By Mr. EILBERG:

H.R. 9652. A bill to amend sections 201(a) and 203 of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

By Ms. HOLTZMAN:

H.R. 9653. A bill to provide a supplementary housing allowance to supplemental security income recipients; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. ANDERSON of Illinois, Mr. ANDREWS of North Dakota, Mr. BAUMAN, Mr. BROYHILL, Mr. BROWN of Michigan, Mr. BUCHANAN, Mr. CAPUTO, Mr. CONTE, Mr. DUNCAN of Tennessee, Mr. ERLENBORN, Mrs. FENWICK, Mr. FISH, Mr. GILMAN, Mr. HORTON, Mr. MCDADE, Mr. MCKINNEY, Mr. MARTIN, Mr. MITCHELL of New York, Mr. SEBELIUS, Mr. TREEN, Mr. VANDER JAGT, Mr. WALSH, Mr. WHITEHURST, and Mr. WYDLER):

H.R. 9654. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. LAFALCE:

H.R. 9655. A bill to amend the Small Business Investment Company Act of 1958; to the Committee on Small Business.

By Mr. LUJAN:

H.R. 9656. A bill relating to a national referendum on the Panama Canal; to the Committee on House Administration.

By Mr. ROYBAL:

H.R. 9657. A bill to establish uniform procedures for and regulate the procurement, production and distribution of audiovisual materials by all Federal agencies; to the Committee on Government Operations.

By Mr. EVANS of Colorado (for himself, Mr. ULLMAN, Mr. MCKAY, Mr. SISK, Mr. ANDERSON of California, Mr. BURGENER, Mr. DON H. CLAUSEN, Mr. JOHNSON of California, Mr. KETCHUM, Mr. LUJAN, Mr. MCFALL, Mr. RUNNELS, Mr. RUDD, Mr. MCCORMACK, Mrs. SMITH of Nebraska, Mr. WHITE, Mr. STUMP and Mr. RHODES):

H.J. Res. 633. Joint resolution relating to the excess land provisions and residency requirements of the Federal Reclamation Laws, as amended and supplemented; to the Committee on Interior and Insular Affairs.

By Mr. TRIBLE (for himself, Mr. WHITEHURST, Mr. BUTLER, Mr. ROBINSON, Mr. ROBERT W. DANIEL, Jr., Mr. HARRIS, Mr. FISHER, Mr. DAN DANIEL, Mr. SATTERFIELD, and Mr. WAMPLER):

H.J. Res. 634. Joint resolution to establish the Yorktown Bicentennial Commission to the Committee on Post Office and Civil Service.

By Mrs. COLLINS of Illinois:

H. Con. Res. 383. Concurrent resolution to condemn the Government of South Africa which has most recently evidenced its irresponsibility as a member of the international community by engaging in massive violations of the civil liberties of the people of South Africa; to the Committee on International Relations.

By Mr. KETCHUM (for himself, Mrs. HOLT, Mr. MATHIS, and Mr. LOTT):

H. Res. 844. Resolution providing for an increase in the compensation of doormen employed by the Doorkeeper of the House of Representatives; to the Committee on House Administration.

By Mrs. KEYS:

H. Res. 845. Resolution relative to restricting the proposed reorganization of the field and insuring offices of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSE:

H. Res. 846. Resolution relative to customs duties on textile or apparel products; to the Committee on Ways and Means.

By Mr. TEAGUE (for himself and Mr. FUQUA):

H. Res. 847. Resolution providing for the printing as a House document of a print of the Committee on Science and Technology; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BRECKINRIDGE:

H.R. 9658. A bill for the relief of Wilhelmina Octavo Lucila; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 9659. A bill for the relief of Miss Karen Odell; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 9660. A bill for the relief of Hermina Jormigos; to the Committee on the Judiciary.

H.R. 9661. A bill for the relief of Lee Myong Sook; to the Committee on the Judiciary.

SENATE—*Wednesday, October 19, 1977*

The Senate met at 9 a.m., and was called to order by Hon. SPARK M. MATSUNAGA, a Senator from the State of Hawaii.

PRAYER

The Reverend Monsignor William F. O'Donnell, editor, The Catholic Standard, and pastor, St. Hugh's Church, Greenbelt, Md., offered the following prayer:

Let us pray.

Almighty God, Author of all creation, we acknowledge Your sovereignty and thank You for the many blessings You have bestowed on our Nation and its people. We prayerfully ask Your continued benevolence in the years ahead.

Grant each of us the wisdom to know Your will and the courage and strength to carry it out in all that we are called upon to do.

Give us the insight and concern to know the needs of the people we have been called to represent so that we may serve them as effectively as possible.

Make us conscious that all authority ultimately comes from You, Almighty God, so that our deliberations and decisions may be made in keeping with Your will and for the common good of all the people.

Finally, we ask Your special blessings on this assembly and each of its members so that all their deliberations and decisions are made in accordance with Your will and in response to the needs of the people of our Nation and the world.

This we ask through Christ our Lord. 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., October 19, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SPARK M. MATSUNAGA, a Senator from the State of Hawaii, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MATSUNAGA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, October 17, 1977, be dispensed with.

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

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I believe there are three nominations on the Executive Calendar that have been cleared, beginning with "New Reports" and, if it is agreeable with the distinguished acting Republican leader, I ask unanimous consent that the Senate proceed to their consideration in executive session.

Mr. STEVENS. There is no objection on this side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The Senate will proceed to their consideration in executive session.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The second assistant legislative clerk read the nomination of Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

Mr. DOLE. Mr. President, the Senator from Kansas supports the confirmation

of Mr. Charles Ruff as Deputy Inspector General of the Department of Health, Education, and Welfare.

As the ranking Republican member of the Health Subcommittee of the Senate Finance Committee, I was involved in creating this position. At that time, we emphasized the need for highly skilled investigators, specially trained in the area of medicaid fraud. We noted the substantial evidence of complex schemes employed by those persons engaged in fraudulent activities and recognized that uncovering these activities would require highly skilled individuals.

TAXPAYERS FUNDS AT STAKE

The indications we have had are that hundreds of millions of dollars of tax revenues are at stake. I am concerned that we should make every effort to insure that those funds go to those persons who really need medicare and medicaid assistance.

During the confirmation hearings for Mr. Ruff, I questioned him about his qualifications and plans to be Deputy Inspector General, and listened closely to the questions of other Senators. I was pleased with his responses during that portion of the hearing. I am confident that he will make every effort to bring an end to the fraudulent abuses of the medicaid and medicare programs. Hopefully, the results will be a more effective and efficient use of taxpayer dollars.

UNANSWERED QUESTIONS

On another matter, I had thought about submitting additional questions to Mr. Ruff to clear up questions about the investigation of then-President Ford during the very closely contested Presidential campaign last year. I expressed my concern in a letter to the chairman of the Finance Committee, Senator LONG. I ask unanimous consent that a copy of this letter be inserted in the RECORD following these remarks.

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

Mr. DOLE. Mr. President, I would add that during the confirmation hearings, there was bipartisan concern about the Special Prosecutor's investigation on the part of the chairman (Mr. LONG), the ranking Republican member (Mr. CURTIS), other Senators, and myself.

The central concern about that investigation remains unanswered. Very simply, it is strange indeed that the President of the United States can be investigated on an unverified complaint and that the investigation was permitted to drag on week after week during the heat of the campaign—from August 19, 1976 to October 14, 1976. Perhaps someday, all the facts of this matter will be made available. They should be, not because it would change the results of last year's election, but because I believe President Ford was unfairly treated. It would be a comfort to him, his friends and his family to know why the investigation was triggered and why it dragged on and on.

Having said this I have concluded it would be better to proceed with this confirmation. In view of the need to get the HEW antifraud program moving, I proposed on Thursday, October 13, to the committee to report the nomination of Mr. Ruff. I trust that he will be successful in this position.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., September 9, 1977.

Hon. RUSSELL LONG,
U.S. Senate,
Washington, D.C.

DEAR RUSSELL: Following the hearing on July 26 on the nomination of Charles Ruff to be Deputy Inspector General, Health, Education, and Welfare, I indicated the possibility of additional questions. There is one specific question concerning the identity of an informant which I feel should be addressed. The pertinent facts are as follows:

On October 14, 1976, Charles Ruff, the Special Prosecutor, announced that he had completed an investigation relating to information he had received concerning alleged misuse of union political contributions by President Ford during the period 1964–1974. The Special Prosecutor said that no evidence of violations of law by President Ford had been found and the investigation had been closed.

But the troubling question remains as to who was behind the allegations that brought about this investigation in the midst of a hotly contested Presidential campaign and why.

The investigation was not the first time President Ford's campaign, tax and financial affairs have been subjected to scrutiny and he has received a clean bill of health.

When he was confirmed as Vice President in 1973, President Ford's tax and financial affairs were audited in detail, not only by the IRS, but also by the staff of the Joint Committee on Internal Revenue Taxation. A House Judiciary Committee report stated that "The results of these independent audits and summaries of the voluminous financial information were reviewed in detail by the Committee, and no information prejudicial to (Mr. Ford) was noted." In addition, all available campaign records were also reviewed and the Congressional Committees found nothing amiss.

The House Committee concluded that it "had investigated and questioned (Mr. Ford's) public and private life to a degree far beyond that of any person holding public office in America today".

Given the exhaustive investigation to which Gerald Ford was subjected in 1973, was it merely a coincidence that the allegation—now proved false and apparently relating to essentially the same information reviewed during the Vice Presidential confirmation process—was made during the Presidential campaign? Surely, the person or persons who were behind the allegation know that an investigation, even one which concluded that the allegation was baseless, would damage the President's campaign. Was the allegation asserted in good faith by a public spirited citizen or was something more sinister involved?

Two sentences in the Special Prosecutor's October 14 press release clearing the President are curious:

"This allegation was made to an agent of the FBI by an individual who had *recently* become aware of the underlying information. Investigation has revealed no apparent motive on the part of *this* individual to fabricate." (Emphasis added.)

These questions do not relate to the Special Prosecutor or to the action he was obliged to take. During the investigation, President Ford said that he believed in the Special Prosecutor concept and expressed full confidence in the integrity of the Special Prosecutor. He was certain that the Special Prosecutor would live up to the legal profession's high standards and pursue a full and complete investigation. It appears that the Special Prosecutor carried out his responsibilities.

But how did it all start and why? Certain facts are known, and others have been reported in the press, which are puzzling at best:

On December 30, 1974, the President vetoed the inflationary Energy Transportation Security Act of 1974—the so-called cargo preference law—which would have required that 20% (and later 30%) of the oil imported into the U.S. be carried on U.S. flag tankers. The bill would have increased the cost of oil and raised the prices of all products and services which depends on oil. It was vetoed by the President because of the substantial adverse effect it would have had on the Nation's economy and international interest.

The political committees of the Marine Engineers and the Seafarers Unions had contributed to the political campaigns of the President when he served in Congress. The vetoed bill would have meant millions of dollars to the maritime industry and unions. Enactment of the bill had been the highest priority of the maritime unions and, according to *The Washington Post*, they were "stunned" by the veto and "felt it was a double cross."

On May 11, 1976, at a Carter fund-raiser, the *National Journal* reported that Jesse M. Calhoon, President of the National Maritime Engineers Beneficial Association (MEBA), met with Governor Carter and gave him $5,000 on behalf of his union.

Just two weeks after the May 11 meeting, *The American Marine Engineer* reported that Governor Carter met again with Mr. Calhoon in Suite 2124 of the New York Sheraton Hotel and discussed a maritime program. According to an editorial by Mr. Calhoon in the *Engineer*, Carter said he would seek the "cooperation of MEBA and other maritime unions."

One day after the May 25 meeting with Mr. Calhoon, *The American Marine Engineer* stated that a letter from Governor Carter was hand-delivered to Mr. Calhoon pledging a maritime program in harmony with most of MEBA's aspirations. The *Journal of Commerce* reported that by this letter Carter had "made a major commitment to the maritime industry for an across-the-board U.S. flag national cargo preference policy." It was an oil cargo preference bill that the President had vetoed in 1974.

In response to Carter's pledge, MEBA swung into high gear. Calhoon announced a Carter fund drive and urged his union members to "contribute your donations, your time and energy, and vote for Jimmy Carter."

The relationship between Governor Carter and Maritime labor was called a "virtual lovefest" by the *National Journal*. In the last two months of his primary campaign, *The Washington Post* observed that Governor Carter received at least "$160,000 from individuals in the maritime unions or from the unions themselves." But there is no accurate record of how much the unions have contributed, and the *National Journal* reports that "MEBA officials refused to return telephone calls seeking information" about a June 30 Washington $1,000 per person fundraiser organized by MEBA for Carter.

Soon thereafter—apparently in July 1976—the allegation, later reported to have involved maritime union political contributions, was made to the Department of Justice and then referred to the Special Prosecutor.

On August 19, 1976, one day after President Ford was nominated at the Republican National Convention, the Special Prosecutor issued a subpoena for records maintained by Republican political committees located in the Fifth Congressional District of Michigan, the President's district when he served in Congress.

On October 3, 1976, CBS said on its "60 Minutes" show that it wanted to discuss Carter's pledges to MEBA and its campaign contributions with Governor Carter but his staff had declined a personal interview.

During the week of October 4, 1976, *The Washington Post* said that copies of a confidential IRS tax audit report prepared in 1973 for the Vice Presidential confirmation was leaked "by a supporter of the Jimmy Carter presidential campaign" to *The Washington Post* and the *Wall Street Journal*. This was not the first time the report had been leaked in violation of the tax laws which guarantee to every taxpayer the confidentiality of tax return information. Columnist Jack Anderson had examined the report in April 1974 and concluded: "In sum, the Vice President's tax returns reveal him as an honest man, who has never connived to seek private gain from his public position."

But during the hectic campaign period of early October 1976, a different slant was taken. The old material, thoroughly reviewed and satisfactorily resolved by investigators for the 1973 Vice Presidential confirmation was exhumed and distorted. Using the fact of the Special Prosecutor's investigation as a hook, this old material was recast in the forms of personal vilification and scurrilous attacks on the President.

On October 4, 1976, Victor Riesel reported in his *Inside Labor* column that "the impression is that someone in the 'Carter crowd'—as it was put the other day—is willing to throw the maritime unions 'to the cops' so something can be hung on President Ford".

On October 8, 1976, it was widely reported in the press that Jesse Calhoon, President of MEBA, testified before a grand jury in connection with the Special Prosecutor's investigation.

On October 8, 1976, Governor Carter launched his first attack on the campaign funds issue. His aides said the strategy was "to keep President Ford on the defense".

On October 14, 1976, Special Prosecutor Charles Ruff announced that his investigation had been closed and no evidence of violations of law by the President had been found.

Governor Carter at first accepted the President's statements about the campaign contribution questions. But shortly thereafter, Carter called for the President to speak "the truth, whole truth, and nothing but the truth". The truth about the false allegations has been confirmed, and to complete the record, the American people are entitled to additional information.

The hearing on the nomination of Mr. Ruff left unanswered questions. This matter could be clarified if Mr. Ruff would divulge the name of the informant who precipitated the investigation of President Ford and the facts and circumstances surrounding it. If this is not possible, perhaps the informant's identity could be disclosed to committee members in an executive session, or if he cannot do this the information could be obtained through subpoena of pertinent records.

I would appreciate your comments and suggestions.

Sincerely yours,

BOB DOLE,
U.S. Senate.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that moon on the table.

