 1979, and $78,000,000 for the fiscal year ending September 30, 1980, and $82,000,000 for the fiscal year ending September 30, 1981.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the enrollment of the three bills just adopted.

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

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6111.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 6111) to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Messrs. CULVER, BAYH, DECONCINI, MATHIAS, and WALLOP conferees on the part of the Senate.

PUBLIC OFFICIALS INTEGRITY ACT—S. 555

Mr. ROBERT C. BYRD. Mr. President, there are two inadvertent errors which were made in the final form of S. 555, the Public Officials Integrity Act, approved by the Senate yesterday. These corrections have been cleared with the minority leader and with the sponsors of the amendments to S. 555 which resulted in the need for those corrections.

UP AMENDMENT NO. 584

Mr. President, I ask unanimous consent that the following two corrections be made to S. 555 as passed by the Senate yesterday:

(1) Every time the phrase, "5 year period" appears in the modified unprinted amendment No. 561 proposed by Senator Thurmond, the phrase "3 year period" be inserted in its place.

(2) Bentsen unprinted amendment No. 549 be altered so that the paragraph to be addded by that amendment is labeled "Section 105" instead of "Section 502" and the paragraph is added after line 12 on page 69 instead of on line 8 on page 133.

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

Mr. ROBERT C. BYRD. The first change is necessitated because Senator THURMOND informed the managers of the bill and the Senate that his amendment had been modified to include a 3-year ban instead of a 5-year ban on Senators

or Senate employees working in the Office of Congressional Legal Counsel. All debate on this provision refers to a 3-year ban as does the summary of the amendment in the Daily Digest. However, inadvertently, the copy of the amendment sent to the desk by Senator THURMOND did not contain the modification changing references to a 5-year ban to a 3-year ban. Senator THURMOND is in favor of making this correction to conform S. 555 to the intent of the Senate.

The second change simply moves the Bentsen amendment, which prohibits high campaign officials from being appointed Attorney General, from title V—which deals with restrictions on post-service activity—to title I which amends title 28 of the United States Code which deals with the Department of Justice.

AGE DISCRIMINATION ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6668.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 6668) entitled "An Act to amend the Age Discrimination Act of 1975 to extend the date upon which the United States Commission on Civil Rights is required to file its report under such Act, and for other purposes", and concur therein with the following amendment:

In lieu of the matter proposed by said amendment, insert: That section 307(d) of the Age Discrimination Act of 1975 (42 U.S.C. 6106(d)) is amended—

(1) by striking out "eighteen months" and inserting in lieu thereof "two years"; and

(2) by adding at the end thereof the following new sentence: "The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.".

SEC. 2. (a) Section 707(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3045f(a)(4)) is amended by striking out "and" following "1976," and by inserting after "1977" a comma and the following: "and the fiscal year ending September 30, 1978".

(b)(1) Section 707(d)(1) of the Older Americans Act of 1965 (42 U.S.C. 3045f(d)(1)) is amended by striking out "in any case in which a State has phased out its commodity distribution facilities before June 30, 1974, such" and inserting in lieu thereof "a".

(2) The second sentence of section 707(d)(2) of the Older Americans Act of 1965 (42 U.S.C. 3045f(d)(2)) is amended by inserting "only" after "shall".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate agree to the House amendment to the Senate amendment.

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

VITIATION OF ORDERS FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of two Senators in the morning tomorrow be vacated.

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

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow.

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

AGRICULTURE APPROPRIATIONS, 1978—ORDER FOR CONSIDERATION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of the leaders or their designees on tomorrow, which is a standing order, the Senate then proceed to the consideration of the agriculture appropriation bill, as was earlier understood.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. STEVENSON). The Chair, on behalf of the Vice President, appoints the following Senators as congressional advisers to the Strategic Arms Limitation Talks—SALT—Delegation in Geneva, Switzerland, during 1977: The Senator from West Viriginia (Mr. ROBERT C. BYRD), the Senator from California (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Mississippi (Mr. EASTLAND), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Iowa (Mr. CULVER), the Senator from Georgia (Mr. NUNN), the Senator from Idaho (Mr. CHURCH), the Senator from Tennessee (Mr. BAKER), the Senator from Alaska (Mr. STEVENS), the Senator from North Dakota (Mr. YOUNG), the Senator from Wyoming (Mr. HANSEN), the Senator from New Jersey (Mr. CASE), the Senator from New York (Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Texas (Mr. TOWER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Maryland (Mr. MATHIAS).

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9:30 tomorrow morning.

AGRICULTURE APPROPRIATIONS

After the two leaders or their designees have been recognized under the standing order, the Senate will take up H.R. 7558, an act making appropriations for Agriculture and related agencies programs. There is a time agreement on that bill.

If rollcall votes are ordered on the bill or on amendments or motions in relation thereto, such rollcall votes, under the order previously entered, will not occur until 12 o'clock noon tomorrow. I ask unanimous consent that such rollcall votes occur in the proper sequence, as ordered.

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

MILITARY CONSTRUCTION APPROPRIATIONS

Mr. ROBERT C. BYRD. Upon the disposition of the Agriculture appropriation bill or if action on the bill is completed prior to 12 noon, the Senate will proceed at that point to the consideration of the military construction appropriation bill. There is a time agreement on that bill, and I make the same request with respect to rollcall votes on that bill, if such are ordered, that they follow in sequence the rollcall votes that may have been ordered on the agriculture appropriation bill.

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

LABOR-HEW APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, it is the understanding then that upon the disposition of the military construction bill, the Senate will resume consideration of the Labor-HEW appropriation bill at that point, and there will be rollcall votes on amendments during the afternoon to the Labor-HEW appropriation bill and on any motions in relation thereto. It is expected that the Senate will complete action on the Labor-HEW appropriation bill tomorrow.

So far as I know the Senate has disposed of the busing amendments.

The main amendments on tomorrow, as far as I can anticipate at this time, would refer to the abortion issue and also to OSHA. So I feel there is every good reason to expect that the Senate will complete action on that bill tomorrow.

Other matters may be cleared for action tomorrow, and it is anticipated that on Thursday and Friday the Senate will take up the Public Works appropriation bill and other matters which may be cleared for action by then, including conference reports.

Mr. President, I thank all Senators for their patience and I thank the assistant Republican leader for his cooperation.

RECESS UNTIL 9:30 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 the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and, at 9:39 p.m., the Senate recessed until Wednesday, June 29, 1977, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate June 28, 1977:

ENVIRONMENTAL PROTECTION AGENCY

William Drayton, Jr., of Massachusetts, to be an Assistant Administrator of the Environmental Protection Agency, vice Alvin L. Alm. resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1977:

DEPARTMENT OF JUSTICE

Jesse Roscoe Brooks, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years.

William A. Kimbrough, Jr., of Alabama, to be U.S. attorney for the southern district of Alabama for the term of 4 years.

DEPARTMENT OF LABOR

Xavier M. Vela, of the District of Columbia, to be Administrator of the Wage and Hour Division, Department of Labor.

COMMUNITY SERVICE ADMINISTRATION

William Whitaker Allison, of Georgia, to be Deputy Director of the Community Services Administration.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Julius Benjamin Richmond, of Massachusetts, to be an Assistant Secretary of Health, Education, and Welfare.

Julius Benjamin Richmond, of Massachusetts, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(Statements in connection with bills and joint resolutions introduced today are as follows:)

By Mr. CHURCH:

S. 1769. A bill to amend title II of the Social Security Act to increase the amount which individuals may earn without suffering deductions from benefits on account of excess earnings; to the Committee on Finance.

RAISE THE SOCIAL SECURITY RETIREMENT TEST TO $3,600

Mr. CHURCH. Mr. President, I introduce for appropriate reference, a bill to increase the social security retirement test to $3,600, effective in 1978.

As things now stand, social security beneficiaries under age 72 may earn up to $3,000 a year before $1 in benefits is withheld for each $2 of wages above the earnings ceiling.

Each year the retirement test is adjusted on the basis of the average covered earnings under social security. In 1978 the earnings limitation is projected to increase to $3,240.

Many older Americans believe that advancing age shuts them off from purposeful activity. Time and time again, elderly witnesses have asked the Committee on Aging this fundamental question: Why should our Nation promote inactivity when inactivity may be the aged's greatest psychological enemy?

One of the greatest employment barriers for older Americans is the existing social security earnings limitation.

More and more elderly persons are discovering that they must work to meet their mounting everyday expenses: Housing, utilities, food, medical care, nutrition, transportation, and others.

However, the present retirement test penalizes these individuals.

Ideally speaking, I would prefer to eliminate the earnings limitation entirely for persons under age 72. Unfortunately, this is not legislatively feasible at this time because of cost considerations. Additionally, the Congress is not likely to enact this proposal, since there is a need to strengthen the financing of social security. Equally important, future improvements in social security protection must be low-cost, high yield proposals.

My bill would meet these requirements. Moreover, it offers a much more realistic prospect of helping social security beneficiaries penalized by the existing retirement test than measures to provide a higher exempt earnings ceiling or to eliminate it entirely.

As chairman of the Senate Committee on Aging, I strongly believe that our Nation should remove employment barriers for older Americans.

Our policies should encourage—not discourage—those who want or need to work.

Most elderly persons have lived vigorous lives during their working years. They should continue to be active participants in their communities.

Advancing age can provide an opportunity for continued self-development and fulfillment. It can permit older Americans to engage in new and rewarding activities.

If these goals are to be achieved, though, our Nation must remove employment disincentives for older workers.

Increasing the social security earnings limitation is clearly an important first step in implementing these objectives.

For these reasons, I urge prompt approval of my bill.

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

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

S. 1769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1), (3), and (4)(B) of section 203(f), and paragraph (1)(A) of section 203 (h), of the Social Security Act are each amended by striking out "$200" and inserting in lieu thereof "$300".

(b) The amendments made by subsection (a) shall apply with respect to taxable years ending after December 1977.

By Mr. LONG (for himself and Mr. PEARSON) (by request):

S. 1770. A bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LONG. Mr. President, I introduce today, at the request of the Comptroller General of the United States, and on behalf of myself and my colleague, Mr. PEARSON, a bill to amend the Interstate Commerce Act to provide increased civil fines and criminal penalties for violations of the Motor Carrier Safety Regulations, to extend the application of civil fines to all violations of the Motor Carrier Safety Regulations, and for other purposes.

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. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 204 and 222, chapter 104 of Part II of the Interstate Commerce Act (formerly the Motor Carrier Act of August 9, 1935, ch. 498, 49 Stat. 543), as amended, are further amended:

SEC. 1. Section 222 (49 U.S.C. § 322) is amended by redesignating subsection 222(a) (49 U.S.C. § 322(a)) as subsection 222(a)(1) and adding a new subsection 222(a)(2) to read as follows:

"SEC. 222. (a)(2) Any person who knowingly commits an act in violation of any requirement, rule, regulation, or order promulgated by the Secretary of Transportation under section 204 of this part relating to qualifications and maximum hours of service of employees and safety of operation and equipment shall be fined not more than $1,000 for the first offense and not more than $2,000 for any subsequent offense."

SEC. 2. (a) Section 204(a)(3) (49 U.S.C. § 304(a)(3)) is amended by striking the words "and (g)" and inserting "(g), and (h)" in substitution.

(b) Section 204(a)(3a) (49 U.S.C. § 304 (a)(3a)) is amended by striking the words "and (g)" and inserting "(g), and (h)" in substitution.

SEC. 3. (a) Section 222(h) (49 U.S.C. §322 (h)) is amended by inserting in the first sentence after "thereof," the following: "who fails to follow any requirement, rule, or regulation of the Secretary promulgated pursuant to section 204 of this part,".

(b) Section 222(h) (49 U.S.C. § 322(h)) is further amended (i) by striking "$500" and inserting "$1,000" in substitution, and (ii) by striking "$250" and inserting "$500" in substitution.

By Mr. SPARKMAN (by request):

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes; to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes.

The bill has been requested by the Chairman of the Board of Directors of the Overseas Private Investment Corporation and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the section-by-section analysis of the bill and the letter from the Chairman of the Board of Directors of OPIC to the President of the Senate dated June 16, 1977.

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

S. 1771

Be it enacted by the Senate and House of Representatives in Congress assembled, That

this Act may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977."

SEC. 2. Title IV of Chapter 2 of Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191-2200a) is amended as follows:

(1) Section 234 is amended—

(A) in subsection (a)(2), by substituting a period for the comma following the words "total project financing" and deleting the remainder of paragraph (2);

(B) by deleting the phrase "total face amount" appearing in subsection (a)(3) and subsection (b) and substituting in lieu thereof the phrase "maximum contingent liability";

(C) by deleting paragraphs (4) through (7) of subsection (a) and substituting in lieu thereof the following new paragraph:

"(4) In order to encourage the development of private and multilateral investment insurance the Corporation may make arrangements, consistent with its purpose set forth in section 231 and on equitable terms, with private insurance companies, multilateral organizations, or others for participation in the liabilities arising from insurance of the risks referred to in paragraph (1) of this subsection.";

(D) by deleting the second paragraph of subsection (c) and substituting in lieu thereof the following new paragraph:

"No loans shall be made under this section to finance operations for extraction of oil or gas."; and

(E) in subsection (d), by deleting the proviso appearing therein and substituting in lieu thereof the following:

"*Provided, however,* That the Corporation shall not finance surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for extraction of oil or gas.".

(2) Section 235 is amended by subsection (a)(4), by deleting the date "December 31, 1977" and substituting in lieu thereof the date "September 30, 1981".

(3) Section 237 is amended—

(A) in subsection (f), by deleting the period at the end of the first sentence thereof and by adding the following proviso thereto:

": *Provided, however,* That the Corporation may provide for appropriate adjustments in the insured dollar value to reflect the replacement cost of project assets."; and

(B) in subsection (f), by deleting the period at the end of the second sentence thereof and by adding the following proviso thereto:

": *Provided, however,* That this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.".

(4) Section 239 is amended—

(A) in subsection (b) thereof, by deleting the second paragraph thereof; and

(B) in subsection (d) thereof, by adding to the parenthetical appearing therein the following:

"or participation certificates in evidences of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)".

(5) Section 240A is amended by deleting subsection (b) thereof and substituting in lieu thereof the following:

"Not later than December 31, 1980, the Corporation shall submit to the Congress a report on the development of private and multilateral programs for investment insurance and any participation arrangements it has made with private insurance companies, multilateral organizations and institutions, or other entities.".

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1977

I. INTRODUCTION

The proposed Overseas Private Investment Corporation Act of 1977 (hereinafter referred to as the Bill) amends the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the Act) in order to extend the authority to issue investment insurance and guaranties and to make certain changes in existing programs and policies.

II. PROVISIONS OF THE BILL

Section 1. Short Title

This section provides that the Bill may be cited as the "Overseas Private Investment Corporation Amendments Act of 1977."

Section 2. Amendments to the Act

Paragraph (1)—OPIC Programs

This paragraph amends section 234 of the Act, which describes the programs the Corporation is authorized to operate, to make five changes:

(A) Subparagraph (A) deletes the limitation imposed on the use of the Corporation's authority to share risks in multilateral ventures. This limitation is no longer necessary since its purpose was to conform to the private participation guidelines of section 234 (a)(4)-(7) which are being deleted in Paragraph (1) of the Bill.

(B) Subparagraph (B) deletes the phrase "total face amount" appearing in section 234 (a)(3) and section 234(b) and substitutes therefor the phrase "maximum contingent liability". Section 234(a)(3) and section 234 (b) of the Act limit the amount of investment insurance and investment guaranties, respectively, which the Corporation may issue to any single investor to not more than 10 percent of the respective total face amounts it is authorized to issue. The actual ceilings on total investment insurance and guaranties are described in section 235(a)(1) and section 235(a)(2), respectively. These ceilings are not described in terms of total face amount, but in terms of maximum contingent liabilities which present a more accurate portrayal of program levels and risk exposure. Subparagraph (B) conforms the terminology of single investor limitations to the terminology of overall program limitations contained in section 235(a)(1) and section 235(a)(2).

(C) Subparagraph (C) deletes the private participation guidelines of section 234(a)(4)-(7) and replaces them with authorization for the Corporation to encourage the development of private and multilateral investment insurance by making arrangements, consistent with the Corporation's statutory purpose and on equitable terms, with private insurance companies, multilateral organizations and others for participation in the liabilities arising from political risk insurance.

(D) Subparagraph (D) removes the restriction on the use of Direct Investment funds for financing of minerals projects, but retains the restriction for oil and gas projects.

(E) Subparagraph (E) removes the restriction on the use of Investment Encouragement funds for financing of surveys to ascertain the existence, location, extent or quality, or to determine the feasibility of undertaking operations for mineral extraction, but retains the restrictions for oil and gas projects.

Paragraph (2)—Extension of Authority

This paragraph extends the authority of the Corporation to issue investment insurance and guaranties until September 30, 1981.

Paragraph (3)—Insurance Limitations

This paragraph amends section 237 of the Act, which describes general provisions relating to the insurance and guaranty programs, to make two changes:

(A) Subparagraph (A) permits the Corporation to make appropriate adjustments in the insured dollar value of an investment to reflect the replacement cost of project assets. Section 237(f) of the Act does not permit the Corporation to take into account increases in the replacement cost of insured project assets. Adjustments may only be made for accrued interest, earnings or profits. Subparagraph (A) will permit the Corporation to make selective adjustments in the insured dollar value of an investment to fully recognize the cost of replacing the underlying project assets.

(B) Subparagraph (B) removes the 10% co-insurance requirement in the case of loans by banks or other financial institutions to unrelated parties. When the bank or financial institution has no ownership in the foreign enterprise, the co-insurance requirement is inappropriate. The co-insurance requirement of Section 237(f) of the Act was designed to place the insured investor at risk with respect to a percentage of the investment so that it would exercise control and direct the foreign enterprise in a prudent manner. When a financial creditor has no ownership in the foreign enterprise, the underlying rationale of co-insurance cannot be accomplished. Further, experience has shown that imposing mandatory co-insurance requirement on banks and financial institutions diminishes the utility of OPIC insurance as an incentive to project lending in developing countries.

Paragraph (4)—Powers of the Corporation

This paragraph amends section 239 of the Act, which describes the general provisions and powers of the Corporation, to make two changes:

(A) Subparagraph (A) removes the requirement that the Corporation cease operating the programs authorized by section 234(b) through (e) of the Act after December 31, 1979. This requirement was included in the Act in anticipation that the Corporation might be able to meet the scheduled withdrawal from direct underwriting of insurance pursuant to section 234(a)(4)—(7) of the Act. However, as Paragraph (1) of the Bill would permit the Corporation to continue underwriting and management of investment insurance, there would no longer be a reason to transfer the related program of investment finance to another agency.

(B) Subparagraph (B) permits the Corporation to issue participation certificates in evidences of indebtedness held by the Corporation in connection with the settlement of claims. Section 239(d) of the Act authorizes the Corporation to issue participation certificates for the purpose of selling its direct investments pursuant to Section 231(c) of the Act, but there is no explicit authorization in the Act for the Corporation to issue participation certificates in debt securities it may acquire in connection with the settlement of claims. When the Corporation seeks to dispose of claims-related debt securities it will continue to use the facilities of the Federal Financing Bank whenever they are made available.

Paragraph (5)—Report to Congress

This paragraph requires the Corporation to submit a report to the Congress, not later than December 31, 1980, on the development of private and multilateral programs for investment insurance and any participation arrangements it has made with private insurance companies, multilateral organizations and institutions, or other entities.

OVERSEAS PRIVATE INVESTMENT CORPORATION,
Washington, D.C., June 16, 1977.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am transmitting today a bill to authorize a four-year extension of the investment insurance and finance programs operated by the Overseas Private Investment Corporation ("OPIC") and to make certain changes in its existing programs and policies. The Administration believes that OPIC has played an important role in advancing U.S. foreign economic development policies and that its programs can be of greater value in the future.

The major change proposed by the Administration is to remove the requirement that

OPIC transfer its insurance operations to the private insurance industry by certain deadlines. These deadlines were set in the 1974 amendments to the Foreign Assistance Act, when the Congress expressed its intention that OPIC progressively increase private participation in its insurance functions, with the aim that OPIC withdraw completely from direct underwriting and management of investment insurance in 1980. The Administration has undertaken a review of OPIC's efforts to achieve private participation in its insurance liabilities, the views of the private insurance industry, the costs and benefits of various types of private participation by this industry, and the compatibility of the "privatization" goals with OPIC's basic developmental purpose and other statutory guidelines.

This review has concluded that the ultimate privatization goals of the 1974 legislation cannot be met consistent with the fulfillment of OPIC's purpose. The private insurance industry will not provide long-term non-cancelable insurance or an adequate volume of insurance in the foreseeable future. The result of meeting the present statute's deadlines would be to terminate OPIC insurance operations without any reasonable prospect of replacement by a comparable private sector facility.

In place of the 1974 guidelines, it is now proposed that OPIC be authorized to encourage the development of private and multilateral investment insurance programs and operations, consistent with OPIC's statutory purpose, and to report to the Congress on these efforts.

The bill also proposes certain other changes of lesser significance which will improve OPIC services and its ability to be self-supporting.

I urge the early passage of the enclosed legislation.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely,

JOHN J. GILLIGAN,
Chairman of the Board of Directors.

By Mr. PEARSON:

S. 1772. A bill to amend title 39 of the United States Code to prohibit a reduction in the frequency of mail delivery service, to alter the organizational structure of the U.S. Postal Service, to revise the procedure for adjusting postal rates and services, and for other purposes; to the Committee on Governmental Affairs.

Mr. PEARSON. Mr. President, rarely has an institution been so roundly criticized as has the Postal Service for the past 6 years. Since the Postal Reorganization Act of 1970, service has gotten worse and postal rates have increased faster than the rate of inflation. Critics say there is little evidence to suggest this trend will stop. Few, if any, believe the Postal Service will ever be self-sufficient and an increasing number of people believe we should drop that pretense and devote more energies toward making the service more dependable.

This public outburst puts the onus on Congress to decide for the second time this decade what the future of the Postal Service is to be. Quite simply, Mr. President, I believe Congress should end the independence of the Postal Service, admit the reorganization experiment has failed, and return the Postal Service to congressional control.

I am introducing legislation today that will force the Postal Service to come before Congress each year for its authorizations and appropriations. Although I have added several substantive changes, this legislation is modeled after H.R. 6520, which contains the provisions that were accepted by the House last Congress.

The proposal I have introduced would abolish the Board of Governors, which under the present system is responsible for running the day-to-day operations of the Postal Service. It would require that the Postmaster General be appointed by the President and confirmed by the Senate. It outlines a procedure whereby Congress decides on the advisability of postal rate increases or the need for an increased Federal subsidy to meet financial obligations. The legislation stresses that mail delivery service must not be dropped from 6 to 5 days a week. It also protects against the arbitrary closing of small post offices unless a majority of the patrons vote to do so or unless the post office's postmaster slot is vacant.

By requiring an agency to come before Congress for its appropriations it is guaranteed that a certain amount of politics will be involved, Mr. President. But it is the intent of this legislation that politics be kept to a minimum. Congress will not be responsible for the appointment of postmasters. It does not seek to run the day-to-day operations of the Postal Service. It will be responsible for directing the Postal Service toward a more service-oriented goal.

The shift from the present, quasi-independent status of the Postal Service back to Government control does not mean a lower priority will be given efforts to make the Postal Service more efficient, more cost-effective. Although the objective of this legislation is to make the Postal Service more dependable, Congress cannot turn its back on the need to hold down costs. If Congress allows the Postal Service to slip into wasteful, inefficient habits then we will ultimately have no alternative but to pay for the inefficiency through higher appropriations or increased postage rates. Effectively managing the Postal Service budget will be a most challenging task should Congress find the Postal Service reins in its hands once again. But it is a task that will determine the success of Government control of the Postal Service.

Another section of my bill relating to the future of the Postal Service regards the research and development efforts of the Postal Service to stay abreast of current technology. Study after study points to the dangers of the Postal Service falling behind the advancements of the communications market, and ending up as a prohibitively expensive service whose "time has already passed."

Mr. President, it is essential that Postal Service management devote a larger portion of their energies and funds toward developing long-term plans for the Postal Service. Of primary importance is the agency's decision regarding electronic communications. The effect of electronic communications was dramatically illustrated with the advent of the 13-cent first-class stamp. Because of the increased expense, the large users of first-class mail began experimenting with the electronic transfer of mail, thus, in part, contributing to the decline in total mail volume and Postal Service revenues. If this trend accelerates, as many predict it most certainly will, it portends disaster for the Postal Service as we know it now.

It is the intent of this legislation to force management to adopt innovative long-term plans that will adapt to a changing communications market. Under my bill the Postmaster General would be required to submit a yearly report to Congress outlining the total amount of funds expended on research and development and explaining the direction of each project.

At this time, Mr. President, I would ask that this legislation be printed in the RECORD.

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

S. 1772

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 "Postal Reorganization Act Amendments of 1977".

AMENDMENT OF TITLE 39

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 39 of the United States Code.

FREQUENCY OF MAIL DELIVERIES; POST OFFICE CLOSINGS

SEC. 3. (a) Chapter 36 is amended by inserting after section 3662 the following new sections:

"§ 3663. Frequency of delivery service

"Notwithstanding any other provision of this title and until otherwise provided by law, the Postal Service shall not reduce the frequency of mail delivery service for any user of the mail below the frequency of such service in effect for such user of the mail on April 21, 1977. As used in this section, 'frequency of mail delivery service' means the number of days in any calendar week on which any delivery of mail is made.

"§ 3664. Closing of post offices

"(a) The Postal Service shall not close any post office which was providing regular mail service on April 21, 1977, unless—

"(1) the Postal Service receives the written consent of a majority of the regular patrons of such office who are at least 18 years of age, or

"(2) there is a vacancy in the office of postmaster of such office.

"(b) Notwithstanding the provisions of subsection (a), the Postal Service shall comply with the provisions of section 404(b) of this title before closing any post office.".

(b) The table of sections for chapter 36 is amended by inserting after the item relating to section 3662 the following new items:

"3663. Frequency of delivery service.
"3664. Closing of post offices.".

ORGANIZATION OF POSTAL SERVICE

SEC. 4. (a)(1) Sections 202 and 203 are amended to read as follows:

"§ 202. Postmaster General

"The chief executive officer of the Postal Service is the Postmaster General, who shall be appointed by the President, by and with the advice and consent of the Senate. The

pay of the Postmaster General shall be at an annual rate equal to the annual rate of basic pay, as in effect from time to time, for level I of the Executive Schedule of section 5312 of title 5.

"§ 203. Deputy Postmaster General

"The deputy chief executive officer of the Postal Service is the Deputy Postmaster General, who shall be appointed by the Postmaster General. The Postmaster General shall fix the term of service of, and shall have the power to remove, the Deputy Postmaster General. The pay of the Deputy Postmaster General shall be at an annual rate, fixed and adjusted by the Postmaster General, not more than $2,500 less than the annual rate of basic pay of the Postmaster General, as in effect from time to time.".

(2) Section 205 is amended to read as follows:

"§ 205. General authority of Postmaster General

"The Postmaster General shall direct and control the expenditures and review the practices and policies of the Postal Service and perform other functions and duties prescribed by this title.".

(3)(A) The table of sections for chapter 2 is amended by striking out the items relating to sections 202 and 203 and inserting in lieu thereof the following new items:

"§ 202. Postmaster General.

"§ 203. Deputy Postmaster General.".

(B) The table of sections for chapter 2 is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

"205. General authority of the Postmaster General.".

(b)(1) Section 102 is amended to read as follows:

"§ 102. Definition

"As used in this title, 'Postal Service' means the United States Postal Service established by section 201 of this title.".

(2) The table of sections for chapter 1 is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new item:

"102. Definition.".

(c)(1) Section 402 is repealed.

(2) The table of sections for chapter 4 is amended by striking out the item relating to section 402.

(d) Section 2402 is amended to read as follows:

"§ 2402. Annual report

"The Postmaster General shall submit to the President an annual report concerning the operations of the Postal Service under this title.".

(e)(1) The following sections are each amended by striking out "Board" each place it appears therein and inserting in lieu thereof "Postmaster General":

(A) 204.

(B) 207.

(C) 1011.

(D) 3625(f).

(E) 5206(c).

(2) The following sections are each amended by striking out "Governor" each place it appears therein and inserting in lieu thereof "Postmaster General":

(A) 3621.

(B) 3623(b).

(C) 3624 (c)(1) and (d).

(D) 3625 (other than the last sentence of subsection (d)).

(E) 3628.

(F) 3641.

(G) 3684.

(3)(A) Section 1001(d) is amended by striking out "of the Board or".

(B) Section 1002(a) is amended by striking out "Governor or".

(4) The last sentence of section 3625(d) is amended to read as follows: "However, the Postmaster General may modify any such further recommended decision of the Commission under this subsection if the Postmaster General expressly finds that—

"(1) such modification is in accord with the record and the policies of this chapter; and

"(2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.".

(5)(A) The heading for section 3625 is amended to read as follows:

"§ 3625. Action relating to recommended decisions".

(B) The table of sections for subchapter II of chapter 36 is amended by striking out the item relating to section 3625 and inserting in lieu thereof the following new item: "3625. Action relating to recommended decisions.".

PROCEDURES FOR ADJUSTMENT OF RATES AND SERVICES

SEC. 5. (a)(1) Subchapter II of chapter 36 is amended by redesignating section 3628 as section 3629 and by inserting immediately after section 3627 the following new section:

"§ 3628. Appropriations or adjustments for operating deficits

"(a)(1) If the Postal Service determines that total estimated revenues of the Postal Service for any fiscal year are not sufficient to defray total estimated costs of the Postal Service for such fiscal year, the Postal Service may—

"(A) request the Congress to authorize the appropriation of, and appropriate, an amount which, together with such total estimated revenues, will defray as nearly as practicable such total estimated costs;

"(B) make a request under section 3622 (a) of this title for a recommended decision of the Postal Rate Commission; or

"(C) propose a change in the nature of postal services under section 3661(b) of this title.

"(2)(A) If the Postal Service makes a request to the Congress under paragraph (1)(A) of this subsection, the Postal Service shall notify the Postal Rate Commission of such request and shall provide the Commission with data and an analysis with respect to the amount of any increase in a rate or rates of postage or in a fee or fees for postal services, or with respect to the nature of any change in postal services, which would be necessary if the Congress fails to appropriate the amount involved in such request.

"(B) If the Postal Service makes a request under section 3622 (a) of this title, or proposes a change under section 3661 (b) of this title, as a result of a determination of the Postal Service under subsection (a) of this section, the Postal Rate Commission shall notify the Congress of such request or proposal and shall provide the Congress with data and an analysis with respect to the amount of appropriated funds which, together with total estimated revenues of the Postal Service for the fiscal year involved, would defray as nearly as practicable the total estimated costs of the Postal Service for such fiscal year.

"(b)(1) If the Congress fails to appropriate the amount requested by the Postal Service under subsection (a)(1)(A) of this section, or if the Congress appropriates an amount which is less than such amount, during the 5-month period immediately following the date upon which such request is made, and the Postal Service has not made a request under section 3622(a) of this title or proposed a change under section 3661(b) of this title during such 5-month period, the Postal Service may make such request or propose such change, as a result of a determination of the Postal Service under subsection (a) of this section, at any time after such 5-month period. Any such request or proposal shall take into account the amount of any appropriation made by the Congress as a result of a request of the Postal Service under subsection (a)(1)(A) of this section during such 5-month period.

"(2) In the case of any request made by the Postal Service under section 3622(a) of this title after the 5-month period immediately following the date upon which the Postal Service makes a request under subsection (a)(1)(A) of this section, the Postal Rate Commission shall transmit its recommended decision to the Postmaster General no later than 5 months after receiving such request under section 3622(a) of this title.

"(c)(1) If the Postal Service makes a request under section 3622(a) of this title as a result of a determination of the Postal Service under subsection (a) of this section, the Postal Rate Commission may not make a recommended decision with respect to such request during the 5-month period immediately following the date upon which such request is made. If the Congress appropriates funds to the Postal Service during such 5-month period for the purpose of defraying as nearly as practicable the total estimated costs of the Postal Service for the fiscal year involved, the request made by the Postal Service under section 3622(a) of this title shall be modified to take into account such appropriation.

"(2) If the Postal Service submits a proposal under section 3661(b) of this title as a result of a determination of the Postal Service under subsection (a) of this section, such proposal may not take effect during the 5-month period immediately following the date upon which such proposal is submitted. If the Congress appropriates funds to the Postal Service during such 5-month period for the purpose of defraying as nearly as practicable the total estimated costs of the Postal Service for the fiscal year involved, the proposal submitted by the Postal Service under section 3661(b) of this title shall be modified to take into account such appropriation.

"(d) The provisions of this section shall not apply to any adjustment of a rate or rates of postage which is authorized by section 3627 of this title.

"(e) For purposes of this section, the Congress shall not be deemed to have passed legislation making an appropriation unless such legislation becomes law.

"(f) For purposes of this section, the term 'total estimated costs' has the meaning given it by section 3621 of this title.".

(2) The table of sections for subchapter II of chapter 36 is amended by striking out the item relating to section 3628 and inserting in lieu thereof the following new items:

"3628. Appropriations or adjustments for operating deficits.

"3629. Appellate review.".

(b)(1) Section 3624(c)(1) is amended by inserting immediately before the period at the end thereof the following: ", except that such recommended decision shall be transmitted no later than 5 months after receiving any such request from the Postal Service if such request is subject to the provisions of section 3628(b)(2) of this title".

(2) Section 3624(c)(2) is amended by inserting "5-month period or" immediately before "10-month period".

(c) Section 3627 is amended by inserting immediately after "provision of this subchapter" the following: "(other than the provisions of section 3628 of this title)".

(d)(1) Section 3641 (f) is amended by striking out "section 3628" and inserting in lieu thereof "section 3629".

(2) Section 3662 is amended by striking out "section 3628" and inserting in lieu thereof "section 3629".

REVIEW OF PROPOSED CAPITAL INVESTMENTS AND RESEARCH AND DEVELOPMENT EXPENDITURES

SEC. 6. (a) Chapter 20 is amended by adding at the end thereof the following new sections:

"§ 2011. Review of proposed capital investments

"(a) The Postal Service may not carry out any capital investment project having a total estimated cost which exceeds $200,000,000 unless the Postal Service, before commencing such project, transmits a report to the Post Office and Civil Service Committee of the House of Representatives and the Committee on Governmental Affairs of the Senate. Such report shall contain a detailed description of the project involved, together with a justification for such project.

"(b) The Post Office and Civil Service Committee of the House of Representatives and the Committee on Governmental Affairs of the Senate, upon receiving any report from the Postal Service under subsection (a) of this section, shall review the project involved and conduct such hearings with respect to such project as each committee considers necessary. Each such committee shall transmit recommendations to the Postal Service with respect to such project no later than 4 months after receiving a report under subsection (a) of this section.

"(c) The Postal Service may not commence any capital investment project with respect to which a report has been transmitted by the Postal Service under subsection (a) of this section until the Postal Service has received recommendations with respect to such project from the appropriate committees of the Senate and the House of Representatives under subsection (b) of this section. The Postal Service shall take such recommendations into account in making its final determination with respect to carrying out the project involved.

"(d) For purposes of this section, the term 'capital investment project' means any project the cost of which is not properly chargeable, under generally accepted accounting principles, as an expense of operation and maintenance.

"§ 2012. Report on research and development

"Within 30 days of the last day of each fiscal year, the Postal Service shall transmit to the Congress a report listing the total amount of funds expended on research and development during that fiscal year, each research and development project for which such funds were expended during that fiscal year, and the amount of the funds expended on that project.".

(b) The table of sections for chapter 20 is amended by adding at the end thereof the following new items:

"2011. Review of proposed capital investments.

"2012. Report on research and development.".

POSTAL RATE COMMISSION BUDGETS

SEC. 7. Section 3604(d) is amended to read as follows:

"(d) The Commission annually shall prepare and submit to the President a separate budget of the expenses of the Commission, including expenses for facilities, supplies, compensation, and employee benefits. The President shall include the budget of the Commission, with his recommendations but without revision, as a separate item in the budget required by section 11 of title 31 to be transmitted to the Congress.".

EFFECT ON COLLECTIVE BARGAINING AGREEMENTS

SEC. 8. Nothing in this Act, or in any amendment made by this Act, affects—

(1) any collective bargaining agreement entered into by the United States Postal Service which is in effect on the effective date of this Act; or

(2) the authority of the United States Postal Service under chapter 12 of title 39, United States Code, to engage in collective bargaining with respect to any collective bargaining agreement into which the United States Postal Service may enter.

EFFECTIVE DATES

SEC. 9. (a) Except as provided in subsection (b), the amendments made by this Act shall take effect on the first day of the first fiscal year immediately following the date of the enactment of this Act.

(b) The amendments made by section 3 shall take effect on the date of the enactment of this Act.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. CHAFEE):

S. 1773. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protection against discrimination in employment to individuals above age 65, and to protect individuals covered by the act from early mandatory retirement as required by certain seniority systems and employee benefit plans; to the Committee on Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

Mr. JAVITS. Mr. President, I am introducing today along with Senators EAGLETON and CHAFEE a bill to expand as well as clarify the protections afforded older workers by the Age Discrimination in Employment Act of 1967—ADEA. This act now protects only those employees who are at least 40 but less than 65 years of age from age discrimination in matters of hiring, discharge, compensation, or, in other terms, conditions or privileges of employment.

Our bill seeks to aid older workers in two ways. First, it gradually raises the upper age "cap" from age 65 to age 72, and eliminates the upper age limit altogether in 1985. The cap would be raised to age 68 on January 1, 1978, to age 70 on January 1, 1980, and to age 72 on January 1, 1982. On January 1, 1985, the 72-age cap would be completely eliminated. Second, our bill would amend the limited exception for bona fide employee benefit plans contained in section 4(f)(2) by making it clear that such plans and seniority systems may not be used to force mandatory early retirement on the basis of age.

As many of my colleagues may know, I have had a special interest in age discrimination legislation for many years. I introduced my first such bill back in 1951 when I was a Member of the House of Representatives. My efforts reached fruition in 1967 when the ADEA was passed. I had the privilege of participating extensively in the legislative consideration of the administration bill which, with the addition of a number of amendments that I sponsored, became law. The ADEA has proved to be an excellent piece of social legislation, and the time has now come to extend its protections to more workers and to close the gaping loophole which some Federal courts have read into the employee benefit plan exception.

RAISING AND EVENTUALLY ELIMINATING THE AGE CAP

There is nothing preordained about the 65 upper age limit of the ADEA. Former Secretary of Labor Willard Wirtz acknowledged that it was selected simply because the Social Security Act used that age. If we look at the history of the Social Security Act, we see that age 65 was selected somewhat arbitrarily, in part because of the tradition of using this age in Germany's social security system. With advances in medical science and improvements in the U.S. standard of living, life expectancies in the United States have steadily increased since the time when age 65 was first incorporated into law. Age 65 is not as old as it once was, and our laws on age discrimination should take this into account.

It has always seemed unjustifiable to me to permit employees to be forced into retirement solely because they have reached an arbitrarily established age. If such a standard were applied to Members of Congress, I dare say we would lose some of our finest and most competent Members. Such a standard would have halted the work of such great individuals as Benjamin Franklin, Eleanor Roosevelt, and Oliver Wendell Holmes. The point is that an arbitrary ADEA age cap fails to take account of differential aging and different effects of aging on various skills. It could waste well-developed abilities and mature judgment which can be of great benefit to society. In addition, evidence exists that mandatory retirement accelerates the aging process and brings on or makes physical and emotional problems worse.

The actual number of employees who would opt to continue working past age 65 will probably be quite small. Only 2 percent of the employees at General Motors and 20 percent at Exxon postpone retirement until the present mandatory age. A social security study indicates that only about 7 percent of male workers would want to continue to work after normal retirement age. Fears of large numbers of aged employees lingering on appear to be unfounded and of course, employees no longer capable of performing their duties can be discharged as for good cause.

In addition, eliminating the age gap will relieve some of the funding pressures of retirement plans. Employees who continue working past age 65 will collect their pensions for shorter periods of time. Under the Employee Retirement Income Security Act of 1974, employers are not required to continue the accrual of benefits after the normal retirement age as defined in ERISA. Consequently, the cost of pension plans will not be increased and, in fact, should be decreased as a result of eliminating the age cap.

Those who oppose raising or eliminating the age cap frequently argue that older workers are less productive, yet many studies indicate that this is a fallacy. Opponents also argue that mandatory retirement avoids competency-based retirements. The experience of many major corporations indicates that a program of competency-based retirements, instead of mandatory retirement based on age, can be successfully administered.

Proponents of the status-quo also raise fears that eliminating the age cap will result in fewer new job openings for minorities, women, and younger workers,

but we know that normal turnover, coupled with the long-term upturn in the economy, will continue to provide increasing opportunities for these and other new entrants to the labor force. In addition, since relatively few employees can be expected to work past age 65, a steady turnover in positions should continue as employees voluntarily retire.

Finally, well before the time when this bill would eliminate the age cap of the ADEA, it requires the Secretary of Labor to complete a study, by January 1, 1979, on the effects of raising and eventually eliminating the cap.

Mr. President, I believe that eliminating discrimination against the older worker is long overdue. Justice has too long been denied, not only for the men and women who continue to suffer employment discrimination, but for our society which denies itself the social and economic benefit of older workers' contribution to the Nation.

AMENDING SECTION 4(F)(2)

Section 4(f)(2) permits an exception to the ADEA's general age discrimination proscription by making it lawful "to observe the terms of . . . any bona fide employee benefit plan . . . which is not a subterfuge to evade the purposes of this Act."

The purpose of this amendment was to facilitate the hiring of older employees by permitting their employment without necessarily providing equal benefits under employee benefit plans. As I stated on the Senate floor to Senator Yarborough, the bill's floor manager, "The meaning of the provision is as follows: An employer will not be compelled under this section to afford to older workers exactly the same pension, retirement, or insurance benefits as he affords to younger workers." Senator Yarborough explicitly agreed with my explanation of the provisions.

Yet, despite this clear explanation, the U.S. Court of Appeals for the Third Circuit in *Zinger* v. *Blanchesse*, 549 F.2d 901 (3d Cir. 1977), has construed section 4(f)(2) to mean that mandatory retirement under a plan at less than age 65 at the option of the employer is lawful. The effect of Zinger is to deny the ADEA's protection with respect to forced early retirement to six million employees who are members of plans which permit the employer to force early retirement before age 65 and to encourage other employers to include similar provisions in their plans covering an additional 29 million employees.

The Supreme Court will have the opportunity to decide this issue in *McMann* v. *United Airlines*, 542 F. 2d 217 (4th Cir. 1976), cert. granted, No. 76-906 (1977). In McMann, the Court of Appeals for the Fourth Circuit interpreted the 4(f)(2) exception narrowly, holding that a plan which forced retirement before age 65 was unlawful.

Before the Supreme Court considers the arguments about what the Congress intended by section 4(f)(2), I think it is encumbent that Congress make clear that this provision was never intended to permit the wholesale evasion of the ADEA's protections. As the Fourth Circuit in McMann observed, "We think it unlikely that Congress intended to leave the vast loophole in this broad remedial legislation which . . . [the employer] . . . would have us fashion."

It should be added that under our bill union representatives will still be able to collectively bargain for decreases in the voluntary early retirement age under employee benefit plans.

In conclusion, Mr. President, I and Senators EAGLETON and CHAFEE urge our colleagues to consider this bill favorably. We have received communications from other Senators interested in aspects of this bill and understand that there is substantial support in the other body for increasing and clarifying the protections of the ADEA.

Even though most Americans will never experience the employment discrimination which minorities have endured, most of us will eventually face some form of discrimination on the basis of age. We all, therefore, have an interest in seeing that this form of discrimination is overcome. As ranking minority member of the Human Resources Committee and its Labor Subcomittee, I and Senators EAGLETON and CHAFEE, as chairman and ranking minority member respectively of the Committee on Human Resources' Subcommittee on Aging, will urge that action on this vital measure be taken promptly.

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

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

S. 1773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Amendments of 1977".

SEC. 2. Paragraph (2) of section 4(f) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" the following: "and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12 of this Act because of the age of such employee."

SEC. 3. Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by striking "sixty-five years of age." at the end thereof and by inserting the following:

"(1) Sixty-five years of age during the period ending December 31, 1977,

"(2) Sixty-eight years of age during the period beginning January 1, 1978 and ending December 31, 1979,

"(3) Seventy years of age during the period beginning January 1, 1980 and ending December 31, 1981, and

"(4) Seventy-two years of age during the period beginning January 1, 1982 and ending December 31, 1984."

SEC. 4. Effective January 1, 1985, Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631), as amended by Section 3 of this Act, is further amended to read as follows:

"AGE LIMIT

"SEC. 12. The provisions of this Act shall be limited to individuals who are at least 40 years of age."

SEC. 5. The amendments made by this Act shall apply with respect to any action taken by any employer, employment agency, or labor organization on or after the date of enactment of this Act, and to any discrimination by any employer, employment agency, or labor organization which occurs on or after such date.

SEC. 6. Section 5 of the Age Discrimination in Employment Act (29 U.S.C. 624) is amended to add at the end thereof the following:

"Further, the Secretary is directed to complete a study of the effect of age discrimination against workers above age sixty-five on individuals, employment practices, and employee benefit plans, and shall submit such report, together with any recommendations deemed appropriate, to the President and to the Congress. Both studies required by this Section shall be submitted no later than January 1, 1979.".

Mr. CHAFEE. Mr. President, I am honored to cosponsor today, along with Senators JAVITS and EAGLETON, legislation designed to end age discrimination against older persons in employment. At the present time, the Age Discrimination in Employment Act of 1967, ADEA, prohibits age discrimination in employment for persons ages 40 through 65. This bill would eliminate the age ceiling by raising the upper age limit to 68 in 1978, to age 70 in 1980, to age 72 in 1982 until the age ceiling is eliminated in 1985. In addition, this bill forbids mandatory retirement on the basis of age due to conditions established in bona fide employee benefit plans.

One observation that is clear to us all is that people do not age in the same way. Some are fully qualified to remain employed throughout our sixties, seventies, and beyond. Others would prefer, for personal or medical reasons, to retire at age 65 or an earlier age. This is a highly personal decision which cannot be made on the basis of age alone.

However, our laws promote mandatory retirement at the age of 65. ADEA forbids age discrimination in employment for persons between the ages of 40 and 65. At 65, however, an employer may require an employee to retire because of his or her age. This, Mr. President, is age discrimiantion; 65 is simply an arbitrary age at which to retire. If a person is able to continue to work and chooses to do so, our laws should allow them to remain employed. By raising and eventually eliminating the age ceiling under ADEA, we will achieve this important goal.

There is mounting evidence that mandatory retirement is neither healthful nor desirable. For example, the American Medical Association suggests that stopping productive work and earning power leads to physical and emotional deterioration. Men and women who lead productive, fulfilling lives do not necessarily lose their desire and ability to work on their 65th birthday. A nationally based Harris poll found that up to one-third of retired Americans would prefer to remain working if they had the opportunity.

I often hear this issue raised by my constituents. Just this week, a constituent of mine in Rhode Island described to me the serious problems he is facing in trying to secure employment after being forced to retire on his 65th birthday.

Admittedly, if a large number of currently retired individuals rejoined the labor force there theoretically would be fewer jobs. But, in fact, the ability of the working elderly to afford more goods and services would create more jobs.

The second part of this bill corrects a problem that has arisen because bona fide employee benefit plans often require retirement at age 65. As a result, the antidiscrimination intent of ADEA is circumvented. This bill would strengthen the age discrimination provisions of ADEA by clearly stating that mandatory retirement on the basis of age pursuant to the terms of employee benefit plans is not permitted.

Prejudice against age is as inexcusable as prejudice against race, sex, or religion. By continuing our present retirement policies, we encourage dependence rather than independence; we deny our communities the benefits that older workers can contribute. It is incumbent upon this Congress to vigorously promote rather than discourage older people to remain active and productive. I urge my colleagues to give strong support to this vital legislation.

By Mr. NELSON (for himself, Mr. EASTLAND, Mr. CLARK, Mr. MCGOVERN, Mr. ZORINSKY, Mr. HATHAWAY, and Mr. CHILES):

S. 1774. A bill to amend the Internal Revenue Code of 1954 to provide that the Federal excise tax on telephone service does not apply to amounts paid as State tax on the same service; to the Committee on Finance.

DOUBLE TAXATION ASPECTS OF THE FEDERAL TELEPHONE EXCISE TAX

Mr. NELSON. Mr. President, I introduce for appropriate reference a bill to eliminate an unfair element of a Federal telephone excise tax, which amounts to double taxation in Wisconsin and 17 other States.

Most people are familiar with the Federal excise tax on telephone service, which stands at 5 percent in 1977 and is being reduced 1 percent per year until it will be phased out entirely in 1982.

What has caused this problem is that 18 States have enacted sales taxes on telephone service in a manner known as a "retailer tax"—levied on the provider of the service—rather than a "consumer tax"—which is levied on the user of the service.

In 1973, the Internal Revenue Service issued a ruling that if the State taxes fell into the "retailer" category, the Federal excise tax must be imposed not only on the basic telephone bill, but also on the additional State tax as well.

This, of course, is a "tax on a tax" and I do not believe that Congress intended that result. Because of this inequity, we sought from IRS a delay in the imposition of this tax-on-a-tax element. IRS was willing to postpone the effect of the ruling until February 1977.

There has also been an attempt to gain State action in Wisconsin, and perhaps other States, to change the nature of the State tax from the retailer to the consumer category. However, such a change has not taken place in Wisconsin.

If the law is not changed, there are three reasons why the tax on a tax will continue to be an inequity for the States involved:

First, it should be noted that not all States impose a State sales tax on telephone service. There are 32 States in which the citizens do not bear a double tax in this respect.

Second, those States which impose a communications excise tax on the users of the service, rather than the providers, do not incur this form of double taxation.

Third, even within the 18 States which are paying this extra tax, there is no uniformity in the amount of State telephone sales taxes which are imposed. The higher the sales tax becomes, the higher the excise tax will be. Thus, the greater revenue effort the State is making, the more its telephone users would suffer the double tax.

The extent of this problem can be understood from the total amounts in question. In Wisconsin alone, telephone users would have an estimated liability of $3,500,000 in additional Federal excise taxes between now and 1982. For the 18 States involved, the total is estimated to be $46,250,000. In my view, most people would agree that paying any tax once is difficult enough. We should not ask any of our citizens to endure a tax on another tax.

I feel that the citizens of these 18 States are entitled to relief on this burden of double taxation and I hope that the Congress will act expeditiously to correct this unfair situation.

I ask unanimous consent that the text of the bill and a table showing the additional Federal excise tax liability estimated for the telephone users of the 18 States be printed in the RECORD at this point.

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

S. 1774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4254 of the Internal Revenue Code of 1954 (relating to computation of tax) is amended by adding at the end thereof the following new subsection:

"(c) AMOUNTS PAID AS STATE TAX FOR SERVICE DISREGARDED.—No tax shall be imposed under section 4251 on so much of any amount paid for services as is properly attributable to any tax imposed on the amount paid for such services, or otherwise imposed on the providing of such services, by a State or any political subdivision thereof.".

SEC. 2. The amendment made by the first section of this Act applies with respect to bills rendered after June 30, 1977.

Alabama	$1,750,000
Florida	10,000,000
Illinois	10,000,000
Iowa	1,250,000
Kansas	1,000,000
Kentucky	2,000,000
Maine	750,000
Minnesota	2,250,000
Mississippi	1,312,500
Missouri	2,500,000
Nebraska	625,000
New Mexico	625,000
North Dakota	312,500
Pennsylvania	5,000,000
South Carolina	500,000
South Dakota	375,000
Tennessee	2,500,000
Wisconsin	3,500,000
Totals on above States	46,250,000

By Mr. CRANSTON (by request):

S. 1775. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes; to the Committee on Veterans' Affairs.

ADMINISTRATION PROPOSAL TO EXTEND AUTHORITY TO ENTER INTO SPECIAL PAY AGREEMENTS WITH VA PHYSICIANS AND DENTISTS

Mr. CRANSTON. Mr. President, at the request of the administration I am today introducing S. 1775, a bill to amend the Veterans' Administration and Dentist Pay Comparability Act of 1975, as amended, in order to extend certain provisions thereof, and for other purposes. The bill further makes an amendment to section 4118 of title 38, United States Code, relating to new terms of agreement authorized by subsection (e)(1) of such section.

Mr. President, I ask unanimous consent that the letter of transmittal, the bill, a section-by-section analysis of the bill, and the changes in existing law be printed in the RECORD.

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

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., June 27, 1977.

HON. WALTER MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes" with a request that it be introduced and considered for enactment.

Public Law 94-123, "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975," authorized the Veterans' Administration to pay special pay to eligible physicians and dentists upon the execution of and for the duration of a written agreement. The Veterans' Administration authority to enter into agreements was limited to one year. Public Law 94-581, "Veterans Omnibus Health Care Act of 1976" extended the authority to enter into agreements through September 30, 1977.

The proposed bill would further extend the authority to enter into agreements through September 30, 1978. It would also amend section 4118 of title 38, United States Code, to provide, in subsection (e)(1), that upon completion of the terms of an agreement authorized by this section by a physician or dentist in the Department of Medicine and Surgery, such individual can enter into subsequent new agreements for additional periods not to exceed four years in any such agreement. This provision is necessary in order to overcome an interpretation of the law by the Veterans' Administration that no agreement or combination of agreements could be entered into which would exceed a total of 4 years. Under this proposed amendment, a physician or dentist who has signed an agreement under current or prior law, which will be completed during the extended authorization period, may execute an additional agreement not to exceed 4 years even if the total period of any combination of agreements does exceed 4 years.

Since the enactment of the special pay program we have been collecting data on its effectiveness. Data that we have received indicates that the program has had a positive impact on our ability to recruit and retain physicians and dentists in the Department of Medicine and Surgery. Accordingly, we believe it essential that the present authority be extended through September 30, 1978 so as not to disrupt current agency efforts to recruit and retain physicians and dentists.

In this connection, Public Law 94–123, required both the Comptroller General and the Director of the Office of Management and Budget to submit a report to Congress containing an investigation of problems facing the departments and agencies in the Federal Government in recruiting and retaining qualified physicians and dentists, together with prospective solutions to the problems. The Director of the Office of Management and Budget and the Comptroller General have both submitted such reports. The Veterans' Administration cooperated in the development of these reports by furnishing information concerning the recruitment and retention of physicians. We will continue to cooperate, in any way possible, in attempting to resolve this problem.

We estimate that extension of our current contracting authority would result in the following costs to the Veterans' Adminisration:

Fiscal year:	*Costs*
1978	$3,958,000
1979	7,481,000
1980	6,658,000
1981	5,927,000
1982	2,792,000
Total cost	26,816,000

Therefore, in view of the foregoing, we request the enactment of the draft bill at the earliest possible date.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report to the Congress, and enactment of the draft bill would be consistent with the objection of the administration.

Sincerely,

MAX CLELAND, *Administrator.*

Enclosure.

S. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94–123; 89 Stat. 669) as amended (Public Law 94–581; 90 Stat. 2852), is further amended by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1978".

SEC. 2. Section 4118 of title 38, United States Code, is amended by—

(1) striking out in subsection (a)(1) "he" and inserting in lieu thereof "the Administrator"; and

(2) inserting a new sentence at the end of subsection (e)(1) as follows: "Upon completion of the terms of any agreement authorized by this section subsequent new agreements may be entered into by any such physician or dentist for additional periods of service not to exceed four years in any such agreement.".

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section amends the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, to provide that the authority to enter into agreements with physicians and dentists to pay the special pay authorized by Public Law 94–123, would be extended from a termination date of September 30, 1977, to September 30, 1978. We believe that this amendment is essential so as not to disrupt current agency efforts to recruit and retain physicians and dentists.

SECTION 2

Section 2 amends 38 U.S.C. 4118. Clause (1) amends subsection (a)(1) by striking out the word "he" and inserting in lieu thereof the words "the Administrator". Public Law 94–581 attempted to eliminate all references to gender in title 38, U.S.C. This amendment corrects an omission made by that law.

Clause (2) amends subsection (e)(1) to provide that upon completion of the terms of an agreement authorized by this section by a physician or dentist in the Department of Medicine and Surgery, such individual can enter into subsequent new agreements for additional periods not to exceed 4 years in any such agreement. This provision is necessary in order to overcome an interpretation of the law by the Veterans' Administration that no agreement or combination of agreements could be entered into which would exceed a total of 4 years. Under this proposed amendment a physician or dentist who has signed an agreement under current or prior law, which will be completed duing the extended authorization period, may execute an additional agreement not to exceed 4 years even if the total period of any combination of agreements does exceed 4 years.

CHANGES IN EXISTING LAW MADE BY THAT DRAFT BILL

Changes in existing law made by the draft bill are shown as follows (existing law proposal to be omitted is enclosed in black brackets new matter printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38. UNITED STATES CODE

* * * * *

PART V—BOARD AND DEPARTMENTS

* * * * *

Chapter 73—DEPARTMENT OF MEDICINE AND SURGERY

* * * * *

§ 4118. Special pay for physicians and dentists

(a)(1) Notwithstanding the provisions of section 4107(d) or any other provision of law, in order to recruit and retain highly qualified physicians and dentists in the Department of Medicine and Surgery, the Administrator, pursuant to the provisions of this section and regulations which [he] *the Administrator* shall prescribe hereunder, shall provide, in addition to any pay or allowance to which such physician or dentists is entitled, special pay in an amount not more than (A) $13,500 per annum to any physician employed in the Department of Medicine and Surgery, or (B) $6,750 per annum to any dentist so employed, except as provided in paragraphs (2) and (3) of this subsection, upon the execution, and for the duration of, a written agreement by such physician or dentist to complete a specified number of years of service in the Department.

* * * * *

(b)(1) Any agreement entered into by a physician or dentist under this section shall be with respect to a period of one year of service in the Department of Medicine and Surgery unless the physician or dentist requests an agreement for a longer period of service not to exceed four years. *Upon completion of the terms of any agreement authorized by this section subsequent new agreements may be entered into by any such physician or dentist for additional periods of service not to exceed four years in any such agreement.*

* * * * *

[94th Congress, H.R. 8240, October 22, 1975]

PUBLIC LAW 94–123

An Act to amend title 38, United States Code, to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Administration Physician and Dentist Pay Comparability Act of 1975".

* * * * *

SEC. 6. (a)(1) The amendments made by section 2 of this Act shall become effective on October 12, 1975.

(2) No agreement to provide special pay may be entered into pursuant to section 4118 of title 38, United States Code (as added by section 2(d)(1) of this Act), after [September 30, 1977] *September 30, 1978.*

(b) Except as provided in subsection (a)(1) of this section, the amendments made by this Act shall become effective beginning the first pay period following thirty days after the date of the enactment of this Act.

ADDITIONAL STATEMENTS

A FATHER'S DAY MESSAGE BY GEORGE HALEY

Mr. BAKER. Mr. President, I recently reviewed a Father's Day message delivered by Mr. George W. Haley at the Sharp Street Methodist Church in Sandy Springs, Md., on June 19.

George Haley is a remarkable man from a remarkable family. His brother, Alex Haley, is known to and revered by us all for his research and writing of "Roots." Like his brother, George Haley is a man of notable accomplishments. He is an attorney, a former State Senator from Kansas, and the present General Counsel of the U.S. Information Agency.

I find George Haley's Father's Day message to be a moving and thought-provoking statement of man's relationships with his family and his God. I highly commend this message to my colleagues and to all Americans for their perusal. I ask unanimous consent that it be printed in the RECORD.

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

MAKING A NAME FOR YOURSELF

There are some very precious people in the world. Three of the most precious live with me! I could not possibly begin a Father's Day Message without expressing my joy at being the father of two of these people. One is my eighteen-year-old son, David, who is just home from his freshman year at Morehouse College in Atlanta, Georgia. The second is my fifteen-year-old daughter, Anne, who completed the ninth grade at Argyle Junior High School here in Montgomery County this week. The third person and the one who inspired and encouraged me to become a father in the first place is my wife, Doris, to whom I have been married for twenty-two years and eleven months!

Reverend Coursey, I make no claim to the ministry—my profession as you know is the law—but I am no stranger to the Bible. Every now and then I go to the Bible for inspiration and read a passage or passages which intrigue me. And I have done that for my message this morning. I came across this story in the eleventh chapter of Genesis, verses one through nine which you have heard read. It is an old story which goes back to the beginning of the long history of mankind. But as I read the story and reflected on it awhile, I realized that it is also a very modern, up-to-date story. As a matter of fact, it is as up to date as Watergate!

The story is of a group of people who decided that they would build a tower whose top would reach heaven and they could make a name for themselves. And so the people got together and decided to build a tower, brick by brick. And while they were building their city and this heavenly tower, the Lord came down to see them and he was displeased. And so, the Bible reports—the Lord confused

their language—one interpretation says he confounded them—so that the people could not understand one another and as a result, the tower was abandoned and the people were scattered over the face of the earth.

As I interpret this story, it depicts one of the primary sources of trouble in human history and in our own lives. It deals with human pride and arrogance and failure to communicate. The people building the tower thought they could build it without asking for help or assistance from God. They didn't need his help. They thought they were going to do it by themselves.

We can look at this story in Genesis and see what God did when he was displeased with those tower builders. But it is not as easy for us to examine ourselves and admit that, if we are honest with ourselves, this story is very applicable to us as well.

For one of the persistent tendencies of mankind is to try to build without God. Have you heard the expression . . . "I'm a self-made man." . . . "I got where I am because I worked hard." . . . "Nobody helped me do a damned thing." . . . "I built these houses." . . . "I bought this Mercedes and swimming pool and my thirty-eight foot boat." Have you heard a man brag like that about his material wealth? Or . . . hold on . . . have you ever done it yourself?

In these moments of self-conceit and arrogance, the man has forgotten the mother who bore him . . . forgotten the father who helped rear him . . . forgotten his teachers . . . his preachers . . . the church . . . and he has forgotten God who created him in the first place. No one is self-made! All of us are in debt to each other and God. If you think you have achieved any degree of success in life, somebody or somebodies have been helping you climb whether you admit it or not.

I should like to speak to you today about our view of ourselves as fathers. And I will do so in socratic fashion, through questions. I have three:

One: How do I relate to the term father?

Two: What are my responsibilities as a father?

Three: How is the Bible story of the tower builders applicable to us?

One of the earliest recollections most all of us have are of our father and mother. This is certainly true in my own life. My earliest recollection is of a time when I was three years old. We were living at Langston University in Oklahoma where my father was teaching. There was then in our family my father, my mother, my older brother, Alex, and me. It was two weeks before Christmas and our parents had Alex and me deeply submerged into the mystiques and fantasies of Christmas planning for the arrival of Santa Claus. Santa had sent word ahead that because Alex and I had been such good children, he would make our house one of his rest stops. That meant he would stay a little longer in our house than others on the campus in spite of the millions of homes whose chimneys he must squeeze in and out before dawn on Christmas morning.

We made signs along the driveway welcoming Santa to his rest stop. All kinds of goodies and our favorite chocolate and coconut cakes had been baked to share with Santa if he had time for a snack. When I came into our living room on that Christmas morning, I was overwhelmed! It was showered with toys and clothes and candies and fruits and I was told by my father that not only had Santa left so much, he had actually stayed at our house more than fifteen minutes talking with him and Mama over coffee and cake. Three used coffee cups were on the dining room table and about a third of the chocolate cake was missing. Sleigh tracks in the fresh snow were in our drive and on the roof all the way to the chimney. Dad had gotten out early before Alex and I were awake—I later learned—to make these tracks.

When I was six years old, we moved to Huntsville, Alabama. Alex was ten and we had another little brother born to the family. One morning shortly after I had arrived at school, one of Dad's college students came to my first grade class and asked the teacher to excuse me right away because my mother was seriously ill. He took my hand and rushed me home so rapidly that I was practically running. We went immediately into my parents' bedroom where Mama was dying. In a very few minutes after my arrival, the doctor said, "She's dead." For at least a minute, the room was very still and quiet. No one said a word. I looked up at my father and asked: "Dad, how can Mama be dead when her eyes are open?"

At that instance, my father grabbed me, hugging me, crushing me, and burst into terrible, breaking cries and all of a sudden, everybody was crying, including the family doctor. They told me that Mama had gone to live with God. But my question then and now—through these many years since—has been, why would God take my mother? The person who made those chocolate cakes and cookies and loved me like a six year old needs love? I later checked every one of the twenty-six other youngsters in my first grade class and nobody else's mother had died.

Next year my school had its annual operetta with one role for an orphan. I was selected as the orphan. The orphan had a song to sing and it still sticks with me. It goes:

"Mother, are you looking down from heaven's window high? Can you see your little boy, oh can you hear me cry? Sometimes it's so hard to be unselfish, brave and true. Do you think that God would care if I should come to you."