The motion to lay on the table was agreed to.

U.S. INTERNATIONAL TRADE COMMISSION

The second assistant legislative clerk read the nomination of William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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 President be immediately notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will now resume legislative session.

A MATTER OF CONTINUING CONCERN

Mr. ROBERT C. BYRD. Mr. President, the Washington Post carried a report on October 15 refocusing attention on a problem that is a matter of continuing concern. Since 1973, the debt of the Soviet Union and Eastern European nations to Western banks and governments has reportedly risen from less than $10 billion to more than $40 billion. It is estimated that this debt could reach as much as $100 billion by the early 1980's if credit extensions continue at the present rate.

Among apparent reasons for the quadrupling of this debt are the need of Eastern European nations and the Soviet Union to purchase more advanced Western technology and goods; the inability of the Eastern nations to produce sufficient high-quality finished goods for the Western market; and a shortage among Eastern European nations of capital to develop their domestic resources.

These are legitimate reasons for borrowing among nations. Proponents of liberal loan policies toward the Soviet Union and the Eastern nations claim that the fiscal and economic ties binding East and West are conducive to peace, and will stimulate the Eastern economies to such a degree that their stake in world stability and order will increase. Moreover, some bankers point out that the Soviet Union, which might be expected to back the loans of her allies, has an excellent credit rating.

Nonetheless, I am concerned about this growing indebtedness and believe that it is a matter deserving of thoughtful attention. The long-term implications and possible repercussions cannot be ignored.

For example, default of payments, even to major industrial nations such as West Germany, could result in serious economic and political consequences. In certain nations, the economic relationship with the Soviet Union has already led to a troublesome situation. Some Western bankers are said to be reluctant to suggest that further credit will not be extended for fear of precipitating a default on the part of the borrowing nations.

In addition, there is the possibility that the continued borrowing of the Eastern nations might divert needed credit from third world nations, where economic development is essential to future viability and stability.

Moreover, the advanatges of encouraging trade beween the Eastern European states and the West to decrease the dependence of the Eastern nations on the Soviet Union may have produced a paradoxical situation. Because the Soviet Union might be needed to back the loans to her allies, those allies could become increasingly vulnerable to Soviet pressures. Some experts suggest, for example that Poland, which has frequently shown signs of independent action, is experiencing economic difficulties which may affect its ability to meet its debt repayment obligations.

Mr. President, according to the best information available, the United States share of the loans to the U.S.S.R. and Eastern European nations is only about $3 billion. The exact figures on the Soviet debts to various other Western banks and nations is not known in the West. However, Soviet-East European indebtedness to Western nations is estimated at about $40 billion.

Indeed the lack of a comprehensive and detailed record of Soviet-Eastern European indebtedness has become a serious shortcoming of our system of financial accounting.

Mr. President, in view of the potential power and influence that the level of indebtedness can accrue to the Soviet Union, there ought to be a reasonable and general acceptable means of collecting and coordinating information on the extent and nature of Soviet and Eastern European financial transactions with the West and Japan. Such a system would not only permit the United States and its political allies to safeguard their economics, but it may also enable them to collaborate more fully on coordinating their economic recoveries.

A BOLD AND COMMENDABLE RESCUE

Mr. ROBERT C. BYRD. Mr. President, on Monday, millions of people around the world were encouraged and relieved by the swift, brave, and successful action on the part of the West German commando forces, who freed the 86 passengers aboard a Lufthansa airliner from their terrorist captors. For a period of 4½ days, the civilized world endured the anxiety, anguish, and tension of the latest act of international barbarism and outrage perpetrated by a terrorist organization, until the West Germans brought it to an end.

I commend Chancellor Helmut Schmidt, his cabinet, the West German commando forces, and all others who were responsible for planning and executing this bold rescue effort. As many persons in several nations have stated, the action by the West Germans at Mogadishu, Somalia, has shown people around the world how to deal with terrorism.

We are living in an increasingly vul-

nerable era in many ways. The complexity of modern civilization has brought men and nations into a closer interdependence than ever before. Instantaneous communications systems allow people to become immediately aware of events thousands of miles away.

Terrorists and terrorist organizations of a wide variety have taken advantage of this situation for several years. Through the kidnaping and murder of individual citizens and public officials, as well as the commandeering of airliners, buses, and trains, terrorists and unbalanced people have been able to disrupt the lives of hundreds, threaten the security of thousands, and draw the attention of millions.

Airline hijacking is an especially reprehensible form of terrorist activity. Without regard to the welfare or safety of their captives, terrorists subject helpless groups of people to almost unbearable conditions and mental torture for the sake of causes and whims over which their captives have no control or responsibility.

Only decisive action, such as that taken by the West Germans in the Somalia incident, the Israelis at Entebbe, and the United States in instituting increased airport security and surveillance, will serve to halt the flood of terrorism that has arisen in this complex age.

It is unfortunate however, that the world must depend on individual nations to combat international terrorism, because the United Nations has failed to adequately address this problem. It seems that, whenever the world is in an hour of need, the United Nations is often found wanting.

I fear that we will continue to see acts of terrorism until international agreements are reached to put an end to terrorism.

Mr. President, I again commend the West German Government for its decisive actions.

Mr. President, if I have any time remaining I yield it back.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

H.R. 8309—RIVERS AND HARBORS AUTHORIZATIONS

Mr. STEVENS. Mr. President, may I inquire of the majority leader? It is my understanding that the inland waterway bill might become the pending business on Friday; is it in order for us to yield to the Senator from New Mexico to make the motion which he must make to have that come over on the calendar?

Mr. ROBERT C. BYRD. Yes, if the Senator will yield to the Senator from New Mexico.

Mr. STEVENS. Mr. President, I yield to the Senator from New Mexico (Mr. DOMENICI).

Mr. DOMENICI. Mr. President, I ask that H.R. 8309 may have its second reading.

The ACTING PRESIDENT pro tempore. H.R. 8309, having been read the first time on the previous legislative day, will now be read the second time. The clerk will report.

The assistant legislative clerk read as follows:

H.R. 8309, an act authorizing certain public works on rivers for navigation, and for other purposes.

Mr. DOMENICI. Mr. President, I object to any further action on H.R. 8309 at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will go to the calendar.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

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

Mr. DOMENICI. The bill has now gone to the calendar?

The ACTING PRESIDENT pro tempore. Yes.

Mr. DOMENICI. And will be subject to the majority leader's call, which I assume may be on Friday?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DOMENICI. I thank the majority leader and the Senator from Alaska.

(Later the following occurred:)

Mr. ALLEN. Will the Senator yield to me?

Mr. ROBERT C. BYRD. If the Senator from New York will allow it.

Mr. MOYNIHAN. I shall be happy to yield to the distinguished Senator for a question.

Mr. ALLEN. As to H.R. 8309, which was placed on the calendar after a second reading today, I state that I have an amendment which I wish to offer to this bill when it comes up. I hope the distinguished majority leader will protect me in that wish.

Mr. ROBERT C. BYRD. I shall, indeed.

ORDER OF BUSINESS

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

Mr. STEVENS. I yield the majority leader whatever time he needs.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader. I yield to the Senator from New Jersey to call up a conference report.

Mr. STEVENS. How much time is needed, I might ask the Senators?

Mr. JAVITS. Ten minutes or more?

Mr. STEVENS. I yield such time as I have remaining.

The ACTING PRESIDENT pro tempore. The minority leader has 8 minutes remaining.

Mr. STEVENS. I yield that time to the managers of the bill.

MINIMUM WAGE INCREASE—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on H.R. 3744 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3744) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of Oct. 17, 1977, at page 33933.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Steven J. Paradise, Darryl Anderson, Michael Forscey, Charles Edwards, Gerald B. Lindrew, and Michael Goldberg all of the Committee on Human Resources staff, be permitted the privilege of the floor during the debate and all rollcall votes on the conference report on H.R. 3744, and also on the Age Discrimination in Employment Amendments of 1977, H.R. 5383, which will be coming up later.

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

Mr. WILLIAMS. Mr. President, I am pleased to bring to the Senate the conference report on H.R. 3744, the Fair Labor Standards Amendments of 1977.

As chairman of the conference committee, I wish to commend my fellow conferees from the Senate, including of course the ranking member of the Human Resources Committee, Senator JAVITS, and the distinguished Senator from West Virginia, Senator RANDOLPH, for their invaluable assistance in working out fair and equitable legislation of which we can all be proud. The work of the House conferees, including their committee chairman, Mr. PERKINS, and the sponsor of the House legislation, Mr. BURTON, was also invaluable. The conference committee engaged in 2 days of deliberations on this legislation and produced a report which I am confident will gain the support and approval of this body.

Before we proceed to the adoption of the conference report, I would like to highlight several important provisions which have emerged from the conference. Under the conference agreement, the basic minimum wage rate will be increased to $2.65 per hour effective January 1, 1978. Thereafter, the rate will be increased to $2.90 on January 1, 1979; $3.10 on January 1, 1980; and $3.35 on January 1, 1981. The amounts are, in my opinion, totally justified and they will go a long way toward providing minimum wage protection for America's lowest paid workers.

The conference also resulted in a fair and reasonable compromise with regard to the coverage of small retail and service establishments. The House bill would have increased the present $250,000 test for enterprise coverage to $500,000 per year.

The Senate amendment to the House bill provided a special enterprise dollar amount for retail and service establishments which was to be increased from the present amount of $250,000 per year to $325,000 by July 1, 1980, with an interme-

diate increase to $275,000 effective July 1, 1978. Under the conference committee agreement, the dollar amount test for these retail and service enterprises will be increased to $362,500 effective December 31, 1981. The first two increases, to $275,000 and to $325,000, remain as they were in the Senate bill.

In this regard I would also like to point out that the House conferees accepted the provisions in our bill which liberalize the application procedures for the use of full-time students at less than the minimum wage. Under present law, small businessmen may employ up to four students if they certify that that employment will not have an adverse effect upon full-time workers.

However, they must use the same application form which is used by employers who are seeking a broader waiver. Under the Senate amendment, which was agreed to by the House, the number of students who may be employed upon certification by the employer is increased from four to six; and the Secretary is directed to adopt new, simplified application procedures. This should be of substantial benefit to small businessmen and to students seeking part-time work.

The Senate bill would also have phased down the tip credit, from 50 percent of the minimum wage to 30 percent. The House bill had no such provision, but included a provision redefining a tipped employee. The conference amendment adopts the House change in the definition of a tipped employee, to be one who is engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips.

Under the present law, this amount is $20 per month.

The conference amendment further provides that the 50-percent tip credit be phased down to 40 percent in two stages. The first reduction will occur on January 1, 1979, when the maximum tip credit is reduced from 50 to 45 percent. Then, on January 1, 1980, the maximum tip credit will be reduced from 45 to 40 percent.

I am pleased to report that the House receded with regard to two other provisions in the Senate bill which have been the focus of substantial discussion and inquiry. The House conferees accepted our provision expanding the present minimum wage and overtime exemption for seasonal amusement and recreational establishments. Under the amendment, this exemption will be available to religious or nonprofit educational conference centers as well as to organized camps and other season amusement and recreation establishments.

The House conferees also accepted the restrictions which the Senate had placed on the use of children under 12 in hand-harvest labor in agriculture. This amendment was, of course, intended primarily to permit children to accompany their parents to the field, and to participate in the harvest under very limited circumstances. It is intended to apply to the potato harvest in Aroostoock County, Maine, and to the berry harvests in the Northwest.

The restrictions in the Senate amendment, in addition to the specific age and week limitations, which speak for themselves, are intended to insure that the Secretary of Labor will promulgate rules and regulations to prevent these children from engaging in arduous or hazardous labor. Thus, the burden is placed on the employer to come forward with sufficient information to permit the Secretary to make an informed judgment on these points.

The Senate requirement that the Secretary make a finding that the use of 10- and 11-year-old children is necessary to prevent severe economic disruption of an applicant's industry was also accepted. This requirement, plus the exclusion of migrant workers from the waiver provision, and the provision limiting the amendment to children who commute daily from their permanent residences, is intended to insure that the waiver will not be granted in areas where migrant or season farm workers are available for the harvest. The Secretary of Labor is required to examine the circumstances in each case to insure that the waiver is truly necessary, consistent with local traditions and practices, and is needed to permit the harvesting of crops with exceptionally short harvest seasons.

Mr. President, this legislation is the product of thorough consideration and hard work by its sponsors on both sides of the aisle and in both Houses of the Congress.

I personally wish to extend my appreciation for the result of this conference and for the full cooperation that was achieved by all members of the conference, certainly to Chairman PERKINS of the House conferees and to the author of the bill in the House, Representative BURTON. I found, and I am sure that Mr. JAVITS found, that they applied themselves with wisdom and in a spirit of cooperation to bring this bill back from conference as soon as we could, with the result that we have it here today. As I say, it is a very sound result from the standpoint of the Senate. In my opinion, it is a significant step forward in our effort to establish full and meaningful protections for our working poor and I urge the Senate to approve and adopt the conference report.

At this time, Mr. President, I would also like to take a moment to acknowledge the excellent job done by the clerical staff of the Labor Subcommittee. These key employees, Denise Medlin, Martha Woodman, Maureen Dollard, Joan Wilson, and Harriett Bramble regularly work extremely long, hard days. Without their competent, conscientious efforts, the work of the committee on these important legislative matters could not go on.

Mr. JAVITS. Mr. President, I fully concur with our colleague from New Jersey, and associate myself with his remarks. I believe the conference was relatively, as much as these things can be, satisfactory to the Senate version of the bill, and the cooperation of the House conferees, led by Representative PERKINS and Representative BURTON on the Democratic side, and by Representative QUIE on the Republican side, achieved, I think, an excellent result.

The chairman has already referred to the hourly figures. To me, the key turning point in respect to the minimum wage this time was on the question of indexing. I believe the country, Mr. President, will have been greatly benefited by the fact that indexing was rejected, and that we have a fixed minimum wage increase compatible with projected aspects of the increasing cost of living and inflation up to 1981.

The other issue which was important, other than the gross receipts of small businesses, which the chairman has referred to already, is the question of tip credit. This was reduced to 40 percent of the minimum wage beginning in 1980. The House had gone for 50 percent, we went for 30 percent and, generally speaking, that was split down the middle.

I was very regretful that we finally had to settle for the provision respecting agricultural hand harvest labor, and go to a low age of 10 for children.

I still feel very badly about that. I do not believe it will give any satisfaction to anybody, including the people in those areas, who think they need it. But these are the facts of life. While I am extremely regretful about it, I support the conference report.

Finally, there was a provision in the House bill which particularly penalized conglomerates in respect of the various exemptions under the Fair Labor Standards Act, because they were conglomerates with an aggregate volume of $100 million a year or more. I thought that principle was iniquitous, highly unwise. Even the Supreme Court has said that size alone is not the determinant or criterion for violation of the antitrust laws. Yet here we were wrapping it into a statute. After a very considerable debate that was eliminated. I think that was a victory for the country and for intelligent, nondiscrimination.

What was substituted was a study to see whether there was any reason for any such discrimination.

I must pay tribute to Mr. BURTON, who was the author of that amendment, who felt very strongly about it, but was finally persuaded in the interest of the whole to relinquish it, based upon the fact that the issue would get studied in a close way.