After my mother's death, Dad married again and a sister joined us. My Dad loved his family and there was no sacrifice he would not make for his children. One of his finest acts of pride and equal affection for his three sons occurred on the Howard University campus just about three months before his death. Brother Alex was being awarded one of his many honorary doctorates of letters and after the degree was conferred, the President of the University, Dr. Cheek, had invited Alex and his family and other friends to a small reception. At the reception, Dr. Cheek, with great eloquence, was telling Dad what a fine son he had in Alex.

Dad—interrupting in the middle of a sentence—with his cane unsteady, but his voice rising in emotion, said—"Now, just a minute, Dr. Cheek, I want you to know I don't have one fine son . . . I have three fine sons."

My father died four years ago at the age of eighty-three and as we were driving to his funeral, I recall saying to my son, David, that if he found himself in a similar situation wherein he was driving his family to my funeral . . . I would hope that he would feel as much love, respect and admiration as I felt for my father.

My second question is: What are my responsibilities as a father?

On the editorial page of the Washington Post on April 20, 1977, Tom Braden wrote: "If you read the newspaper headlines or listen to the TV talk shows, you get the impression that the American family is about washed up. Women's liberation, divorce, people living together out of wedlock, couples not wanting children, everyone wanting to do his own thing—all these rising trends are doing the family in. Or so you would gather from the daily news.

"But this is not true—according to the latest census reports on the family. The reports acknowledge these trends: they even suggest that some of the trends may grow. But the most important conclusion of the recent statistics is that the family is still a very strong institution in this country, the embodiment still of everybody's need for stability, continuity and affection.

"Eighty-four per cent" of all American families are still husband-wife families—that is, unbroken by separation or divorce, and seven out of eight of these families are one-marriage families."

Fathers must be a strong part of the family institution. Our responsibility as fathers most assuredly far exceeds the traditional role of simply being the breadwinner. This is not true any more in many American homes. Recent statistics show that eighteen million children have mothers who go to work outside the home every day. Under these conditions, fathers must expand their role within the family. They must set an example and give guidance and counsel in the family from a man's point of view. Hopefully, a father should be able to challenge formulative teenage minds on such controversies as Anita Bryant's crusade against homosexuals with measured discussions and opinions about some of the legal, moral and community ramifications. Or, be able to discuss wisely the comments made by Wisconsin Judge Simonson who blamed suggestive clothing worn by young women as a possible cause in a recent case where a fifteen-year-old-boy allegedly raped a sixteen-year-old girl.

Parents should not too swiftly throw off young people's opinions under the aegis of youthful aberrations. Young people frequently analyze situations deeply. It is expected that parents' opinions will be less flexible for many reasons—their experiences, their desire for protection of the young and the like. But there may be a better, more amicable solution if open-minded exchanges exist between a father and his teenaged daughter, for instance, on the time she is expected in at night, or, now, more realistically . . . early morning; hopefully.

Impressions, discussions, examples of the father and the mother, set the tone for our children's present and future lives. Winston Churchill, a devoted father, once stated: "What is the use of living unless it is to make the world better for those who come after you?"

My third question is: How is the Biblical story of the tower builders applicable to us?

Not only do individuals build towers, but nations do also. The Egyptian Pharaohs. . . . thousand of years ago. . . . thought they could build towers that would never fade away. They had gigantic statues carved of themselves out of stone. They had chiseled on stone the record of their achievements. They had their bodies buried in the pyramids in the hope that they would be preserved forever. But the tombs have long since been vandalized and the pyramids stand among the empty sands of a civilization that slowly drifted to decay as many of you may have learned when you saw the King Tut Exhibit on display earlier this year in the National Gallery of Art.

The path of history is strewn with the wreckage of countries that have tried to build military towers that would insure their dominance, but the result has been the same . . . only the names are different . . . Napoleon of France, Hitler of Germany. And we have to be careful in our country which we sometimes call God's country. It appears that the philosopher Hegel was right when he said, "We learn from history that men learn nothing from history."

In recent years our nation has gone through perhaps the greatest trauma in our history as we have witnessed the resignation of a President and Vice-President and the conviction of several high-ranking officials—all brought back to us very recently by David Frost on TV. Many people would say this all came about because of a common burglary and some indiscreet tapes. But there is a much deeper dimension. For in the rise and fall of the Nixon Administration, we see the old story. Here was another leader—unques-

tionably then the most powerful leader in the world—who sought to secure his place in history by building a tower. A tower in which ends justified means. A tower in which morality became an unknown word. The seeds of ruin were built in the Nixon Administration. The Babel story is certainly brought up to date with Watergate. Mr. Nixon had arrived at his pinnacle of power. After having received one of the most overwhelming mandates in the history of U.S. elections, he sought to imprint his footprints on the sands of time permanently. It is ironic that the very efforts to cement the name were the efforts used to destroy the name. Perhaps you recall what President Carter said in his Commencement address at Notre Dame recently: "In ancestry, religion, color, place of origin and cultural background, we Americans are as diverse a nation as the world has known. No common mystique of blood or soil unites us. What draws us together, perhaps more than anything else, is a belief in human freedom."

History has a way of confounding tower builders who run afoul of God's plan. We can never get big enough to take the place of God. There is something about man that causes us to try to find a way to overcome our limitations—not to want to acknowledge that we are creatures of a Creator—to escape the limitations of human existence. New inventions and discoveries are essential for us to maintain ourselves on this earth but Alfred Lord Tennyson was right when he said, "Let knowledge grow from more or more, but more of reverence in us dwell. That mind and soul in one accord may make one music as before, but vaster." For God is God! And man cannot take the place of God. Psalms 24 says: "The earth is the Lord's and the fullness thereof. The world and they that dwell therein. For He has founded it upon the seas and established it upon the floods." Psalms 100 says: Know ye that the Lord He is God. It is He that hath made us and not we ourselves. We are people and the sheep of His pastures."

The Biblical story ends with the people in confusion because they could not understand one another. They were confused. They couldn't communicate. This is our problem. We can't seem to speak the same language—a husband to his wife—a father to his child—a black race to a white race—a nation to a nation. Witness just a few world trouble areas indicative of misunderstanding and confusion . . . South Africa, Ireland, The Middle East, Angola. And wherever people—nations do not speak the same language, there is a gulf . . . an alienation . . . a chasm.

But being a good lawyer, I knew there has to be a solution to every problem, however serious. And the solution is set before us in that same Bible from which the Babel story came. There is a Power—a Power of restoration—that can bring people around. You will recall in the Book of Acts, people were waiting for the coming of the Spirit. They had come from every nation . . . spoke many tongues . . . couldn't understand each other . . . and then, the Holy Spirit came upon them . . . and they were able to speak in languages that all could understand. The effect of the coming of the Spirit was to restore the power to communicate . . . to bring understanding out of ignorance.

In all humility, but firm in my and Alex's belief, is the reason for the modern miracle, *Roots*. How else indeed can one explain this phenomenon. God has decided to use our family with Alex as the instrument to reveal his power in advancing understanding out of ignorance . . . in overcoming evil with good . . . in revealing that God is the Father of all of us. "If a man say he love God and hateth his brother, he is a liar." So says the 14th Chapter of John. "For how can he love God whom he hath not seen and hate his brother whom he hath seen." The Fatherhood of God presupposes that all men are brothers.

And listen to the power of the 11th chapter of St. John. "Let not your heart be troubled . . . ye believe in God . . . believe also in me . . . in my father's house are many mansions . . . if it were not so, I would have told you . . . I go to prepare a place for you . . . and if I go to prepare a place for you, I will come again . . . I am the way . . . The truth and the light . . . no man cometh unto the father but by me."

We have been talking today about people building towers to make a name for themselves. If you are planning to build a tower, make sure you are using the right kind of power! There are many towers of power to supply all of our needs if we would but use them. I often wonder how the Black race would ever have made it if we didn't have God to depend on. And He has brought us a mighty long way. Let nobody tell you otherwise.

The real hope for our lives, our families, our nation and our world is to include God and his power in our plans.

I already told you that my Dad died four years ago at the age of eighty-three years. I am sure God received him. I also already told you that I vividly recall saying to my son when I was driving him and my family to Dad's funeral: "David, if you find yourself in a similar situation wherein you are driving your family to my funeral, I would hope that you will feel as much love, respect and admiration as I felt for my father. Making this kind of name for myself is my challenge. And, it appears to me, that should be the challenge to fathers everywhere!

A WELL DESERVED TRIBUTE TO OUR MAJORITY LEADER SENATOR ROBERT BYRD

Mr. HUMPHREY. Mr. President, a recent article in the Washington Star of June 20 by Mr. James R. Dickenson pays high and well-deserved tribute to our majority leader, Senator ROBERT BYRD.

I have had the opportunity of serving in the Senate under several majority leaders, each one of them in his own way left his mark and earned our respect. BOB BYRD has already imparted to the Senate his qualities of diligence, perseverance, orderliness, discipline, consideration for the need and views of others, and persuasiveness. I can recall no majority leader that has been more considerate of his colleagues nor can I recall any leader that has worked more intimately with committee chairmen, the Policy Committee, and the Democratic Caucus. BOB BYRD is not only a man of the Senate, he is the spokesman for the Senate. He reveres the institution of the Senate and he honors it by his performance.

The article to which I have referred is worthy of the attention of every Senator and, therefore, I ask unanimous consent that the text of the article be printed in the RECORD.

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

[From the Washington Star, June 20, 1977]

BYRD'S LOVE OF SENATE THE KEY TO HIS LEADERSHIP

(By James R. Dickenson)

At the most recent meeting of the Senate Democratic Conference Majority Leader Robert C. Byrd told his colleagues that compared to his love of the Senate, "Michelangelo hated painting."

His performance at the closed meeting was quintessential Robert Byrd. He mixed expressions of his affection for the institution he now leads—an affection as genuine as the sunrise—with an hour and a half of laying out and explaining his ambitious plans for this session, which he is determined will end on or about Oct. 8.

He has been Senate Democratic leader for not quite six months, but he is running the Senate as might have been predicted: he is methodical and efficient—no sparrow that falls escapes his attention—and he is pushing the Senate to perform like a loving but demanding parent. He refers to the majority members as "my Democrats."

With the Carter administration, he doesn't come on like the admiring friend as House Speaker Thomas P. O'Neill does. Byrd is more the avuncular but somewhat detached older brother who alternately scolds the White House for its mistakes and then excuses them on the grounds of inexperience.

"The leadership in Congress is going to be patient and cooperative," he said a week ago after scolding the White House for "overreacting" to a House committee's alterations of the administration's energy proposal. "This is a more 'new' administration than most and we expected problems of communications."

Along with O'Neill, Byrd is a potentially powerful ally of the new administration, however. He is dedicated to pushing President Carter's top priority programs, has given the President accurate readings on such matters as the aborted $50 tax rebate and has helped work out a number of compromises on administration legislation.

He runs the Senate like a skilled pilot operating a complex and temperamental piece of technology. The common expression is that he is making "the trains run on time," which translates that his colleagues appreciate his giving them a relative degree of orderliness and a minimum of hassling.

Even liberal Democrats who supported Hubert Humphrey and other candidates for majority leader last winter admire Byrd's professionalism and like the predictability of his scheduling, demanding though it may be. "He has a great capacity to grow that I and a lot of others hadn't perceived," says Sen. Gaylord Nelson of Wisconsin.

One of the chief supporters of Humphrey's leadership campaign concurs. "People are tired of being promised October adjournment and then getting out two days before Christmas," he says.

There are a lot of rave reviews for Byrd's leadership of which Sen. Abraham Ribicoff's appraisal is representative: "Absolutely great."

His steady accession to power sits well on the 59-year-old Byrd. In the past there was a hard-scrabble, up-by-the-bootstraps look to him and in fact his success is the result of grinding hard work and countless favors for his colleagues. His suits always seemed a bit too large and loose and the shoulders seemed a little too padded.

No more. He is well tailored, his silver pompadour is well coiffed and he moves with an easy, quiet, ubiquitous assurance that is apparent even to the outsider.

The Senate has held to Byrd's schedule so far and has passed a substantial list of legislation, including President Carters' governmental reorganization authority, a Senate code of conduct, creation of a Department of Energy, emergency natural gas legislation, strip mining controls and other measures.

Yet there are more muted voices who don't like the speed and direction of the train. "He's such a zealot he doesn't realize that some of us have other obligations, like to our families," says a Republican.

"This is a little like the court of Louis XIV with its demands that we give 99 percent. He gets petulant sometimes when you hold back."

More important are the criticisms of the direction his leadership takes. These begin with the tactic that has made the Senate's legislative efficiency possible—Byrd's use of

his primary power, which is to set the legislative schedule and to postpone controversial legislation that would probably entail lengthy debate, even filibuster.

Byrd deems such legislation—the Consumer Protection Agency, Carter's voter registration proposal and public financing of congressional elections, for example—as nonessential. His supporters describe him as a superb political tactician who knows when and when not to move on a measure, but his critics, mostly liberals, use such terms as "cop-out."

"He's sacrificing good legislation for efficiency and expediency," says one Midwest Democrat. "Humphrey would have scheduled the Consumer Protection Agency. Byrd isn't afraid to take on (Sen. James) Allen (D-Ala.) in a filibuster fight; he just doesn't want to take the time."

Although Byrd, once a provincial West Virginian who briefly belonged to the Ku Klux Klan years ago, has surprised some colleagues by his increasingly moderate voting record and steadily broadening sophistication on issues, his reputation as an unphilosophical technician has always been his biggest liability.

"He'll never be a really great majority leader because he's not a philosophical leader who puts his permanent stamp on an institution the way a Henry Clay or a Robert Taft did," says a Republican senator. "There aren't many who are natural, intellectual enough leaders to be great. Lyndon Johnson wasn't. He bent the Senate to his goals but he didn't shape it.

"He's a hell of a plumber but he doesn't care who goes into the pipes," says one Democrat who opposed Byrd last winter but has come to admire his technique. This senator was one of several liberals who proposed a leadership post for Humphrey—they finally created the job of deputy president pro tempore of the Senate—so he could act as a spokesman at leadership meetings at the White House and with the House of Representatives.

Byrd not only supported this, he appointed the ad hoc committee that came up with the idea. His supporters point out that he has been scrupulously fair in committee appointments, including those to the influential Policy Committee, for the liberals who opposed him for majority leader.

"He knows the Democratic senators are his constituents, his political base," says one. "He also knows that we liberals are a majority and he acts accordingly."

One instance of this occurred a week or two after President Carter's inauguration when James R. Schlesinger, the administration's chief energy adviser, conferred with key senators on energy legislation. Some senators who had an interest in energy were miffed at being left out and Byrd leaped to their rescue by rebuking the administration for its insensitivity and suggesting that the White House had better learn how the Congress operates.

Ribicoff, chairman of the Government Affairs Committee which worked out the Department of Energy legislation, praises Byrd for his support. "We disagreed on giving the new secretary full pricing authority and Sen. Byrd explained my position to the White House and supported it," he recalls.

The result of such actions is that Byrd is "stronger and more popular than when he was elected," according to Sen. Alan Cranston of California, the Senate majority whip.

Byrd counters criticism that he is nonideological by pointing out that he is the one who set the Senate's priorities, foremost of which is passing an energy bill this year, followed by the mandatory appropriations bills. All others can wait till next year, he says.

"When the President made his speeches on energy, the Speaker and I agreed that this was top priority," he says. "There will be more time in the second session because in this we had to deal with the Stevenson resolution (reorganization of committee jurisdictions) and the ethics bill and we won't have a mandatory August recess next year."

He also points out that the President is the party's spokesman. "My role is different when the President is in my own party," he says, speaking in measured phrases that, intentionally or not, make it as easy as possible for note takers to keep up with him. "With a Republican president is would be more incumbent on me to work to mold an alternative course, to speak out more, as when Lyndon Johnson was majority leader with President Eisenhower."

As majority leader Byrd falls in between his two predecessors, the domineering, bullying, arm-twisting Johnson and the mild, professorial Mike Mansfield, who operated under a *laissez-faire* theory of every man his own senator. Byrd seldom tries to influence senators on how they vote but because of his active control of the Senate his colleagues rate him more like Johnson than Mansfield.

He tries to influence votes generally when institutional questions, a need for party solidarity, or the wishes of the President or congressional leadership are involved.

He pushed for the compromise that got the Clean Air Amendments passed, fought amendments to the Natural Gas Emergency Act because he wanted it passed quickly, urged the controversial confirmation of Paul Warnke as nuclear arms negotiator and insisted on making the congressional pay raise contingent on a limitation of outside income.

"He thought the Senate's credibility was at stake and that such a limit was overdue," says one Democrat. "We wouldn't have gotten as strong a code or gotten it nearly as fast without him."

"He must have called me 10 or 15 times at home in the evenings," recalls Nelson, who was chairman of the committee that worked out the ethics code. "I'd never had the leadership call me at home at night before.

Byrd see his job as one of coordination and development of a consensus. "Circumstances don't permit the Lyndon Johnson style,' he says. This is due partly to the infusion of younger, somewhat more independent senators and reforms that have weakened the power of committee chairmen.

"First, there is no longer a cohesive Democratic bloc vote held together by such an issue as civil rights as there was then. That issue also bound Northerners and Southerners. There were also more senior senators there who were accustomed to the establishment's discipline. Finally, there was a Republican president."

Byrd systematically laid the groundwork for this session. He began by meeting with the committee staff directors and informing them that in the first months the full Senate wouldn't meet until as late as 4 p.m. to enable the committees to work without interruption.

"They needed to know that in advance so they could schedule hearings and witnesses," he says.

He then met with the committee chairmen to get their "must" list of legislation and to let each hear what the others' problems and priorities were. Then they all worked to pare down the "must" list.

Then the Democratic Policy Committee went over the list and finally he laid out the plans and schedule for the full Democratic Conference. In addition Byrd worked closely with the Senate Republican leadership and the House leadership. He has continued this careful liaison.

"One of my jobs is to learn what my Democrats think and to keep them informed of what has to be done," he says.

COMPETITIVE FOODS IN SCHOOLS

Mr. CASE. Mr. President, S. 1420, the School Lunch and Child Nutrition Act Amendments of 1977, is scheduled to come before us shortly. It contains a provision with regard to competitive foods in schools which I sponsored and in which I hope the Senate will concur.

I ask unanimous consent, Mr. President, that the text of a recent editorial from the Trentonian in support of the competitive foods provision be printed in the RECORD.

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

LET'S GET RID OF IT: JUNK FOOD IN SCHOOLS

Spending millions to provide children with nutritious lunches while simultaneously allowing them to gorge themselves on potato chips, soda, candy and other goo from school vending machines would appear to be a pinnacle of lunacy too lofty for even the United States government to ascend.

But the bizarre fact is the government has been following precisely such a policy for years—and it may well continue it for years to come, if a piece of nutrition-minded legislation pushed by N.J. Sen. Clifford Case fares no better than its predecessors did in two previous Congresses.

Robert Bergland, President Carter's secretary of agriculture, has indicated he'd like to get junk foods out of all schools participating in the federally funded National School Lunch Program. The Case measure, by giving the secretary power to regulate "competitive foods" in the schools, would give him the chance to do it.

The junk purveyors, understandably, are against the idea. They prefer having the decisions made at the local level, where they can exert pressure by offering financial inducements. They also raise the arguments that (1) school schildren will buy junk foods out of school if they can't buy them in school, and (2) school children are entitled to "freedom of choice."

As to Argument No. 1, it could just as easily be applied to the sale of cigarettes, booze or heroin—but we don't see anybody peddling those items in the schools to raise money for the class trip or the marching band.

As to Argument No. 2, it's debatable how much "freedom" enters into a youngster's decision to buy a candy bar after he's been subjected to hours of televised brainwashing. We'd also point out that society's responsibility for the well-being of children must supersede their supposed "freedom" to choose foods that rob them of health. And finally, we'd contend this dubious "freedom" can't possibly be worth the incalculable price that society pays for obesity, heart disease, diabetes and other nutrition-related disorders that ravage our population.

On two previous occasions Sen. Case managed to get his antijunk measure passed by the Senate, only to have it eliminated by a Senate-House conference committee. It's given a better chance of final passage this time because it has the backing of some powerful political figures and because of the public's generally increased awareness of nutrition. Its chances will be even better if every parent and teacher who's concerned about children's health will let the senator and his colleagues in the House and Senate know that he or she is behind the measure and is watching its progress with interest.

FARM LABOR

Mr. CANNON. Mr. President, I would like to note that despite continuing un-

employment throughout the Nation, and despite the demands of the unemployed that they be given work, there is a continuing and, indeed, a growing need for farm labor on our Western farms and ranches, and, in fact, throughout the country.

The work on our farms and ranches is seasonal and, for the most part, it involves hard labor that requires no particular skills. For these reasons, the average American worker has little or no interest or desire to take on any of the thousands of agricultural jobs that are available and those jobs, many of them, would remain unfilled were it not for alien labor.

In my own State, for example, there is a serious problem in finding adequate labor to work our sheep ranches which, over the last 10 years, have increased in acreage despite a contrasting decline in the number of acres farmed throughout the United States as a whole.

The U.S. Employment Service and State employment agencies in Nevada are unable to provide an adequate labor supply to meet our ranchers' needs, which are determined by season, by crops and by climate as well as by the vagaries of the agricultural market place.

Farming, as you may know, tends to be labor intensive, with one of the lowest returns on investment of virtually any business or industry in America today. And while the farmer's profit is usually marginal, at best, his labor costs are always inordinately high. In Nevada farm labor amounts to 21.4 percent of the farmer's total cost and is the highest single cost he has.

Because farming is an industry basic to life itself, because farming is throughout the United States still a major industry, and because American farmers produce an inordinately high share of the world's food supply—a major factor in our balance of payments and in our political as well as our economic status in the world, one would reasonably expect our Government to reflect concern for the farmers economic plight.

With respect to the needs of the ranchers in my State, this does not seem to be the case. On the contrary, in a well-meaning but misguided attempt to meet the problems of alien labor in areas where it may be competitive with our own, or to meet problems in areas where alien labor may be underpaid or otherwise abused, the Department of Labor seems to be embarked on a course of action that will result only in depriving Nevada ranchers of any labor at all.

I refer in particular to the proposed rules governing the temporary employment of aliens under article 655, code 20 of the Federal Regulations which, in the final analysis, will only further bureaucratize and slow if not altogether end the process by which the only available labor—alien farm labor—can continue to work our farms and ranches.

We must otherwise face a broad curtailment of our agricultural production, the failure through no fault of their own of many individual farmers and ranchers, and an alien unemployment problem of serious and far-reaching proportions Surely, there is a better way to solve the rancher's and farmer's as well as the alien farm worker's problems than with restrictive legislation that merely puts them all out of work and on welfare or relief.

INSTANT REGISTRATION

Mr. LUGAR. Mr. President, one of the most talked about ingredients of the President's election reform package is his proposed legislation to permit same-day registration of voters in Federal elections.

Although Senate hearings on this bill have closed, we can always use more imput from informed citizens.

Accordingly, I recently received a copy of a letter on this topic sent to President Carter by Mr. Larry West, chairman of the Democratic Central Committee of Vanderburgh County, Ind. Mr. West expresses deep concern that same-day voter registration would result in widespread abuse of the election system.

Since this legislation has been championed by members of his own political party, Mr. West's remarks carry enhanced credibility. And because so-called "instant registration" is thought to favor Democratic candidates, it is clear that Mr. West is not motivated by self-interest—but rather by a sincere commitment to fair elections and the integrity of the voter's ballot.

I ask unanimous consent that Mr. West's letter be printed in the RECORD.

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

DEMOCRATIC CENTRAL COMMITTEE
OF VANDERBURGH COUNTY,
Evansville, Ind., June 16, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As one who agrees strongly with your goal of maximizing voter participation in all elections, I am writing to offer my opinion on the Universal Voter Registration bill as presently proposed.

I oppose it, both as a citizen and as county chairman. This is a view shared by most of the experienced Democrat leaders of my community with whom I have discussed the matter in recent weeks.

One of the main reasons I sought the county chairmanship here, Mr. President, was to attempt to bring back a sense of trust in the political process at the local level. Our community has seen absentee ballot scandals and other election abuses and I fear that the minor requirements of election day voter registration would only serve to compromise the integrity of elections even more.

It may be a sad commentary, but I have come to believe that zealous political activists in both parties will take advantage of any weaknesses in the system to manipulate the outcome of an election. And this can happen despite the best efforts of political leaders to abide by the letter of the law.

Aside from our specific experience in Vanderburgh County, I firmly believe that the main task in accomplishing greater voter participation is not so much to get people registered as it is to stimulate those who are registered to actually vote.

As you are well aware, both parties conduct extensive door-to-door registration campaigns prior to each election. These are successful campaigns. We do get a majority of the people registered. But they still don't vote.

I submit the problem goes much deeper than the simple mechanical process of registration. I submit that the main reason too few people vote is that they have lost confidence in the political process itself. Watergate and a host of other abuses, including some by individuals within our own party, seems to have left the public with a severe political hangover. I find people saying they don't believe their vote counts anyway; others don't perceive a significant difference between the two parties; and others, frankly, are just plain too lazy or don't care enough to bother voting.

I believe there is a responsibility that each and every individual must exercise before he casts his vote: that is to bother to inform himself on the issues and the candidates and then to vote his convictions. That requires time and effort on the individual's part . . . much more time and effort than is now required of him to become registered to vote. If a person isn't willing to take just a few minutes to become registered, how willing is he or she likely to be to exercise the responsibility and take the time to examine issues and candidates to cast a well-informed vote?

Finally, I find it ironic that your administration which, in my opinion, is doing much to help stimulate a new sense of confidence in our political and governmental institutions should be the administration to advance this election-day registration proposition. The abuses which are likely to result from such a system, I believe, will only offset the progress you have already made in helping to restore citizen confidence in the political processes.

We need the cross check we presently have with voter registration. Perhaps deadlines could be extended or measures included that would give individuals greater flexibility as to the time and place they could be registered—but prior to election day.

Without accurate registration lists clearly showing who is eligible to vote in which precinct on election day, the system is going to be in big trouble. And you will see abuses, no matter what penalties are proposed for them. And the very fact that this proposal would make the system even easier to manipulate by those who would choose to do so would cast even more doubt on the whole political process at a time when there is already too much doubt in the minds of too many.

Thank you very much for your attention. I again congratulate you on the forthright manner in which your administration has conducted the public's business to date. More of this same honest approach to government and politics is what is needed to encourage greater voter participation in the system, not election-day registration proposals.

Very Sincerely Yours,

LARRY WEST,
Chairman.

ABOLISH THE ELECTORAL COLLEGE

Mr. BAYH. Mr. President, I ask unanimous consent that an article which appeared in the Chicago Tribune over 8½ months ago be printed in the RECORD.

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

ABOLISH THE ELECTORAL COLLEGE

(By Jerald terHorst)

WASHINGTON.—The people have spoken; we have had our straw poll for President. Now we must wait until January to see if the Electoral College will go along with the people's choice. And that's ridiculous.

Will the college ratify the verdict? Undoubtedly. But it doesn't have to. And that's both ridiculous and dangerous.

Here we are, 200 years into our democracy, and we still cling to the quaint custom that says the real presidential election, the only one that counts under the Constitution,

can't occur until January when the Electoral College results are counted by Congress.

Scrapping the Electoral College, I know, is not a new idea. It's been proposed for years. And just as regularly sidetracked. But now it is time that we move—before the next presidential election in 1980—when the heat of the past campaign has subsided.

We have heard a lot of arguments this year for constitutional amendments to ban abortion and to permit prayers in public schools. But if there is one amendment that deserves prompt support of the newly elected President, it's an amendment to insure that the next President will actually be chosen by popular vote.

Not a single decent argument can be raised in defense of the Electoral College. It is like a loaded gun, lying around the house, waiting to go off. It didn't happen this time, but it might next time. And we will be sorrier for it.

The college, you will remember from high school civics, was a compromise inserted into the Constitution because the 13 colonies couldn't agree on a method of selecting the President. Some favored direct vote of the people, but the majority felt that was too radical an idea. Others wanted the President to be chosen by Congress, but objectors said that would make him subservient to the legislative branch.

So the constitutional convention of 1787 opted for an intermediate plan. Each state would select, "in a manner as the legislature thereof may direct," a number of electors equal to the number of its senators and representatives in Congress. This "college of electors" would meet to pick the President.

The tradition, of course, is that a state's electors will cast their votes in accord with the majority of the popular vote in that state. But they don't have to do so. And if the Electoral College can't agree on a President, the choice reverts to the House of Representatives in which each state would have but one vote to cast for President.

That hasn't happened since 1824, when Andrew Jackson, the popular winner, lost to John Quincy Adams in a raw congressional deal engineered by Speaker Henry Clay. But we have had six narrow escapes since then, including the 1960 Kennedy-Nixon contest and the 1968 Nixon-Humphrey race.

The question is why we tolerate such an "elitist" tradition to continue. There have been dozens of proposals for reform of the college, but none so elegant or so clearly right as the abolition of the college itself.

Public opinion polls show that the public supports abolition and has done so for many years.

The hang up is in Congress, where lawmakers of small states have feared that their political clout somehow would be weakened. That may have been true in the past. But it makes little sense now that the size of a state's delegation in Congress—and therefore in the Electoral College—is based on the population rule of "one man, one vote."

Congress should act. Public opinion should be exerted to insure that it act—if need be, by petition of the voters. My mail indicates that it would be a worthy crusade.

The Presidency is the last major office in the land on which the voters do not have a direct voice. Tuesday's election of the chief executive should have rested with the people and with none other. Let's make sure that this really will be the case four years from now.

Mr. BAYH. Mr. President, this column was written by Jerald terHorst the morning after our last Presidential election. It gives us once again the sense of relief we felt when we finally knew that the candidate with the most popular votes was also likely to be elected by the electoral college.

As Mr. terHorst starts his article:

The people have spoken; we have had our straw vote for President.

What a calamity we would have had if the people's choice had been denied by the electoral college. We can remember watching television through the night of November 2, seeing the popular vote pile up for Mr. Carter while the electoral tally wavered. In spite of his unmistakable popular vote lead, it was not until after 3 a.m. that it was announced that the electoral vote was in favor of President Carter.

We have watched this game played too often in the last 20 years. It is a form of brinksmanship which may make for exciting television viewing, but could make for a very dubious Presidential mandate. We must ask ourselves the question, what would be the reaction of the voters if the game ever turned out differently, and the second place finisher were elected President by the electoral college.

Mr. President, it is my conviction, as it is Mr. terHorst's, that the people of this country should be allowed to cast a real vote, not just a straw vote for President. The stakes are too high for us to let ourselves forget that the risk of electoral college misfire was there and could be again.

COMMUNIST PARTIES IN WESTERN EUROPE: CHALLENGE TO THE WEST

Mr. BAKER. Mr. President, I greatly Value former Secretary of State Henry A. Kissingers' continued active participation in the public debate over our foreign policy goals. Henry Kissinger has always been keenly aware of the challenging, if not unique, requirements of a successful foreign policy. In that regard, his address to the Conference on Italy and Eurocommunism, entitled "Communist Parties in Western Europe: Challenge to the West," is a most perceptive analysis of a particularly difficult and complex problem.

The NATO Alliance is a cornerstone of our national security. Continued close cooperation between the Western industrial democracies represents the best hope for a stable and equitable international system of commerce and finance. But both our security and financial arrangements should be undermined by communist accession to power in Western Europe. Because, in the former Secretary of State's words:

This cohesion rests not simply on material considerations of wealth and power but on a common moral foundation as well—on the shared conviction that the consent of the governed is the basis of government and that every individual enjoys inalienable rights and is entitled to constitutional liberties.

I would suggest to the Congress and to the administration that Communist participation in Western European governments does directly threaten the security of the United States. If we treat the threat lightly, we are deluding ourselves and confusing and weakening those in Western Europe who take our judgments seriously and rely upon us for moral support.

Because Henry Kissinger brings great clarity of thought to this particular issue, I believe that his views should receive the widest possible dissemination in the Congress, in the administration and in the public; and for this reason, I ask unanimous consent that the full text of his speech be printed in the RECORD.

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

COMMUNIST PARTIES IN WESTERN EUROPE: CHALLENGE TO THE WEST

Ladies and Gentlemen: The cohesion of the industrial democracies of Western Europe, North America, and Japan has been for thirty years the bulwark of peace and the engine of global prosperity.