Mr. President, I join with Senator WILLIAMS, chairman of the Committee on Human Resources, in urging the Senate to approve the Fair Labor Standards Amendments of 1977, H.R. 3744, as reported by the House and Senate conferees. Although the conference bill is the product of hard bargaining with the House and does not in some respects provide for as generous treatment of low-wage workers as did the Senate amendments, I can assure my colleagues that, in my judgment, the conference bill is a just compromise that deserves their vote.

The conferees agreed to a 4-year schedule of increases in the minimum wage to $3.35 an hour in 1981, $0.05 an hour less than was provided in the Senate bill. This rate in 1981 will insure a full time minimum wage worker who

supports a family an annual income equal to over 90 percent of the estimated poverty standard of living for that year. This represents the very least we can do for those workers who cannot protect themselves and their families from the erosion in their living standards caused by inflation. Perhaps most significantly, these increases afford such workers the opportunity to hold even a minimum wage job with the sense of dignity which derives from the ability to support a family.

The conference bill gives the Congress an opportunity to reevaluate the economic situation after 1981 with regard to the Federal minimum wage. I opposed the use of a permanent indexing mechanism for the minimum wage in committee and on the Senate floor, in part because I felt the Congress should retain the responsibility of periodic reviews. I am gratified that Congress has agreed to retain this responsibility in light of the uncertain near term economic future that may face this country.

The conference bill also raises the business volume test which exempts retail and service employers from the act. The conferees agreed to an additional step beyond those already provided in the Senate bill. As of December 31, 1981, those businesses with gross sales of under $362,500 will be exempt from minimum wage and overtime requirements. The conference bill provides that the existing wages and overtime provisions enjoyed by such workers cannot be lowered after they are exempted from coverage as a result of the increased small business exemptions.

The final major issue agreed to by the conferees is the reduction in the tip credit for tipped employees. The conference bill reduces this credit to 40 percent of the minimum wage beginning in 1980. In my judgment, this is a fair compromise in light of the other elements of the bill.

I am particularly pleased that the House receded to the Senate provision for agricultural hand harvest laborers, for this body had enacted much stricter protections against the possible exploitation of child labor. I want to emphasize in particular the requirement in the conference bill that before being issued a certificate to employ children under 12, an employer must affirmatively show that no one over 12 years of age is available for such work. I am hopeful that this restriction and others will limit the application of this certificate program to only those cases where it is absolutely indispensible, not just to those where it is customary.

In sum, Mr. President, these provisions along with the others contained in the conference bill provide a measure of economic justice for the working poor of this country. The bill guarantees vital increases in the incomes of those who must labor at the bottom of the wage scale. In light of the economic hardships endured by these people, we must not continue to force them to bear the greatest share of the burden of inflation. Instead, we must insure that every person who works does so for a living wage, and that low wage workers can achieve a sense of dignity and self-worth from the fruits of their labors. I ask my colleagues to speed the enactment of this urgently needed legislation by adopting the conference report today.

Mr. President, I believe the Senator from New Jersey and I, as always, had very satisfactory cooperation in this matter. I am deeply appreciative of the many courtesies and the close working together which was shown in this as in so many other of our joint ventures as chairman and ranking minority member.

I commend this report, with the shortcomings which I have described, to the Senate and hope the Senate will approve it this morning.

Mr. WILLIAMS. I appreciate very much the remarks of the Senator from New York. I share with him a feeling of gratitude for our fine working relationship. It is a long and difficult journey to get to this point in the legislative process. Certainly, our staff members were faithful and diligent in working long, long hours, and in an area which is highly complicated. Their faithfulness to their staff positions was remarkable.

Mr. JAVITS. I thank my colleague. I think Don Zimmerman and John Rother especially rendered fine service.

Mr. President, we are ready for a vote.

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

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

SPECIAL ORDERS

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

THE PANAMA CANAL TREATIES NO. 17

Mr. ALLEN. Mr. President, over the past weekend the news media covered extensively the visit to the White House made by Panamanian Dictator Omar Torrijos. The dictator apparently had been called in for a conference with the President to discuss the right of priority passage for the U.S. Navy and the right of the United States to intervene to guarantee canal neutrality—two of the many ambiguous provisions found throughout the proposed Panama Canal Treaty and the proposed Neutrality Treaty. Other matters, possibly involving the indictment of Moises Torrijos, the dictator's brother, may also have been under discussion; however, press accounts did not allude to that possibility.

In any event, at the conclusion of the conference, amid much fanfare and jubilation, yet another Panama Canal agreement was announced allegedly clearing up the two problems under discussion. At first, many thought that the agreement was at least a signed document. But we soon learned that the purported agreement was, in fact, an unsigned document wholly devoid of any binding legal effect.

But, Mr. President, even assuming that this document had been signed and even assuming that this document could, therefore, be treated as an executive agreement, or a reservation to treaty—I assume that is what it is going to be called if it is ever agreed to by our negotiators and sent up to be added to the treaty—does this document clear up ambiguities or does it simply create more? Clearly, Mr. President, we are in worse shape now than we were before the dictator's visit. For example, on the question of the right to intervene to guarantee the neutrality of the canal, the document reads:

> The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal.

Now, that does not sound too bad, but look at this, Mr. President, that provision is followed by this language:

> This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

So, the dictator is seeking here to protect and preserve his dictatorship.

So, Mr. President, here we are back at square 1—more confused than ever. Does this language mean that the United States has the right to intervene within Panama to protect the canal against all aggressors, including Panama.

That is a possible aggressor. Panama, in entering into these treaties, does not guarantee that there will not be insurrection, sabotage, violence, demonstrations. So one of the aggressors may well be Panama.

Or does it mean that the United States may take action only outside Panama against third countries violating canal neutrality? Perhaps, on the other hand, it may mean that the United States can act within Panama to defend the canal's neutrality, but only against third nations. One guess is as good as another.

Mr. President, why can we not have a document which is clear and unambiguous on its face? Do they not have any lawyers down at the Department of State who are capable of drafting a simple contract?

That is what this really is: a high level contract between nations.

Mr. President, they need to hire some lawyers down there who know that a binding contract to be performed over a period of years ought at least to be a signed document.

We do not have that at this time.

These proposed treaties are at least signed, but they themselves are obviously

of no value in understanding our rights, since all these extraneous documents keep having to be drafted by platoons of lawyers at the behest of ill-advised negotiators. Certainly, this latest document does nothing but add to the confusion.

Yet, Mr. President, here is former Ambassador Linowitz telling the press at the time the document was announced, and I quote from his remarks:

> There has never been any misunderstanding between President Carter and General Torrijos as to the exact meaning of the treaties. The statement is intended to put to rest any misunderstanding as to what is intended under the treaties.

There must have been some ambiguity if they had to issue a statement to clear up the ambiguity.

It would be difficult to see how there was no misunderstanding and now find the issuance of a statement to clear up ambiguity.

You know, Mr. President, I am glad former Ambassador Linowitz thinks that President Carter and Dictator Torrijos have had no misunderstanding over the exact meaning of the treaties because that at least guarantees that two people on the face of the Earth can read these treaties and make some sense out of them. But what about the rest of us? What about future Presidents? What about future dictators—or, hopefully, what about future elected Panamanian presidents—which they do not have now, of course? What are they going to have to go on? If ratified, these treaties could stay in effect for many years and would be the best and only evidence of what was actually agreed. But it is indeed comforting, Mr. President, to know that at least the President and the dictator, according to former Ambassador Linowitz anyway, do mutually understand the exact meaning of these quite baffling provisions. Many of us do wish they would let us in on the secret.

So, Mr. President, former Ambassador Linowitz says there is a meeting of minds; let us hear what Dictator Torrijos had to say no sooner than he left the room where this so-called agreement was promulgated. Dictator Torrijos summarized the meaning of this new document this way:

> If a great power attacks the canal or puts the canal in danger, it is the right of the United States to go and defend the canal. But it does not have the right to intervene or interfere in the internal affairs of Panama.

So, Mr. President, already the Panamanians have got their own version of the meaning of the so-called agreement, and I am sure the Department of State will soon too have its own interpretation.

I might say Mr. Torrijos boasted when he got back to Panama that he had not signed a document, he had not even signed an autograph when he was in Washington, conferring with the President; so he is boasting of the fact that he has not signed anything.

Looking at the language of the document, I must say that Dictator Torrijos may well be correct in his assessment of this unsigned paper. As I read the document, it seems to be saying that the United States can take action away from Panama to defend the regime of neutrality which would be established under the neutrality treaty. But, of course, that right would be close to useless if the United States did not also have the right to defend in place the canal itself. In other words, if Panama—if Panama decided the canal would no longer be neutral because of an alliance formed with another nation, presumably with Cuba or with the Soviet Union, or if Panama decided that it would be convenient to impose discriminatory tolls, or if Panama decided to make difficult the passage of ships of particular nations, Dictator Torrijos or his dictator successor would be in a position to assert that, all neutrality aside, the United States had no right—no right whatsoever—to intervene within Panama or to interfere with the internal policies and affairs of Panama. Here we are, Mr. President, back at square one.

What have we actually gained, Mr. President, by this latest diplomatic triumph—and I might add, Mr. President, I do not believe the country can take too many more diplomatic coups in our dealing with Panama. What have we gained? True, we all read the headlines boldly proclaiming that the President and the dictator had agreed on canal defense rights, but once again, as the truth leaks out, we learn that the document is not even signed, that the document itself is ambiguous, that the document creates problems, Mr. President, and does not solve problems.

This latter point is particularly clear when a thorough examination is given to the language purporting to clarify the rights of American warships to rapid transit of the Isthumus. This language reads as follows:

> In case of need or emergency, warships may go to the head of the line of vessels in order to transit the canal rapidly.

What this unsigned document does not say, however, is who gets to decide what is a case of need or what is a case of emergency. Panama might have one idea about what constitutes an emergency situation and we might have another idea.

Why not say it, Mr. President, in simple terms? I suggest the following, which may well be offered as an amendment to the treaty when it comes up here, in the Senate:

> United States warships have the right of priority passage at any time and may at all times proceed ahead of waiting merchantmen.

No, Mr. President, I guess that is too simple so we have elected instead in this unsigned, meaningless, nonbinding, and confusing document to foment still further potential disagreement by apparently leaving to the Panamanians the right to determine what emergency or which case of need is sufficient to justify priority passage by American war vessels. I think I shall change this word that I have suggested, "waiting merchantmen" to say merely "waiting vessels" rather than merchantmen; that U.S. warships have the right of priority passage at any time and may at all times proceed ahead of waiting vessels.

But listen, Mr. President, what former Ambassador Linowitz is reported to have said on this subject:

> We are hoping it will lay to rest the questions that have been raised so that we can go forward with the approval of the treaties. I don't think, personally, that any further action will be required.

Former Ambassador Linowitz does not seem to be paying too much attention to what is going on over here on the Senate floor, Mr. President, because if he did, he would know that this unsigned, ambiguous document clarifies nothing and does nothing whatsoever to address the many, many other serious—indeed, fatal—defects found throughout the proposed treaties.

I would suggest, Mr. President, that the Department of State pay closer attention to what is being said over here in the Senate because sooner or later, the Department of State has to face up to the simple fact that these treaties are so poorly drafted throughout that the Senate could not properly consent to their ratification. Even proponents of a canal giveaway recognize that fact. Even proponents recognize that both treaties must be rewritten in their entirety.

In my judgment, Mr. President, the Senate should undertake this onerous task. The Senate should, by amendment, rewrite these disastrous proposals now under study in the Committee on Foreign Relations. The Senate should, acting as the Committee of the Whole, sit down to the hard work of undoing the damage and unraveling the mystery of why the Department of State was incapable of reaching an agreement with the Panamanian negotiators which could, at a minimum, protect the vital national security interests of our country.

Unsigned documents clarifying nothing, understandings of no binding legal effect, reservations of rights not agreed to by the other party, are not going to be sufficient. Fanfare and hoopla in the press is not going to be sufficient. The only course of action is extensive and thorough page-by-page, paragraph-by-paragraph, sentence-by-sentence, word-by-word consideration and amendment of each and every provision of both treaties. Both treaties, Mr. President. This process will be long and tedious, very long and very tedious, but if these treaties are not soon withdrawn, it is a duty, Mr. President, we must soon undertake inasmuch as others have not. We must unfortunately also go ahead with the painful process of resolving all of the questions surrounding the peculiar manner in which the treaties were negotiated.

Mr. President, I feel that, as time goes on, we shall see other statements to clear up other ambiguities. I feel that, in the final analysis, we are going to have to amend these treaties here, on the floor of the Senate, and send this amended treaty back to the negotiators to serve as a guideline for further negotiation.

Mr. President, I appreciate the Chair's lenience. I know I have consumed all my time. I yield the floor.

ORDER TO CALL UP ENERGY TAX MEASURE AT ANY TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership be authorized to call up the energy tax measure at any time after the committee report has been available to Members. This is in accordance with the understanding that I reached on yesterday with the distinguished Republican leader.

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

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. For the record, this unanimous consent has been cleared with the leadership on the Republican side and with the Republican members of the Committee on Finance. I am requested to make this statement by the minority leader.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is the distinguished Senator from New York (Mr. MOYNIHAN) being recognized?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized for a period of not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Will he yield to me?

Mr. MOYNIHAN. I am honored to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time not be charged against the Senator from New York.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate Foreign Relations Committee be authorized to meet during the session of the Senate today to consider the Panama Canal treaties.

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

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet until 12:30 p.m. during the session of the Senate today. to continue its investigation of labor union insurance programs.

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

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, will the Senator from New York yield to me for 1 minute?

Mr. MOYNIHAN. I shall, with great pleasure, yield to my distinguished colleague.

Mr. JAVITS. Mr. President, I ask unanimous consent that the remarks which I will make, though subsumed under the same heading, shall follow those of my colleague from New York.

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

Mr. FORD. Mr. President, I ask unanimous consent that my 15 minutes allotted to me, whatever time I have remaining, be given to the distinguished junior Senator from New York.

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

Mr. MOYNIHAN. I thank the Senator.

THE STEEL COLLOQUY

Mr. MOYNIHAN. Mr. President, we are commencing this morning on an event that is unique in the history of the U.S. Senate. A number of Members of the Senate from States throughout the Nation have chosen this occasion to rise to speak to the question of the U.S. steel industry, the industry which first seized the lead in productivity and in production in the world.

Mr. President, the steel industry of the United States first took the lead in productivity and in production in the world somewhere in the middle of the 1890's, and with that event the United States—perhaps little known to itself at the time and less to others in the world, but soon in the First World War to become so apparent—with that event the United States became the premier, the leading industrial power in the world.

It was on the basis of that great steel industry that we proceeded to create an automobile industry, and an ever increasingly complex industrial civilization, always built on the fundamental industrial activity, that of making steel.

It was not until the end of the Second World War that American preeminence in this field was challenged and, indeed, not until the end of the 1960's that a new industrial power, equally adept and even perhaps more ingenious, proceeded to surpass the United States in output per man-hour in the steel industry, that of Japan.

Andrew Carnegie once observed, of the great genius with which he had put together his own steel-making complex, that he would take 2 pounds of iron ore 150 miles from West Virginia and 5 pounds of coal 300 miles from Kentucky and make them into a pound of iron and sell it for a penny. That capacity and that dominance lasted almost a century, only in the course of the 1960's to recede and to be followed in the 1970's by a growing awareness of a malaise, of a fundamental dislocation in this most fundamental of all industrial industries.