This unity has been the keystone of our foreign policy in every Administration from President Truman to President Carter. The first permanent peacetime security alliance in American history was with the democratic nations of the Atlantic Community; it was soon followed by our commitment to the security of Japan. Since then, the agenda of cooperation among the industrial democracies had spread from collective defense to common action on energy policy, economic recovery, the international economic system, relations with the Communist countries, and with the Third World. This cohesion rests not simply on material considerations of wealth and power but on a common moral foundation as well—on the shared conviction that the consent of the governed is the basis of government and that every individual enjoys inalienable rights and is entitled to constitutional liberties.

It is ironic that at the moment when the industrial democracies are most cohesive in their opposition to external threats, at a time when our cooperative efforts cover a broader range than ever, the unity developed with so much effort and imagination over a generation should be jeopardized by an internal danger—the growth of Communist parties and the danger of their accession to power in some of the countries of Western Europe.

In Italy, in the parliamentary elections of June 1976, the Communist Party obtained 34% of the vote, strengthening its position as the second largest party and as a powerful rival of the Christian Democratic Party which has governed Italy throughout the post-war period. The Communists' growth since the 1972 election has been primarily at the expense of the democratic socialist groups, and is part and parcel of an increasing and dangerous polarization of Italian politics. The Communists have already achieved a virtual veto over government programs in the Italian Parliament.

In France, in the Presidential election of April 1974, a coalition of the Communist and Socialist Parties came within one percentage point of victory on the final ballot. A majority for this coalition in the parliamentary elections which must take place by March 1978 would bring Communist leaders into key ministerial positions. It would do so, moreover, in conditions of constitutional crisis, for the Constitution of the Fifth Republic has not yet faced the test of a President and a Prime Minister from different parties.

In the Iberian peninsula, where hopeful steps are being taken toward democracy, Communist Parties have fought with ruthlessness and disciplined organization to increase their already considerable influence. Portugal is a member of NATO; Spain is strategically crucial and tied by special agreements to the United States. Communist participation in the government of either country would have serious consequences for Western security.

And these Communist challenges do not exist in isolation from each other. There is no doubt that a Communist breakthrough to power or a share in power in one country will have a major psychological effect on the others, by making Communist parties seem

respectable, or suggesting that the tide of history in Europe is moving in their direction.

Most of the causes of this phenomenon are indigenous to the individual countries. And by the same token, the response to this challenge must come in the first instance from European leaders and voters who are persuaded that democracy is worth the effort. America cannot make their choices for them or decide the outcome of free elections.

But America must recognize the significance of what may lie ahead. We must not delude ourselves about what the accession of Communist leaders to executive power will mean to the most basic premises of American foreign policy. We must not confuse either our own people or those in allied countries who take our judgments seriously about the gravity of the threat. We must not weaken their resolve either by treating a Communist victory as inevitable—which it is not—or by imaging that a Communist electoral victory would be an accidental, transitory or inconsequential phenomenon. The ultimate decisions are for the voters of Europe to make. But they—and we—would be indulging in wishful thinking if we all did not acknowledge now:

That the accession to power of Communists in an allied country would represent a massive change in European politics;

That it would have fundamental consequences for the structure of the post-war world as we have known it and for America's relationship to its most important alliances;

And that it would alter the prospects for security and progress for all free nations.

THE COMMUNIST PARTIES AND WESTERN DEMOCRACIES

Those who take a less grave view of these prospects often claim that the European Communist Parties are independent of Moscow, that they have been effectively democratized and assimilated, and that they therefore pose no international issue in the broader East-West context.

It is true enough that the centrifugal and polycentric tendencies in the Communist world are one of the most striking developments of our age. These schisms, moreover, are made doubly intense by the passions of a quasi-religious battle over what is true dogma and what is heresy. Symptomatic is the fact that the Soviet Union has used military force in the post-war period only against other Communist countries—in East Berlin, in Hungary, in Czechoslovakia, and on the Sino-Soviet border. The Sino-Soviet conflict may indeed by the most profound and potentially explosive current international conflict. Nor is there a serious observer who disputes that the Communist parties in Western Europe have in fact occasionally demonstrated some degree of independence from the Soviet Union.

But this hardly exhausts the issue. For we must ask: In what sense and on what issues are they independent? And what are the objective consequences for the West of their policies and programs?

We are entitled to certain skepticism about the sincerity of declarations of independence which coincide so precisely with electoral self-interest. One need not be a cynic to wonder at the decision of the French Communists, traditionally perhaps the most Stalinist Party in Western Europe, to renounce the Soviet concept of dictatorship of the proletariat without a single dissenting vote among 1700 delegates, as they did at their Party Congress in February 1976, when all previous Party Congresses had endorsed the same dictatorship of the proletariat by a similar unanimous vote of 1700 to nothing. Why was there not at least one lonely soul willing to adhere to the previous view? Much was made of this change as a gesture of independence. Now it turns out that the new Soviet Constitution, in preparation for years, drops the phrase as well.

Through out their existence, the guiding principle of the Communist parties has been their insistence that a minority had to seize power as the vanguard of the working class and impose its views on the rest of the population. This disdain for democratic procedures—whether it is presented in the traditional form of the "dictatorship of the proletariat" or wrapped in Gramsci's more elegant phrase, "the hegemony of the working class"—is precisely what has historically distinguished the Communist from the Socialist parties.

I find it hard to believe that after decades of vilifying Social Democracy and treating it as their mortal enemy, especially in every Communist country, Communist parties have suddenly become Social Democrats. Whether or not they are independent of Moscow, Communists represent a philosophy which by its nature and their own testimony stands outside the "bourgeois" framework of Western constitutional history; they are a movement that appeals to a different tradition and uses a largely misleading vocabulary.

To be sure, the French, Spanish, and Italian Communist parties have all recently declared their resolve "to work within the pluralism of political and social forces and to respect guarantees and develop all individual and collective freedoms." Enrico Berlinguer and Georges Marchais pledged their devotion to national independence and political pluralism at a conference of Communist parties in East Berlin in June 1976.

But can we take these declarations at face value? After all, Marchais has listed Bulgaria, Poland, and East Germany as countries having a "pluralistic" party system. As recently as 1972, French Communist doctrine was that "there can be no return from Socialism to Capitalism." And a few weeks ago, to the great irritation of their Socialist allies, the French Communists estimated the cost of the economic program of the two parties at over 100 billion dollars. The Communist program—by definition—calls for the radical transformation of society; by the very nature of their beliefs Communists will be driven to bring about institutional changes that would make their ascendance permanent.

Moreover, are these professions of the national road to Communism and of devotion to democratic principle really so new? Let me read some quotations from European Communist leaders:

First: "The crux of the matter, and we Marxists should know this well, is this: every nation will effect its transition to Socialism not by a mapped-out route, not exactly as in the Soviet Union, but by its own road, dependent on its historical, national, social, and cultural circumstances."

That was from a speech by Georgi Dimitrov, leader of the Bulgarian Communist Party, in February 1946.

Second: "We take the view that the method of imposing the Soviet system on (our country) would be wrong, since this method does not correspond to present-day conditions of development. . . . We take the view rather that the overriding interests of the . . . people in their present-day situation prescribe a different method. . . . . namely the method of establishing a democratic anti-Fascist regime, a parliamentary democratic republic with full democratic rights and liberties for the people."

That is from a proclamation of the (East) German Communist Party in June 1945.

Third: "The great national task facing the country cannot be solved by either the Communist Party or by any other party alone. The Communist Party holds that it does not have a monopoly, and it does not need the monopoly, to work among the masses for the reconstruction of the new (nation). The Communist Party does not approve of the idea of a one-party system. Let the other parties operate and organize as well."

That is a statement by Erno Gero, Communist Party leader of Hungary, in November 1944.

Fourth: "In (our country) there is a division of functions, and State power is based on parliamentary democracy. The dictatorship of the proletariat or of a single party is not essential. (Our country) can proceed and is proceeding along her own road."

That is from a speech by Wladyslaw Gomulka, Communist Party leader of Poland, in January 1946.

Fifth: "The Communist Party seeks to attain Socialism, but we are of the opinion that the Soviet system is not the only road to Socialism. . . . The coalition of the Communists with other parties is not opportunistic, a temporary limited coalition, but the expression . . . of all strata of the working people. . . . We seek at present to make certain that our new democratic parliamentary methods . . . be expressed in constitutional law. If you want the view of the Communists, I can only say that they will be the strictest guardians of the new Constitution."

That is a statement by Klement Gottwald, Communist Party leader of Czechoslovakia, in January 1947.

Sixth: Marchais speaks of 'Socialism in the colors of France." But in 1938, George Orwell described French Communist strategy as "marching behind the tricolour."

In short, what the leaders of the Western Communist Parties are saying today about their affection for the processes of democracy is not significantly different from what East European Communist leaders declared with equal emphasis in the 1940's—before they seized the total power which they have never relinquished since.

Certainly Communist parties are willing to come to power by democratic means. But could they permit the democratic process to reverse what they see as the inevitable path of "historical progress?" Would they maintain the institutions—press, parties, unions, enterprises—that would represent the principal threat to their power? Would they safeguard the freedoms that could turn into instruments of their future defeat? No Communist Party that governed alone has ever done so, and the vast majority of those democratic parties which entered coalitions with European Communists are now in the indexes of history books rather than in ministries or Parliaments.

The Italian Communist Party, to be sure, left the government following its disastrous defeat by the Christian Democrats in 1948. But the situation today is greatly changed. In 1948, the Communists were a far smaller party, with little regional or municipal power. They had to contend with a younger and more united Christian Democratic Party, a strong Socialist Party, and a determined Western alliance alarmed by Stalin's adventures in Greece and Czechoslovakia. Today, Italian Communists participate in the governments of most major cities and regions, have enormous trade union strength, substantive support from intellectuals and the popular culture, and have reduced the strength of the Socialists to a fraction of what it was three decades ago.

The French Communists were similarly removed from the government in 1947, following the intensification of the cold war. But, just as in the Italian case the following year, the popular revolt against the Communists took place within the framework of a united West with a clear perception of an external and internal threat to its survival. By contrast there are now many people on both sides of the Atlantic who have permitted themselves to be convinced that European Communism is only Social democracy with a Leninist face.

We cannot know, with certainty, whether a fundamental change has occurred in these parties' traditional goals and tactics. But

their internal organization and management speak against such a view. It is not democratic pluralism but the stern Leninist precept of "democratic centralism" which continues to guide the internal structure of all European Communist Parties. This is a doctrine of iron discipline, not a principle of free and open dialogue. It is a system of dogma, of a "party line", of authority and obedience, of suppression of dissent and purge of dissenters. There are too many recent instances of resorts to violence, attempts to censor newspapers and broadcasting, and efforts to control the functioning of universities to be optimistic about their character.

Only in Western Europe and the United States are there still illusions about the nature of Communist Parties. In Eastern Europe boredom, intellectual emptiness, inefficiency, and stultifying bureaucratism have been obvious for decades. Countries which used to be leading industrial powers have been reduced to mediocrity and stagnation; nations with long democratic traditions have seen the destruction of civil liberties and democratic practices. The countries of the West would mortgage their future if they closed their eyes to this reality. Societies that try to avoid difficult choices by making comforting assumptions about the future win no awards for restraint; they only speed their own demise.

COMMUNIST PARTIES AND THE ATLANTIC ALLIANCE

It is sometimes asked: If the United States can deal with Communist governments in the Soviet Union, China, Eastern Europe, and even Cuba or Vietnam, why can we not accept and learn to deal with Communist Parties seeking power in Western Europe? Is not the Soviet Union uneasy about the prospect of new Communist regimes that they may not be able to control?

These questions miss the central point. There is a crucial difference between managing conflict with adversaries and maintaining an alliance among friends, particularly when the prospects for stable East-West relations depend vitally on the cohesion of the Western Alliance. And even if some West European Communist parties should prove more difficult than the better disciplined satellites of East Europe, and thus pose new problems for Moscow, they would pose far more serious problems for the West.

For the key issue is not how "independent" the European Communists would be, but how Communist. The dynamics of the Communist Parties and the program on which they would be elected suggest that their foreign and domestic policies are not likely to be consistent with the common purposes of the Atlantic Alliance.

The solidarity of the great industrial democracies has maintained global security for thirty years. Western collective defense provided the shield behind which the United States, Western Europe and Japan developed the institutions of European unity and the progressive world economic system. All these relationships would be severely jeopardized if Communists came to power in allied governments.

Specifically:

The character of the Alliance would become confused to the American people. The signatories of the North Atlantic Treaty pledged in 1949 that "they are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty and the rule of law." If Communists entered governments in allied countries, the engagement to help maintain the military balance in Europe would lack the moral base on which it has stood for a generation. The American people would be asked to maintain their alliance commitment on the basis of two highly uncertain, untested assumptions: That there is a new trend of Communism which will in time split from Moscow, and that the West will be able to manipulate the new divisions to its advantage.

Both of these propositions are open to the most serious doubt. No major Communist split has ever been generated or maintained by deliberate Western policy—in fact the Soviet Union's disputes with Yugoslavia and with China had been festering for months and even years before the West became aware of them.

But even such a split—which would surely take years to develop—would hardly diminish the danger to current Allied relationships. By the time it occurred the damage to the NATO structure would probably have become irreparable. And the character of the Atlantic relationship would be totally transformed, even should the United States, for its own reasons, eventually decide to support a revisionist Communism. While the United States can never be indifferent to the extension of Soviet hegemony to Western Europe, the permanent stationing of American forces in Europe could hardly be maintained for the object of defending some Communist governments against other Communist governments. Such a deployment could be justified only on the crudest balance of power grounds that would be incompatible with American tradition and American public sentiment.

This is not a personal recommendation as to a desirable policy, but a judgment of stark reality. Significant participation by Communist Parties in West European governments will over time undermine the moral and political basis for our present troop deployment in Europe.

The effect on Alliance cohesion generally would be disastrous. The Western Alliance has been held together by a system of close consultation based on shared goals and compatible philosophies. President de Gaulle cherished France's independence from the United States, but in major crises, over Berlin or Soviet missiles in Cuba, he stood firmly with his allies. By the same token, Communist governments in Western Europe, however independent of Moscow they may be on intraparty issues, can be expected to demonstrate their basic Communist convictions on major international issues.

If Communist Parties come to power in Western Europe, significant divergences on foreign policy would be bound to develop between Europe and the United States and between European states in whose governments Communists participate and the others.

In February 1976, Italian Communist leader Berlinguer stated to a London Times interviewer that "the Soviet Union's peace policy is in the general interest of mankind." The Italian Party newspaper denounced NATO last year as "one of the fundamental instruments for American manipulation of the politics and economy of our country and Western Europe," and urged that "the relations between the countries of Western Europe," and urged that "the relations between the countries of Western Europe and the two superpowers must be rediscussed." A leading member of the Italian Party's Central Committee was asked in a recent interview with Radio Free Europe: If the French and Italian Communist Parties were in power, what would you do in the event of "a grave international crisis between the Soviet Union and the West?" He answered: "We would choose the Soviet side, of course." Such "support" of NATO as is expressed is explicitly tactical, and rests upon a distortion of detente. It is coupled with the proposition that a Soviet threat against Western Europe is inconceivable. No European Communist party suggests that it wishes to be part of a Western alliance to withstand Soviet expansion. And, indeed, how could Leninist parties dedicate themselves with any conviction to a military alliance whose primary purpose was and remains to counter Soviet power?

To be sure, these parties have had their differences with the Soviet Union, but in practically every case it has been on a matter of relations within the Communist movement. They have rarely, if ever, diverged from the Soviet position on an international issue. The Italian Communist Party has hailed the Cubans in Angola as "freedom fighters," condemned the Israeli rescue of hostages at Entebee as an "intolerable violation of Uganda's national sovereignty," applauded Soviet policy in Africa and denounced America's diplomatic efforts in Southern Africa as an attempt to "save the neocolonial and military-strategic interests of imperialism."

At best, West European Communist Parties can be expected to steer their basic policies closer to the so-called non-aligned bloc and in an anti-Western direction. Yugoslavia—whose independence from Moscow on East European issues is by now traditional—has emerged as a champion of anti-Western and anti-American positions on most international issues outside of Eastern Europe. Why should we expect that Communist parties in Western Europe would be more friendly to us than the most independent East European state which has been engaged for nearly three decades in an open dispute with Moscow and whose government the Kremlin has sought repeatedly to undermine?

The strong role our allies play in defending Western interests in many regions of the globe—such as President Giscard's courageous actions in Zaire—could not be expected from a nation where Communists share power. In the Middle East, in Southern Africa, in relations with the Third World, on Berlin, on arms control and European security, the parallelism of views that has existed between the United States and its European allies would almost certainly be eroded.

On the contrary, active opposition especially in regions of traditional European cultural and political influence is probable. In our common efforts to improve the world economy and stimulate progress in both the developed and developing worlds, in the OECD, in the Paris Conference on International Economic Cooperation and at Heads of Governments Summits, divisions would soon be apparent. How could Atlantic unity possibly be maintained in such circumstances, even on the security issue?

The military strength and unity of NATO would be gravely weakened. The Communist Parties of Western Europe pay lip service to NATO. In fact, it is hard to visualize how the present NATO structure could continue, with its exchange of highly classified information, its integrated military planning and political consultation, if Communists had a significant share of power.

The participation of Communist Parties in West European governments would force a major change in NATO practices, as occurred temporarily with Portugal, which had to exclue itself from classified discussions within the Organization when its own political future was in doubt. These parties are unlikely to give NATO defense a high budgetary priority. Communist Parties would surely use their power to diminish the combined defense effort of Western Europe and inevitably sap our own will to pay the costs of maintaining US forces in Europe.

Furthermore, if Communists participate in a significant way in the governments of key European countries. NATO may turn by default into a largely German-American alliance. This specter could then be used in other West European countries to undermine what remains of Atlantic cohesion. With NATO thus weakened, while the Soviet Union continued to increase its strategic and conventional strength and maintained its grip on the Warsaw Pact, the essential equilibrium of power between East and West in Europe would be fundamentally threatened, the freedom of many European countries, allied or neutral, to chart their own future would be diminished in direct proportion as the fear

of Soviet power grows. Eventually, massive shifts against us would occur, not because a majority freely chose such a course, but because the upsetting of the overall balance left them no alternative.

The hopeful progress toward European unity would be undermined. The French and Italian Communist Parties opposed the creation of the European Common Market as a conspiracy of monopoly capitalism. Until quite recently, they have consistently fought progress toward European unity. Lately they have come to accept the European Community as a fact of life; they now say they seek to make it more "democratic" and to transform it, by "a process of innovation . . . in the spheres both of institutions and of general orientations," as Berlinguer expressed it. They can be counted on to reorient the Common Market towards closer relations with the state economies of Eastern Europe and toward the more extreme of the Third World's demands for a "new international economic order." It can be assumed that they will not encourage European political unity to foster cooperation with the United States; rather they will urge it, if at all, to encourage Third Force tendencies. And over time either governments with Communist participation will pull the others towards them, or deep fissures will open up between the traditional Atlanticists and the "New Left" in the European Community. Either outcome would be destructive of European unity and Atlantic solidarity.

Thus whatever hypothesis we consider, Communist participation in governments of Western Europe will have a profound impact on the international structure as it has developed in the post-war period. We cannot be indifferent or delude ourselves that the advent of Communists to a significant share of power in Western Europe would be less than a watershed in Atlantic relationships.

THE AMERICAN RESPONSE

The attitude of the United States towards such developments must of necessity be complex. The crucial role must be that of European governments; the final decision must be that of the European voters. We cannot substitute for either.

In the end, the Communist Parties in Western Europe find their opportunities less in their inherent strength than in the demoralization, division or disorganization of their opponents; they succeed only when the democratic system seems unable to solve the social problems of the day; when the center does not hold and societies become polarized. Violence—such as that currently tormenting Italy—drives many to support Communism in desperation, convinced that drastic remedies are required to end a state of siege which has now spread to the press and other media.

The basic causes of Communist gains thus go deep and are not easy to remedy. In many European countries disillusionment with democratic government and democratic leaders is pervasive. In an era of peace, in a world of bureaucracy and mass production, there is no galvanizing crisis and little opportunity for heroic performance. A relativist age debunks authority and puts nothing in its place as an organizing principle of society. Massive impersonal bureaucracy disillusions the citizen with the responsiveness of his government, and simultaneously makes the task of elected officials more difficult. In too many democratic countries the young are offered too little inspiration; their elders too often have lost confidence in their own values. Too frequently democratic leaders are consumed by winning and holding office and are unable to demonstrate the force of conviction and philosophical self-assurance of their radical opponents.

The very success of Western societies in maintaining prosperity at a level undreamt of even forty years ago sometimes contributes to their malaise. Intellectuals condemn society for materialism when it is prosperous and for injustice when it fails to insure prosperity. The widespread economic difficulties of the last four years—recession and inflation unparalleled in a generation, to a large extent induced by the extraordinary increase in oil prices—fuel the frustration of all whose hopes for economic advancement are rebuffed. The interdependence of economies causes inflation and recession to surge across national boundaries, compounding the sense of individual impotence.

And yet, with all these difficulties, the democratic forces of the West have it in their power to determine whether the Communist Parties have opportunities to succeed. They have the capacity to put their economies on the path of steady non-inflationary expansion. They have the intellectual capital and the resources to usher in a new period of creativity. Anti-Communism is not enough; there must be a response to legitimate social and economic aspirations, and there must be reform of the inequities from which these anti-democratic forces derive much of their appeal. With able leadership—and Western cohesion—the democracies can overcome their challenges and usher in a period of dramatic fresh advance

In this process it is vital that the United States encourage an attitude of resolve and conviction.

First of all, we must frankly recognize the problem that we will face if the Communists come to power in Western Europe and we must understand the practical decisions this will impose on us as a nation. We must avoid facile projections which seek to escape difficult choices by making the most favorable assumptions about what might happen. We must have a program for encouraging the forces of moderation and progress in this critical period and for rallying them should a Communist Party nonetheless prevail.

Second, we must avoid giving the impression that we consider Communist success a foregone conclusion by ostentatious association or consultation with Communist leaders or by ambiguous declarations. Communist success is not a foregone conclusion; United States hesitation or ambiguity can, however, contribute to it. Communist parties are riddled with weaknesses and internal strains, and marked by a fundamental flaw: parties that do not speak for the humane values which have inspired the peoples of the West for centuries, are unlikely to appeal to a majority in a Western nation except in a moment of unsettling crisis. In no Western European country has the Communist party ever fairly won more than about a third of the vote. Their most powerful weapons are fear, distrust and discouragement; their principal asset is the myth of their inevitability. Therefore, we do our friends in Europe no favor if we encourage the notion that the advent of Communists and their allies into power will make little or no difference to our own attitudes and policies. I am talking less of formal statements—which depend on tactical judgments difficult for any outsider to make—than of a clear and ambiguous U.S. attitude.

Some have argued that such a policy would be counterproductive, that it would encourage Communist protest votes. I believe the opposite to be true. On balance, I consider it important that Europe know of America's interest and concern. Many voters in allied countries value the friendship of the United States and appreciate the security supplied by the Atlantic Alliance. We should not ignore them, or demoralize them, or undercut them. The gradual gains scored by the Communist Parties over the past years occurred—by definition—at the margin, among voters who had not voted Communist before; who did not vote by anti-American reflex; who for one reason or another were persuaded that the Communists have now become acceptable or indispensable.

There is no evidence that voters are influenced to vote Communist by American attitudes. On the contrary, the real danger may well be the other way; many usual opponents of the Communist parties may be lulled by voices, attitudes an ambiguities in this country implying that our traditional opposition has changed. Paradoxically, we even weaken whatever moderate elements may exist in Communist movements by settling too eagerly for verbal reassurances.

If the United States has a responsibility to encourage political freedom throughout the world, we surely have a duty to leave no doubt our convictions on an issue that is so central to the future of the Western Alliance and therefore to the future of democracy. Human rights is not an abstraction concerned only with judicial procedures and unrelated to basic questions of political and geopolitical structure. We cannot fail to reckon the setback to European freedom that will result if Communist minorities gain decisive influence in European politics; we must not close our eyes to the effect on freedom throughout the world if the global balance tips against the West.

Thirdly, the United States should conduct its policies toward its allies in a way that strengthens the moderate, progressive and democratic governments of Western Europe. We must, on the one hand, avoid demands or lecturing which, whatever the intrinsic merit, magnify domestic fissures in European governments. At the same time, the United States can contribute to a sense of accomplishment by offering vigorous cooperation in joint efforts to solve common problems in the fields of diplomacy, arms control, energy, and economic growth. This was the purpose of the economic summits among Western leaders begun by President Ford at Rambouillet and Puerto Rico, and continued so successfully in London by President Carter.

The unity and cooperative action of the democracies is crucial to all that America does in the world. Western unity defends not only our security but our way of life and the most basic moral values of our civilization. On this we cannot be neutral. To foster these principles deserves the same dedication and commitment that inspired the most imaginative periods of American diplomacy.

The stagnant societies of the East to which I have referred serve as both a warning and a hope. They remind us that the West's latent intellectual and political vitality, even more than its material prosperity, is the envy of the world. The winds of change are ultimately blowing from the West. The men and women of Eastern Europe are certainly aware that the West, for all its doubt and sense of spiritual dilemma, is the vanguard of modernization, the vital source of learning and of much of modern culture, and the haven of the free human spirit. The developing countries yearning for progress also turn to the West, not the East, for assistance, support, and the measure of what man can achieve when he aspires. Our technology, our creativity, our unequaled economic vigor, not some bureaucratic doctrine of economic determinism, are the forces that will shape the future if we mobilize the energies of free peoples.

This is not the time or resignation or acquiescence. It is a time for confidence, determination and hope. The power of free men and women and free nations acting in concern, confident of their strength and of their destiny, cannot be matched by any totalitarian regime or totalitarian movement. The spirit of freedom can never be crushed. But freedom can be lost gradually. Such a danger exists today in Western Europe, and that threat could have consequences not only in Europe but throughout the community of democracies and the world.

If we cherish freedom, we will face the peril, marshal joint efforts to overcome it and begin a period of new fulfillment for our peoples. Western Europe, our closest partner and the cradle of much of our civil-

ization, is too precious to us for us to do otherwise.

RENO APPRECIATES REGULATORY REFORM

Mr. CANNON. Mr. President, as the issue of regulatory reform of the airline industry moves closer to resolution, there has been much debate on the effects reform would have on various communities. I have noticed that several of my colleagues have, from time to time, submitted statements or newspaper editorials from their States decrying the effects of reform.

As coauthor with Senator KENNEDY of the pending regulatory reform bill, I am naturally concerned with these gloomy prophecies. Therefore, I was pleased to note two recent editorials from my State of Nevada which enthusiastically supported the concept of reform. The Reno Evening Gazette, which carried the editorials, was a recent recipient of the Pulitzer Prize for editorial writing, I might add, so its observations are not to be taken lightly.

I would hope that those of my colleagues who have reservations about regulatory reform would read the editorials, which I will offer for the RECORD following my remarks. Note that Reno is a relatively small town which has a long history of mediocre to poor air service. Indeed, at this moment six airlines want to serve Reno from Phoenix and six more want to fly in from California. The only thing preventing a speedy resolution of their petitions in the city's favor is the archaic mechanism of the Civil Aeronautics Board that I and other forward-thinking Senators are attempting to update.

I ask unanimous consent that the editorials be printed in the RECORD and recommend them as must reading for those of my colleagues who have doubts about regulatory reform.

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

[From the Reno Evening Gazette, June 17, 1977]

AIRLINE REFORM

When the Civil Aeronautics Board was created nearly 40 years ago, its purpose was to rescue America's fledgling airline industry from the jaws of Depression-era disaster.

Congress gave the agency three major powers: authority to set air fares, to grant exclusive routes and to provide immunity from antitrust prosecution.

Since those emergency steps were taken in 1938, the industry has mushroomed from a group of small companies bickering over air mail contracts to a multi-billion dollar transportation system. On an average day, that system encompasses more than 13,000 flights and half a million passengers.

For one reason or another, drastic changes in the industry over those four decades have not prompted Congress to make any substantial revisions in the CAB's regulatory powers.

Clearly, the time has come for reform.

That's what U.S. Sens. Howard Cannon of Nevada and Edward Kennedy of Massachusetts have in mind with their legislative proposal designed to deregulate the U.S. airline industry. The bill, three years in the making, underwent 13 days of hearings last month before the Aviation subcommittee of the Senate Commerce Committee. Next Tuesday, the committee is scheduled to begin important markup sessions on the legislation.

Most major U.S. airlines, vowing to battle the legislation with everything they can muster, have launched an all-out lobbying offensive to prevent the measure's passage. This has resulted in a curious development for many Capitol Hill watchers who are accustomed to seeing airline executives praise the concept of free market competition.

Now, with deregulation a possibility, the airlines are switching their stand and defending the CAB's stringent control. The incentive for the airlines' turnaround can be summed up in one word: greed.

If the legislation is approved, it would allow unrestrained competition for routes and would remove special privileges realized by the nation's 10 major interstate air carriers. These large companies, called trunk lines, have been consistently protected over the years because the CAB has allowed them to use their route authority to bar new airlines from interstate markets.

This monopolizing activity would be diminished if the bill is approved because it would permit the five largest airlines—United, American, Eastern, Delta and TWA—the opportunity to add only one new 2,000-mile route a year. Smaller carriers would have a chance to add several routes a year.

Cannon, in explaining advantages of the idea, believes it is likely that an airline will be encouraged to enter a market if another company tries to raise fares unreasonably. The senator is convinced that if a market is controlled by only one carrier, it will have no incentive to improve service. We concur.

Only United Airlines among the major air carriers supports the Cannon-Kennedy concept. From the big carriers' point of view, it's simple to see why they have launched a powerful campaign against the bill. There's no question that a more competitive air travel market would result in reduced fares. This, of course, is against the corporate way of thinking.

The financial argument cannot be overstated. A recent General Accounting Office study estimated that the CAB's powerful controls inflate fares by more than $1 billion annually.

In order to retain this financial advantage, the major carriers are arguing that even moderate changes in airline regulation will destroy the industry. They say that small communities across the country will suffer serious damage to service and that safety rules will be compromised.

But the legislation specifically calls for protection of small town service, through subsidization if necessary, and there is no evidence—as Sen. Cannon has made clear, that would indicate a trend toward lower safety standards.

Congress has a tough task. It must somehow deal with the double-barrelled challenge offered by the big airlines and the CAB, which was characterized in testimony last month by consumer-oriented Common Cause as a "classic example of a government agency which is part of the problem, not part of the solution."

[From the Reno Evening Gazette, June 20, 1977]

OVERDUE RELIEF

Congressional legislation to deregulate the nation's airline industry, which comes up for consideration in the Senate Commerce Committee Tuesday, could provide substantial benefits for travelers to and from a market like Reno.

The Senate bill, co-sponsored by Sen. Howard Cannon of Nevada and Sen. Edward Kennedy of Massachusetts, is designed to remove stringent regulatory controls over the industry and open up routes to free market competition. Such a law, if successful, would probably bring about lower air fares in medium market communities.

For example, Pacific Southwest Airlines, which has applied for route to Reno and Las Vegas from the San Francisco Bay Area and Southern California, says there's no question that it could offer sharply reduced fares if regulatory barriers are removed.

The carrier, which presently operates wholly in California, says it would be able to offer a $20 one-way fare between Reno and the Bay Area, a 43 per cent reduction from the current Civil Aeronautics Board-controlled $35 fare.

Other airlines, especially those which operate on an interstate basis, believe an opportunity to expand their service areas is sure to result in financial advantages to passengers.

The competitive free market concept is not liked by all airlines, however. The major companies, or trunk lines, would only be able to add one new 2,000-mile route a year. They are no doubt peeved that smaller airlines will have the opportunity to add several new routes a year if the legislation is approved.

Most major airlines in the country are waging an intense and emotional lobbying campaign to assure that the bill is defeated. They obviously do not like the financial threat it poses to a rate structure system closely maintained by the CAB.

More is at stake here than corporate profits, however, the bill would not only reduce air fares, it would dismantle the dictatorial authority over the industry held by an agency, the CAB, which has clearly overstepped its authority. And it would bring about genuine competition in the industry for the first time in history.

In a market like Reno, that's an important consideration. Six airlines are presently trying to get a route to Reno and Las Vegas from Phoenix. A hearing on those service applications will be held in Reno late next month. And six other airlines besides PSA have applied to serve Reno from California points—service which could result in help at last for the consumer.

Approval of the legislation would provide overdue monetary relief to Reno passengers who have suffered for some time with an air service arrangement which has been inadequate at best.