It is to the question of the role of Government in the onset of that dislocation that I would like to speak, and my colleagues—including the distinguished junior Senator from Pennsylvania who is standing at this moment—would like to speak.

Mr. President, our particular attention today will be addressed to the question of specialty steel, those particularly hard, particularly durable steels capable of sustaining great stress, equal to the heaviest demands of industry, of science, of technology, of armament, which for some time now have been subject to extraordinary import penetration from other countries, such that in January of 1976 the International Trade Commission issued a report to the President—then President Ford—which said that certain stainless steels "are being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat thereof to the domestic industry or industries producing articles like, or directly competitive with, the imported articles."

The International Trade Commission thereupon recommended that quotas be imposed on these products for a period of 5 years—the longest period for which quotas are allowed.

This situation was thus in place when, on May 25 of this year, the President's Special Representative for Trade Negotiations requested of the Commission that it review its earlier findings to determine the probable economic effect on the domestic industry of the termination or the modification of the relief provided by the Presidential proclamation of 1976.

Mr. President, the International Trade Commission has now completed that review and just now has issued a finding which, by a 3-to-1 margin, advised the President that the termination of these annual quotas on imports of stainless steel and alloy steel would have a serious adverse economic effect on U.S. producers.

Mr. President, we rise in this Chamber today to endorse the finding of the International Trade Commission and to speak, as it were, to President Carter, to urge him with the greatest conviction to accept the now renewed finding of his own Trade Commission that the industry, the specialty steel industry, is being injured and is deserving of the protection provided for a period of 3 years. The original judgment has been confirmed.

We ask the President to make no change.

Mr. JAVITS. Mr. President, I wish to associate myself with the position which is being taken by my colleague (Mr. MOYNIHAN) on specialty steel. My own record for many years, both in the House and the Senate, has been in support of open trade as being in the highest national interest of the United States and in the highest interest of a peaceful and prosperous world. I still very deeply feel that way. In order to maintain that policy, however, it must be possible to give phasing-in periods when industries may adjust to a sudden situation which imperils them and their workers before adjustment assistance or tariff relief by negotiation in the multilateral trade negotiations in the GATT can take hold. That is the situation with specialty steel.

Quotas were instituted in June 1975 on specialty steel imports for 3 years, after import injury was proven. The President requested the International Trade Commission to review the economic situation

in the domestic industry to determine if the quotas should be reduced or terminated before the 3 years are up. The ITC found by a 3-to-1 vote that the quotas should not be removed before the end of the period. The ITC action is only a recommendation and the final decision rests with the President.

In asking for a continuation of the quotas we are not asking for new import relief, but only for a continuation of the quotas for the original period and no more. Import-related injury was already proven.

The specialty steel makers are only now beginning to feel the benefits of the temporary restraints. Taking away the quotas before the intended deadline would force the specialty steel people to cutback on their major capital investment plans, on which they are counting to be able to meet the import competition when the quotas are removed in 2 years.

Any industry request for further import relief after these quotas might be difficult to support, and the industry should therefore use the time well to introduce a major restructuring of the industry.

The time should also be used to work out an acceptable long-term solution to the problem through sectoral negotiations in the multilateral trade negotiations. The continuation of the quotas would put U.S. negotiators in a stronger position in developing an international solution.

The entire steel question is another example of an economic area in which the administration must have a concerted policy which carefully balances our domestic interests in full employment and capitol investments and our international interests in open trades. The administration appears to be continuously putting out brush-fires without understanding the larger implications for global U.S. economic policy.

I therefore join with my colleague from New York and other Senators—and join also with the International Trade Commission which has come to the same conclusion by a vote of 3-to-1—in urging the President not to rescind the quotas on specialty steel, but to maintain them for the period which was ordered, to wit, 3 years from the original date, on the ground that the industry during that time may do what is needed to adjust itself to an open world trading situation—in which I believe, and in which I feel my colleague (Mr. MOYNIHAN) also believes.

I thank the Chair, and I thank my colleague very much.

Mr. FORD. Will the distinguished junior Senator from New York yield for 1 minute?

Mr. MOYNIHAN. With great pleasure.

Mr. FORD. I thank the Senator.

Mr. President, I, too, want to associate myself with the junior Senator from New York in what he is endeavoring to do this morning.

The specialty steel industry is important to Kentucky. As each of us know, Kentucky is not the richest State in the Nation. But we do have these operations in Ashland, Newport, Wildie, and in my hometown of Owensboro.

Mr. President, I rise today to join with my distinguished colleagues in exploring an issue that is of increasing concern to the American people. The rising tide of imported goods into this country is washing out hundreds of thousands of American jobs and we are faced with a trade deficit this year that the Secretary of the Treasury believes may reach as high as $30 billion.

Less than a decade ago trade deficits for the United States were unheard of and indeed most of us thought they were unthinkable. But deficits began in the first Nixon administration and, with one or two exceptions, we have had them almost every year since. Our constituents see their jobs threatened, or in all too many cases, eliminated entirely by the flood of unrestricted imports.

The argument that imports hold down inflation appears ridiculous when we see prices skyrocketing on products like shoes and apparel where imports have come to dominate the American market. Imports may mean bigger markups and higher profits for department stores and chain retailers, but they certainly have not brought lower prices for the consumer.

Moreover, on certain items we see foreign suppliers increasing their prices astronomically once they have captured or come to dominate a segment of our market. Specialty steel is a case in point. During the world steel shortage of 1973–74, the foreign steelmakers boosted their prices on certain specialty steel products as much as 100 percent. Their rationale is that once they drive their American competition out of the market they can charge whatever the market will then bear.

We cannot afford to see this happen to the entire specialty steel industry, which is one of the most critical and essential industries in the country.

Almost every other key industry is dependent upon specialty steels, and we must make sure they have a reliable supply of these high technology metals at prices that will not force these other industries to increase their prices.

More than 65,000 jobs in the specialty steel industry are at stake in the President's review of the import quotas on specialty steel. It is really a question of whether we want to sacrifice our jobs and our industries to unfair competition from government-owned or subsidized industries abroad.

This matter is of extreme concern to me since major steel operations are located in my State at Ashland, Owensboro, Newport, and Wilder. I have already expressed my concern to the President, Labor Secretary Marshall, Treasury Secretary Blumenthal, and Special Trade Representative Strauss, with whom I and more than 20 other Senators met 3 weeks ago in an attempt to find a solution to this most serious situation.

As of now, the key to relief for the steel industry appears to be the country's antidumping laws. If it is determined that dumping is harmful to the industry, the Government will levy special tariffs on foreign imports.

However, Lloyd McBride, president of the United Steel Workers of America, says that this will not act fast enough to compensate for, or stop layoffs in the industry, and that some quotas or other temporary restraints are necessary. I urge the President to act and act quickly, and if administrative actions do not bring the desired result, we in the Congress must be prepared and ready to take legislative steps to resolve this most serious problem.

Mr. MOYNIHAN. I thank my distinguished colleague and former Governor of the State of Kentucky for his supportive comments.

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

Mr. MOYNIHAN. I am glad to yield to the Senator from Pennsylvania.

Mr. HEINZ. First, I commend the distinguished junior Senator from New York (Mr. MOYNIHAN) for leading this colloquy. It could not come at a more appropriate time.

Last Thursday, at the White House Conference on Steel, the President of the United States indicated that the administration's policy would be to enforce the trade laws to prevent unfair trade. That includes section 201, the escape clause; that includes the other sections of the 1974 Trade Act, the Tariff Act of 1930, and the Antidumping Act, which deal with discrimination, with countervailing duties, and with dumping. This represents the first opportunity for President Carter to make good on his pledge to enforce the law.

What is at issue here in the specialty steel case, as the Senator from New York has succinctly pointed out, is whether the President will modify or eliminate, contrary to the recommendation of the U.S. International Trade Commission, the existing quotas on specialty steel which have yet some 2 years to run.

The Senator from New York is a member of the Finance Committee. I know that, as a member of that committee, he fully appreciates what Congress intended in passing the Trade Act of 1974. That intent was that import relief, once granted, should not be terminated without good and just cause; and when a finding was made that injury would result, it clearly was the intent of Congress that those quotas not be lifted.

We are now confronted with an argument, which is advanced by some who would urge the President to remove these quotas, that the reason they should be removed is that the industry is making progress, that the industry is making capital investments, that the industry is providing jobs, that the industry is playing the role that we had hoped it would play. In fact, what they are saying is, "You should eliminate these quotas because they are accomplishing their intended purpose."

Mr. MOYNIHAN. That is right.

Mr. HEINZ. I think the Senator would agree that if we accept that logic, we might as well agree with the following logic: that because senior citizens are living longer, we might as well get rid of

medicare. That is the logic of those who say that because the quotas are working, we should get rid of them. It is the same logic that contends that because more Americans attend college today than ever before, we should get rid of aid and loan programs to help students who are going to college. I know the Senator does not agree with that logic. It is the same logic that says that because we have more Americans working today than ever before—87 million—we do not need to do more to create jobs. I know that every Member of this body understands that we should do more.

I say to my distinguished colleague from New York that the logic of those who support doing away with these quotas makes absolutely no sense at all.

That is why I am extremely pleased to be able to join Senator MOYNIHAN, Senator JAVITS, Senator SCHWEIKER, Senator METZENBAUM, Senator FORD, and the other Senators who are participating in this colloquy and point out that if the President does change or eliminate the quotas, he runs the risk that we may seek to change the trade laws as they now stand. A tremendously sound case is advanced by the Senator from New York and many others that we want to see not only that this law works, but that all our other laws against unfair trade also work.

If we lose the battle to enforce this law, then all those countries in the EEC, Japan, and others will look at our other trade laws on dumping; against cartels, as is the focus of the antidiscrimination law; against foreign government subsidies of industries, on pain of being subject to a countervailing duty; and they will decide that they do not need to pay attention to anything we have written into law. That is why I think this colloquy is important.

Mr. President, Pennsylvania is truly the home of the specialty steel industry. Thousands of steelworkers live in Pennsylvania and many specialty steel companies have their corporate headquarters in my State. Therefore, this is an issue which is of particular interest to me.

I had the opportunity to testify before the International Trade Commission on September 7, as part of the review President Carter requested the ITC undertake in connection with the quotas. At those hearings, I pointed out that it would be senseless and unfair to reduce or terminate these vitally needed quotas before the promised 3 years of import relief has been completed.

I ask unanimous consent that the text of my statement to the International Trade Commission be printed in the RECORD following the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HEINZ. It is important to note at this point that the recent vote by the International Trade Commission gives added force to our contention that the current quotas should be continued. By a 3-to-1 margin the four Commissioners voting agreed that removal of the quotas would have an adverse effect on the industry. The Commissioners split 2 to 2 on the question of modification of the quotas, though of the two supporting modifications one favored only limited changes. On balance the ITC vote represents a significant victory for the industry, which has contended the quotas should be allowed to run their prescribed course.

This decision by the Commission is also important in the context of what is happening in the steel industry as a whole. As I previously indicated, at the White House meeting last week, the President's major point was his new-found determination to aggressively enforce existing law. Though his resolve in this regard may be more an effort to put off the enactment of stricter legislation rather than a real commitment to the steel industry, those of us who are concerned about the industry have to seize these opportunities as they come along and hold the President to his statement.

There is no question, of course, that there is significant enforcement to be done. There are currently three major dumping cases pending, following the Treasury Department's tentative finding of dumping in the Gilmore case. United States Steel last month filed a complaint against Japanese companies covering structural steel, hot and cold rolled sheet, galvanized sheet, and welded standard pipe. Also last month, Georgetown Steel filed a complaint against the French alleging dumping of carbon steel rods. Earlier this week a group of American steel companies filed a complaint against a number of Japanese and Indian firms for dumping seven-wire. Treasury must shortly decide whether to go ahead with investigations in these cases, and this decision will be an early test of the significance of the President's announcement last week.

Likewise, a section 301 complaint has been pending in the Office of the Special Trade Representative for more than a year. This complaint, alleging that a secret bilateral agreement between the European Coal and Steel Community and the Japanese Ministry of International Trade and Industry (MITI) has had the effect of diverting significant quantities of Japanese steel to the United States. Whether the President and Ambassador Strauss will act on this complaint is another test of Presidential determination.

Still other complaints are likely to be brought, given the President's statement, and as a result there will be more tests to come.

Another important measure of the President's commitment to the steel industry will be his action on the specialty steel quotas case.

Even though unfair competition has not been alleged in this case—it is a section 201 "escape clause" case—the question of the efficacy and legitimacy of the 201 mechanism is at stake here. This is the only case in recent years where the President actually followed an ITC recommendation and imposed quotas. The purpose of the quotas is to give the specialty industry some breathing space, some time to sharpen its competitive edge. That appears to be happening as a result of the quotas, and I believe it is fair to say that this section of the Trade Act is working as intended. Unfortunately, we now seem to be facing the argument that the very fact it is working is reason enough to end it in this case. That is, now that the industry is making progress, perhaps we should remove the quotas as they are no longer necessary. Such an argument, of course, flies in the face of all logic and facts in this case.

The purpose of the escape clause mechanism is to provide time for an industry to recover. That time has barely begun to run in the specialty steel case, the quotas being only in the beginning of their second year. To remove them at this point would not only do serious harm to the industry but would do violence to the whole concept of protection from imports that Congress developed in the Trade Act of 1974. The escape clause—section 201—was carefully structured so as not to provide permanent or unjustifiable protection from imports, but rather to set up a procedure allowing for a carefully defined period of protection during which beleaguered industries could rebuild their strength. This procedure is working as intended in this case, and I know all of us speaking this morning agree that it should be allowed to run its course in the specialty steel case.

Of course, as I implied a moment ago, the specialty steel industry is only a part of the steel industry in the United States, and trade is only a part of the problem facing the industry today. Several weeks ago Senators RANDOLPH, GLENN, METZENBAUM, and I organized the first meeting of the Senate steel caucus, which was attended by 17 Senators representing 12 States, with a number of others who indicated substantial interest but who were unable to attend the initial meeting. As a result of that meeting, though no formal structure has been established in the caucus, the offices of the four organizing Senators are now working together to fashion a legislative program that will help the industry.

It is our intention to proceed slowly and carefully in this regard, and we will be examining in detail a number of different proposals including amendments to the Buy American Act, changes in our tax laws to ease the installation of pollution control equipment and other federally mandated expenditures, loans or loan guarantees to aid the industry in modernizing its facilities, industrial development bonds for the same purpose, and, of course, a variety of trade legislation including proposals to streamline procedures for investigating complaints under existing law and improvements in our adjustment assistance program.

The House of Representatives, in a parallel caucus, is doing the same thing, and I am sure it our mutual hope to have a number of legislative proposals reviewed by the end of this session. The President has indicated that his interdepartmental working group on steel, chaired by Under Secretary of the Treasury Tony Solomon, will be submitting its report and legislative recommendations shortly. Needless to say, since that program is likely to become the President's

program, it is awaited with great interest and will be reviewed with great care by the steel caucus.

Overall, Mr. President, it is my view that the administration has now been made aware of the magnitude of the problems confronting the steel industry. Whether the will to do anything about them or the expertise to come up with the right policies actually exists remains to be seen. Many of us in the Congress, however, will be watching closely.

I thank the Senator from New York for yielding to me.