HARD ENERGY VERSUS SOFT ENERGY

Mr. GARN. Mr. President, a recent essay in Foreign Affairs by Mr. Amory Lovins has caused quite a stir among those dedicated to the "small is beautiful" ethic. Mr. Lovins essential point is that we have taken the wrong path in the development of this Nation, emphasizing growth and energy rather than more spiritual values. He urges us to take a different path, a softer path in terms of energy development.

The goal is attractive, and Mr. Lovins argues his case persuasively. Nevertheless, there are important arguments to be made on the other side, and I feel compelled to provide the Senate with some balancing comment.

One of the best critiques of Lovins has been made by Dr. Margaret N. Maxey, associate professor of bioethics at the University of Detroit. I ask unanimous consent that an article prepared by Dr. Maxey for publication in a collection of critical essays on the Lovins article, be printed in the RECORD.

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

ALONG THE SOFT PATH TO SOFT TECHNOLOGIES: COSTS AND CASUALTIES

(By Dr. Margaret N. Maxey)

Amory Lovins has made repeated disclaimers to the effect that lifestyle, behavioral and value changes are not necessary to his argument—namely, that energy consumption can be sharply reduced through improvements in end-use efficiency alone—via "technical fixes"—and that this large reduction in energy usage can be attained while still preserving an American standard of living based on a rising level of expectations, to which the population has long been accustomed. Yet, Lovins contends that the condition for embarking upon his "soft path" is a choice made necessary because of "logistical competition and cultural incompatibility." But, there could be no competition or incompatibility if there were not the conflicting cultural and personal values upon which a choice-by-exclusion allegedly rests. It appears, therefore, that lifestyle, behavioral and value changes are a necessary keystone in the bridge leading to Lovins' soft path.

Lovins also says that "Making values explicit is essential to preserving a society in which diversity of values can flourish," and that his "technical fixes," conservation and soft technologies are so politically attractive that, "like motherhood, everyone is in favor of them." However, he leaves unnamed the "all too apparent" values which make a high-energy society work while leaving the impression that these are low values.

Lovins does enumerate those values which consumers in a low-energy society should reinstate so as to sustain a lifestyle of "elegant frugality"—of thrift and simplicity, humility and neighborliness, diversity and craftsmanship. However, his blueprint for decentralizing energy systems would shift the burden of investment and financing from corporations and industry to individual householders and local communities. But how can this financial burden be assumed by the unemployed, the unemployables and the poor—or, in general, by any but the very well off? (Also, it is less than responsible for Lovins to obscure the capital cost of "soft" systems underneath a cost comparison measured by "daily oil-barrel-equivalents.")

It would appear that Lovins has reason to believe that humility and neighborliness will move the American taxpayer and consumer into pressuring our Federal government to "broaden householders' access to capital markets." Or that "neighbor values" will motivate insurance companies and banks to "finance the solar investment (leaving its execution to the householder's discretion)" and to await repayment "in installments corresponding to the householder's saving." It would appear that our experience with 'redling' gives us a more reliable indication of how the capital market will flow.

REMEMBER DUSTY COAL BINS?

Lovins further contends that his soft technologies and the transitional path leading to them are "sustainable and benign." Considering the environmental impact of the transitional strategy alone, the American citizen should question this claim. It seems to rest on the assumption that large-scale technologies are categorically harmful to the natural and social environment, and that small units are by definition healthier. To the contrary. Besides the economic advantages of scale in fuel purchasing, transport, energy production and plant maintenance, large-scale units have compelling environmental and public health advantages. Biohazards, accident risks and environmental pollution can be concentrated both in space and time, making potential health impairment and ecological damages far easier to monitor, measure and control with greater cost-effectiveness. This is not the case when energy systems are scattered.

For those who can remember a dusty coal bin in the basement and the chore of removing ashes, the prospect of a home coal-burner however "fluidized"—plus the specter of noisy trainloads of coal deployed throughout a vast fuel distribution network serving individual customers—heralds a regressive return to a "hard path" without attraction or ecological redemption.

Furthermore, Americans who already deplore the diffusion of television transmitters and antennae, power transmission lines above ground, and billboards throughout the countryside are not likely to consider the erection of numerous household and local windmills for generating electricity an acceptable, much less "benign" impact on the environment.

THE PRUDENT PATH

In taking a broad perspective on the sources and uses of energy there are two main questions that the nation must ask itself: (1) What is the most prudent and responsible use of increasingly scarce and exhaustible resources? and (2) Among feasible alternative resources now available, which technological methods of energy conversion will meet ethical criteria for distributional equity and justice?

Clearly, the necessity for conservation—for "trimming off the fat" of waste, of profligate lifestyles, of self-destructive or superfluous recreational uses of energy—is all too obvious. Similarly, our responsibility for the living and for future generations requires us to preserve nonrenewable fossil fuels—natural gas, oil, coal—on a long-term restricted basis for medicines, petrochemicals, fertilizers, pesticides, etc. To the best of our ability, we should assure future human beings of having the same alternative resources and environmental quality as we have inherited if not better.

It is therefore unconscionable to burn up natural gas and oil for space heating and transportation fuels when other resources for energy are already or imminently available. No one disputes the necessity for "technical fixes" to achieve maximal efficiency in heating, ventilation, and transportation systems. But to claim, as Lovins does, that end-use efficiency can be doubled with minor or no changes in lifestyles or values is based on a false, if not irresponsible, human expectation.

THE NUCLEAR ENERGY ALTERNATIVE

As George Will observes, "Few things are as subversive in public reasonableness as the misdescription of social issues." [1]

Those opposed to nuclear energy have endeavored to discredit this alternative by depicting it as a demonic threat to the safety of our environment—hence an "environmental issue." However, when stripped of rhetoric, it is less a dispute about environmental effects of a particular technology than it is a dispute about the economic growth which the technology sustains. It leaves untouched the question about *which* energy system provides the more equitable distribution of costs, benefits and opportunities for the many. The nuclear energy alternative is a "social justice" issue. The quality of life of the biosphere, the ever-increasing number of inhabitants on this planet, and the decreasing availability of scarce, nonrenewable resources demand a national and international policy based—not on choice-by-exclusion and elimination—but upon choice-by-inclusion, replacement and wise governance.

There was a time when those who attacked nuclear energy technology for being "unsafe, unreliable, uneconomic, and unnecessary" were taken at face value. Without a doubt, cost overruns in reactor construction, forced up by ever-changing federal safety regulations—in turn multiplied and proliferated because of pressure from career-intervenors and special interest groups—have been a powerful political lever for those critics who quickly learned how to use "the system."

Until recently, many felt that the military origins of atomic technology and that associations with "the Bomb" accounted for anti-nuclear hysteria. And only a year ago it was considered a "wry witticism" to observe that electricity itself would still be under attack if the electric chair had been invented before the light bulb." [2]

But now electrification has *again* come under attack. And at the root of the antipathy for nuclear-generated electricity lies an ideological repudiation of all large-scale electricity generating systems. This ideology assumes that the precondition for a "democratic control of technology" is to make and keep it small, local and, therefore, "beautiful."

ELECTRICITY

There is a direct correlation between the quality of public health and the availability of electricity—especially for refrigeration, for water and sewage treatment, for air pollution reduction, and for recycling of solid wastes. This correlation can be demonstrated by contrasting the public health statistics of an advanced, energy-intensive economy with those of Third- and Fourth-World countries today, or with past statistics of the United States.

Unfortunately, there are groups that think that it is energy per se which has caused environmental degradation. They therefore are opposing strategies for expanded electricity capacity. If they succeed, we will face on a long-term basis the disruptions which we have experienced temporarily in the mid-1970's.

Environmental deterioration should be traced, however, not to high technology, nor even to a widespread dependence on electricity, but rather to poor technology and its misapplications.

Residents of the United States, whose modest standard of living and fundamental needs are met increasingly through the use of electricity, are rightfully indignant when accused of being "energy junkies" in pursuit of mindless growth in consumption. Electricity has ecological merits and social benefits—it is clean, convenient, versatile and, when generated by fissioning uranium, environmentally advantageous. But to critics of "Massive electrification" it is a baneful menace—an economic liability, a sorcerer's apprentice serving high technology, a large-scale centralized concentration of power by which a few malcontents could allegedly "turn off a country."

The ecological merits and social benefits of electicity as a source of power for mass-transit systems, as well as for transitional replacements of oil and natural gas in household space heating and cooling, are persuasive reasons for increasing the use of two resources: coal and uranium. Of the two, coal is the less attractive for various reasons. For example, its use in generating other forms of needed energy besides electricity is an important one. And then there are the many environmental effects and health hazards connected with the mining, transporting and burning of some 800 million tons of coal annually by the year 2000.

By contrast, uranium has striking advantages.[3] Its energy intensiveness is so great that, with present technology, a single uranium miner can produce an energy output which would take 26 coal miners to produce—the quantity of uranium oxide required for a year's reactor fuel supply is only 200 tons, as contrasted with two million tons of coal for the same amount of energy release.

Moreover, uranium is a "flameless fuel" and does not involve a chemical combustion with noxious atmospheric pollutants. The safety of reactors is unparalleled: "The safety objective for a nuclear plant is a factor of more than 30,000 (times) more restrictive

Footnotes at end of article.

than the best that can be achieved with a fossil plant." [4] Fear strategists notwithstanding, there is no evidence that low-level radiation may cause genetic damage—not even among survivors of the atomic bombs dropped on Japan.[5]

Finally, nuclear power plants generate far less waste than coal-fired facilities. For example, the waste (containing toxic pollutants) from combusting coal in a single 1000 MW(e) plant would fill 33 train cars per day, while the volume of high-level radioactive wastes from a year's reactor operation would fit into a cube less than 4 feed on edge. Also, the technology to process and dispose of nuclear wastes has already been developed.

Since generating electricity by fissioning uranium is clearly more feasible, safe, economically sound, and environmentally benign than fossil combustion, it is a resource which introduces a new ethical standard for the prudent use of scarce nonrenewable resources. Whereas coal, oil and natural gas can be used to meet other vital human needs, uranium can be used for nothing else but for generating electricity. With reprocessing of used fuel to recover and recycle the unused fission products, together with the prudent use of a few breeder reactors capable of extracting 50 times more energy from a pound of uranium than can present reactors, no shortage need ever arise. Those who would continue a national policy of a "breeder moratorium" and an international policy of "nuclear isolationism"—with the belief that proliferation of power reactors runs the risk of precipitating a nuclear war—have succumbed to a far more risk-laden illusion. The fulcrum on which international stability rests is adequate energy supplies for increasing populations. More political instability is produced by the inequitable distributions of resources for fulfilling human needs than by the mere availability of weapons.

In any case, controlling weapons proliferation—nuclear or otherwise—is a serious international political problem; but it cannot be the decisive factor in the use and export of power reactors for producing electricity.

Writing in 1945, Henry Nelson Wieman proposed a thesis which, coming from a theologian, was quite startling. "The bomb that fell on Hiroshima," he said, "cut history in two like a knife. Before and after are two different worlds. That cut is more abrupt, decisive and revolutionary than the cut made by the star over Bethlehem. It may not be more creative of human good than the star, but it is more swiftly transformative of human existence than anything else that has ever happened. The economic and political order fitted to the age before that parachute fell becomes suicidal in the age coming after. The same break extends into education and religion." [6]

The emergence of an altogether new order of human possibility has, of course, brought with it an altogether new order of danger and risk, a new order of challenge to constructive ingenuity and to ethical sensitivity. Furthermore, we all know that the problems of historical existence are not likely to be solved in a single stroke. Only disasters, it seems, lend themselves to such dramatic and categorical causality. The patient cultivation of civility, and of political institutions to embody and support it—however falteringly—requires a rather different orientation to our common humanity and a rather new analysis of our democratic prospects.

FOOTNOTES

[1] George Will, "Nuclear Power Controversy and Life Below the Waterline," syndicated column appearing in the St. Paul Dispatch (St. Paul, Minnesota), 3 June 1976.

[2] San Francisco Examiner, 12 March 1976.

[3] Cf. Ralph Lapp, "The Pros and Cons of Nuclear Power." Paper presented before the Connecticut River Watershed Council, Easthampton, Mass., 24 February 1977.

[4] Tobias Burnett, "The Human Cost of Regulatory Delays." Lecture before the American Nuclear Society Annual Meeting, June 1976. Documentation for his study is referenced.

[5] J. V. Neel and W. J. Schull, "The Effect of Exposure to the Atomic Bombings on Pregnancy Terminations in Hiroshima and Nagasaki," National Academy of Sciences, National Research Council Publication No. 461. Washington, D.C. 1956. Cf. also Roger E. Linnemann, M.D., "Medical Aspects of Power Generation, Present and Future," presented at the Nuclear Controversy in the U.S.A. II International Workshop, Lucerne, Switzerland, 5-8 May 1974.

[6] Henry Nelson Wieman, "The Source of Human Good," Southern Illinois University Press, 1946; Arcturus Books, 1964; p. 37.

TEACHING CONSUMERS HOW TO COMPLAIN EFFECTIVELY

Mr. METCALF. Mr. President, the Education Amendments of 1972 (P.L. 92-318) authorized funds for projects, curriculum development and dissemination of information on consumer education. This legislation also authorized appointment of a director of consumers' education in the Office of Education to carry out this program.

Similar legislation was included in the Education Amendments of 1974 (P.L. 93-380). Funds were appropriated for these worthwhile programs in 1976 and the results of the first year of operation are now becoming apparent. They are described in the March 23 letter to me from Dustin W. Wilson, Jr., director of the Office of Consumers' Education, in an article by Goody L. Solomon in the April 2 issue of the Washington Star and an article by Sidney Margolius in the December 27, 1976 issue of the Long Island Press.

I request unanimous consent that these three items be printed in the RECORD.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., March 23, 1977.

Hon. LEE METCALF,
U. S. Senate,
Washington, D.C.

DEAR SENATOR METCALF: In light of your previous interest in and support for the Consumer's Education Program, I am sending you information about our first year's operation.

The enclosed "Analysis of the Consumers' Education Applications and Funded Projects, Fiscal Year 1976" indicates a high level of National participation in proposal development. Of interest was the fact that 50.5 percent of the 839 applications were received from public or private non-profit agencies, a clientele with which the Office of Education has had limited contacts in the past. The remaining half of the submissions were from traditional education agencies. This mix is proving to be a challenge in administration of the program and provides great opportunities for cross-fertilization of ideas.

Although many of the issues identified as subjects for consumers' education projects could have been predicted, the area of human services was new and not anticipated. Also new was the suggestion by some community action agencies that the delivery of civic services is a subject for consumer study.

Other emerging topics for consumer education, as indicated by grant applicants, include energy consumption and conservation, issues related to utilities and regulatory agencies, and consumer representation on public boards. While not unpredictable as subjects for consumer education, consumer credit (included by 26 percent of the applicants) and legal rights, redress and consumer law (3 percent of the applicants) were the two top topics. Food (24 percent of the applicants) and housing (23 percent of the applicants) appeared in third and fourth places, respectively.

I have also enclosed a copy of a syndicated column by Sidney Margolius, written as a result of his participation in our first conference of project directors, plus a compilation of project summary sheets. Hopefully, these materials will project some of our feeling for the breadth of interest in the Consumers' Education Program, as experienced in 1976.

Sincerely,

DUSTIN W. WILSON, Jr.,
Director, Office of Consumers' Education.

[From the Washington Star, Apr. 2, 1977]

TEACHING CONSUMERS HOW TO COMPLAIN EFFECTIVELY

(By Goody L. Solomon)

We had come to learn how to be assertive consumers, and we in turn would teach others.

We plunged right in. As we registered for the course sponsored by the National Consumers League (NCL), each of us received a sheet of paper listing 14 personal descriptions. For example, "I know I'm an assertive consumer." . . . "I have taken a complaint to an official agency." . . . "I was once denied credit but I never found out why." Each student had to find someone in the group who fit one of the descriptions. The get-acquainted game let no one be shy; we were forced to assert ourselves.

That was easy. While the game went on, we had a tougher test. Each of us had to appeal a bank's refusal to give us a loan. Pretend, we were instructed, that you were either a single parent (if you were a woman) or a married man with an income of $11,000 and one child. You had applied for a $500 loan to buy a new furnace and the bank turned you down.

One at a time, we went behind a curtain in a corner of the room where a would-be bank officer sat. To those who asked why the loan had been refused, the bank officer replied that, "Your salary is too low for a woman—or for a married man," depending on the student's sex. The answer should have stirred us to assert that the bank was discriminating illegally. Only three out of 38 students did that.

We simply didn't know the law. Although we sensed that something was amiss, we were generally frustrated and confused about what to say, therefore tended to act either angry and pushy or embarrassed and timid. On a scale of 14 points of assertive behavior, our scores ranged from 4 to 12.

After three days of training (once a week), we all enacted the same scene. This time, seven out of 38 scored right on all 14 points. On the average, scores rose by 39 percent.

We improved for two reasons. First, we became better informed about credit. In fact, a written test given at the beginning and again at the end of the course showed an average increase in factual knowledge of almost 60 percent. We had learned not only the basics of credit (why it's good and bad, how it works, the forms it takes, and such) but also our legal rights to equal opportunity and truthful disclosures. We had also learned about warranties.

Second, we had learned assertiveness techniques, which we practiced by role-playing situations in our daily lives as well as in connection with consumer problems. How to

tell your tennis partner to stop sponging and occasionally supply a can of tennis balls. How to tell the doctor you can't afford to spend hours in his waiting room every time you visit him. How to get a refund that you're entitled to and the salesperson refuses to give it to you.

The course was the brainchild of our instructors, Barbara Clark and Wanda Veraska, two friends who got a federal grant by virtue of their backgrounds and a set of fortuitous circumstances.

In 1975, Clark, who has an M.A. in human resources development, was working for Southern Railway Systems, designing and conducting management training courses. Veraska, a home economist, former consumer reporter and food editor, was working as a writer-editor for Congressional Infromation Service. She was also serving as a volunteer in the office of Swankin and Turner, public interest attorneys.

There, one day, she read in the newsletter of the H.E.W. Office of Consumer Affairs that grants were available for consumer education programs. The wheels started spinning in her head. She talked to Clark and the idea took shape. It was, in Clark's words, "That consumers need two things in order to bring themselves up to a position of power in the marketplace—knowledge about their rights and training in the kind of behavior that will let them deal comfortably and productively with merchants."

Veraska bounced the idea off Swankin. As counsel for the National Consumers League (NCL), he knew the group was planning to submit a proposal to HEW and suggested that Veraska and Clark seek League support. They did and the League agreed. Veraska and Clark then prepared the proposal. Result: a $70,000 grant for one year beginning September 1976.

Starting in mid-January, we attended four days of classes. It wasn't all fun and games. The untried course had a number of wrinkles in its organization, focus of instruction and written materials.

Now we are all set to teach you. The courses are free. NCL hopes that among those of you who attend, some will be motivated to give the course to others. But you don't have to make that promise in order to learn yourself. These are the courses that have been organized so far. There will be others as well. For information, call 229-2722.

COURSES LISTED

Assertive consumer instruction is being offered as follows this spring:

Apr. 4, 11, 18, 25, May 2, 9 a.m. to noon, D.C. Division of Adult & Continuing Ed., 13th & K Sts., NW. Call Deborah Johnson, 724-4946.

Apr. 4, 5, 11, 12, 7-10 p.m.; Apr. 9, 16, 9-12 a.m., Inner Voices, 535 Edgewood St., N.E. Call Thomas Tinner, 635-2372.

Apr. 6, 13, 20, 27, 6:30-9:30 p.m., Center For Displaced Homemakers, Baltimore. Call Jean Proudfoot (301) 243-5000.

Apr. 8, 16, 22, 2-5 p.m., Md. Commission for Women, Baltimore. Call Dolores Street, (301) 383-5608.

Apr. 14, 21, 28, May 5, 12, 19, 26, June 2, 12:30-2:30, Pleasant View School, Kensington. Call M.C. Adult Ed., Geri Gardner, 279-3335.

Apr. 16, 9 a.m. to 4 p.m., Arlington County Library, 1015 No. Quincy, Arlington. Call Sandy Hill, 243-8674.

Apr. 18, 25, May 2, 7:30 to 10 p.m., Ryland Church, Branch Ave. & S St. SE Call Barbara Hogan, 584-2968.

Apr. 21, 22, 9:15 to 3:15 p.m., D.C. Office of Consumer Protection, 1407 L St., N.W. Call James Toughhill, 629-2618.

Apr. 23, 30, May 7, 14, 10 a.m. to 2 p.m., Martin Luther King Library. Call Susan Holleran, 223-5700.

[From the Long Island Press, Dec. 27, 1976]

CONSUMER EDUCATION PROJECT INITIATED

(By Sidney Margolius)

The $3 million the U.S. Office of Consumers' Education is spending to finance 66 grass roots projects around the country may well be the best money the government ever spent, both in immediate and future returns. This is the first year of this broad effort at consumer education authorized by Congress in the Education Amendments of 1974.

The diversity of the first 66 projects funded by a combination of federal grants and local resources is especially striking. From lonely Indian reservations to teeming inner city neighborhoods, pilot groups are beginning classes, information clinics and service activities aimed at developing consumer skills needed to cope with their special problems.

The groups include senior citizens, handicapped people, minority groups, teen-agers, industrial workers, and low-income families. They all share common consumer problems, of course, but have unique problems.

As immediately useful as the services flowing from these exploratory projects may be to their communities, their real value is what the country as a whole is going to learn about specific consumer information and service needs. The community groups and educators running these projects will learn as much from the people being educated as they will from the teachers.

In fact, and very encouragingly, some of the projects are aimed at training school teachers and community agency representatives in consumer information so they in turn can teach the students and other people they reach.

There are few more worthwhile educational efforts in this age of widespread consumer problems with their often harmful effects on individuals and families, and on our national economy and community life.

It is increasingly apparent that a waste of personal and family resources is, on a large scale, a waste of national resources. In almost every type of consumer expenditure noticeable waste of resources is taking place.

The projects themselves have been designed so that the methods and materials they develop can be used in other towns and schools around the country.

The Office of Consumers' Education (OCE), which helped develop these projects is part of the U.S. Office of Education. OCE sees its effort as different from much of the traditional consumer education in schools that was, and often still is, related mainly to homemaking, business education or industrial arts.

In this new concept, school students would get consumer education in a wide variety of subject areas. But as significantly, the OCE program includes consumer education for adults, and especially for those with particular needs or who are trying to manage on relatively small incomes.

Just over half the projects are being run by traditional educational institutions such as local school systems, OCE Director Dustin Wilson, Jr. The others are conducted by community-based public or private nonprofit agencies.

Several of the community-based projects seek to teach consumers their legal rights. One, operated by the Tampa, Fla. Legal Services helps answer individual legal questions but also tries to educate the public through group discussions of rights and responsibilities. Another project, in Flagstaff, Ariz., is zeroing in on consumer legal education for low-income people.

A number are aimed at helping seniors with their many and often acute consumer problems. Virginia Polytechnic Institute is developing a financial counseling program for the elderly. Catonsville Community College in Baltimore, Md. is concentrating on "Senior Survival in the Marketplace."

In Detroit, the United Auto Workers Union is working on consumer education materials for industrial workers and also is training a number of workers to provide consumer education for other workers.

Several projects are helping native Americans and Spanish-speaking groups solve urgent consumer problems. In the West, the Coalition of Indian Controlled School Boards is developing a consumer education program for reservation schools.

In Massachusetts the Boston Indian Council is developing a program for adult low-income Native Americans recently coming in to the city from reservations and rural communities. A number of projects are aimed at helping handicapped consumers, such as the deaf.

Also noteworthy are projects being developed to help people returning to society. The Southern Illinois University Dept. of Family Economics is planning consumer-education for prison residents and parolees.

The University of Alabama is sponsoring a consumer education project for prerelease mental patients. Another project, sponsored by San Francisco State University and potentially useful for other communities is concerned with health education, especially with the informing of consumers against useless and sometimes even harmful quack medical products and services.

SPEAKING REALISTICALLY ABOUT DETENTE

Mr. JAVITS. Mr. President, I am a member of the board of honorary directors of the Atlantic Council of the United States, which is a bipartisan, nongovernmental organization brought together 15 years ago for the purpose of promoting understanding of the major international issues that confront the United States and its closest allies in Western Europe and Asia. The Atlantic Council is a most distinguished organization with which I have been most happy to have been associated.

One of the Council's directors, Timothy W. Stanley, has written a most concise and informative article for the Atlantic Community Quarterly titled "Détente: The Continuation of Tension by Other Means." Because of varying and sometimes unrealistic interpretations of the term "détente," is has become a controversial one, and it has attracted connotations which the authors of the policy, both in this country and in the Soviet Union, never intended. Mr. Stanley presents a pragmatic appraisal of détente and suggests some useful policy recommendations to enable the policy of détente to be pursued more fruitfully for U.S. interests and to maintain world peace and stability.

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

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

DÉTENTE: THE CONTINUATION OF TENSION BY OTHERS MEANS

(By Timothy W. Stanley)

INTRODUCTION

Few concepts in the international political lexicon have been subjected to as much controversy and confusion as "détente." The term has been applied, distorted, and reinterpreted by Americans, Chinese, Europeans,

Russians, and others for quite inconsistent purposes.

To many observers, the controversy may seem surprising, for the concept is hardly novel. Nearly a decade ago, the North Atlantic Council's "Harmel Report" on the future tasks of the Alliance concluded that "military security and a policy of détente are not contradictory but complementary."[1] And a few years later, one of this study group's co-chairmen cautioned that détente is—to adapt Clausewitz's phrase—"the continuation of tension by other means."[2] Nevertheless, it has given rise in the West and in the United States to a sense of "euphoria" as well as frustration about U.S.-Soviet affairs and East-West relations in general, apparently in the belief that the term is synonymous with a new era of good feeling. Some critics, on the other hand, see it as benefitting only the Russians and having no value at all for the West.

On the Soviet side it has been used, by some Russians at least, to imply a tactical means of "tranquilizing" the West while they increase steadily their global military power. The Soviet leaders appear to be assiduously cultivating détente, while at the same time pressing for political and military advantages which may be stretching the limits of Western tolerance.

The Atlantic Council's Security Working Group believes that détente has some important values—if it is properly understood and applied only within its limitations. Accordingly this policy paper is designed to help dispel some popular Western misconceptions about the concept and to put it in a realistic perspective of American and allied security interests and values. Those values, of course, include the capacity to hope for a better future; and in this, at least, there should be some common ground with the peoples of the East.

DÉTENTE IN THE EASTERN PERSPECTIVE

As a French word meaning, roughly, "relaxation" (presumably of tension, although it also has other connotations), détente does not translate well into either English or Russian. The Russians have a word, "razriadka," which means variously "relaxation of international tensions" or, in the preferred Soviet idiom, "peaceful coexistence." But it must be borne in mind that the Russians themselves make a sharp distinction between "peaceful coexistence between states with different social systems" and what they call "the sphere of social development, which forces its way unrelentingly in any international conditions, whether it be détente, cold, or even shooting war."[3] (Social development, it should be noted, includes what Khrushchev called "just" wars, i.e., those of national liberation, or in effect those supported by the Soviet Union as contrasted with "unjust" wars, which are those supported or even defended by capitalists.)

For many years Communist Party officials have been warning the faithful that peaceful coexistence does not mean renunciation of the class struggle. Indeed at the rhetorical or party platform level, this has been a constant theme of Soviet policy since Lenin's day but supplemented by the newer realities of the nuclear balance of terror.

Americans have often chosen to ignore very explicit Soviet warnings that they do not consider themselves bound by our unilateral interpretations of what détente should mean for East-West relations. In the fall of 1975, Izvestia noted pointedly that détente could not be equated with elimination of "all the developments in different parts of the world that may be unpalatable to the United States"—such as, presumably, Angola.

If détente means relaxation of tensions, it is self-evident that such tensions have existed and that many of them are likely to continue. It is worthwhile therefore to review briefly some of the causes of these tensions. For the most part they are not of the traditional international variety, such as conflicting territorial claims. Nor are they basically economic, since the economies of the United States and the Soviet Union are almost as complementary—for example in energy and raw materials, food grains and capital goods—as they are competitive.

Moreover, although there is a natural U.S.-Soviet rivalry as "superpowers" and a complex triangular relationship with China, there is also a growing complementarity of interests in maintaining an equilibrium in the world power structure and on certain functional interests ranging from the law of the sea to nonproliferation of nuclear weapons. Overriding everything, of course, is the common interest in avoiding a disastrous nuclear war. There are, on the other hand, a number of actual or potential third area conflicts, in which one must include Europe, where the classic issues of Berlin and Germany gave rise to the cold war. A number of these issues have been defused, however, if not solved, even in the six years since they were described in some detail in the Atlantic Council's 1970 analysis.[4]

Notwithstanding these potentially favorable factors for East-West relations, there remains a fundamental stumbling block. This is the Soviet ideological claim on the world's "social development," as they call it—which includes its political and economic as well as future social systems. If this claim and its subideologies were not backed by the power of the Russian state apparatus, including its massive military establishment, then the Western world might be able to accept it as part of the normal competition of ideas. But that has not been the case historically, nor is it likely to be in the near future.

Alternatively, if the Soviet state were to maintain its institutions and internal structure, including its ideological system—and even its claim to be immune from external criticisms—but to drop its involvement in the "class struggle," in the activities of Communist parties elsewhere and in wars of national "liberation" abroad, then a pragmatic accommodation might be reached on the basis of a comparative lack of conflicting state interests.

The problem, then, is that the legitimacy of the internal power structure and apparatus of the Soviet state depends upon an ideology which is inextricably linked to its external applications. As seen from Moscow, failure to pursue forcefully on a planetary basis the historical developments foreseen by Marxism-Leninism could again cause the Russian state to become isolated, prey to attacks by its neighbors—for which the racial memory is a very long one—and perhaps unable to justify to its own people the sacrifices they are called on to make. The centralized and controlled Soviet system is attempting to manage the complex political economy of the country, as well as the continuing challenge of absorbing Russia's many diverse nationalities; and it requires a strong element of ideological discipline. This applies also to Eastern Europe from which it is feared disaffection could spread.

Conversely, Moscow may fear that as a "disembodied" ideology, i.e., one not tied closely to Soviet power, communism itself might be doomed by what they like to call reactionary and "counter-revolutionary" forces but what the West would term the "test of the market." Communism's growing irrelevance to the problems of the modern world is shown by the proliferation of national variations geared more to local conditions and history than the doctrines of Moscow's "Mother Church."

Thus, despite the contradictions between Russian national interests and Soviet-Communist ideology and foreign policy, no early "decoupling" of interests from ideology seems likely. The West should, therefore, define détente in ways which are consistent with this reality, but without abandoning longer term hopes of a parallel mellowing of *both* the internal and external applications.

Is détente, then, merely a political-military "tranquilizer," a tactical weapon to advance Soviet goals in ways which may be inconsistent with Western interests and values? Are the critics correct who call it a snare and a delusion for the West, or even a "zero sum game"—one in which the Soviet Union and its allies in effect get the sum, while the West gets the zero? We believe the answer is "no"—but only insofar as the limits and purposes of détente are understood and applied in the context of Soviet perceptions. If properly applied, however, it can be argued that détente is a "positive sum" game, from which both sides benefit.

If the United States under its incoming Administration takes a wholly negative view of Soviet purposes, then this could easily become a self-fulfilling prophecy. For there is evidence, fragmentary and inconclusive, that détente has other meanings and purposes within Russia itself and even more so in Eastern Europe. For example, those hopeful of liberalization in the repression of political and artistic expression see in détente a potential climate in which the xenophobia and paranoia—which have been characteristics of Moscow leadership long before communism—can gradually be overcome. The same applies to elements seeking liberalized conditions of emigration as well as those hoping to realize implementation of the Helsinki CSCE accords in spirit as well as technical letter, particularly those East Europeans who see in the Helsinki framework grounds for a more flexible and humane system.

Perhaps even more influential are those Russians concerned at the continuing high proportion of Soviet national product devoted to defense spending and heavy industry at the expense of consumer needs such as housing and improvement in the quality of life. Foreign observers characterize the Russian countryside as being at "median developing country" or roughly 19th century Western levels. Much remains to be done to improve agricultural productivity and even the basic infrastructure of transportation and communication systems needed to effectively link the vast continent.

The appointment, for the first time, of a civilian defense minister (albeit one coming from the industrial side of the Russian military-industrial complex) suggests that the problems of gaining effective civilian or political control over resources allocation and defense spending are by no means unique to the Western democracies. Détente has been used in Russian internal debates to support the rationale of those who are arguing for a cutback in the militant defense posture of the Soviet Union.