EXHIBIT 1

TESTIMONY BEFORE THE INTERNATIONAL TRADE COMMISSION ON SPECIALTY STEEL IMPORT RESTRAINTS

Mr. Chairman and Members of the Commission: I appreciate the opportunity to testify today concerning your review of the import quotas on specialty steel products. I am particularly interested in this case because, as you know, much of the specialty steel industry is located in Pennsylvania. Allegheny Ludlum, Armco Steel, Babcock & Wilcox, Bethlehem, Braeburn Alloy Steel, Carpenter Technology, Colt Industries, Jessop Steel, Jones & Laughlin Steel, Latrobe Steel, Teledyne-Vasco, United States Steel, Universal Cyclops, and Washington Steel all have facilities in my state. There are 22 separate specialty steel facilities in Pennsylvania employing thousands of workers. Thus, it may fairly be said that Pennsylvania is the home of the specialty steel industy, and the outcome of this case will have a significant effect on my state, as well as the national economy.

BACKGROUND OF CASE

On July 16, 1975, 19 American specialty steel producers and the United Steelworkers of America filed a petition under Section 201 of the Trade Act of 1974, seeking relief from the growing tide of specialty steel imports which threatened the security of 65,000 steelworkers' jobs. This commission held hearings in October, 1975, and on January 16, 1976, determined that imports were a "substantial cause of serious injury" to the domestic specialty steel industry. The Commission recommended quotas for a period of five years to prevent or remedy the injury.

During the Spring of 1976, the Ford Administration negotiated an orderly marketing agreement with Japan and set quantitative limitations on other foreign nations, notably the European Community, which declined to negotiate orderly marketing agreements. On June 14, 1976, quotas on certain specialty, steel products (tool steels, stainless steel strip, sheet, plate, bar and wire rod) were put into effect for a period of three years.

On May 24, 1977, President Carter announced plans to review the specialty steel import restraint program. This was less than one year following implementation of the strongest form of relief ever recommended by the International Trade Commission and subsequently implemented by a President. Under Section 203(1)(2) of the Trade Act, the role of the International Trade Commission is to advise the President of its judgment "as to the probable economic effect on the industry" of the reduction or termination of import relief. Under Section 203(h)(4), the President must then determine whether reduction or termination of the import relief is "in the national interest".

It is my view that removal of quotas at this point would be a serious mistake. It would not only be unfair to the industry, which is just beginning to see the effects of the quotas, such a move would also be detrimental to our long term trade policy objectives.

IMPORT RELIEF IS JUST BEGINNING TO TAKE EFFECT

The relief recommended by this Commission and implemented by President Ford is just beginning to take effect. In fact, imports during 1976 again set records, in spite of the fact that the quotas went into effect on June 14th. 1976 imports totalled over 167,000 tons, 9 percent higher than 1975 imports, and 14 percent higher than the restraint level permitted for the first year of the quotas. As a result, no relief was felt in 1976, and in fact injury continued to occur for at least a year following the ITC decision of January, 1976.

As I am sure you will hear from industry witnesses, individual companies have made plans for substantial increases in capital investment, and other projections based on the promised three-year period of relief. It would be unfair and unwise to terminate or modify the import quotas now and jeopardize these growth plans, and the needed jobs they will create. Surely, the "serious injury" found by this Commission in January, 1976, has not been remedied by only a few months of effective import relief. The specialty steel industry spent many months of valuable management and labor time proving its case. The judgment of this Commission that strong relief was required was confirmed by the President. In my view, these were eminently correct decisions on both counts. To require this industry to prove its case again in order to save relief which was so clearly justified and generally agreed upon makes a travesty of the Trade Act and the procedures it established.

A further problem in this case is that there is no provision in the Trade Act for a Congressional override of a Presidential decision to terminate or modify this import relief. In cases where the President modifies the relief recommended by the International Trade Commission, Congress has the opportunity by a majority vote in both Houses to override the President's decision and require implementation of the remedy recommended by this Commission. However, where import relief is already in effect, as in this case, there is no such provision. After the President receives your advice as well as that of the Secretaries of Labor and Commerce, he has a free hand to do as he wishes.

Nevertheless, I can assure you, Mr. Chairman, that many members of Congress are watching this case carefully and are concerned about what implications it may have for the Administration's trade policy. A decision to terminate or modify these quotas could well stimulate new trade legislation to reduce the current flexibility permitted the President under the Trade Act.

In addition, the timing of this review is particularly unfortunate. The economics of Europe and Japan have not recovered to the extent of the American economy. As a result, foreign producers have built up large inventories of specialty steel products and are anxious to ship those products to the United States. In fact, within only a few days following the beginning of the second quota year on June 14, 1977, the European community reached its ceilings for two specialty steel products subject to the quotas for the next six-month period. Additionally, the "basket category" for "other" countries reached its ceiling on one specialty steel product. It is obvious that the flood of imports would begin anew if the quotas were ended or significantly modified, thereby undoing the effects of the short period of relief.

IMPORTANCE OF CASE TO U.S. TRADE POLICY

Second, this case is particularly relevant to the Trade Act. We are dealing with an industry which is technologically competitive and can make its products as efficiently and as cheaply as any of its foreign competitors. The American specialty steel industry is not a dying industry. Under conditions of fair international trade, it can survive and prosper. Furthermore, this industry is adjusting to competitive conditions as contemplated by the Trade Act. Some of the indicators of industry economic health are beginning to nudge upward. In fact, it is ironic that this review has been ordered just as what is supposed to happen during a period of import relief is in fact happening. The industry is beginning to make a recovery. But to remove or modify the quotas now would put this industry back in the position it was in when it initiated the escape clause case in 1975. In short, the specialty steel industry can survive and prosper, but it needs the full three-year period of import relief to do so.

A second reason this case is so important to overall U.S. trade policy is that it exemplifies what we are facing in many industries—an environment characterized by unfair trade practices on the part of our trading partners. With few exceptions, American specialty steel companies are the only ones in the world which are currently profitable. Yet, they are continually undercut by foreign pricing practices. A recent "white paper" prepared by an independent consulting firm for the American Iron and Steel Institute concluded "that foreign producers are currently selling steel in the U.S. market at prices below their average cost, and that this practice has been consistently used by foreign producers in the past whenever necessary to increase their capacity utilization."

Foreign specialty steel companies are supported by a vast array of government subsidies. Preferential bank loans, tax advantages, subsidies for producing during periods of slack demand, government grants for pollution control expenditures, price-setting by government-authorized cartels—these are just examples of practices permitted and encouraged by foreign governments which allow their companies to operate outside the normal requirements of profitability and capital formation. Under such circumstances, production efficiencies have little meaning. This poses a particular problem for the specialty steel industry, and it underlines the necessity for steel sectoral negotiations in the Multilateral Trade Negotiations, as directed by President Ford in conjunction with his approval of import relief for this industry. I have recently discussed the New Administration's interest and goals in ensuring fair international trade practices in the steel industry with Assistant Secretary of the Treasury, Fred Bergsten, and others. I was informed that the Administration was concerned enough to place the problem before the OECD. In fact, this was done earlier this summer. As a result, some progress on international steel discussions is beginning to take place within the OECD, and I intend to follow these discussions with great interest. It is essential that we move aggressively to bring some order to the international steel market and seek to end the unfair tactics our trading partners are using.

This case is also important to our overall trade policy because it will establish a precedent for future industries which may be granted relief under the Trade Act. If the United States government is willing to abandon an industry which has so recently proven that import relief is clearly justified, then what hope is there for other industries in similar positions? The Trade Act was designed to provide needed relief. It should be permitted to work in this case.

Not to permit the process to run to its conclusion jeopardizes the integrity of all our future trade actions. It tells American manufacturers they cannot count on their government to keep its commitments, and it tells foreign governments we don't intend to stick to any meaningful policies designed to promote *fair* trading practices.

Moreover, to unilaterally surrender an important bargaining chip like this in the Multilateral Trade Negotiations without a quid pro quo would send this unfortunate message loud and clear. Why should the United States terminate or modify these quotas without receiving enforceable commitments in return which will go toward eliminating widespread unfair trade practices in this area. Surely our trade negotiators must recognize the wisdom of retaining this valuable bargaining chip until a quid pro quo is offered.

In short, if we do not stand fast in this case, the result will be an added impetus to foreign export subsidies and a renewed flood of subsidized imports into this country. It would also make a mockery of the recent statements and actions by the Administration in a contrary direction.

Mr. Chairman, and Members of the Commission, I strongly urge you to confirm the wisdom of your 1976 decision and recommend to the President that the import quotas be retained for the full three-year period of relief. Surely the serious injury you found in early 1976 has not been remedied in only a few months.

Mr. MOYNIHAN. I thank the Senator from Pennsylvania.

Mr. President, I should like to sum up two points made by the Senator from Pennsylvania with great clarity, with force, and with the conviction that comes from the support of facts.

The first is that the argument that the protection provided by the Commission is not needed because of the growth of employment in this special industry, the growth of investment in this special industry, the increase in share of the market, far from being an argument against the acts of the Commission, is an argument to suggest that the Commission's judgment was correct and this remedy is working.

Second, the Senator makes the powerful and much more general point—which the President surely will want to hear—that the United States, which has led the world in the free trade policies which have brought about and shaped the modern trading system of the free world, has introduced only modest protections of its own industry.

Compared with any of our trading partners, we are far more liberal, always the first to make concessions, always the last to impose restraints. But if we do impose restraints, let us by all means have it understood that we are serious, that we are moved by powerful argument and irredeemable fact, and that the restraints so imposed will be continued during the formally decreed period of time.

I see the Senator from Ohio in the Chamber, and I wonder whether he would like to join in this discussion.

Mr. METZENBAUM. I would, indeed.

I am pleased to join the distinguished Senator from New York, and I respect him for leading this colloquy, with the two Senators from Pennsylvania. Also, I see that the Senator from Tennessee is in the Chamber, to join in the colloquy.

Mr. President, I think it is significant that we all see fit to come to the floor today to address ourselves to this question, because I suppose that, with no exception, each of us, in his own State, is experiencing some unemployment—some higher and some less—in the steel industry.

I represent a State in which 5,500 employees were advised recently that the entire plant was being closed down. Although it is not a specialty steel situation as such, it is indicative of what is happening to the steel industry in this country.

The quotas that were imposed by the International Trade Commission were set on a trial basis, and they were needed. If we look at the figures, we see that imports of specialty steel in 1975 were 154,061 tons. By 1976, it had gone up to 167,760 tons.

U.S. production in specialty steel, however, between 1974 and 1975, before the imposition of quotas, had taken a nose dive from 1,328,000 tons to approximately half of that amount, 722,000 tons.

Then came the imposition of quotas; and in 1976, the amount of specialty steel produced went back up to 1,063,000 tons, about a 50-percent increase. For the first 6 months of 1977, the figures indicate that specialty steel production will be approximately the same as that in 1976.

Here is an opportunity that we have where Government has made it possible so that there may be employment, so that industries may operate at a profit, so that we may have a viable economy, and instead of that consideration is being given now to removing those import quotas in spite of the fact that by a 3-to-1 vote the International Trade Commission just recently indicated that it did not support the concept of removal.

I believe that that decision and this colloquy, I would hope, would indicate to the President the strong concern that we have based upon the facts and based upon the determination made by the International Trade Commission that these quotas are indeed needed. That was their determination.

I think that to do anything less than to keep them in effect for the balance of the period would be to fail to concern ourselves about those who might otherwise be walking the streets of America and adding to the unemployment lines that exist at the present time.

My State is a major steel-producing State in this country. The Senator from Pennsylvania, the Senator from New York, and the Senator from Tennessee, also represent major steel-producing States.

We are concerned about people having an opportunity to earn a livelihood. We are concerned about people being able to participate in their community, to pay their taxes, and to be a part of a healthy community, and that means that they have to have jobs. If they are to have jobs at this point in time I see no alternative but that we continue in effect the import quotas that are presently in effect, and I hope that the President will see fit to give support and comfort to those of us who represent States and, for that matter, the entire Nation, since this affects the entire economy, that we can keep up to the employment where it presently is, particularly in the import steel and in the special steel area, and I hope that no change will come about.

I am grateful to the Senator from New York for having seen fit to bring a number of us to the Chamber today to engage in this colloquy. It is a privilege to have an opportunity to work with him in this matter.

Mr. DECONCINI assumed the Chair.

Mr. MOYNIHAN. I thank my distinguished friend, the chairman of the Northeast-Midwest coalition of this Senate.

I wish to report some news which has just been handed me which is further confirmation both of the timeliness of our colloquy this morning and of the case which we present. I am just informed by Mr. Munsey, of the Treasury Department's Public Affairs section, that the Treasury Department will announce today that it has decided to proceed with the investigation of the dumping petition, filed by the United States Steel Corporation, to determine whether imported steel is being sold at less than fair value.

I think my colleagues recognize as do I, certainly as one who has served in the executive branch of Government under four administrations, that the Treasury Department comes with great reluctance and comparable care to any such judgment. The decision to go forward with an investigation is evidence of their judgment that there is a prima facie case that has been made and indeed the case does exist.

The Government is slowly recognizing that we are on the verge of a crisis with respect to the fundamental industry of an industrial society, and it is time for a response not only to the specifics of the complaint or that sector of the economy but also, as I shall speak to in a short while, to the general question of the manufacture of steel and its various products in the United States.

I thank the Senator from Ohio.

I see the senior Senator from Pennsylvania is in the Chamber, and I should be honored to yield to him for his comments on this matter.

Mr. SCHWEIKER. I thank the distinguished Senator from New York, and I commend him very strongly for his leadership and initiative in this area. I believe I have a special order in my own right, so to conserve his time I ask unanimous consent that this be taken out of my special order.

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

Mr. SCHWEIKER. Mr. President, I join my distinguished colleague from New York and many other Senators today in asking President Carter to uphold the ITC's recent decision and to retain the import quotas on foreign specialty steel products. More than any other State, Pennsylvania is directly affected by imported specialty steel.

It is estimated that some 65,000 are employed in the specialty steel industry nationwide, 30,000 of which are in Pennsylvania. It is rather obvious that Pennsylvania has a very basic interest in maintaining a healthy specialty steel industry. I have long been concerned about the flood of imports because thousands of steelworkers in my State have been laid off periodically due to im-

ports, and because many Pennsylvania companies have been injured by the unfair trade practices committed by Government-subsidized foreign specialty steel producers.

I might say, Mr. President, that on April 7, 1972, I chaired a special hearing for the Subcommittee on General Legislation of the Armed Services Committee, the topic of which was the essentiality of specialty steel to national security.

The record of this hearing was subsequently published in the form of a committee report. It was clearly shown that all of the production for defense purposes that we have in this country today requires the utilization of specialty steel at some point in the manufacturing process. To have our domestic industry decline and decay through the continued purchase of foreign specialty steel would result in the most serious of consequences for our national security. So I think there are very, very significant defense ramifications to the plea that we are making today.

After congressional enactment of the Trade Act of 1974, the specialty steel industry filed an escape clause petition with the International Trade Commission. Following extensive hearings and a full investigation, the ITC recommended 5 years of import quotas. President Ford concurred with the ITC finding that the domestic industry was being severely injured by imports and, in June 1976, implemented quotas for a 3-year period, reducing the initial recommendation by 2 years.

This summer, after little more than a year of import relief, the administration initiated a review of the situation. It would be unfair to take away the relief which the specialty steel industry attained only after a year long struggle.

I have pointed out that I conducted hearings on this subject back in 1972, and we had a 4-year struggle before relief was granted.