On the other side, the Russian emphasis on the military aspects of security antedates even the Soviet Revolution and has proceeded on its own track, largely independent of doctrinal changes away from or toward peaceful coexistence or détente.[5]

No one in the West—and perhaps no one in Moscow—can really predict the outcome of the inevitable struggle for succession after Brezhnev, nor the weights to be assigned to various factions in the internal debates. But it would make little sense to undercut the proponents of a more relaxed (internally as well as externally) Soviet policy; and perhaps the way to avoid this is not by attacking détente per se, but rather by making clear that the Soviets cannot have both détente and a constantly expanding relative military power. For the same reasons, however, care must be taken to avoid alarmist Soviet perceptions of U.S. military developments.

WESTERN PERSPECTIVES AND INTERESTS

On the Western side, the problems caused by détente could be described as "self-inflicted." As Secretary Kissinger put it:

Footnotes at end of article.

"Some take for granted the relative absence of serious crises in recent years, which the policy [of détente] has helped to bring about, and then fault it for not producing the millennium, which it never claimed. Some caricature its objectives, portraying its goals in more exalted terms than any of its advocates, and then express dismay at the failure of reality to conform to this impossible standard . . . they use the reality of competition to attack the goal of coexistence rather than to illustrate its necessity."[6]

The Secretary went on to quote President Eisenhower's view that "there is no alternative to peace," and to say that "we owe it to ourselves and to future generations to seek a world based on something more stable and hopeful than a balance of terror, constantly contested."

America is not known in the world for the steadfastness of its foreign policies; rather we seem to embark upon crusades and then to retreat from them. Yet the general continuity of purpose in our alliance with Europe and maintenance of an East-West military balance has extended for nearly three decades. It is ironic that one token of its success—the military stalemate which has made détente possible has simultaneously brought that concept under attack for going too far and not far enough.

We believe that the United States should have the following objectives in its policies toward the Soviet Union, even while we pursue our own national interests and international obligations in other areas in close consultation with our principal allies:

To avoid a nuclear war and to manage situations which could by accident or design lead to one: to maintain, as the London *Economist* put it,"brakes" on the East-West confrontation. In other words, to maintain the East-West military stalemate but to negotiate lower costs for it, as well as controlling its risks.

To accept defense and détente as part of the same strategy on a long-term basis, not alternative (or alternating) strategies. This would require making arms control a more integral part of our defense planning, recognizing, however, that arms control cannot consist of a series of constraints and inhibitions on U.S. policy while the Soviet Union continues to expand its own capabilities and the global reach of its military power. Détente without defense is certainly a delusion. But in the thermonuclear missile age, the reverse may also be true.

To try to moderate Soviet "capabilities" by influencing their "intentions" through continued realistic negotiations, bearing in mind the "mirror image" tendency of each side to plan its forces on the basis of perceptions and misperceptions of the other side's intentions. (Reasonable allowance must also be made for the lag time often exhibited by the Soviet system in major policy shifts, notably in arms control matters.)

And in the *long* term, to bring about a situation where a decoupling of the Soviet's internal ideology and power from their interventionist external ideology can evolve and thereby permit the pragmatic application of the talents and energies of both countries to the common problems of the globe.

In the light of such objectives, it is apparent that détente must be given a narrower meaning than it currently has acquired in the public mind, making a sharper distinction between medium-term realities, and longer-range hopes—which can be somewhat broader in their scope.

DETENTE IN PRACTICE

The Security Working Group's efforts have been directed toward sharpening public recognition of this distinction. Our deliberations have focused on four areas of détente's possible application.[7]

1. The strategic nuclear standoff;
2. The regional confrontation in Europe;
3. Crises and issues in other areas; and
4. The linkage, if any, between security and nonsecurity factors.

In the area of strategic nuclear forces—détente's most important potential impact—there is ground for concern that, notwithstanding the limited progress made in SALT, the Soviet Union continues to improve its forces. This improvement is both quantitative, where permitted by the treaty, and qualitative—sometimes in a questionable manner, according to Western interpretations of the accords, interpretations which, however, were not necessarily accepted by the Soviet Union.

Future efforts and their public information treatment should be explicit both as to what is agreed and points on which it is, in effect, "agreed to disagree," in order to avoid the dangers of unrealistic expectations on the Western side. Not only can these lead to serious international misunderstandings; but they can undercut public and congressional support for prudent modernization of U.S. strategic nuclear forces.

In the regional confrontation in Europe, the Working Group is particularly disturbed by the steady pace of improvements in the Warsaw Pact's military posture. They include rapid modernization of ground and air forces as well as the introduction of new weapons and support systems. The impasse in the negotiations on mutual and balanced force reductions partly reflects the larger uncertainties of East-West relations and SALT; but it also raises questions about Soviet seriousness of purpose. Too much emphasis may have been placed in the negotiations on "reductions" *per se* rather than achieving, as the fundamental *sine qua non* of any agreement, a durable stability and equitable balance of military forces remaining in the potential reductions areas, along with constraints on the employment, exercising, and reinforcement. Here, too, there may be opportunities for progress, especially now that the Western side has offered to include some tactical nuclear forces in the negotiations. But détente can only have meaning here if the Eastern side is persuaded that its present favorable margin of military asymmetries is not needed to assure its own security. And, of course, temptations to exploit tactical advantages must be countered by continued Western solidarity and cooperative defense programs at meaningful budgetary levels for all members of the alliance. However, NATO may have to find means of assuring the Eastern participants that the forces of the European country they fear most, namely West Germany, would not constitute a disproportionately large share of the forces permitted under an overall Western ceiling. This should not be beyond the capacity of imaginative diplomacy.

In third areas, such as Africa, we must recognize that ideological and political-military competition will continue and perhaps intensify. This prospect should not be confused with détente except for the limited—but vital—purpose of insuring that such rivalry does not lead to serious military confrontations between the nuclear superpowers. The interests of East and West conflict too much in the Middle East to expect active Soviet-American collaboration in solving the intractable problems there; but some tacit "rules of engagement," proceeding from the basic premise about avoiding nuclear confrontation, and building on points of common interest in avoiding renewal of active Arab-Israeli hostilities are desirable, as long as too much is not expected of détente.

The triangular relationship with China is another area of great potential difficulty for both superpowers. The U.S. must maintain its right to regulate, and, if possible improve, bilateral relationships with China while reassuring the Russians that we are not conspiring against their interests.

Finally, on the question of "linkage" between security and nonsecurity issues, a balance must be found between the extremes of comprehensive linkage and total compartmentalization. In economic relations, for example, particular arrangements for transfers of credit or technology, or trade in resources or food grains should be examined on their merits, but without unduly relaxing those controls on strategic goods which are still prudent in the light of continuing military competition. At the same time, given the ideological suspicions on both sides, the atmosphere of détente provides an "ambiance" which can help consummate negotiations on matters where a mutuality of interest has been established—and such outcomes can in turn, reinforce favorable political attitudes. But détente should not be used to try to create the illusion of a common interest where none, in fact, exists, or to justify "deals" that do not provide reasonably balanced benefits for both sides.

In the political area, the West does not have to disavow in any way its own values and concerns with human rights questions or freer information flows. The Russians are acute enough to recognize the weight that these have in America's domestic politics and hence in the country's external attitudes. But we should avoid encumbering our basic national security interests with divisive side issues. It is also healthy to recognize that, realistically, there is often little that outside pressures can accomplish on such subjects. Expanding business and cultural contracts may do more good for liberalization in the long run than would withholding them on grounds of principle.

THE LONGER VIEW

Americans are going to have to learn to curb their traditional impatience and settle down for the long haul of competitive coexistence with the Soviet Union in a turbulent world—one torn by emerging North-South economic and racial conflicts which may increasingly provide the occasion for renewal of the more traditional East-West political-military conflicts.

Indeed the new challenges to international "security" in the broadest sense encompass not only economic issues but also global environment, population, and food crises and the even more ominous, though less certain, evidence of cyclical climatological changes which could significantly affect much of the northern hemisphere. A case could be made, therefore, for the superpowers to bury their differences, even to the point of forming, in effect, a condominium to impose the minimum of order which the world requires to surmount these challenges. Such a course would, however, be unacceptable to a majority of public opinion in the United States, in NATO and other allied countries, in China, and in the non-aligned world as well. It also might prove risky; for the Soviets have not abandoned their goals, as they perceive them, in the pursuit of détente. The underlying value systems of Western democracies and the authoritarian regimes of the East are simply not susceptible of immediate or comprehensive compromise. The chief benefit of détente is that it ratifies on both sides the nuclear constraints against resolving that conflict via military force.

This rather considerable benefit of détente must of course be weighed in the balance of other risks. But there is another cost-benefit calculation to be made—namely the potential gains in world stability that might be *foregone* by allowing détente to wither.

For the first time, the Soviet state apparatus, including its military is emerging from centuries of relative isolation onto the world stage. Backed by a massive strategic nuclear arsenal, the Soviet Union now has an ability to project nonnuclear power beyond its immediate periphery. In the case of naval forces, there seemed for a time to be a kind of "neo-Mahanism" undertaken with the usual enthusiasm of a convert. Later developments have modified the U.S. assessment of how the Soviets may be inclined to carry their pro-

Footnotes at end of article.

jection of naval forces, but the capability of moving out is still there.[8]

Soviet policy may thus be at a crossroads in terms of having attained a clear ability to satisfy all legitimate security needs (except for some longer term questions versus China) and facing the choice of whether to stabilize there, or to continue in the several disturbing directions which it has taken of late. Accordingly, the Russian emphasis on a "correlation of forces" which is allegedly shifting in their favor, is not reassuring.

These apparent trends include qualitative and quantitative acceleration in Soviet missile and nuclear weapons programs; the continued modernization and expansion of general purpose forces in Eastern Europe, and the strengthened Russian naval presence in the Mediterranean and Indian Oceans; a major military-industrial complex and civil defense program plus a general capacity to project both overt and clandestine politico-military operations globally.

The problem then, is what the West in general and the United States in particular is willing and able to do about this growing capacity. In describing détente, NATO Secretary General Luns has said that "signals have been alternating between red, green, and amber, sometimes with all three flashing at the same time." On the Soviet side this is understandable, given their system's bureaucratic sluggishness and the conflicting pressures and factions within it, facing a period of transition.

There are some encouraging signs of a gradual evolution toward a more liberal and less insecure system internally—and it is worth recalling that Khrushchev's famous denunciation of Stalin and the abuses thereby revealed to the Soviet people and the world were an even greater shock to that closed system than Watergate, Vietnam, and related traumas have been to the United States. We believe, therefore, that the correct interpretation to put on the Soviet Union's hesitant steps toward détente is that of the "orange" light, signaling a willingness to proceed cautiously with détente—but in terms of their own definitions and interests.

We must also give thought to the signal which we display to adversaries. A "red" light risks returning the world to a state of greater distrust, hostility, and rivalry between the U.S. and the Soviet Union, accompanied by a less restrained arms race at both the nuclear and conventional levels, with higher dangers of an actual conflict by accident or miscalculation.

Since the West would presumably prefer a more open, tolerant and responsible type of Soviet government which would be willing to cooperate in selected spheres, despite ideological and value differences, U.S. policies should seek to encourage this pattern and discourage a return to the paranoia and conspiratorial attitudes of past years. Paradoxically, a "green" signal could also be counterproductive by indicating that the Soviets can use détente to disarm and isolate the United States, while relentlessly pressing for a correlation of forces which is even more in their favor. Moreover, this would imply an excessive preocupation with the U.S.-Soviet relationship which, however, important, is only one among many.

We therefore believe that the message we should give is also the "orange" light of caution, proceeding with circumspection and on the basis of reciprocity. But we must also make clear our determination to maintain our values, our traditional alliances and our goals and programs for dealing with the world's ills, but with continued constraints on confrontations, and the door of active cooperation held open.

More specifically, we believe that the U.S. should seek concrete but limited and, where possible, verifiable results in the arms control field in both the strategic nuclear and NATO-Warsaw Pact areas. An additional possibility which commends itself to careful examination by the incoming Administration might involve an understanding that defense spending would be held level for both sides in *real* terms. As the pendulum of congressional support has moved away from the post-Vietnam extremes and toward reasonable defense modernization, the U.S. is correcting many of its "baseline" deficiencies. So it should be possible for the United States to increase its budgets in later years only by amounts necessary to cope with inflation, perhaps measured by the GNP deflator. This would, however, place a premium on good management. Inflation is also present, although often unacknowledged, in the Soviet system; but they have expressed interest in level real-term budgets, as a basis for possible mutual reductions later on.

While no detailed comparision is possible of the quite different U.S. and Soviet defense programs, nor would specific verification or enforcement be feasible, the broad magnitudes and trends of defense effort can be discerned. Some detailed consideration has already been given to the problems of measuring and evaluating military expenditures in the UN and other working groups.[9] There would be advantages to an understanding which tended to place constraints around overall spending, for specific arms control agreements reached in one area would be less likely to be offset by expansions in other components, such as naval power. Either side could retain the right to adjust its own programs if it believed the other was not adhering to the understanding. But as important forces in both countries are concerned to limit allocation of resources to defense programs and away from other needs, and in particular to cut out wasteful and unnecessary expenditures, they would tend to give such mutual undertakings a self-enforcing character. The difficulties and complexities should not be underestimated; but we believe the idea worthy of study.

Absent any such understandings, however, the United States and its allies should move resolutely to do the necessary to bolster and insure the survivability of their conventional and nuclear deterrents. Particular attention should be paid to gaps and deficiencies in the European area that can be rectified without adopting destabilizing new programs or massive added expenditures. Former Defense Secretary Schlesinger's warning is timely: "We are face-to-face with the problem of Soviet conventional military capabilities in a way that we have not been before. In the past, we could offset our inferiority in conventional capabilities by our strategic superiority. Now, that offset is gone."[10] The actions necessary to face this problem may in the end be a contribution to détente by persuading the Soviet Union that further expansions on their side *will* be countered and are thus literally a "waste" of resources. Fortunately many of the needed corrective actions can be done relatively inexpensively and nonprovocatively. But they do require the steady will of political leaders to act.

CONCLUSION

Summing up, "détente"—the relaxation of tensions—must not be confused with the elimination of the causes of tension. Its limitations must be recognized. It may, with wisdom and caution, be utilized to the benefit of both West and East; but it certainly represents no "millennium," not even an era of good feeling, let alone real community of interest in achieving world stability. In that respect, it is like the report of Mark Twain's death: highly exaggerated or, at the very least, premature! But in the latter analogy it may, as an evolutionary process, also be inevitable. For the world is moving into entirely new sets of problems and relationships in the next century—provided, of course, that a nuclear holocaust is avoided in the interim. The challenge, then, is to live with the reality of conflicting values and objectives; to apply détente only to areas where it can have real meaning, or significant potential for the future of the superpower relationship; and to maintain the military stalemate while negotiating, in an attitude of sober optimism, lower costs and risks for it.

The hope must be that, as the West's opposing system proves itself more durable and resilient than expected, "détente" will become a learning experience which will convince the Soviet Union that it is not destined to be history's sole beneficiary.

FOOTNOTES

[1] The Report is reprinted in *The NATO Handbook*, NATO Information Service, Brussels, February 1976, p. 64.

[2] Harlan Cleveland, *NATO: The Transatlantic Bargain*, Harper & Row, New York, 1970, p. 171.

[3] G. Arbatov, "Who Benefits from Détente?" quoted in *Atlas World Press Review*, December 1975, Volume 22, pp. 14–16.

[4] T. W. Stanley and D. M. Whitt, *Détente Diplomacy: United States and European Security in the 1970s*, Dunellen Company, for the Atlantic Council of the United States, New York, 1970.

[5] George Kennan's article, "The United States and the Soviet Union, 1917–1976" in the July 1976 *Foreign Affairs* contains a useful historical review of U.S.-Soviet relations and of the continuities in Russian security policy.

[6] Address to the International Institute for Strategic Studies, July 25, 1976, *The New York Times*, June 26, 1976, p. 7.

[7] For an elaboration of these categories, see Gen. Andrew J. Goodpaster's Foreword to *National Security and Détente*, Thomas & Crowell Company, New York, 1976.

[8] See "What is the Soviet Navy Up To?" by Vice Admiral Julien LeBourgeois, Atlantic Council Security Working Group, printed in the fall issue of the *Atlantic Community Quarterly*, 1976.

[9] See, for example, *Report of the Group of Experts on the Reduction of Military Budgets*, pursuant to General Assembly Resolution 3093B(XXVIII), UN, New York, 1974.

[10] Talk at Key Largo, Florida, April 23, 1976, published by the National Planning Association in "New International Realities," July 1976.

HUMAN RIGHTS IN CUBA

Mr. HARRY F. BYRD, JR. Mr. President, the topic of human rights has been much in evidence in recent months as has been the matter of normalization of relations with Cuba.

To better assess the question of human rights in Cuba, I invite attention to an article in the New York Times of June 22, written by Irving Howe, a distinguished professor of English of the Graduate School of the City University of New York.

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

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

[From the New York Times, June 22, 1977]

MERCY

(By Irving Howe)

In the discussions that may soon be held between United States and Cuban representatives, might not our man say a quiet word about Huber Matos? That it would help smooth relations if he were released from jail and allowed to leave Cuba?

A former teacher, Mr. Matos joined Fidel Castro's troops in the fight against Batista's dictatorship. Rising rapidly in rank, he be-

came head of the rebel army's Column Nine, which led the takeover of Cuba's second largest city, Santiago de Cuba. After Castro's victory, Mr. Matos became Chief of the Second Military District with its seat in Camaguey. About his bravery in battle and devotion to the guerrilla cause there could be no doubt.

In 1959 Mr. Matos grew concerned about the growing influence of the Communists in the new regime. Fidel reassured him: the Cuban Communists, who had not even fought against Batista, would never take control. How valid this reassurance was, it soon became clear.

In October, Mr. Matos sent in his resignation, saying he wanted to retire from public life. That was all, just retire. A few days later, Mr. Castro flew to Camaguey Province and had Mr. Matos arrested. A show trial followed at which Mr. Castro made a seven-hour speech but refused to submit to cross-examination. This trial, says Theodore Draper in his book on Cuba, "will go down in recent Cuban history as the equivalent of the Moscow trials of the 1930's."

Be that as it may: Mr. Matos was sentenced to twenty years in prison, a sentence that contrasts strikingly with the 15 years Fidel Castro got under the Batista regime for leading a military attack on an army barrack.

Mr. Castro served only 20 months. Mr. Matos, whose "treason" consisted in wanting to return to private life, has now served seventeen years. Seventeen years!

No pleas from human rights groups, no whispered embarrassments from foreign friends who regard Castroism as "different" from other Communist dictatorships, nothing has thus far been able to soften the heart of the ruler in Havana. The sick and broken Huber Matos must serve the full 20 years—such, apparently, is the dispensation of "the new society."

Leave aside justice, leave aside human rights. Might not the American representative at future negotiations at least say a word about mercy?

NEIGHBORHOOD REINVESTMENT CORPORATION ACT

Mr. GARN. Mr. President, I am pleased to join my distinguished colleague, Senator PROXMIRE, in cosponsoring the Neighborhood Reinvestment Corporation Act. This legislation provides for the conversion of the remarkably successful Neighborhood Housing Services (NHS) program from an ad hoc demonstration project into a public corporation patterned after an institution such as the Corporation for Public Broadcasting.

The NHS program is currently under the direction of the Urban Reinvestment Task Force. Under this legislation, the Task Force would be reconstituted as a National Reinvestment Corporation, retaining the existing board of directors, thus preserving the essential links to the financial regulatory agencies and HUD.

The Neighborhood Housing Services program has demonstrated significant impact on 32 urban neighborhoods, and will likely be operating in 40 cities by the end of this year. Probably the main reason for its impressive performance is the fact that the NHS program addresses the overall neighborhood needs by involving the community residents, the local government officials, and the local financial institutions.

Built into the complex urban system are a set of preconditions which, if they are not met, represent a series of disincentives to neighborhood revitalization. Such disincentives serve to frustrate affirmative programs and efforts for revitalization.

These preconditions can be grouped under three broad categories. First. Public services such as police and fire protection, health services, schools, and recreation facilities must be sufficient to meet the minimum needs of the community. Second. Public policies, such as local ordinances, zoning codes, and taxing policies must be appropriate to community needs. Public policies should stimulate a climate for reinvestment that will advance neighborhood viability. Third. There must be policies for adequate credit to insure the availability of funds and investment opportunities so as to permit and encourage private and individual investment. These three factors are obviously intertwined, but they provide an initial set of definable goals for urban neighborhood revitalization.

The Department of Housing and Urban Development and the Federal Home Loan Bank Board established the Urban Reinvestment Task Force in April, 1974, to replicate an exceptionally effective Neighborhood Housing Services organization in Pittsburgh, Pa.

Over an 8-year period the original neighborhood housing services successfully increased the flow of capital into formerly declining Pittsburgh neighborhoods, thus demonstrating the long term potential of this approach. During the first 5 years, about two-thirds of the more than 300 NHS loans were concentrated in the central northside of Pittsburgh. Home improvement lending increased by 97 percent, building permits went up 245 percent, code violations were removed from more than 1,200 homes, and numerous additional homes already meeting the codes were improved. As a result of this NHS activity and its effect on neighborhood confidence, real estate values increased by more than 60 percent.

In the past 8 years, the Pittsburgh NHS has continued to be the model for other NHS programs around the country. The program has maintained its vitality and has grown both geographically and in the range of services provided to residents.

The task force found that a successful NHS program should operate in a neighborhood in which the housing stock is beginning to show signs of deterioration but remains basically sound, and where there is a high degree of homeownership. The program has five basic elements:

First, residents who want to preserve their neighborhood, improve their homes, and who are willing to make an effort to establish and operate an NHS program;

Second, local government which seeks to improve the neighborhood by making the necessary improvements in public amenities and by conducting an appropriate housing code inspection and compliance program coordinated with NHS activities;

Third, a group of financial institutions which agree to reinvest in the neighborhood by making market rate loans for qualified borrowers and tax deductible contributions to the NHS to support its operating cost;

Fourth, a high risk revolving loan fund to make loans at flexible rates and terms to residents not meeting commercial credit standards; the funds are provided by private foundations, industry, or government; and

Fifth, an NHS organization, which is a State-chartered private nonprofit corporation having a board of directors of which a majority are community residents, along with a significant representation from financial institutions.

Neighborhood housing services programs represent a blend of private, public, and community involvement in a working partnership, with each group strongly represented and respectful of the other's positions. This partnership must be constructed with great care.

Key features of the NHS program include the following:

The program is a local one. The role of the Urban Reinvestment Task Force is that of catalyst and facilitator. The task force brings to each local situation detailed knowledge of the program and the manner in which it may be adapted to the local situation. Local program policies administration and implementation are responsibilities of those at the local level.

NHS is nongovernmental. Although some public funds are included, control is vested in a board of directors of the private corporation which consists of community and financial institution representatives. With few Government regulations to comply with, the board has freedom and flexibility in its operation of the program.

It is nonbureaucratic. Each program develops its own priorities and policies. Although the task force may provide technical assistance in helping to establish operating procedures, important decisions which affect the loan fund or the relationship of NHS to the community are made by the NHS board. The program is very flexible.

NHS is a self-help effort. The involvement of local citizens is regarded as extremely important by the financial institutions, funding sources, and city government. Strong citizen interest indicates neighborhood pride and is a major factor in convincing potential lenders that the residents care about the neighborhood. NHS operating costs are funded entirely through local sources, and local contributors supply much of the high risk loan fund. Emphasis on local funding is part of the self-help element of the NHS model.

The NHS program is not a giveaway. The high risk loan fund is a revolving loan fund; even for high-risk applicants, there must be a prospect for repayment. The fact that the NHS is not a giveaway is an important feature in the eyes of financial institutions and other funding sources, and it effectively communicates the program's philosophy that property upkeep is the responsibility of homeowners and other property owners.

The program is concentrated in specific neighborhoods. The NHS addresses itself to neighborhoods which are basically sound, but which are deteriorating. Concentrating the program in a small manageable area is an important factor for success.

Mr. President, in my judgment, this legislation will greatly aid the implementation of NHS programs in aging neighborhoods across the country. The NHS concept has been shown to be enormously successful in every community where it has been organized and should not be converted to a permanent freestanding institutionalized program under the Neighborhood Reinvestment Corporation. I urge all of my colleagues to give this legislation their full and prompt consideration.

THE HORRORS OF THE FIRST MODERN GENOCIDE RECALLED

Mr. PROXMIRE. Mr. President, 62 years ago this month town criers walking through the streets of Armenian towns in Turkey ordered the people to assemble at Government buildings. There they were told of the Government's decision to transport them to areas better for their safety. Ox-drawn carts transported the elderly and invalids; the rest huddled together as they struggled along a prearranged route.

The slow-moving caravan did not have to go far before the number of deportees was reduced. Some were disposed of on the way in order to lighten the loads of the ox-drawn carts; others were murdered for their failure to keep up with the rest. Some women were taken out of the caravan by guards, raped and then murdered; others were taken as maids or slaves. When the caravan arrived at its destination, usually an isolated out-of-the-way place, guards encircled the people and told them of their fate. Then thousands, while crying to heaven, were gunned to their death.

Mr. President, 1 million Armenians were murdered that way. The once thriving and relatively prosperous Armenian communities in Asia Minor were literally obliterated by a swift and deadly stroke, conceived, devised, and executed by the Turks in the first genocide in modern history.

Arshag Sarkissian, a longtime worker and holder of emeritus status at the Library of Congress, graphically describes the suffering of the Armenians and the horrors of genocide in an article just published in the Armenian Review.

He tells of massacres that were "not merely massacres, but horrors unutterable, unspeakable, unimaginable by the mind of man." He insists that we remember that Armenians, not too long ago, "were absolutely hunted like wild beasts being killed wherever they were met."

First, Armenian soldiers—blamed for Turkey's military loss to Russia in 1914—were exterminated. Then, the simultaneous arrests of Armenian community leaders in all parts of the Empire took place. Many of these were also marked for summary hanging in public view on some trumped-up treasonable charge, while the rest were marched off from prisons to out-of-the-way places to be murdered by their guards.

Finally, came the uprooting of all Armenians from their homes. They were deported under circumstances of appalling misery, rape, and murder, to desolate deserts of Mesopotamia and Syria. There the wretched survivors of long marches languished and suffered a slow death by sheer exhaustion and famine.

"Regardless of women, children, and invalids, and however deplorable the methods of destruction may seem, an end is to be put to their existence without paying any heed to feeling of conscience," ordered Talaat Rey, the Minister of Interior charged with carrying out the genocide.

Mr. President, the mass murder of the Armenians was not an historic freak: genocide is a recurring evil.

For 28 years the Senate has had an opportunity to endorse the Genocide Convention and help bring genocide to an end But it has turned its back on this opportunity.

In closing his article, Mr. Sarkissian says he has "not quite understood why my people had to be guinea pigs in the first genocide in modern history." I too am confused. I do not quite understand why my colleagues refuse to do their part to put an end to the atrocities that Mr. Sarkissian's ancestors suffered.

EDUCATION OF INDIAN CHILDREN

Mr. METCALF. Mr. President, there can be no more important factor in the future of America than the education of our children. The education of Indian children must occupy a special place in our hope for the future, because in recent years the new authorities we have written to provide special assistance to native Americans have been the most exciting and successful programs to observe.

Several years ago I took a particular and personal interest in the formation of Upward Bound, a plan to assist disadvantaged students to remain in college. Several Northern Cheyenne of my acquaintance were graduated from the University of Montana under the sponsorship of Upward Bound and are now competing as fully trained and qualified professionals in their fields of training.

There is a similar program to encourage Indian high school students to stay in school and it, too, is having a significant effect on the dropout rate.

Mr. President, I ask unanimous consent that an article from the Great Falls Tribune describing a title IV program in the Great Falls public schools be printed at the close of my remarks.

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

INDIAN PROGRAM KEEPING STUDENTS IN SCHOOL

(By John Barber)

School Dist. 1's Title IV, or Indian program, is doing the job, says Murton McCluskey.

And the job it's doing is keeping Indian students in school.

McCluskey, director of the district's Indian program, said the dropout rate among Indian students this year should show a decrease compared to past years. But he said he won't have specifics until later this year when a study of dropouts is completed.

McCluskey said one reason they are staying in school is Indian clubs which have started in five schools: Great Falls and C. M. Russell High Schools, Paris Gibson and West Junior Highs and Longfellow Elementary.

"Projects of the Indian clubs are a very important part of the Title IV program," McCluskey remarked.

"Indian club activities keep them in school. We want to get them involved in activities of the school to make them feel they belong," he said.

McCluskey said the clubs do cultural things, such as beadwork, dances, music and demonstrations, and have films and speakers.

The Longfellow club, he said, does a lot of teaching of Indian crafts.

Some of the projects undertaken by Indian clubs—whose membership is open to non-Indians as well—included an Easter egg hunt put on for preschoolers through 12-year-olds.

The clubs have scheduled a dinner for April 24 at the YWCA which will feature Indian-type foods, McCluskey said. The dinner is to raise funds to send students to a Missoula youth conference (Kyi-Yo Days) April 28–30.

Kyi-Yo Days will include a two-day powwow, workshops, picnic and parade and will attract about 400 Indian students from throughout the state.

A youth health conference in Missoula also has attracted Indian club members.

Some other projects include car washes, bake sales, roller skating, bowling and field trips.

Advisors for the clubs are also the home-school coordinators: Sarah Shield, Grace Fairhurst, Jan Myers, Laverne Morris, Ed LaMere, and Carol Parrish. Assisting with the program are Charles Wilkinson, Pat Maki, Octavia, Asselstine, Bonnie Ray and Bill Ley.

"It's not so much the money they (students) make" on projects, adds McCluskey. "It's the involvement. One main goal of the Indian club is to help the other kids and keep them in school."

McCluskey thinks "kids don't get enough credit for the things they do. For instance, they helped Follow Through give a picnic for all kids this fall."

McCluskey said the Indian program "also tries to get kids involved in post-secondary (education)" and to get them into college.

"It's not part of our function in Title IV, but most of us feel anything we can do to be of service to them, we do."

He noted that Harvard has asked the school district "if we have students who can handle the work there" and added that Montana currently has seven Indian students attending that college, both on undergraduate and graduate programs.

McCluskey also said such programs as one offered Washington State University in Pullman help get Indians into college.

In WSU's program, Indians can attend school there to work on General Education Development (GED) certificates. When they obtain their GED, they can go on to college at WSU.

"Without this type of assistance, I don't know how many would continue," McCluskey said.

McCluskey adds that the home-school coordinators are another big reason Indian students are staying in school.

He noted that one coordinator made 240 home visits, attended 15 workshops and contacted 55 agencies during October and November.

"I don't know how many kid contacts were made," he added. "It's tough to keep track of that type of thing."

Another made 350 contacts in September and 307 in October—including contacts with teachers, parents, students and social services.

He commented that the contacts of the home-school coordinators are documented every two weeks. "I don't want any question about our credibility—because at one time there was."

McCluskey said coordinators get paid only

for eight hours, but they all do night and weekend work.

"They're totally committed to their work," McCluskey adds. "They're the most unselfish people I know."

THE FORGOTTEN VIETNAM VETERAN

Mr. McGOVERN. Mr. President, today's Washington Post contains a sensitive and excellent article by Colman McCarthy dealing with the personal impact of the Vietnam war among a group of veterans from the Cleveland area.

It is a heartbreaking story.

Dr. John P. Wilson, who directed the Cleveland study titled the "Forgotten Warrior Research project on Vietnam Veterans" has observed that:

> We as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget and in the process we ignore everything associated with the conflict, most of all the men who fought it.

We are now seeing up close the results of that foolish war. We are now reaping what we have sown and the toll in human costs is not measured in dollars and cents, but in terms of shattered lives.

Mr. President, I believe that all of us in the Congress would benefit by reflecting for a few moments in our own hearts on the tragic situation many Vietnam veterans find themselves in; especially those who cheered our participation in that war overseas and who are now callously adverse to facing its brutal legacy here at home.

I ask unanimous consent that this article, "Veterans of a Lost War," be printed in the RECORD.

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

[From the Washington Post, June 28, 1977]

VETERANS OF A LOST WAR

(By Colman McCarthy)

At hearings last Wednesday before the Senate subcommittee on veterans affairs, John P. Wilson, a psychologist from Cleveland State University, offered some staggering findings on how life is going for a group of 346 veterans from the Cleveland area. Wilson's study, funded by the Disabled American Veterans Association, sought to discover the personal impact of the war among a sampling of combat and non-combat veterans who were white and black and from all economic groups.