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

Mr. SCHWEIKER. I am glad to yield.

Mr. MOYNIHAN. I think it would have been inappropriate for me on this occasion not to recognize that it has been precisely the leadership of the senior Senator from Pennsylvania which, well in advance of any national or administration perception of this crisis, brought to our attention by the hearings that he held and by the record which he made, the seriousness of this matter. The action which we are supporting today is being taken as a direct consequence of the initiative which he took, in the first instance, for which I think both the industry and those of us who represent these constituents can be grateful. I acknowledge that gratitude on the part of the State of New York.

Mr. SCHWEIKER. I certainly thank the distinguished Senator for his kind remarks. I am delighted to see his leadership and his initiative at a very critical time when everything we have worked for may be lost if we do not speak out as we are trying to do here today.

The American specialty steel industry is a very modern industry, unlike some others with which we are currently having problems. This is not a case of obsolete production methods. Anticipating 3 years of import quotas, the industry has made major new commitments, based on a 3-year cycle, to capital expenditure. To pull the rug out from under them after only 1 year of relief just cannot be justified. Our specialty steel industry is not a dying industry. It is healthy and competitive.

But competition in the U.S. market is characterized by the unfair trade practices of foreign competitors.

The distinguished Senator from New York has just cited the most recent situation of this nature to point out the very problem caused by unfair competition. I am referring to the Treasury Department's examination of the dumping of basic steel.

So foreign producers are able to sell in our market at prices below their cost of production.

I join my colleagues in urging the President to retain the specialty steel quotas without change. I ask unanimous consent that a letter I have written, in conjunction with Senator BENTSEN and 15 of our colleagues, including the distinguished Senator from New York, to President Carter on this issue be printed in the RECORD at this point.

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

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 30, 1977.

HON. JIMMY CARTER,
President, The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing concerning your forthcoming review of the import quotas on specialty steel. As you know, the International Trade Commission recently conducted hearings on this matter. We strongly believe the domestic specialty steel industry has more than justified its case for continued protection against unfair foreign competition. We urge you to retain these vitally needed quotas without change.

After a comprehensive investigation, the International Trade Commission last year found that the specialty steel industry was suffering serious injury as defined by the Trade Act of 1974, and recommended quotas extending for five years. In the only case where an ITC recommendation of this nature has been followed, President Ford granted three years of import relief and called for an international conference on steel.

Now, after only a little more than a year of relief, the quotas are being reviewed. Three years have not passed, nor has there been any movement in the current GATT negotiations towards a resolution of the problems confronting the specialty steel industry.

Yet, the provisions of the Trade Act of 1974 have, in this case, proven effective. The domestic specialty steel industry is steadily recovering. The highest level of production and employment since 1974 was attained during the second quarter of 1977. However, this improvement is only the first sign of long-term recovery.

Should the quotas be terminated or modified, the domestic specialty steel industry will once again be severely impacted by foreign imports. American workers will be laid off. Foreign producers, heavily subsidized by their governments, view the United States as the primary market in which to increase sales and reduce the losses to which they have, in many instances, been accustomed. The American specialty steel industry, on the other hand, is the world's most efficient, and can operate profitably if not confronted with unfair foreign competition.

Mr. President, we are very concerned that if these quotas are removed, there will be strong pressure within the Congress for new, more restrictive trade legislation. We therefore respectfully urge that in this most deserving of cases, the Trade Act of 1974 be allowed to function as originally contemplated by Congress.

Sincerely,

Lloyd Bentsen, Wendell R. Anderson, Birch Bayh, John Glenn, Orrin G. Hatch, H. John Heinz III, Richard G. Lugar, Charles McC. Mathias, Jr., James A. McClure.

Richard S. Schweiker, Howard M. Metzenbaum, Daniel Patrick Moynihan, Jennings Randolph, Paul S. Sarbanes, Jim Sasser, Adlai E. Stevenson, John Tower.

Mr. SCHWEIKER. I would just like to emphasize that this particular letter, asking President Carter to retain the quotas for the full 3-year period, was signed, in addition to Senator BENTSEN, Senator MOYNIHAN, and myself, by Senator ANDERSON, of Minnesota, Senator BAYH, of Indiana, Senator GLENN, of Ohio, Senator HATCH, of Utah, Senator HEINZ, of Pennsylvania, Senator LUGAR, of Indiana, Senator MATHIAS, of Maryland, Senator MCCLURE, of Idaho, Senator METZENBAUM, of Ohio, Senator RANDOLPH, of West Virginia, Senator SARBANES, of Maryland, Senator SASSER, of Tennessee, Senator STEVENSON, of Illinois, and Senator TOWER, of Texas.

I point this out to show the very broad consensus existing in this area and how essential and critical we feel this whole problem is.

Once again, Mr. President, I thank the distinguished Senator from New York (Mr. MOYNIHAN) for yielding, and I commend him for his leadership.

The time I have remaining on my special order I yield to the distinguished Senator from New York.

Mr. MOYNIHAN. I thank the distinguished Senator from Pennsylvania.

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

Mr. MOYNIHAN. I wish to reiterate the important fact that it was his farsightedness, perception, and doggedness, if you will, which first brought to the attention of the Nation the situation in this most basic of industrial industries and which is now increasingly the focus of attention by the Congress, the administration and, indeed, now by the President.

I see that my good friend and classmate, the distinguished junior Senator from Tennessee, is in the Chamber, and I know he would like to address himself to this subject.

Mr SASSER. Mr. President, I want to take this opportunity to join my distinguished colleague in speaking on this very crucial issue.

I applaud the able and always articulate junior Senator from New York for his efforts in this matter, efforts in which

I join eagerly, even though I hasten to add I am not presently a member of the northeastern coalition nor do I anticipate joining that august body.

But I think, Mr. President, that the health of this basic industry is of crucial and strategic importance, and this issue is one which should be of concern to all Americans. It is not simply a local economic issue confined to one region of the country.

During the past months we have heard more and more about the effects of foreign imports on our troubled economy. The steel industry is not alone in its attempts to deal with difficult competition coming from foreign nations—foreign nations. I add, that enjoy the advantage of Government subsidy in many cases, a labor force paid what we would consider substandard wages in this country, and of laws with less concern in protecting the environment than the laws of the United States of America.

I think the electronics industry and the shoe industry are two prime examples of what we are discussing here this morning. But without diminishing the magnitude of the problem of those industries, I feel safe in saying that the problems of the steel industry are presently of the greatest concern.

We are watching one of our Nation's basic industries fight for its very life. It is an industry that directly employs 67,000 American men and women, and indirectly employs thousands of others.

A little over a year ago then President Gerald Ford agreed to a modified International Trade Commission plan to grant important relief to America's specialty steel industry. Since that time we have seen a significant improvement in that industry in this country.

President Carter has asked for a review of these quotas. I wrote to encourage the President to continue this support of the steel industry for the full 3-year period originally recommended.

The International Trade Commission has determined that termination of existing import quotas would have a serious adverse economic effect on the steel industry.

Furthermore, I think we cannot ignore another sad fact: the fact that competition from foreign nations is frequently less than fair. Again last week the Treasury Department found that five Japanese steelmakers had been selling carbon steel plate in the United States market at a loss estimated to be $50 per ton. There are indications that this case is only the tip of the iceberg of steel dumping by foreign competitors in this country to the detriment of the American industry.

I am hesitant to suggest the drastic step of quotas and tariffs on foreign goods. I come from a region of this country which has traditionally believed in free trade, and which has traditionally fostered and espoused the doctrine of free trade.

I firmly believe that free international trade is the best form of trade. I firmly believe in the ability of American industry and American workers to compete in a fair world market.

In this case, however, the competition has not been fair, and meaningful negotiation has been lacking. Free trade is ideal, but there can be no free trade where free trade does not indeed exist.

So today, Mr. President, I call on the President to recognize the importance of this issue. Our economic recovery, our defense, and the very well-being of the American people are greatly dependent upon the ability of our steel industry to become once again strong and competitive not only domestically but internationally.

I thank the distinguished Senator from New York in yielding me time to speak on this issue.

Mr. MOYNIHAN. I thank the Senator from Tennessee.

Mr. President, I would like to draw attention to the essential point which my colleague from Tennessee has just raised with a clarity which he has unfailingly brought to discussions in this Chamber, and with a sense of national purpose which has invariably formed his judgment in this matter. That is to say, that we ask to be understood as intending that our concern today is not to bring about a regression in American trade policies toward protection, toward a fearful and restricted view of the world, but rather to preserve the free trade system of international economic exchange which has been so very much a principle of American foreign policy and central to our foreign economic policies from the time of Franklin D. Roosevelt.

I think it is fair to say that the man whose name will live in the history of this century as the one who personified the belief in free trade, in a decade when, in the world over, that belief had collapsed, who showed courage in a world dominated by fear, who showed initiative in an age frozen into inaction, was Cordell Hull of Tennessee.

Cordell Hull served in this Chamber and we surely have here an immensely promising successor—it would only be out of fear of presumptuousness that I would hesitate to compare my friend Senater SASSER, to that great man, and he himself would be as reluctant as I—but he follows in this tradition and honorably upholds it. It is however a tradition which can be exaggerated.

Cobden once said free trade was a principle of the Almighty. I think that may exaggerate the concern of the heavens for the economic arrangements we have here. But, nonetheless, the association of free trade with free societies is not only historically powerful, the correlation immensely close, but it is a matter of close connection in principle, in theory, as well as in practice.

It is because the United States has held to the proposition that there was not merely economic advantage but fundamental political principle involved, that we rise to speak today. It was Cordell Hull who said, "If trade crosses borders, armies will not."

This is not an issue which has influenced and enlivened American economic policy for three generations out of some casual and essentially marginal interest in the management of economic affairs. It reflects a fundamental belief in that which makes for a stable world and a free world. That belief should never falter in the great trading Nation of the United States. We have sustained it over these years, from the time in the 1930's when Cordell Hull took up the mantle of free trade which the British had so long sustained, but which had collapsed under the impact of the long recession of the 1930's. If we give it up, who will succeed us and what will succeed us? Certainly not a world such as we have known in the past 30 years, which saw an immense increase in the economic activity of the world markets and in the economic well-being of the people in those markets.

It is, after all, precisely an example of our commitment that embarrasses us today. The United States in 1945 saw the steel industry of Japan destroyed—in 1945 Japan produced less steel than India did. Germany produced no steel. It was our conviction and our belief, and our lack of fear, that led to the reconstruction of these once great economies, and it is to those particular economies that we now say, "Do not spoil what has been a system of world trade that has meant so much to your own people as well as ours, by taking unfair advantage at a time of genuine concern in this country, and in particular with respect to an industry without which no industrial economy can call itself secure, much less great."

We recognize, Mr. President, a fundamental fact, which is that output per man hour in the Japanese steel industry has surpassed that of the United States. That is an immense achievement, and all credit is owing to the people, the workers, and the managers who brought it about. But that also involves a responsibility not to abuse the capacity which that margin now gives them, not to abuse and take unfair advantage so as to undermine the position of American producers who are still economic and still efficient.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time allocated to the Senator from Ohio (Mr. GLENN) for the purpose of this colloquy be allocated to me instead.

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

Mr. MOYNIHAN. I thank the Chair.

In connection with that point I would like to emphasize a point which a number of Senators have made, which is that the specialty steel industry, of which we speak, is not one which is characterized by antiquated equipment or by obsolescent techniques. To the contrary, this is precisely the industry which has pioneered in innovative technology in the steel industry. We have heard, in the last month, of steel facilities in the

Northeast being closed which were opened in the 19th century. This is not true of the alloy steels and specialty steels of which we are speaking, some of which only began to be developed in the last decade.

Here the statistics on investment in stainless steel and alloy tool steel, the capital expenditure for facilities used in the manufacture, warehousing, and marketing of stainless steel, seem to me particularly striking, and provide the most confirming evidence of the case we have been making.

In 1974, the industry invested over $81 million in the capital plant of this sector of the industry. This year, it is budgeted to invest $124.715 million, not quite a doubling, but an increase of almost 70 percent in a mere 3 years.

An extraordinary amount of capital is flowing into this industry in clear response to what is the characteristic American economic advantage at this time in the world, the combination of advanced technology and sufficient capital—and this at the very time, indeed, when we learn from Professor Tobin that the Q ratio has declined so precipitously in the economy generally. It is striking how much their competence has been shown to produce this particularly difficult and demanding product at a level which can compete with the rest of the world if not indeed surpass it.

Mr. President, I ask unanimous consent at this point to have printed in the RECORD a number of charts: First, a table showing the capital investment at this time; second, a table indicating the increased utilization by the steel industry of capacity, which has now at last moved up into the high 70- and 80-percent range, where it is efficient and which was the original objective; and finally, a table showing the increase import penetration of the 1970's, which led to this action in the first place.

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

TABLE 41.—STAINLESS STEEL AND ALLOY TOOL STEEL: U.S. PRODUCERS' CAPITAL EXPENDITURES FOR FACILITIES USED IN THE MANUFACTURE, WAREHOUSING AND MARKETING, OF STAINLESS STEEL AND ALLOY TOOL STEEL, 1974-76 AND BUDGETED FIGURES FOR 1977

[In thousands of dollars]

Item	1974	1975	1976	Budgeted, 1977
Land and land improvements	463	567	795	780
Building and leasehold improvements	7,227	6,723	9,493	10,251
Machinery, equipment, and fixtures	59,522	55,670	86,861	93,406
Environmental expenditures	13,854	7,998	12,305	20,278
Total	81,066	70,958	109,454	124,715

Source: Compiled from data submitted to the U.S. Internationa\ Trade Commission by the domestic producers.

TABLE 9.—STAINLESS STEEL AND ALLOY TOOL STEEL: U.S. CAPACITY UTILIZATION, BY TYPES, ANNUALLY, 1970-76, AND QUARTERLY, JANUARY 1974-JUNE 1977

[In percent]

Period	Capacity to melt—			Capacity to roll stainless steel—		Capacity to manufacture—		
	Stainless steel	Tool steel	Stainless and tool steel, total	Plates	Sheets and strip	Stainless steel rods	Stainless steel bars	Alloy tool steel, all forms
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1970	54	39	52	37	43	54	62	55
1971	54	40	53	30	49	52	61	54
1972	64	51	63	32	59	65	70	65
1973	76	60	74	42	71	80	75	82
1974	89	62	86	69	77	85	87	89
1975	49	34	48	52	38	42	53	48
1976	70	41	67	43	64	52	63	50
1974:								
January to March	87	66	85	62	74	88	87	83
April to June	106	68	102	99	101	89	96	97
July to September	90	53	86	73	82	87	82	80
October to December	89	62	86	71	72	94	86	90
1975:								
January to March	53	47	53	74	35	49	74	66
April to June	39	36	39	51	28	31	54	51
July to September	49	29	47	37	40	39	40	40
October to December	56	24	53	39	49	47	44	38
1976:								
January to March	71	36	67	41	63	45	57	43
April to June	76	39	73	49	68	61	66	46
July to September	68	38	65	44	62	53	61	50
October to December	64	47	62	38	63	47	67	59
1977:								
January to March	78	50	75	40	69	56	76	52
April to June	88	71	86	48	79	66	88	62

Source: International Trade Commission.

IMPORT PENETRATION

Ratio of imports to consumption

[In percent]

Category	1970	1976
Stainless steel plates	12.9	17.1
Stainless steel bars	13.1	16.6
Stainless steel rods	57.0	54.2
Alloy tool steel	17.9	29.3

SOURCE.—U.S. producers shipments compiled by U.S. International Trade Commission and from the official statistics of the Department of Commerce.

Mr. MOYNIHAN. Mr. President, I also ask unanimous consent that a statement by the Senator from Maryland (Mr. MATHIAS), and the attachment be printed in the RECORD.

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

STATEMENT BY SENATOR MATHIAS

Mr. President, we are all disturbed by the recent rash of mill closings and layoffs in the steel industry. There is however, a segment of that industry—specialty steel producers—that has been plagued by depressed earnings and high unemployment for some years.

The primary cause of the unemployment in our specialty steel industry has been steel shipped into this country by foreign firms either owned or heavily subsidized by their governments. Virtually every other specialty steel industry in the world has been losing money for years. Yet foreign producers keep expanding capacity and shipping their surplus steel to America in order to maintain relatively high employment at home. In short, many of our trading partners are exporting their unemployment to the United States.

In June 1976, President Ford acted to offset this practice by imposing import quotas on certain specialty steel products. In the fifteen months since then our domestic industry has shown a remarkable recovery and thousands of workers have been called back to their jobs. President Carter is, however, now reviewing the quotas on specialty steel and a cloud of uncertainty hangs over the industry and its 65,000 workers.

There are more than 40,000 members of the United Steelworkers of America in Maryland. Several thousand of them are employed in two specialty steel mills, the Armco Advanced Materials Division and the Eastmet Corporation plant, both in the Baltimore area. These mills each suffered prolonged periods of high unemployment before the import quotas were ordered. In the last ten months, however, they have begun calling people back to work. Clearly, nothing should be done now to jeopardize that positive trend.

Before the quotas went into effect, the Armco mill in Baltimore had more than 50 percent of its 1,200 people laid off and the future of the entire operation was very uncertain. Today, about 300 of those persons are still out of work and whether they will ever be called back may well depend upon the future of import quotas. A similar pattern can be observed throughout this industry.

Evidence of the high unemployment in the specialty steel industry is seen in the large number of people, at least 25,000, who have received trade adjustment assistance since

1975. Actually, the figure is undoubtedly higher than that since some of the larger companies producing specialty steel do not break out the unemployment for that type of production, but lump it in with their overall figures.

In this regard, I would like to invite the attention of my colleagues to an article on the adjustment assistance program for the specialty steel industry, which appeared in the August 29 issue of the American Metal Market trade publication.

TRADE ADJUSTMENT AID MUSHROOMS

(By Sheldon Wesson)

WASHINGTON.—Almost 25,000 workers in 43 plants in the specialty steel industry have qualified for trade adjustment assistance since the Labor Department's program began in April, 1975, through June, 1977, as a result of the effect of imports on the industry's employment.

A rash of applications for this assistance were filed in the spring of last year, but the number tapered off recently. At the end of June another seven petitions were pending which clearly could be identified as involving specialty steel products. In addition, a number of petitions have been entered by large integrated steel producers since the beginning of this year; and while specialty steels may be involved, they are not listed separately in the Labor Department's compilations.

If President Carter decides to relax or eliminate the import quota system as the result of the new study which he has requested of the International Trade Commission, undoubtedly there will be another jump in the number of adjustment petitions submitted to the Labor Department, according to officials here close to the program, and officials of the United Steelworkers of America (USW), which has initiated most of the petitions.

There may be an increase in the near future in any case, the case of "outreach" efforts by the department to acquaint workers with their rights to benefits under the law, and the continued activity in this area of the USW.

A sleeper in this situation is a recent recommendation to Congress by the General Accounting Office (GAO) that the adjustment program be expanded to include workers who supply components to factories affected by imports and whose workers thus qualify for adjustment assistance.

The GAO had in mind such components as heels supplied to a shoe manufacturer, but the same principle extends logically to suppliers of component materials to an affected manufacturer of specialty steel products, a GAO official said.

As he sees it, a case-by-case determination would have to be made to demonstrate that the supplier of an alloying material had been affected directly and demonstrably by the loss of a customer due to the effect of imports on the customer.

Many people in the GAO espouse this type of thinking, and it will emerge in future reports which GAO is preparing on the subject of trade adjustment programs, the official said.

The USW continues "vigorously opposed" to any relaxation of import quotas, and will assert that stand when the International Trade Commission holds hearings, a union official said.

The permanent loss of jobs in the industry is measurable and serious, he said. Any relaxation of the quotas will cause increased filings for adjustment benefits, and re-filing of many past petitions for additional benefits, he added.

Under the adjustment program, a worker whose job has been lost as a result of import competition faced by his employer may receive 52 weeks of cash benefits. Those benefits may start at any time, so that some may still be in course of payment as a result of the first few specialty steel petitions submitted last year, Labor Department officials said.

In addition, the act provides for certain types of retraining and testing services to be financed by the Federal Government for an affected worker, even after the period of cash benefits runs out.

Mr. MOYNIHAN. I also ask unanimous consent to have printed in the RECORD a statement by New York State Commerce Commissioner John S. Dyson before International Trade Commission hearings on specialty steels.

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

STATEMENT BY NEW YORK STATE COMMERCE COMMISSIONER JOHN S. DYSON

We in New York State strongly support the continuation of the quantitative restraints and orderly marketing arrangements for specialty steels for the full three-year period as imposed by the President in June 1976.

Others are testifying here on all aspects of international competitiveness in the industry: costs of production, product mix, technological competence and defense impact. We will concentrate on the impact on New York, which can be presented in distressingly simple terms. If President Carter acts to end quotas prematurely, the result would be the loss of jobs, increased human misery and another setback for New York's fight to regain economic viability.

New York's situation is serious. While the State's unemployment rate has been reduced from almost 11% in 1975 we still averaged 9.3 percent in the first six months of 1977, well above the national average of 7.6 percent. And this disadvantageous comparison is not just a recent phenomenon. New York's rate has exceeded that of the country as a whole in every year after 1970.

The intense penetration of the United States market by foreign steel producers has hurt the domestic industry badly, but the impact on the northeast and on New York has been more serious than in the Nation. In 1976, employment in the New York State's basic steel industry averaged 22,000; down 13,000, or 37 percent, since 1958. In the country as a whole in that period, the drop was 10 percent.

Just recently Bethlehem Steel announced a new cut of about 3,500 jobs in New York, and an additional 3,800 in Johnstown, Pa.

New York has suffered disproportionate cuts in steel capacity because it is a mature industrial state with long established centers of production. Unfair price competition from modern facilities abroad, often coupled with the expense involved in meeting national environmental standards, combine to make older steel-making facilities most vulnerable when capacity must be cut because of shrinking domestic markets.

New York is already suffering from long-term neglect on the part of the Federal Government. For five decades or more, the Nation has pursued a series of aid programs to spur the development of the South and West. This was a noble motive, except its achievement resulted in a gradual, artificial shift in regional competitive advantage. It's time to reverse this thrust and to equalize regional advantages.

Not that the blame for our plight is totally Federal. We in New York were slow to perceive the acceleration of the decline in our basic economic strength for many years and continued to build, borrow and promise as if we were still impregnably installed as the Nation's premier industrial state. We have since learned and are doing what must be done to restore reality to government planning and confidence to our business community.

This economic dropback makes a healthy specialty steel industry especially critical to New York. We have four specialty steel manufacturers, employing about 4,200 workers and generating approximately $76 million in payrolls annually. These firms must be protected from discriminatory and unfair foreign competition or these jobs and payrolls will be lost to both the State and the country.

One firm, newly established in facilities purchased from a major specialty steel manufacturer using, in part, financing from the U.S. Economic Development Administration, needs the next two years of quotas to complete successfully its essential modernization program.

Each of the five New York State communities which house specialty steel manufacturing facilities already have serious economic problems. Four of them—Watervliet, Dunkirk, Syracuse and New Hartford—are in areas classified by the United States Department of Labor as having substantial unemployment, and the other, Lockport, is in an area of persistent unemployment.

These are the kinds of communities which the Federal Government is focusing on with several major aid programs, as evidenced by the EDA loan and revolving fund mentioned earlier.

The continuation of the quotas would not entail any further investment of Federal funds but, instead, would complete a program already fully justified by this Commission in its initial investigation under the Trade Act of 1974.

Then the Commission found quotas for specialty steel were necessary, and recommended to the President that they be imposed for five years. He decided on three years and only one has gone by. Surely, the remaining two years are the bare minimum necessary to give this strategic industry its chance for economic survival, and to assure thousands of New Yorkers and their dependents of an opportunity for gainful employment.

Mr. MOYNIHAN. Finally, Mr. President, I would like to speak to a subject larger than the specific case of specialty steel now before the President. That is the case of the management of the steel industry itself, and the prospects for that sector of our economy.

Mr. President, it comes as a surprise, I think, to most Americans, to learn that this most basic and fundamental industry is no longer the leader in technology, in the largest sense, in the world, nor the most efficient and most productive. It comes as a shock to those of us who represent communities in which steel facilities have been closed down, as they have with such precipitousness—near abandonment—such that we ask ourselves, what is the matter and what can be done?

Here we begin to realize that Government surely has a responsibility in all this.

I was a young Assistant Secretary of Labor in the administration of President John F. Kennedy when the first encounter between the steel industry and the U.S. Government of this present era took place. At a time of rising demand, the steel industry chose to raise its prices. The economists in Government judged that this would inhibit what they hoped would be the recovery from the recession of 1959. There was a series of rather

dramatic acts following an agreement with the steel union—the United Steelworkers of America. (May I say, Mr. President, perhaps to what in the House of Commons is to declare my interest, that the first trade union I ever belonged to was the United Steelworkers and I retain the highest regard for that union and particularly the present leadership.) The steelworkers did not receive higher wages in their new contract and the industry was asked by the Government to rescind the increases it had proposed, which it had a perfect right to propose.

That was 15 years ago, Mr. President, and the 15 years which have intervened have seen the increasing pattern of a Federal Government coming in at the last moment after a whole set of decisions have been made by this industry to, in effect, block those decisions, reverse them, precipitously, often arbitrarily, certainly rarely with any display of cooperative endeavor. Just as precipitously and just as arbitrarily, those of us who represent States where steel has major employment have found plants closed down, workers in the middle of their careers thrown into a market which has no place for them, with no anticipation, no foreknowledge, no preparation.

Simultaneously, the industry declines. Its capacity does not grow. We have scarcely more steel capacity today than we had at the time of the Korean war.

Something is the matter where Government intervenes only to block, where industry acts only to resist, where unions and workers at most live in a world of anticipated but little understood danger and decline.

Mr. President, on September 26, 1977, an article appeared in the Wall Street Journal. I ask unanimous consent that it be printed in the RECORD. It is entitled "Government and the Steel Industry."

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

GOVERNMENT AND THE STEEL INDUSTRY

(By David Ignatius)

PITTSBURGH.—For heaven's sake, don't call it "planning." But that unmentionable term is at least suggestive of the sort of broad policy coordination some feel the government should consider offering the sagging American steel industry.

By its own testimony, the steel industry is in trouble. Costs are up, profits are down and the industry seems, even to its friends, to be entering a gloomy period of retrenchment—in which financial pressures will force the closing of old plants but prevent the building of new ones.

Government economic officials, in recent statements, have seemed inclined to blame steel management for the industry's woes. What's more, they appear willing to let the market take its harsh course in disciplining the industry—through phaseout of marginal facilities, layoffs of steelworkers, and tougher control of overhead costs. While painful, these belt-tightening moves are indeed likely to strengthen the industry's financial position, and one can argue that the steel companies should have taken such steps long ago.

But the steelmakers contend that if there's an underlying mismanagement problem afflicting the steel industry, much of it can be traced to Washington, which takes a hand in almost every major area of the steel business. Despite their enormous power, government economic managers have often acted with little regard for the efficiency or long-term health of the industry.

Consider the ways in which the government presently shapes steel's economic position: Prices are set only after discussions with government officials; capital formation is bounded by the wrinkles of government tax policy; millions of dollars of available capital funds are channeled toward non-productive facilities by government anti-pollution requirements; and overall market conditions are shaped by government trade policies.

CONFLICTING EDICTS

What's worse, the government's "public interest" edicts to Pittsburgh often seem to conflict with each other. And in the resulting confusion, the public's presumable interest in maintaining a viable domestic steel industry may suffer.

Anti-pollution authorities, for example, have mandated new equipment, costing hundreds of millions of dollars, on the assumption that the steel companies will be able to raise their prices to cover the cost of environmental protection. But let the steelmakers try to boost their quoted prices and they're sure to hear howls of protest from government anti-inflation authorities. This suggests a failure of communication in Washington.

Similarly, the Commerce Department may urge the industry to adopt more efficient production techniques, embodying cost-saving economies of scale. But the Justice Department's zealous enforcement of antitrust laws is likely to block any move toward joint ventures—which are the only way most steel companies could hope to utilize some of the forbiddingly expensive innovations in iron and steelmaking.

Industry officials might like to be released from all manner of government constraint and lift alone to manage their business for themselves. Leaving aside the question of whether this would be desirable, it's clear that laissez-faire isn't in the cards. From President Carter's recent jawboning pronouncements, it's already obvious that he enjoys testing his mettle against the steelmen as much as did his predecessors.

An end to government involvement in the steel industry isn't likely, then. But a "planned" coordination of its policies may be possible, a knowledgeable professor suggests. He and others say this approach is perhaps preferable for the industry to the adversarial sniping that has characterized its relations with Washington in recent years.

Later this month, the Council on Wage and Price Stability is expected to complete a report on the steel industry's problems and what, if anything, the government should do about them. In the report, prepared at the behest of President Carter following a recent steel-price boost, the council is likely to at least touch on the key questions that should concern planners: How much capacity does the industry need, how can it be financed and what impact do government policies have on the industry's cost-price bind.

One friend of the steel industry who has argued the case for a limited form of steel-sector planning is former Harvard Business School Professor Paul Marshall. His credentials as an industry observer are solid: After authoring a careful report on steel prices several years ago for the Council on Wage and Price Stability, Mr. Marshall was retained by the American Iron and Steel Institute to prepare a major study of international steel trade, released earlier this year.

Mr. Marshall bemoans the buck-passing syndrome which has developed as various government agencies pursue their separate bureaucratic imperatives in dealing with the steel industry.

The Labor Department, he notes, wants a healthy steel industry, but it also insists that its costly health and safety standards be met. So Labor looks to the Treasury Department to restrain steel imports. Treasury also wants a healthy steel industry, but it is committed to free trade policies; so it instead urges new investment to modernize the industry and make it more cost-competitive. But the Internal Revenue Service frets about the revenue loss that would result from any tax incentives for new investment, and the Justice Department worries about the anti-competitive effects of any joint modernization projects. Meanwhile, the steel industry continues its nose dive.

"There is almost universal consensus," observes Mr. Marshall, "that a healthy domestic steel industry is vital to our economy and that currently our steel industry is not economically healthy." But despite this recognition, he notes, "most government agencies that could take positive action see the best solution as being *someone else's* job and therefore do nothing."

To combat this buck-passing, he concludes, "it is important that some part of the federal government review all government policies as they impact our basic industries." What this means, inescapably, is some form of high-level policy planning in Washington.

A LURKING THREAT?