Wilson's study, called the "Forgotten Warrior Research Project on Vietnam Veterans," supplies some new information, however unsettling, to those in the old-line veterans groups, and their boosters in Congress, who believe that Vietnam was no different from earlier wars. When Wilson sought modest grant money—$20,000—for his research from the American Legion and the Veterans of Foreign Wars, he had no success.

He told Cleveland Magazine: "It was obvious that the subject was one that did not appeal to the interest of these groups. I think some may have guessed what we would come up with. . . . More than anything else this study will show the American public what happened in Vietnam. They have no idea of the human toll it took. By facing the reality of what the war did to the men who served there we can learn about society itself. My suspicion, at this time, is that we as a society feel ashamed, embarrassed and guilty about the war. Perhaps the Vietnam veteran is the scapegoat who gets blamed for our collective guilt. All we want to do is forget, and in the process we ignore everything associated with the conflict, most of all the men who fought it."

Reporting that the typical soldier in Vietnam was a late adolescent or young adult still in "the developmental period of identity formation," Wilson shows how that formation has been progressing since the war. Among black combat veterans, unemployment is 48 per cent; among whites, 39 per cent. Thirty one per cent of black, and 22 per cent of white, combat veterans are divorced. Forty one per cent of both groups have alcohol problems. Forty five per cent report poor family relationships. Fifty nine per cent of the blacks, and 67 per cent of the whites, have drug problems.

With these excesses of turmoil and tragedy in veterans' postwar lives, the answers to some of the "attitude" questions are not surprising. When asked, "If there were another Vietnam tomorrow, would you serve in the military?" 95 per cent of the combat veterans stated "absolutely not." More than 90 per cent do not trust the government. Wilson reports that "most of the men currently believe that the war was fought for economic purposes and that they were exploited by political leaders." If the men have bitter feelings about being duped by those who sent them into Vietnam, they also suffer from what Wilson calls "negative self-esteem." Thirty seven per cent of the black combat veterans, and 28 per cent of the whites, have negative attitudes about themselves.

The statistics tell, still again, that the burdens of readjustment have fallen more harshly on the black veterans. Wilson concludes that "for the lucky veteran, typically a white middle-class person with some college education and family support to help pay for higher education, the process of identity integration and finding a niche in society was not as difficult as it was for the poor black veteran without these benefits or opportunities. For the black veteran, life since Vietnam has been one hassle after another. A vicious cycle of Catch 22s has been the rule."

As an example Wilson cited the GI Bill. It is, he said, "inadequate to subsist on and simultaneously raise a family." Without additional job training or education, he said, the black veteran finds only menial jobs available—or none at all. Without education and good employment they are refused commercial credit to purchase houses. In turn, "lack of employment and a decent standard of living generate psychological stress that then spins off into interpersonal conflict, drug use and crime."

Readjustment from the Vietnam War thus leads to either battles against society or, if those can be contained, personal battles against the self. Earlier studies on readjustment problems suggest that the inner effects of war are prolonged and surface randomly. Vietnam veterans constitute 9 per cent of the Veterans Administration hospital population, but 20 per cent of the suicides in those hospitals. Another survey found that Vietnam veterans "have a higher rate of single-car, single-passenger fatalities than any other group in the U.S."

Despite the studies and statistics, it appears that many in Congress and the country don't want to be told the Vietnam experience was something special, because that obliges them to reflect on *why* it was special. And the answer to that, of course, is not just that it was the nation's longest, most expensive and second-largest war, but also that, after all that effort, the war was ignominiously lost. With the exception of eight Vietnam veterans, all war veterans in Congress are from World War II or the Korean War. Because their perceptions were shaped by their own readjustment periods—they returned as heroes to a grateful nation ready to reward them—many members see little need for passing legislation to provide more and broader services to Vietnam veterans and to be large-minded about their eligibility. Rep. G. V. (Sonny) Montgomery (D-Miss.) said, "I do not see the difference between the Vietnam war, the Korean war or World War II. They are all wars. The persons fighting the wars cannot tell any difference." Such an attitude, grounded either in ignorance or callousness, can only further alienate and depress the Vietnam veterans.

But it can't silence them. Ralph C. Thomas III, a Vietnam veteran and director of the discharge review division of the Harvard Law School Committee on Military Justice, told the House Committee on Veterans Affairs yesterday that he and his comrades had a stark awareness that this war was different.

During the Vietnam years, Thomas said, "the war's morality and even legality were questioned daily [and] debated on the floor of Congress as well as editorialized in the news media. . . . Such a climate couldn't endure without affecting the morale of the servicemen both within and without the country of Vietnam. We began questioning our own morals and principles and I can assure you that our political discussions were not less heated in the hills of Vietnam than yours were in the halls of Congress. I observed arguments concerning the validity of the Vietnam war that brought GI's to the brink of fisticuffs with one another. Such disagreements often led to a serviceman's demise. An unpopular political opinion to the wrong superior officer was usually the beginning of the wheels' being set in motion for a less than honorable discharge—regardless of the individual's competency or job performance. It is probably safe to say that during the Vietnam era more bad discharges were sparked by political considerations than during any other American war."

In the Winter 1975 issue of the Journal of Contemporary Psychotherapy, Victor DeFazio wrote that "the psychological climate of the war, the public's response to [veterans'] homecoming, the fact that most entered the armed forces during late adolescence, their moral doubt and the survival experience seem to account for [the Vietnam veterans'] unique difficulties and attitudes." Still to be explored are the psychological problems created by the newest obstacle to healthy and quick readjustment: politicians like Montgomery who are now as indifferent to the war's messy aftermath as once they were passionate for its escalation.

MAKING EVERY VOTE COUNT

Mr. GRIFFIN. Mr. President, for some time I have believed that the existing electoral college system for electing the President of the United States should be reformed, primarily because of the danger that a candidate not really the choice of the people can be named President.

As we know, that has actually happened three times in the past. Even though the country survived in those instances, I think it would be more difficult today for such a minority President to exercise effectively the powers and duties of the office with public acceptance of his leadership. That would be particularly true if a minority chief executive were of one party and the Congress were controlled by the other major party.

In the past, I have supported a proposed constitutional amendment to provide for direct election of the President by the people. But there are some aspects

of the direct election proposal that disturb me. Development in recent times of highly effective mass communication methods, particularly television, has led to more and more concentration of political effort in media-saturation areas. Now, the name of the campaign game is to concentrate the candidate's time in high population areas, where he can get the biggest TV bang for the political buck. If it were adopted, the direct election amendment is likely to encourage this trend in political campaigning, to the further disadvantage of smaller States and rural areas.

Recently, my attention was called to an alternative plan for electing the President which almost certainly would achieve the same result as the direct election method, while preserving an important role in the process for each State and each congressional district.

It is a relatively simple plan—which would award one electoral vote for each congressional district, two electoral votes for each State and a Federal electoral vote of 50. All votes would be recorded automatically without convening an electoral college.

This plan was described by its author, Arnold J. Levin, in a recent article in the Washington Post because I believe his proposal merits serious attention as the Senate considers the important question of how to elect the President, I ask 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 the Washington Post, May 22, 1977]

HOW TO MAKE EVERY VOTE COUNT

(By Arnold J. Levin)

Once again, plans are being pushed to "reform" the system under which we choose the Chief of State. The Carter administration has thrown its weight behind the proposal, offered by Sen. Birch Bayh (D-Ind.), for a constitutional amendment to abolish the Electoral College and provide for direct election of the President and Vice President.

On the surface the idea seems valid and democratically pure, but in fact it does not satisfy the basic objective of Electoral College reform. It would not assure an adequate voice in the selection process for all the varied interests in this vast and complex country.

This adventure into the political unknown, instead would reinforce the trend toward emphasis in political campaigning on the large population centers where television saturation influences the most voters. The danger is that areas with relatively few inhabitants but with economic and cultural significance would be neglected inevitably alienating voters of those regions.

There is, I believe, a practical alternative which would correct the faults in the present system and meet the reform objective. It would contain these elements:

Each congressional district would have one electoral vote.

Each state would have two electoral votes. These votes would be awarded to the candidate with the highest total in the popular vote in the given district or state.

In addition, there would be a federal electoral vote of 50, recorded for the candidate winning the most votes nation-wide.

Thus, there would be a total of 588 electoral votes, and a bare majority of 295 would be required for election to the presidency.

The Electoral College itself would be abolished, and the various electoral votes would be recorded automatically for the winning candidate after the results are certified by the proper state officials.

The required federal administration would be entrusted to the present Federal Election Commission or a special Presidential Election Commission nominated by the chief executive on a bipartisan basis and confirmed by the Senate.

That commission would record the various electoral votes and report the results to the Senate president and the House speaker. Congress would be required to declare the election of a President on the basis of the commission's report.

What would happen if there were charges of voting fraud? Requests for recounts on a district or state level would go to the commission for certification to the proper state authorities. If a recount could affect the ultimate outcome of the election, the commission could delay its report to Congress, subject to Supreme Court review. At any rate, all recounts would have to be completed within 60 days after election day.

What if there were three or more candidates receiving electoral votes and no one candidate won a majority? In such a case, the candidate running last in the national popular voting would be eliminated from consideration. His district and state electoral votes would be reallocated to the candidate who ran second to him in the popular vote in that particular state or district. This last-man-out concept would assure the selection of a President without the complexities of run-off elections on a district or state level.

The impact of such a system would be significant. In a direct and nation-wide popular presidential election, the individual voter is part of an anonymous mass, lost among 80 million or more voters trooping to the polls. But under the present proposal, each citizen's ballot would have a three-fold impact—on the district, state and national electoral votes.

By giving each state two electoral votes, we would assure recognition of each state's total voting pattern as well as the particular preferences of each district within the state. The 50 federal electoral votes, on the other hand, would reflect overall national concerns and help insure that the popular vote winner also won the electoral vote.

Direct, nationwide popular election would give no voice to our regional differences. The present proposal would recognize them. The people of the congressional district in rural Kansas would have equal weight with the voters in Chicago or New York. The cattle farmer and the production line worker would have means of political expression without one being overwhelmed by the other because of sheer numbers.

Or put it another way: Much was made at the time of the fact that in the 1976 election President Ford carried almost all the states west of the Mississippi. But surely Carter won congressional districts in those states. The difference is that Carter's district victories did not show in the Electoral College results.

Thus, the present inflexible principle that the winner takes all in a given state would be eliminated by the allocation of electoral votes to each district. On the other hand, given the prize of 50 federal electoral votes, the winning candidate would have to demonstrate a truly national appeal.

There is no question but that we require some form of electoral reform. In three of the last five presidential elections, we came within a hair's breadth of naming a President who placed second in the national popular vote. As all who follow the political process know, a shift of 9,245 votes—5,558 of them in Ohio and 3,687 in Hawaii—last November would have changed the electoral college total sufficiently to throw the election to Gerald Ford.

Such examples are used as arguments for the direct election of Presidents by direct nationwide popular vote. It does not necessarily follow. For, while congressional redistricting has distorted historical data to a degree, a review of election results from 1916 onward shows that in each presidential balloting the winner of the popular vote would have won the White House if the reform plan under discussion had been in effect.

Perhaps the benchmark is the famous 1960 election. John F. Kennedy's majority in the popular vote was slender—119,000 votes—but it was a majority. And yet a minor shift in votes in two states—4,430 ballots in Illinois where 4,757,409 people voted, and 23,117 votes in Texas where 2,311,845 votes were cast—would have given Richard Nixon 51 more electoral votes, enough to win though he would have been chosen by a minority of the voters.

But what if Nixon had received an additional 119,001 votes in the states whose electoral votes he did win? The result would not have changed. Kennedy would be President, a minority President.

Under the reform plan presented here, the winner of the popular vote in 1960 would also have won the presidency. And each vote would have counted, on a district level, a state level and a national level.

HARRIS SURVEY FINDS BUSINESS OUT OF TOUCH WITH CONSUMER SENTIMENT

Mr. PERCY. Mr. President, a recently released survey, conducted jointly by Louis Harris and the Marketing Sciences Institute associated with Harvard Business School, has shown that concern about consumer issues has grown rather than subsided in recent years, but that there is a serious gap between the perceptions of businessmen and consumers as to what should be done.

Next to controlling inflation, unemployment, and Federal spending, the public has stressed the need to help consumers get a good deal when shopping.

Although it is not surprising, the survey found a large gulf between the views of consumers and businessmen on how serious consumer concern actually is. Businessmen, according to the findings, have greatly underestimated the magnitude of public concern. Harris notes that—

> It is difficult to escape the conclusion that many top managers are, themselves, out of touch with consumers.

The magnitude of consumer dissatisfaction may be new but the nature is not. Complaints today echo those of more than a decade ago when the consumer movements began with the work of Ralph Nader.

Americans are concerned about dangerous products, product durability, deceptive marketing practices, and unresponsive segments of the business community. Consumers interviewed complained that, over the past decade, product quality has declined and prices have skyrocketed. Some 31 percent said product quality has worsened and only 27 percent felt that quality had improved. Some businessmen and regulators flatly reject this consumer criticism. By a 3-to-1 margin, senior business managers said they felt product and service quality had improved rather than worsened.

Typical of these divergent views are the sentiments expressed by the two groups on the subject of regulation. The

Harris survey shows that, by and large, consumers feel that Government regulation has failed to improve quality significantly. In fact, 46 percent of the public believes that Government regulation has helped business more than consumers.

Consumers are also cynical about the willingness of business to help the consumer unless compelled. Over 70 percent of the public doubted that, unless forced, businesses would attempt to upgrade products and services if this jeopardized high profits.

Not surprisingly, the two groups disagree on the need for a proposed consumer protection agency. Only 15 percent of the senior business managers interviewed stand behind the proposal, while 52 percent of the general public does.

However critical their current feelings are, consumers interviewed said they expected improvements in the coming decade. This optimism may compel changes among business and regulators. As Harris said:

This optimism presents a real challenge, for if the performance cannot match the public's expectations, then the groundswell of dissatisfaction, already so strong, will become more strident and more hostile. If business reacts slowly and grudgingly to consumer demands and fails to live up to consumer expectations, the call for far-reaching changes in the management and regulation of business may become irresistible.

The Regulatory Reform Act of 1977, which I am sponsoring together with Majority Leader BYRD, Senator RIBICOFF, and 39 colleagues in the Senate and strongly supported by the Business Round Table, is attempting to address some of the problems affecting consumers and businesses, as a result of the inefficiency and ineffectiveness of much of our regulatory system. Mr. Harris' study sounds a warning to both businesses and regulators, and it underscores our need to act expeditiously.

Mr. President, I think the findings of this study are an important index of sentiment on consumer issues and I ask unanimous consent that the preface to the study be printed in the RECORD.

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

CONSUMER AT THE CROSSROADS

A. INTRODUCTION

Consumerism At the Crossroads is the third in a series of national opinion research surveys commissioned by Sentry Insurance. In 1973, Sentry made a substantial commitment to the insurance industry and the public with its pioneering study, Consumer Attitudes Toward Auto and Homeowners Insurance. A second major survey, Businessmen's Attitudes Toward Commercial Insurance, was published in 1975. Both studies were widely publicized and distributed to the public and throughout the insurance and business communities.

In July 1976, Sentry commissioned the Marketing Science Institute, a non-profit research organization associated with the Harvard Business School, and the opinion research firm of Louis Harris and Associates, Inc., to conduct a broadly-based survey on the consumer movement.

The content for Consumerism At the Crossroads was developed by Prof. Stephen A. Greyser, Executive Director of the Marketing Science Institute and a professor of the Harvard Business School. Prof. Greyser, who has written extensively on consumerism, and has examined public and business opinion widely, was assisted by Dr. Steven Diamond, MSI Research Associate. Further assistance was provided by Brian McBain and Peter Small of the New York-based research firm, McBain and Small, Inc.

Louis Harris and Associates was responsible for the questionnaire design, field work, analysis and observations in this summary report.

This volume presents the basic study findings from the research, including the principal conclusions, supporting data and related observations. A more extensive analysis and interpretation of the survey data and their implications for business and public policy are being prepared by Greyser and Diamond for a monograph planned for publication by the Marketing Science Institute in the fall of 1977.

B. RATIONALE AND OBJECTIVES—WHY CONSUMERISM AT THE CROSSROADS?

In the decade since publication of Ralph Nader's "Unsafe At Any Speed," consumerism has become an important movement in the United States. It has matured from a cause of a handful of "radicals" to a paramount concern of many major American corporations.

Both consumer activists and the business community have aired their views on consumer issues. Activists have largely sought to increase the rights and powers of the buying consumer. The business community, in turn, has reacted in various ways—some effective, some ineffective or superficial. Earlier studies have found executives at both poles of the spectrum, considering consumerism on the one hand a threat to business, and on the other, a marketing opportunity. Proponents of consumerism generally claim they are providing greater protection for consumers. Businessmen often claim consumerism has brought increased regulations and policies unwanted by most consumers, and—worst—higher costs, which have had to be borne largely by the consumers.

Amid all the controversy, however, the voices of consumers themselves have been heard only rarely, and never in any comprehensive and systematic manner.

Within this context, Sentry Insurance undertook the sponsorship of this study to try to learn how accurately the differing views of consumer activists, business executives, as well as of regulators and legislators reflected the views and aspirations of the public with respect to consumer-related issues.

Taken as a whole, this study was designed to achieve two overriding goals:

1. To serve as a national "report card" on the consumer movement to date.

2. To provide insights into future directions for the consumer movement.

C. CONTENT AREAS

To accomplish these goals, the study explored public attitudes and perceptions in the following major areas:

The standards, practices and motivations of American business with respect to consumerism.

The role and effectiveness of government regulation of consumer matters.

The handling of consumer complaints by business.

Expectations for the future development of consumer affairs.

The extent to which different leadership groups are seen as speaking for the consumer.

The effectiveness and role of the consumer movement and its leaders.

The public's sources of consumer information and their attitudes toward such sources.

The expectations for the future of the consumer movement, regulation and the handling of consumer problems.

D. SAMPLE DESCRIPTION

A total of 2,032 interviews were conducted in person for this study. Each interview lasted on the average 80 minutes.

The sample included:

A representative national cross-section of 1,510 adults who were interviewed between November 27 and December 7, 1976.

Moreover the difference in meaning of the terms "consumerism" and "consumer movement" was explored in an additional cross-section of 1,459 adults between December 17 and December 30, 1976.

Six leadership groups were interviewed between January 24 and February 10, 1977.

These groups included:

219 consumer activists;

85 government consumer affairs officials;

33 insurance regulators,

32 non-insurance regulators;

100 senior business executives; and

53 consumer affairs specialists in business.

Technical details and a full description of the methodology may be found in the Appendix.

Conclusions and implications

Consumerism At The Crossroads set out to evaluate the impacts of the consumer movement over the past decade, to evaluate the strength of the movement now and to gain insights into its future directions. Equally important, the study sought to determine who, if anyone, speaks for the consumer and how closely in touch with the consumer the various leadership groups are—senior business managers, consumer affairs professionals in business, consumer advocates in government, independent consumer activists, regulatory officials.

The individual chapters of this report report on the detailed findings question-by-question. This section addresses the overall questions raised at the outset and comments on the implications of the findings for the future.

A. THE CONSUMER MOVEMENT IS HERE TO STAY AND, IN FACT, IS GROWING STRONGER

The consumer movement has accomplished much in the past decade. According to consumers, consumer shopping skills have gotten better (72 percent), product information and labeling has gotten better (70 percent) and product safety has improved (60 percent). There is still a long way to go. By 50 percent to 27 percent consumers feel they get a worse deal in the marketplace than ten years ago and by 61 percent to 27 percent they believe the quality of goods and services has gotten worse. Consumers believe that products don't last as long as they did 10 years ago (73 percent) and that it's more difficult to get things repaired (64 percent).

Overall there is general optimism as to the future, yet this optimism is tempered with realism. Consumers believe product information and labeling will improve in the next decade (76 percent), their own shopping skills will improve (71 percent), product quality will improve (50 percent), and by 48 percent to 20 percent, they will get a better deal overall in the marketplace. However, by two to one they believe that products will not last as long as they do now and that it will be more difficult to get things repaired (55 percent to 26 percent).

There are a number of problems which worry consumers a great deal. They worry about the high price of many products (77 percent), the high cost of medical and hospital care (69 percent), the poor quality of products (48 percent), the failure of many products to live up to their advertising (38 percent) and so on.

B. THERE ARE MANY TARGETS FOR THE CONSUMER MOVEMENT

Leadership groups and consumers alike think that many different industries and services are doing a poor job in serving consumers. The most frequently mentioned are

car manufacturers, auto repair shops, the oil industry, used car dealers, hospitals, the medical profession, electric utility companies, credit loan companies and the advertising industry.

The methods the leadership groups thought would be most effective in influencing the practices of these industries are consumer boycotts, getting consumer representatives in government and in regulatory agencies, class actions, and lobbying Congress and regulators.

C. NO PARTICULAR GROUP SPEAKS FOR CONSUMERS, BUT NON-GOVERNMENT CONSUMER ACTIVITIES ARE SEEN AS MOST IN TOUCH WITH CONSUMERS AND SENIOR BUSINESS MANAGERS ARE LEAST IN TOUCH

What the public feels should be the targets of activism does not always coincide with what consumer advocates think.

For example, while 73 percent of activists would focus on electric utilities, only 37 percent of the public thinks they should do so.

Similar disparities are found with respect to the nuclear power industry (19% public—61 percent activists), the advertising industry (28 percent public—63 percent activists), and the banking industry (10 percent public—41 percent activists). Despite these differences, activists were found to be in closer agreement with the public on most consumer issues than were any of the other leadership groups surveyed.

Senior-level business managers, the survey showed, were most out of touch with consumers.

D. ON THE QUESTION OF REGULATION OF BUSINESS NONE OF THE LEADERSHIP GROUPS ARE IN STEP WITH THE PUBLIC

The failings of the regulatory system are widely recognized and neither the public nor business, nor consumer activists, nor even the regulators themselves, are very happy with the status quo. While 43 percent of the public think that government regulation has, on balance, done a good job, 46 percent feel that regulation has done more to help business than to protect consumers. However, only 16 percent believe that companies should be left to themselves and should not be regulated.

The public and leaders are highly critical of what federal, state and local governments have done, or not done, to help consumers.

Consumer activists who call for more government regulation and businessmen who call for less are both sharply out of step with the public. A majority of the American people would not be satisfied by either an increase or a decrease in regulation.

E. THE SURVEY INDICATES THAT THE PUBLIC WOULD SUPPORT A NUMBER OF NEW PROPOSALS WERE THEY TO BE DEVELOPED

By a modest majority, 52 percent to 34 percent, the public favors the idea of a new federal government agency for consumer advocacy.

72 percent of the public supports a proposal to hold a major convention every four or five years at which government, business and consumer representatives would work out long-term policies in the consumer field.

By 66 percent to 25 percent the pubic believes that it would be helpful if every community had a complaint bureau where complaints against manufacturers, dealers and salesmen could be dealt with.

By 79 percent to 11 percent the public believes that there should be a new independent testing center for evaluating the safety of potentially dangerous products, run by either the federal government or consumer activists, rather than by business.

92 percent of the public believes that consumer affairs should be a compulsory subject in all high schools.

By 77 percent to 8 percent, a majority of the public believes that all large companies should be required to employ a senior officer with responsibility for consumer affairs.

By 65 percent to 16 percent the public feels that all large companies should be required to have a public or consumer representative on the board of directors.

F. BUSINESS VIEWS AND PUBLIC VIEWS

The business community is sharply out of step with the American people on consumerism issues.

Observation

In the next few years, it can expect to be vigorously attacked by both consumer activists and elected representatives. And it will be more severely regulated unless there are major changes within the business world.

The study indicates need for three different kinds of change. The first is a change in the attitudes and perceptions of senior management, based on better information about consumer needs, consumer attitudes and consumer expectations.

The second step, would be for very specific improvements of the kinds which consumers are demanding—safer products, better quality, better service, more reliable products, better guarantees and warranties, better complaint handling mechanisms, and so on.

The third need is for better communication with the public about the steps which companies are taking to be responsive to and about the very real problems which business has in meeting consumer demands.

Contrary to the views of many business executives, there is no inherent contradiction between these steps and the profit motive. According to the findings, consumers have always been prepared to pay more for better products provided that the difference in quality is real, the price differential is not excessive, and they are fully aware of the improvements that have been made.

G. ADVERTISING

Mistrust of advertising, and the claims made by business in its advertising, runs through many of the findings in this survey. The public questions the honesty and accuracy of advertising. Almost everyone believes that some advertising is misleading, 46 percent of the public think that most or all of television is seriously misleading and 28 percent hold similar views about print media advertising.

H. THE IMPLICATIONS FOR THE MEDIA

There is a public support for two developments in the reporting of business and consumer affairs. Fifty-four percent of the public would like newspapers, magazines and television to give more attention to consumer affairs and consumer information. But more published information alone would not satisfy public demand unless the credibility of media reporting can be improved. There is very little public confidence in the reliability of reporting of consumer affairs by journalists. While 33 percent of the public think that the problem is one of bias, the real credibility gap, to which the media would do well to address itself, concerns accuracy and reliability rather than the motivation of reporters or editors.

I. IMPLICATIONS FOR THE INSURANCE INDUSTRY

The insurance industry, as this study shows, is less unfavorably regarded than many other industries. Very few—less than 10 percent—spontaneously blame the high cost of premiums on insurance companies looking to increase profits. Also consumers are quite reasonable and realistic in that they blame higher auto insurance costs, for example, on more accidents, inflation, the rise in the cost of parts, increased numbers of claims and lawsuits, etc.

The public's attitudes to questions of product liability are significantly less demanding than are those of consumer activists or than the actual number or size of awards made in court in recent years. Essentially the public believes that accidents resulting from the negligence of the victim rather than from the negligence of the manufacturer should not result in claims against the manufacturer.

Some insurance companies in light of OSHA, have already developed the service to evaluate and certify the health and safety standards of factories. This survey suggests a similar opportunity for insurance companies to evaluate and certify the safety of a company's products, and to set guidelines for both the substance and language of guarantees and warranties.

Thus, the insurance industry appears to retain considerable confidence of the public.

THE BLIND TRUST

Mr. SASSER. Mr. President, yesterday, during the consideration on S. 555, the Public Officials Integrity Act, the Senate adopted by a voice vote an amendment to allow public officials, including Members of Congress, to use a blind trust mechanism to protect themselves from conflicts of interest or the appearance of conflicts of interest. Although I was away from the Senate on official business at the time of the vote, I wish for the record to note my opposition to this amendment.

This amendment was the subject of hearings before the Senate Committee on Governmental Affairs, of which I am a member. During that hearing, the committee took testimony from many groups and individuals. From the hearings, and from my personal experience as a candidate for public office, and as a public official, I must conclude that the well-meaning amendment adopted yesterday is not the proper way to address the possibility of conflicts of interest.

The question that faced the Senate yesterday was, "Can there be such a thing as a truly blind trust?" Mr. President, I believe that there can be no such mechanism. I mean in no way to question the integrity of my distinguished colleagues who offered the amendment. Indeed, there is no indication that any of my colleagues have ever—or will ever abuse the public trust through the improper use of a blind trust. I simply feel strongly that the best way to avoid conflicts of interest, and the appearance of conflicts of interest, is to make a full financial disclosure and to let the public judge whether or not your votes have been impartial and in the public interest. The public can never truly judge your voting record in this sense if your assets are in a so-called blind trust. I hope that my colleagues will take a long and hard look at the blind trust mechanism and, whenever possible, choose to make a full financial disclosure of their assets so that the public may know at all times whether or not a Member's votes are benefiting him or her personally.

Mr. President, I would also like to praise my distinguished colleagues for the good-faith effort they have made to establish a truly blind trust mechanism. The standards adopted yesterday are indeed the toughest I have ever seen. The amendment reflects the hard work and diligent and fair efforts of the chairman and ranking minority member of the Governmental Affairs Committee and of my fellow committee members, Senators DANFORTH and NUNN, who sponsored this amendment with the distinguished Senator from California, Mr. CRANSTON. My

opposition to this amendment in no way diminishes the work they have done.

RETIREMENT OF DR. GLEN P. WILSON

Mr. STEVENSON. Mr. President, it is with regret that I announce the retirement of Dr. Glen P. Wilson from the Senate. Dr. Wilson came to the Senate as an assistant to the late Lyndon B. Johnson in 1955 and has served with distinction for more than 22 years.

As a staff member of the Special Committee on Space and Astronautics, he helped to write the National Aeronautics and Space Act of 1958, and he was the only staff person to serve throughout the entire history of the Committee on Aeronautical and Space Sciences. His most recent service has been on the Subcommittee on Science, Technology, and Space of the Committee on Commerce, Science, and Transportation.

As chairman of that subcommittee, I can say that we certainly hate to see him go, but wish him continued success in his new endeavors.

THE FIRST 100 YEARS

Mr. MATHIAS. Mr. President, it is fitting that we cherish particularly warmly those institutions which are part of a glorious past, as well as of a challenging present. The Oakland Republican is such an institution. Every week for over one-half of the life of our Nation it has published an edition from its home in the westernmost part of Maryland—Garrett County. Recently, the Republican noted with undue but characteristic modesty the anniversary of its first 100 years of publication, years which witnessed the growth of a great nation and the strengthened vitality of a beautiful and rugged county.

The Oakland Republican has taken us from the days of the Pony Express to men walking on the Moon, and its many admirers and subscribers, confidently predict another 100 years of newspaper excellence from it.

I ask unanimous consent that the editorial and news story which appeared in the Republican on March 3, 1977, be printed in the RECORD.

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

THE FIRST 100 YEARS . . .

Today The Republican begins a second century of publication. This newspaper has been issued every week for one-half the life of the United States. It has had a broad and colorful existence, witnessing much change, both locally and nationally.

The achievements and advancements of mankind in every field the past century are unsurpassed by any other hundred-year period in history.

The Republican had been a part of it, or a witness to, five wars, the terms of 20 Presidents and the addition of 12 states to the Union. It has seen the invention of the telephone, the wireless telegraph, the television, the automobile and the airplane. At its beginning, people were carried about town in buggies. Today people are carried to the moon in rockets.

Closer to home, The Republican reported stories over the years concerning the Great Depression, prohibition, women's suffrage, the Gay Nineties and the Roaring Twenties. The list goes on.

The growth of a county newspaper is usually a good indicator of the growth and progress of the county itself. As a county grows, more news is made and more advertising is purchased. Over the past 20 years The Republican has grown by leaps and bounds to become one of the largest weeklies in the east.

While Garrett County has not grown so much in population, it has made tremendous gains economically, educationally and recreationally. Garrett County is constantly moving, creating better lives for everyone therein contained. This is unlike many other counties in the nation which have become stagnant.

May the next century continue to look with favor upon us.

THE REPUBLICAN COMPLETES ONE HUNDRED YEARS OF PUBLICATION

Today's issue of The Republican, Volume 101, Number 1, marks the beginning of the one hundred and first year of publication of the weekly newspaper.

The first issue of The Republican rolled off the hand-fed press on Saturday, March 4, 1977, under the editorship of Captain James A. Hayden, in hopes that it would become "a permanent institution" in the county.

Captain Hayden, who became Major Hayden for his gallant conduct at the battle of Gettysburg, published The Republican for 13 years before selling out to Benjamin H. Sincell, an employee of Major Hayden at the time.

Mr. Sincell issued his first newspaper on July 11, 1890, his 21st birthday.

In 1911, Benjamin's son, Donald R. Sincell, at the age of twelve, began working at The Republican office. Donald assumed the position of managing editor in 1947, a position which he still holds today.

Benjamin Sincell remained editor until his death in 1947, when associate editor, George H. Hanst took over the position. Mr. Hanst served as editor for 30 years until his retirement this past January. His place was taken by Donald W. Sincell, great-grandson of Benjamin H. Sincell, grandson of Donald R. and son of Robert B. Sincell, production manager.

The circulation of The Republican is now approximately 9,800, reaching nearly every state in the union and various points overseas.

WALLOP CLARIFIES LOGGING ISSUE

Mr. DOLE. Mr. President, in recent years the issue of logging policy in the national forests has developed into a controversy of major proportions characterized by alarmism, name-calling, and misinformed accusations. The latest timber policy flap concerns a provision in the National Forest Management Act of 1976 relating to bidding procedures used by logging companies in purchasing timber grown in the national forests.

A bill to amend the act by giving the U.S. Forest Service discretion to permit either sealed or oral bidding practices was favorably reported by the Committee on Energy and Natural Resources last week. Today the Committee on Agriculture, Nutrition and Forestry, which shares jurisdiction over the National Forest System, also reported the bill.

A recent spate of articles and editorials in the Washington Post and elsewhere have shed more heat than light on the issue by creating the erroneous impression that the bill, which would permit a return to oral bidding under certain circumstances, will necessarily result in collusion and price fixing among timber purchasers.

The distinguished Senator from Wyoming (Mr. WALLOP) convincingly puts this notion to rest in a letter to the editorial page editor of the Washington Post. I ask unanimous consent that Senator WALLOP's letter be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., June 21, 1977.

Mr. PHILIP L. GEYELIN,
Editorial Page Editor, The Washington Post, Washington, D.C.

DEAR EDITOR: George Lardner's June 16th article, "Western Lobby Trying to Topple Timber Law," contributed to the literature that leads unknowing readers to conclude that collusive bidding is widespread in the timber industry. I must answer by saying that there are no facts to support such an allegation. The Justice Department has undertaken ten investigations since 1960 during which time thousands of sales generated over one half billion annually. One conviction resulted.

Many of Mr. Lardner's statements are essentially half truth distortions peculiarly the privilege of a writer, and denied to the accused. The article makes the point that sealed bidding has been the rule in the South and East for decades. This is true, but the pattern of ownership and supply differs greatly between those regions and the West. Timber purchasers in the West must deal with a government monopoly in the supply of timber, as opposed to the South and East where much of the timber is privately owned. In these areas the success or failure of a given timber operation seldom rides on the ability to purchase a Forest Service sale, as it does in the West. Many mills in the West rely on a specific mix of log types or species. Failure to purchase the right sale at the right time could mean not only financial loss, but actual shutdown for some mills. Many small Western communities are totally dependent upon these mills as their sole economy. Contrary to Mr. Lardner's implication, it is not the huge timber companies, but the small operations whose survival is at stake.

The article says oral bidding offers an opportunity to buy timber at the cheapest possible price. This statement is not only misleading, but it is irrelevant. The Forest Service establishes a price below which it will not sell timber offerings. All bids, to be acceptable, must meet or exceed that price. If the final price is too low, it is the fault of the appraisal system, not the bidding system.

Parenthetically, it is also the fault of the gross mismanagement of the national forests. The board feet of diseased or damaged timber is increasing at a rate faster than the total sales of all timber. It leaves the country with a product to sell which yields less than one hundredth of the price green healthy timber would bring; a needless waste of a national resource which is the result of poor management practices.

As for the contention that oral bidding makes it easier to collude, I do not believe that those who might be inclined toward collusion will be stopped by sealed bidding. Agreements can be made prior to bidding regardless of the bidding method. If there is collusion in the timber industry, the participants should be prosecuted. Generalizations about sealed bidding only lump the innocent with the guilty.

I wish to emphasize that the issue is not

collusion, which can be dealt with. The issue is community stability and an appropriate business climate. The oral bidding system allows individual timber operators more flexibility to protect dependent communities. The economic viability of many Western communities is threatened by a total sealed bidding system. Timber companies in these areas frequently bid away all profit to assure getting a sale of needed timber or bid a reasonable price and take a chance of not getting the sale. This quickly turns into a rather expensive game of Russian Roulette which dependent communities cannot afford to lose to operators from outside the area. They must have the freedom to increase their bids in an oral auction when they are faced with a "must buy" situation for a given timber sale. With the dwindling Forest Service offerings in the West, that situation is becoming more common every day.

I must point out that the big companies become the beneficiaries and the consumer the loser in the application of rigid policies which do not recognize all market forces. The auction has long been one of commercial man's tools to assure competition, not to eliminate it. Only a competitive sales technique will assure equity to public consumers, communities, and operators. The forests are a national asset and their management deserves more thoughtful comment than Mr. Lardner gives them.

Sincerely,

MALCOLM WALLOP,
U.S. Senator.

PATRICIA HARRIS AND HUD

Mr. METZENBAUM. Mr. President, the Washington Post of Saturday, June 25 carried a very impressive editorial commending HUD Secretary Patricia R. Harris for her affirmative action in advising the mayors of this country to concentrate their community development programs in poorer areas.

I, too, commend the Secretary for her efforts to enlarge housing opportunities and I ask unanimous consent to have the editorial printed in the RECORD for the information of the Senate.

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

NO HOUSING, NO GRANTS

The Department of Housing and Urban Development has been reminding local officials recently that community-development block grants come with strings attached. The message is aimed especially at middle-class suburbs, which relish the federal aid for sewers, parks and other facilities but resist providing housing for low- and moderate-income people. Central cities, however, are not home free; HUD Secretary Patricia R. Harris and Assistant Secretary Robert C. Embry have told mayors bluntly that they will also have to concentrate their CD programs in poorer areas, instead of scattering projects all over town.

If HUD's new toughness comes as a jolt to some local governments, it is only because the Ford administration never consistently enforced Congress's 1974 directive that the $4-billion grant program be used primarily to benefit lower-income people, expand their housing opportunities and prevent or eliminate blight. According to the National Association of Housing and Redevelopment Officials, local governments actually used 49 per cent of the first-year grants and 56 per cent of the second-year funds in higher-income areas.

No more, HUD is now reviewing jurisdictions' housing-assistance plans and performance much more carefully. As staff writer William Chapman reported the other day, an application by Hempstead, N.Y., was turned down recently because of the community's poor record on low-income housing. Last month the city council of Boca Raton, Fla., hurriedly approved a subsidized housing project in order to save a $400,000 grant.

HUD's new aggressiveness is not going to bring widespread, instant economic integration to suburban America. For one thing, suburbs may opt out of the program if they decide that exclusivity is worth the price. A number have done so, including Cicero, Ill., and Warren, Mich., whose resistance to subsidized housing caused so much trouble for former HUD Secretary George Romney some years ago. Moreover, even where suburbs are amenable to aiding lower-income residents and workers—as several Washington-area jurisdictions are—progress is likely to be slow. The high cost of housing not only keeps poorer people out of the private markets; it also makes subsidies very expensive and restricts their scope.

Even so, the CD program can be an important catalyst, especially if coordinated with other efforts such as enforcement of fair-housing laws. If HUD hangs tough, local officials will no longer be able to evade politically sticky housing issues so easily. Indeed, federal firmness may give some timid local governments sufficient reason or excuse to accept, finally, their responsibility for helping to enlarge housing opportunities. As a result, both suburbs and cities can gradually become more economically and residentially diversified, and the isolation of poorer urban dwellers will be reduced. That's what the program is meant to promote. For taking it seriously, despite the likelihood of unpopularity in some quarters, Mrs. Harris and Mr. Embry deserve congratulations and support.

STATE PROGRAMS SUFFER UNDER FEDERAL REGULATION

Mr. PERCY. Mr. President, in hearings, now completed, before the Intergovernmental Relations Subcommittee of the Governmental Affairs Committee concerning the Regulatory Reform Act of 1977—S. 600—we discussed at length the shortcomings of much of the Government's regulatory system. We heard testimony documenting the extent of much of its ineffectiveness and inefficiency.

Until now, we have focused primarily on the impact of regulation on the operations of the Federal Government itself, and on the individuals and groups who must conform to regulatory requirements. However, we have devoted rather little attention to the effects of regulation on the various States.

In the May issue of Nation's Business, former Gov. Patrick J. Lucey of Wisconsin examined Federal regulation as it impacts upon the States.

Although the regulatory problems affecting the States do not differ significantly from those which have affected others who have been subject to some form of regulation, they are, nonetheless, a significant dimension of the overall problem and must be addressed. After all, in fiscal 1975, the Federal Government appropriated $50 billion to be spent by State and local units of government. This comprises 21 percent of the Federal domestic budget.

Governor Lucey is not the only Governor who feels unduly constrained by what he calls "needless Federal regulatory requirements and burdensome paperwork." Several Governors joined him in preparing a report on the effects of regulation from the National Governors' Conference this year.

Governor Lucey outlines numerous instances in which lack of coordination among Federal departments and agencies has resulted in conflicting and often contradictory guidelines governing various State programs. He criticizes Federal regulatory policy for encroaching on matters under State jurisdiction and for focusing more on details than on end results. And he repeats the charge, heard all too often, that mountains of paperwork are impeding governmental operation.

Lucey notes that:

The Federal agencies have refused to give State agencies the flexibility and authority needed to run programs effectively. The Federal agencies have issued reams of requirements, with the result that States constantly are out of compliance with Federal guidelines. And in the scramble to keep up with Federal dictates, picayune matters compete for attention with vital issues. Complying with Federal administrative rules receives higher priority than delivering services to citizens.

Mr. President, as we approach mark up in the Governmental Affairs Committee on the Regulatory Reform Act of 1977, which I am sponsoring with Majority Leader BYRD, Senator RIBICOFF, and 39 other Senators, I hope we can give serious consideration to the effects of regulation on Federal-State relations. Governor Lucey's article merits attention and I ask unanimous consent that it be printed in the RECORD.

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

HOW ABSURD FEDERAL RULES VICTIMIZE THE STATES

(By Gov. Patrick J. Lucey)

When the state of Wisconsin built some facilities for the mentally retarded a few years ago, it included about 100 single rooms providing 90 square feet of living space—ten square feet more than called for in existing federal regulations.

Later the federal Department of Health, Education, and Welfare issued new standards requiring that individual rooms had to be at least 100 square feet in size. Moreover, HEW decreed that no more than four mentally retarded residents could occupy a multiple sleeping room.

If Wisconsin is to live up to the revision in federal living space standards, it will have to eliminate single rooms, combining two singles into one double in order to pick up the required additional space. Needless to say, the state will not be able to accommodate as many persons who need individual housing.

LOWER QUALITY OF CARE

To comply with the other requirement—a maximum of four persons per room—would involve $3.1 million in remodeling costs. Also, I am advised that we would have to add more than 200 people to the staff at an annual cost exceeding $2 million. Currently one health professional can closely supervise 12 to 16 seriously retarded patients who are cared for in large dormitory-style quarters. The present staff could not provide the needed care if these quarters are broken down into smaller rooms.

Not only would these federal requirements fail to significantly improve patient care in most cases, but they would actually result in a lower quality of care for some patients. Nevertheless, if Wisconsin does not comply with the requirements, it will lose federal

funds whose source is taxes paid by its citizens as well as the citizens of other states.

The state of Oregon set out to replace two old bridges, one over the Yachats River and the other over the Snake River. Both the Oregon Highway Department and the Federal Highway Administration, an agency of the U.S. Department of Transportation, had approved project environmental assessment reports.

In stepped the U.S. Coast Guard, another part of the Department of Transportation, and threw out the environmental assessments. The Coast Guard demanded that the state file a negative declaration—showing neither bridge would adversely affect the environment—or an environmental impact statement. This delayed construction three months for one bridge and eight months for the other.

UNNEEDED AIRPORT REPORTS

If a state wants to participate in the federal airport development program, it must file an environmental impact assessment report estimating the amount of aircraft emissions that will result from the increased use of whatever airport is involved.

These emissions projections are then compared to the national ambient quality standard. For most small general aviation airports, the pollution level during the worst period ten years hence is expected to be less one tenth of one percent of the standard. Yet development projects at such airports are not exempt from the projected emissions procedure.

The procedure is a requirement of the Environmental Protection Agency, even though researchers commissioned by EPA concluded there was no need for such projected emission calculations. Interestingly, the conclusion was based on studies made at the Van Nuys Airport in California and the New Tamiami Airport in Florida, two of the nation's busiest general aviation airports. The researchers found there were "no instances in which predicted [emission] concentration exceeded air quality standards."

THE REAL DAMAGE

These are only a few examples of what state and local governments must put up with in order to do business with Uncle Sam.

The damage done by federal red tape is much more serious than a mere listing of needless paperwork and meaningless requirements would imply. The real damage is in waste of tax dollars, misuse of public employee skills, and subversion of program goals.

In Wisconsin federal red tape has snarled state attempts to clean up the air and waterways, and it has deflected attention and money from meaningful affirmative action efforts in the employment of women, minorities, the handicapped, and veterans.

State employees who are supposed to be fighting pollution are so busy trying to keep up with a steady flow of new federal regulations that they have difficulty getting on with their job.

During one period, for example, EPA issued an average of one new regulation per working day. Each regulation must be reviewed by the Wisconsin State Department of Natural Resources. Anytime a regulation requires revision of the state administrative code—and about 30 regulations do each year—there is a cost of $10,000 to $15,000 in staff time. Continuous changing of federal rules also means that the state's enforcement effort is constantly out of compliance with federal standards.

Members of the University of Wisconsin affirmative action staff, who could be helping to find qualified minority candidates, spend most of their time meeting detailed—and often absurd—federal reporting demands. Two university employees have spent more than seven months adjusting a 6,000-page affirmative action report so it will comply with rigid requirements laid down in Washington. I cannot conceive what reasonable need this will meet, nor do I believe there are enough bureaucrats in Washington to analyze such reports pouring in from states and territories.

FIVE PROBLEM AREAS

Wisconsin certainly is not alone in trying to fight its way through the federal bureaucratic thicket.

I joined other governors in preparing for the National Governors' Conference a report detailing the pervasiveness of needless federal requirements and burdensome paperwork. The report identified these five general problem areas which characterize state and federal relations:

Lack of coordination among federal departments or agencies.

For example, a state trying to help people displaced from their homes or businesses by federal construction projects run up against eight different sets of guidelines from eight separate government agencies. You can imagine the confusion—and the inequities in many cases. Residents of opposite sides of a street and businesses located around the corner from each other receive different levels of assistance because of disagreement among bureaucrats.

Both Congress and the executive branch are aware of this situation and have tried to do something about it. Progress is slow, however. More than five years after special committees were set up to bring order out of chaos, these committees still are discussing ways of compensating residents of businesses forced to relocate.

At the state level this has created administrative nightmares for those agencies responsible for providing uniform treatment to uprooted homeowners and business establishments.

The federal government's tendency to exceed its authority by encroaching on matters wholly under state jurisdiction.

Consider the Land and Water Conservation Act. Say a state agency wants to use funds obtained under the act to buy a small parcel of land to expand a park or forest. As a result of a provision in the act, the entire park or forest then would come under the jurisdiction of the Bureau of Outdoor Recreation. If the state thereafter wanted, for example, to straighten out a highway running through the property, the state would have to get federal permission and assure Uncle Sam that whatever land is lost to the road would be replaced by other land.

More attention is paid to detail than to end results.

I have already described how the imposition of unrealistic federal regulations will hurt Wisconsin's efforts to help its mentally retarded. Now take Circular 74-7, issued by the Office of Management and Budget, which calls for a biennial audit of every state and local project supported by federal grants.

The U. S. Department of Agriculture has announced that the school lunch program must comply with Circular 74-7. In Wisconsin state law already requires annual audits of all public school districts, and food programs are reviewed every three years. The combination of the two has kept abuse of the school lunch program to a minimum.

Must the state really be put to the expense of a review of the school lunch program every two years?

If the school lunch regulations are extended to include the other child nutrition programs, as Agriculture Department officials hint may be done, about 3,500 schools, camps, day care centers and Head Start programs in Wisconsin would have to be audited biennially. We estimate we would have to add 25 full-time auditors, and the taxpayers of my state would have to ante up $250,000 annually to pay their salaries. Does that make sense?

Regulations governing some federal programs are far too rigid. Take the guidelines set down by the Defense Civil Preparedness Agency for preparing public officials and communities to handle disasters. The time allotted for each activity is clearly spelled out, with little room for adjustment. For examample, the regulations decree that one quarter of a day may be spent in each school district developing emergency preparedness curricula, but no allowance is made for the fact that one district may have only one school and another may have 150 schools. Such provisions make it impossible to tailor programs to fit special needs.

Excessive paperwork requirements.

The sheer volume of the paperwork involved in federal regulations with which state agencies must comply is astonishing. EPA rules on air quality programs take up 842 pages in the Code of Federal Regulations. Between July 1975, and March 1976, a total of 359 changes and additions to the air quality guidelines were published, and 77 new rules were proposed. Each new regulation must be reviewed to determine if it conflicts with state law or rules, whether state resources are available to comply, and what implementation will cost.

In Wisconsin the paperwork issue takes several forms. State agencies are required to supply the federal government with exhaustive reports at frequent intervals. Sometimes the data provided are available to no one but the federal agencies requesting the information. Sometimes several agencies require the same information; but, due to different reporting formats and time frames, one report will not suffice.

As part of the affirmative action program, the Office of Civil Rights at one point required 14 separate analyses of every employee action on state university campuses. For the University of Wisconsin campus in Madison alone, this amounted to more than 100,000 separate analyses. The final affirmative action plan for the campus took up 16 volumes and roughly 6,000 pages.

Any state using funds under the Federal Water Pollution Control Act must come up with new plans each year, even though the state's programs remain essentially unchanged. This costly, duplicative procedure generally serves no useful purpose. From the state of Pennsylvania alone came a stack of documents five feet high between April 15 and Oct. 1 last year. Pennsylvania had submitted much of the same information in prior years.

Sometimes we spin our wheels hopelessly trying to keep up with Washington. Last April we in Wisconsin received a request from the Federal Highway Administration to report in detail the participation of minorities in state building contracts. As often happens, all of the information was in the files of the agency making the request, so we would have been put to an unnecessary expenditure of time and money in order to comply.

In this case, however, we were spared. A week after the request was made it was canceled.

Another incident involving the Federal Highway Administration defies explanation. When the agency issued new contract provisions, it inadvertently included some of the same language in both the principal set of provisions and an accompanying supplement. The agency has ignored a request to eliminate the duplicative pages. In Wisconsin alone we let approximately 250 federally funded highway construction contracts annually. Normally 80 copies are made of each proposal. As a result of the duplication we have to send out many thousands of totally useless pages.

Federal funds are held up by lengthy approval procedures and other cumbersome administrative practices.

States participating in programs author-

ized by the 1974 Housing and Community Development Act must submit voluminous documentation to the Department of Housing and Urban Development. Extensive cost data, detailed financial statements, and previous participation statements from contracts must be presented. The supporting documents weigh about 2.5 pounds and, because of their size, must be mailed to HUD in a box. We used to be able to send the documents on HUD programs in a regular business envelope.

Even though HUD guidelines dictate a ten-day turnaround on these papers, I am told some states have experienced delays in HUD action of up to nine months.

HOW DID IT HAPPEN?

How did the state-federal relationship come to be such a model of irrationality and inefficiency?

Beginning with the New Deal and continuing through the Great Society era, massive federal programs have been enacted which directly affect the lives of millions of our citizens. Of necessity, the federal government has had to rely on the states to administer some of the programs.

In fiscal 1975, $50 billion in federal funding was spent by state and local units of government. That figure represents 21.3 percent of the federal domestic budget.

Yet the federal agencies have refused to give state agencies the flexibility and authority needed to run programs effectively. The federal agencies have issued reams of requirements, with the result that states constantly are out of compliance with federal guidelines. And in the scramble to keep us with federal dictates, picayune matters compete for attention with vital issues. Complying with federal administrative rules receives higher priority than delivering services to citizens.

In sum, tax dollars are squandered, state employees are misused, and services are impeded. The clout and credibility of the federal government have been seriously diminished.

Clearly, the federal-state relationship is out of kilter, with too much federal emphasis on administrative detail and not enough on genuine leadership. Federal officials have a legitimate interest in seeing that federal dollars are used to deliver the services for which they are authorized. But the time has come for federal officials to recognize that state officials also have an interest in delivering services equitably and effectively to their citizens at a reasonable cost—whether those services are funded by the state or the federal government.

Federal officials should continue to monitor carefully the utilization of federal funds. But emphasis should be on the basic goals of a program and not on the details of program administration—details which can't be controlled by the federal government anyway. By eliminating the restrictive, costly web of excessive regulations, federal officials can work closely with individual states to solve particular program-related problems and facilitate—not hinder—the delivery of important services.

A BETTER PARTNERSHIP

With such changes, a new and better partnership can be forged between the states and Washington. The partnership will require that:

Congress pass laws with clear mandates and goals so states and federal agencies have a precise idea of the objectives toward which they are working.

Regulations promulgated by federal agencies be limited to carrying out specific charges from Congress and guaranteeing fundamental rights of citizens.

Administrative responsibility be delegated to states.

A federal review mechanism be established to ensure that duplications, inconsistencies, and needless requirements be eliminated from federal regulations.

Federal agencies provide enough flexibility to promote experimentation with new approaches to chronic problems.

To continue the existing federal-state relationship is senseless and irresponsible. Creation of a partnership permitting state flexibility is desperately needed. To do anything less is a disservice to our citizens and a violation of the principles of federalism incorporated in the U.S. Constitution.

NO RELIEF ON SECTION 404

Mr. DOLE. Mr. President, it was with much regret that I today received a response from the White House denying a request for a 90-day moratorium on "phase III" of the so-called dredge and fill regulations promulgated by the Army Corps of Engineers. The denial means that, on July 1, the Army Corps of Engineers will assume jurisdiction over all "navigable waters" of the United States, and will issue Federal permits for all dredging and filling activities on such waters. Under a court mandate defining "navigable waters," the corps jurisdiction will include traditional navigable waters, streams, and tributaries up to their headwaters, certain lakes, and wetland areas adjacent to these waters.

On June 3 of this year, I sponsored a letter to the President—which was cosigned by 26 of my Senate colleagues—pointing to the delays and obstacles encountered by farmers, ranchers, forestry personnel, and others as they seek to comply with corps regulations. At that time, I pointed out that an Executive order for a 90-day moratorium on the stringent "phase III" would give Congress an opportunity to alleviate some of the problems encountered by persons in those professions. Mr. President, I ask unanimous consent that the full text of that letter, along with a list of those who signed it, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

MORE RED TAPE

Mr. DOLE. Mr. President, the "phase III" regulations which take effect on July 1 will produce additional redtape for the farmer or rancher who seeks to go about his normal activities in wetland areas. It will produce hassles for forestry and highway construction industries whose work comes into contact with streams or tributaries. I am advised by ranchers in Kansas that phase III will even make it necessary for them to go through a permit application process in order to construct watershed dikes, designed to conserve soil and water in farmland areas.

The Senate will act on this matter. I have no doubt about it. The House of Representatives has already passed legislation which would make phase II and phase III of the section 404 program unnecessary. It is unfortunate indeed that thousands of public and private entities across the Nation must be saddled with the burdensome permit requirements for a few weeks until the Senate has an opportunity to express itself on the matter. Given the widespread concern about the matter among my colleagues, I am confident that the permit program will at that time be significantly reduced in scope, and this matter can be settled statutorily, once and for all.

Mr. President, I ask unanimous consent that the text of the letter over Mr. Stuart Eizenstat's signature be printed in the RECORD following the text of my letter to the President.

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

(See exhibit 2.)

EXHIBIT 1

U.S. SENATE,
Washington, D.C., June 3, 1977.

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

DEAR MR. PRESIDENT: Many of our country's citizens—particularly those engaged in farming, ranching, forestry, and construction activities—are extremely concerned about federal regulation under the auspices of Section 404 of the Federal Water Pollution Control Act. We, as representatives of those citizens, want to register our own concern about the expanding jurisdiction of the "dredge and fill" permit program, and respectfully request a 90-day moratorium on implementation of "Phase III" regulations by the Army Corps of Engineers.

When Congress originally authorized the Section 404 Corps permit program in 1972, it was principally intended to regulate the disposal of dredged fill material in "navigable waters" of the United States. A U.S. District Court interpretation of Congressional intent during 1975 effectively expanded the Corps' regulatory jurisdiction over a variety of dredging and filling operations on virtually all waters of the United States. Subsequently, Interim Final Regulations were issued by the Corps of Engineers in 1975, to implement the much expanded permit program in three stages.

Phase III is scheduled to take effect on July 1, 1977. Under the regulatory provisions, Corps permit authority will cover a broad range of major and minor dredging and filling operations on the nation's rivers, streams, and tributaries, up to their headwaters.

At this time, we believe a temporary, 90-day moratorium on the implementation of Phase III is advisable for the following reasons:

1. The House of Representatives has already approved major revisions in the Section 404 program, including a more restrictive definition of "navigable waters" which would eliminate the legislative basis for Phase III (H.R. 3199). The Senate Committee on Environment and Public Works has scheduled hearings on the issue during June and recommendations for changes in Section 404 will likely follow.

2. The Secretary of Agriculture has endorsed the intent of H.R. 3199, has supported clarification of the definition of navigable waters, and has stated, "We believe the enactment of Phase III on July 1, 1977, will significantly increase . . . delays, duplications, and expenses" in production of food, fiber, and forest products.

3. Preparation of "Final Regulations" with additional details by the Corps of Engineers for the Section 404 program has been considerably delayed. Provisions for a "nationwide permit system," along with additional exemptions, were published only last week. There will not be adequate time for thorough consideration and public comment on all aspects of Final Regulations for Phase III prior to the effective date of July 1, 1977.

In short, there are serious problems associated with implementation of Phase III in July, and Congress is now moving towards a legislative resolution of the "dredge and fill" permit issue. We are asking that you direct the Corps of Engineers and the Environmental Protection Agency to delay imple-

mentation and enforcement of Phase III of Section 404 regulations for 90 days, pending a final resolution of associated issues by Congress.

We appreciate your earliest attention to this matter, and will look forward to hearing from you in this respect.

Sincerely yours,

Bob Dole, Edward Zorinsky, James A. McClure, John Tower, J. Bennett Johnston, Malcolm Wallop, Lloyd Bentsen, Milton R. Young, John C. Danforth, Pete Domenici, Ted Stevens, John C. Stennis, Robert Morgan, John Melcher, William V. Roth, Jr., Clifford P. Hansen, Jake Garn, Russell B. Long, James O. Eastland, Dewey F. Bartlett, Walter D. Huddleston, George McGovern, Barry Goldwater, Sam Nunn, Bob Packwood, Jesse Helms, Carl T. Curtis, U.S. Senators.

EXHIBIT 2

WHITE HOUSE,
Washington, D.C., June 27, 1977.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your letter of June 3, requesting that the President declare a moratorium on program implementation in Phase III waters under section 404 of the Federal Water Pollution Control Act.

As you point out, the program for regulating discharges of dredged or fill material under section 404 has attracted the attention of numerous citizen groups. We believe, however, that appropriate procedures have evolved over the last five years to accommodate concerns raised by Congress, the Courts, the public and the Executive Branch. It is our view that the program is operating effectively in Phase I and Phase II waters, and that the final stage of implementation in Phase III waters beginning July 1 of this year will also proceed smoothly.

The Corps of Engineers proposed a regulation on May 16, 1977 to authorize a number of discharges by nationwide permit. Encouraging comments from several critics of the program and our experience with general permits issued on a regional basis convince us that these nationwide permits will resolve many of the fears raised over unnecessary regulation in Phase III waters. In addition, the Corps of Engineers expects to publish by July 1 a complete revision of the current program regulation which will clarify and streamline the permitting process.

The President has decided, therefore, that it is in the best interest of the Nation to allow program implementation to continue as scheduled two years ago. We all recall the confusion and uncertainty created by imposition of a Presidential moratorium on Phase II last fall. To suspend the ongoing processing of Phase III applications for projects that are scheduled to begin later this year, would only repeat the unfortunate delays that occurred during the last such moratorium.

The President announced in his message on the environment that he will recommend to Congress some adjustments to the section 404 program which will further improve its effectiveness and efficiency of administration. These recommendations are based in part upon legislative proposals debated by the House of Representatives and the Senate during the last two years. Specifically, as part of this package we expect to request authority to transfer the permitting responsibility in Phase II and III waters to States that demonstrate the capability to administer the program. We believe that the experience gained by the Federal agencies in administration of this program coupled with the authority to transfer primary responsibility to the States will ensure that the section 404 program will continue to play an essential role in protecting water resources including our rapidly diminishing wetlands.

Thus, while I can understand your concern and desire to impose a moratorium, the President is of the view that a moratorium is not required in light of the experience acquired to date and the refinements embodied in the forthcoming Corps of Engineers regulations.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

JOHANNES HOEBER

Mr. KENNEDY. Mr. President, I was deeply saddened this week to learn of the death of Johannes Hoeber, a distinguished civil servant and humanitarian, who capped a long life of service in behalf of his fellowman as director of U.S. programs for refugees in Vietnam.

Dr. Hoeber was himself a refugee—a refugee from Hitler's Germany. In 1933 he was arrested and imprisoned by the Nazis for several weeks, and subsequently spent 5 years working with the anti-Nazi underground until 1938, when he was faced with questioning by the Gestapo. Dr. Hoeber fled to the United States where he began a long career in social service programs to help people in need both here at home and abroad.

From 1951 until 1962, Dr. Hoeber served as Philadelphia's deputy commissioner of welfare. In 1962, Dr. Hoeber became Assistant Administrator of the Area Redevelopment Administration of the Commerce Department.

However, a few years later Dr. Hoeber joined the Agency for International Development—AID—to direct its programs for refugees and social welfare activities in Vietnam.

It was in this capacity, Mr. President, that I came to know of Dr. Hoeber's dedicated service. As chairman of the Subcommittee on Refugees I came to know of his constant effort to upgrade AID's programs for refugees and millions of other victims of that tragic war. He often fought against the insensitivities of his own superiors in AID, who were more interested in commodity import programs to help Saigon's ailing economy, than in efforts to help Saigon's orphans or the maimed or crippled.

Dr. Hoeber never lost sight of the urgent humanitarian needs in war-torn Vietnam, nor of America's great humanitarian responsibility to help meet those needs. His humanitarian service during the Vietnam conflict, like that of so many others both here in Washington and in the field, often went unnoticed and unseen. But they are the unsung heros of America's effort to meet its humanitarian obligations to millions of innocent men, women and children caught up in one of the most tragic wars the United States has ever been involved.

To his wife, Elfriede, and his three children, I want to offer my deepest sympathy for their loss, and to recognize the dedicated humanitarian service of their husband and father.

Mr. President, I ask unanimous consent that an article from today's Washington Post be printed in the RECORD.

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

JOHANNES U. HOEBER DIES, FOUNDING MEMBER OF ADA

(By Charles Shepard)

Johannes U. Hoeber, 72, one of the founding members of the Americans for Democratic Action, died of a heart attack at his home here Sunday.

Born in Zurich, Switzerland, Mr. Hoeber was raised and educated in Germany receiving his Ph. D. in economics from the University of Heidelberg in 1930. He also studied at the London School of Economics.

Mr. Hoeber was arrested and imprisoned by the Nazis for several weeks in 1933 and spent the next five years working with the anti-Nazi underground in Germany.

In 1938, faced with questioning by the Gestapo, Mr. Hoeber fled to the United States, where he settled in Philadelphia. There he worked for several charitable agencies as an administrator.

He was also active in the reform campaign and in the administration of Philadelphia Mayor Joseph Clark, who later served in the U.S. Senate. From 1951 to 1962 Mr. Hoeber served as Philadelphia's deputy commissioner of welfare.

In 1962 Mr. Hoeber became assistant administrator of the Area Redevelopment Administration of the Commerce Department and five years later he became chief of the Refugee and Social Welfare staff, Vietnam bureau, of the Agency for International Development.

In 1972, Mr. Hoeber retired from the AID and received the agency's meritorious honor award. He worked for the next three years as a consultant to the Council of International Programs for Youth Leaders and Social Workers.

Looking back on his life, Mr. Hoeber recently wrote that he was most proud of "my participation in the fight for freedom and democracy in Germany . . . my success in becoming a useful and respected citizen of the United States, and the professional careers of my daughter and two sons."

Mr. Hoeber is survived by his wife, Elfriede Fischer Hoeber, of the home in Southwest; his three children, Susanne Hoeber Rudolph, a professor at The University of Chicago, Thomas R., a magazine editor who lives in Sacramento, Calif., and who works for the National Labor Relations Board in Philadelphia; two sisters, Dr. Ursula Hoeber of Philadelphia and Gabriele Blashy of Temple, Tex.; and eight grandchildren.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

James R. Burgess, Jr., of Illinois, to be U.S. attorney for the eastern district of Illinois for the term of 4 years vice Henry A. Schwartz, deceased.

Albert S. Hinds, of Illinois, to be U.S. marshal for the eastern district of Illinois for the term of 4 years vice Arthur J. Wilson, Jr., resigning.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, July 5, 1977, any representations or objections they may wish to present concerning the above nominations with a further statement whether it is their intention to appear at any hearing which may be scheduled.