Mr. Marshall scolds the steel industry's penchant for confrontation in dealing with the government. "Ironically," he notes, "the steel industry itself has often been the major opponent of the sort of 'planning' which might lead to a better coordinated set of government policies." The industry, he argues, "must abandon its view that the government is an adversary and encourage the government to take a more coordinated and planned response to its problems."

Steel executives aren't likely to be thrilled at the prospect of greater government involvement in their business, even in the name of efficiency. Mention of the term "planning" in a recent interview had Armco Steel Corp.'s otherwise amicable chairman William Verity grumbling about "Soviet Russia" and "big brother." Another industry executive sees the lurking threat of government ownership and wonders: "Consteel . . . how long do you think it will be before you're calling us that?"

The nearly universal antipathy to planning probably stems from its connotation of state coercion and bureaucratic bungling. The phrase "policy coordination" may be more felicitous, since it doesn't imply commissars. But even so, there's ample evidence that if the government tried to coordinate and rationalize its policies toward the steel industry, it might botch the job.

But the experience of the Japanese steel industry—widely reckoned to be the most efficient in the world—is worth noting. Through the activities of Japan's Ministry of International Trade and Industry and other bodies, Japanese steelmakers benefit from informal "indicative" planning. Government planners develop estimates of likely growth of demand and of appropriate steelmaking capacity. Private institutions, like steel companies and the banks that lend to them, seem to align themselves quickly and relatively painlessly to these targets. Japanese enterprise and innovation don't appear to have suffered from this system.

The point isn't that we should ape the Japanese, but that our government's economic activities ought to be at least as well-managed as those of our private sector.

Mr. MOYNIHAN. This article speaks to the question, is it not time that the U.S. Government recognizes that for 15 years it has been controlling prices in this industry; that the industry is not well; that it is declining; that its capacity is stagnant and its employment pre-

cipitantly on the down side; and that we do something better than be angry with one another and fearful and suspicious of one another? It suggests that we learn to cooperate in planning the future of this industry, along the lines of indicative planning which the French trade unions and French industry have worked out with great effect and some success.

I know the word planning will strike some horror in the lounges of the Duquesne Club. At the Golden Triangle there will be much fussing over this.

I would like to suggest to the leaders of this industry that they have not really learned to live in the world of today; that they have not come to the understanding that, willy-nilly, they are involved with Government decisionmaking and, therefore, that they ought to influence Government decisionmaking in the early stages of the process, such that what evolves is in part their decision as well as that of academic economists of the kind that typically will occupy the seats in the Council of Economic Advisers, financial advisers who will typically be found in the Department of the Treasury, and the career international trade experts who are normally in charge of these matters in the Department of State.

We need to think about the possibility of Government, industry, and labor coming together in this troubled but fundamentally important sector of the economy, to evolve, on a cooperative basis, a judgment of what actions ought to be pursued in the future; what policies in tax matters; what policies in trade matters; what policies in environmental matters, such that a now troubled, fearful, and increasingly unstable industry might once again emerge as a fundamentally sound and absolutely essential sector of the American economy.

Mr. President, I would like to thank the Chair for its patience through this colloquy. I would like to thank my colleagues who have joined me in this. We address our concerns to the President, now that the International Trade Commission has acted. We ask that he follow the recommendations of the Commission with respect to the specific matter of specialty steels. On my part, and I cannot speak for any others in this matter, I would also hope the President might now take this opportunity to think of the larger question of the cooperation between industry, Government, and labor in planning and shaping the future of a strong and productive, efficient and profitable American steel industry. I thank the Chair.

Mr. WILLIAMS. Mr. President, I am pleased to join with Senator MOYNIHAN and many other colleagues this morning in urging the President to maintain the important relief program for the specialty steel industry.

I am concerned about the retention of the specialty steel quotas for two reasons. First, the outcome of this matter will have a direct impact on steelworkers and steel companies in New Jersey. Second, as chairman of the Senate Committee on Human Resources and the Senate Labor Subcommittee, I am concerned about the future of the 65,000 jobs in the specialty steel industry.

In January 1976, the International Trade Commission found under the terms of the Trade Act of 1974 that the domestic specialty steel industry had suffered serious injury as a result of unrestrained imports. Unemployment in this industry had climbed as high as 40 percent, and company profit margins were very low.

Following the determination by the International Trade Commission, the President decided to take remedial action and granted 3 years of import relief to the domestic specialty steel industry beginning June 14, 1977. Before even 1 year of the import restraint program had elapsed, President Carter ordered a review of the quotas to determine whether they should be liberalized or terminated. Earlier this month, the International Trade Commission held 3 days of hearings on this issue, and its report along with the reports of the Secretary of Labor and the Secretary of Commerce, are due to be transmitted to the President in mid-October.

Mr. President, employment in this industry is at substantially depressed levels. In 1976, for example, the total direct employment in the manufacture of the products subject to import restraint was about 23 percent below the level in 1974. In the first half of 1977, average total employment in the four stainless steel categories covered by the quotas was about 17 percent below 1974, and average employment of production workers was down approximately 16 percent.

Even though employment has improved somewhat, the increase in manhours has not followed the trend. Thus, while the average number of production workers employed in 1976 was about 22 percent below the 1974 level, the number of man-hours worked was about 30 percent lower. The figures show clearly that continuing unemployment in the specialty steel industry is not solely attributable to greater productivity. Even adjusting for productivity changes, employment in the specialty steel industry is still at depressed levels. This strongly indicates that, while employment in the industry during the period of import restraint has improved, this process is just beginning. Employment is by no means back to "healthy" levels.

From the standpoint of the 65,000 workers in the specialty steel industry, it could be disastrous to liberalize or terminate these quotas. Many workers who were on layoff before the quotas were instituted, and are now working again, would certainly lose their jobs as the flood of imports begins anew. In my judgment, it would be unfair and unnecessary to subject thousands of steelworkers to the trauma of being out of work again. We would be undermining their jobs and this industry before it had sufficient time to regain its economic viability.

Mr. President, this is an issue on which the United Steelworkers of America and the specialty steel companies have joined hands in the battle to retain the import quotas. Mr. Lloyd McBride, international president of the Steelworkers, testified before the International Trade Commission on September 7 and said, "The issue before you today is a very simple one. It can be summarized in one single-syllable word: 'Jobs.'" Mr. McBride further said, "Obviously, the import restraints are doing what they were set up to do: Improve the health of the domestic industry. In fact, they are doing what adjustment assistance cannot do: provide jobs for American workers."

Clearly, it makes far more sense for these workers to be gainfully employed by the specialty steel industry than to be unemployed and supported by all of the taxpayers through the adjustment assistance program.

Mr. McBride continued, "However even though current figures show some improvement in the plight of these workers, full recovery to historical levels of production and employment has not yet been achieved. The Commission projected that such recovery would take 5 full years. The President determined that 3 years were necessary to complete the process. If the quotas are relaxed now, imports will once again flood the American market as foreign producers export their unemployment along with their specialty steel. Thousands of American jobs will be lost."

I join with my colleagues in urging President Carter not to let this happen. The import quotas were instituted for a period of 3 years and they should be permitted to run for their entire term. We should not succumb to the urgings of foreign producers who want us to open the floodgates once again.

Mr. ROBERT C. BYRD. Mr. President, the steel crisis facing our country cannot be solved solely by domestic initiative. The causes of the domestic industry's problems are truly international in nature, and appropriate solutions will require simultaneous action on the international and domestic fronts.

The domestic steel industry, like the foreign steel industry, has been seriously affected in the last several years by the slackened worldwide demand for steel which has characterized the recovery from the recent recession. Excess productive capacity plagues both domestic and foreign steel producers.

To deal with this situation, I firmly believe that the United States and its trading partners must redouble their efforts to spur an upturn in world economic growth, an upturn which would help absorb excess steel capacity.

Failure of our major trading partners to stimulate their domestic economic recovery will mean that they will be either inordinately dependent on relatively open foreign markets—such as our own—to handle the output of their steel industries, or they will be forced to resort to massive plant shutdowns and worker layoffs.

While we must continue to encourage worldwide economic growth, we and our trading partners cannot slacken our efforts to achieve a reduction in worldwide tariff barriers for industrial and agricultural products. The achievement of freer trade can lead to a higher standard of living for us all.

Our internationalist stand, however, should not be misinterpreted to suggest that our markets are open to any and all trading practices. The sine qua non of free trade is that the laws and regula-

tions of trading partners are respected. Foreign industries cannot be allowed to sell their products at predatory prices.

The administration is to be commended for its recent statement regarding the serious "derogation of duty" in the area of dumping. We should join with the administration in urging that the American steel industry file with the Treasury Department any complaints of unfair trading practices. The Department should then initiate full-scale investigations and report its findings.

Mr. President, I strongly believe that the international component of the steel situation requires serious and immediate attention. We must recognize, however, that the problems of our steel industry are chronic and, in many ways, related to the loss of its competitiveness, its ability to compete with foreign imports. American plant and equipment have become outmoded compared to the new or "greenfield" industry built, for example, by our German and Japanese trading partners after World War II, in many cases with our financial assistance.

According to a recent study by the Council on Wage and Price Stability, the U.S. steel industry share of the world market has declined from 39 percent of total output in 1955 to 20 percent today.

The industry's loss of competitive advantage derives in large part—and I quote from the study:

* * * from sharp declines in the cost of raw materials in the world economy compared to the domestic U.S. industry; large improvements in the efficiency of ocean transport of raw materials; lower foreign labor costs, and the spread of modern steel-making technologies to other countries.

Earnings data is particularly revealing of industry problems. United States Steel, the leading producer, suffered a 52-percent earnings drop in the first half of 1977. Bethlehem, the No. 2 producer, had a profit decline of 88 percent for the same period.

Currently, the domestic industry is cutting back production and laying off tens of thousands of workers. The impact of these actions on our steel producing communities is in many cases catastrophic. In one such community—Youngstown, Ohio—phased layoffs of 5,000 workers will mean a loss of $100 million a year in revenue.

The list of layoffs and shutdowns continues to grow and bodes ill for the steel industry as a whole. United States Steel and Armco have announced layoffs of several hundred employees. National Steel has announced the furloughing of 600 employees. Kaiser Steel, Alan Wood, and Jones & Laughlin have announced plant closings with attendant layoffs. The Weirton Steel Co. in Weirton, W. Va. is considering a 3-week shutdown which could affect as many as 13,000 employees.

An immediate domestic strategy must be set to restore vitality to the steel industry, an industry responsible—directly and indirectly—for the livelihoods of millions of Americans. The recent steel conference called by the administration to explore the problems of the industry was a step in the right direction.

Several measures should be considered for inclusion in the strategy. First, tax credits should be considered to facilitate the industry's modernization. These should be made available to spur the replacement of outmoded plant and equipment. Second, credits should be provided to help offset the costs of installing anti-pollution equipment. Third, special industrial development bonds should be considered as a way to provide capital for building new facilities.

Mr. President, the development of a strong and competitive steel industry is what we all want to achieve. I am confident that it can be achieved through international collaboration and a domestic program of assistance such as I have outlined.

Mr. RIEGLE. Mr. President, I wish to point out that steelworkers are not the only workers whose jobs depend upon a reliable, assured supply of steel and steel products. In my home State of Michigan, almost 25,000 steelworkers are employed in 22 steel-industry facilities; many thousand more workers in the automotive and related industries share their concern with the undisrupted flow of steel, including specialty steel.

When these workers are laid off their jobs, simple adjustment assistance is not enough. The maximum total compensation, unemployment insurance and adjustment assistance combined, is 70 percent of a worker's weekly wage—and even then not more than the average weekly wage in manufacturing. Even if we succeed in revamping the system to more adequately meet the needs of workers displaced by imports, my friends in the labor movement will tell you that adjustment assistance is tantamount to "burial insurance"—for the jobs workers no longer have.

Mr. TOWER. Mr. President, I am pleased to join with my colleagues today in their penetrating exploration of this issue.

Before limitations were placed on imports of specialty steel products in June 1976, it was apparent that this important segment of the steel industry was threatened with extinction. Unemployment ran as high as 40 percent throughout the specialty steel industry and some mills were virtually shut down.

Imports had already captured significant portions of our home markets for our specialty steel industry's bread-and-butter products and foreign producers were moving aggressively to invade the markets for even the most sophisticated metals. As early as 1970 imports accounted for as much as 67 percent of the domestic market for stainless wire rod. American producers of this product, unable to compete with socialized and subsidized steel industries abroad, were phasing out their production of this and other lines that had once been a mainstay of their business.

The Department of Defense was deeply concerned about the ramifications of this trend for the national security. And in April 1972 when the Subcommittee on General Legislation of the Senate Committee on Armed Services held hearings on the specialty steel industry, the Defense Department was represented by an expert witness. He was Vice Adm. Eli T. Reich, the Deputy Assistant Secretary of Defense for Installations and Logistics. Admiral Reich testified in part:

"From the time that the specialty steel industry was started in this country over 100 years ago, specialty steels have been important to military programs. In the early days it was by virtue of the tool steel needed to machine weapons and munitions. In more recent times stainless steel and high-temperature alloys have also become important to the Department of Defense because these materials are needed for the proper functioning of many of our weapon systems where high strength, corrosion or wear resistance or ability to withstand high temperatures is required.

For example, no aircraft in use today or planned for production in the future could be considered safe without such critical high-strength components as hydraulic lines, landing gears, brakes or bearings. No aircraft engine could meet the high performance demanded of it in combat situations without the specialty designed bearings, turbine components or combustion chambers produced by the specialty steel industry and the companies who further process these special steels. Specialty steels are used in the manufacture of motor shafts and other moving parts for our helicopters and for engine, transmissions and drive components in heavy duty and off-the-road vehicles such as trucks, personnel carriers and tanks.

Admiral Reich went on to testify about the other kinds of weapons systems and equipment that require specialty steel.

It is a common misconception that military forces alone are the sole deterrent to war. However, all of us can appreciate the fact that a nation's industrial capability and industrial readiness in case of an emergency can either strengthen or weaken a nation's military capability. The steel industry as a whole and specialty steel in particular are a vital part of this industrial capability. It is a national asset and a part of our military power that serves as a deterrent to would-be enemies.

It is plain from this testimony, and from that of other expert witnesses at the 1972 hearings, that this Nation cannot afford to sit by and watch such a critical industry decimated by imports.

Specialty steels are not only essential to our national defense directly, but are also directly critical to other vital industries. As one of my colleagues has pointed out, no oil could be drilled without these high technology metals. No natural gas could be transported without them. Communications equipment is dependent upon specialty steels. So is our marine equipment, automotive, and aerospace industries.

In the interest of our national economy, as well as the national defense, I urge the President to maintain the limitations on specialty steel imports.

Mr. LUGAR. Mr. President, I am pleased to join my colleagues in this discussion of the difficulties confronting the domestic specialty steel industry.

The damage experienced by specialty steel producers has been discussed and examined thoroughly during the past few years. As my colleagues know, the International Trade Commission last year recommended import relief for specialty steel. Former President Ford imposed import quotas on specialty steel for a period of 3 years, marking the first time that an ITC recommendation of this nature had been implemented.

This relief was granted pursuant to the procedures of the Trade Act of 1974. The Commission's careful study of the specialty steel industry led to a recommendation that quotas be imposed due to a finding of serious injury to the industry. President Ford concurred.

The specialty steel industry has conducted its business planning based on these temporary import quotas. I believe it would be inequitable to abandon these quotas at this time and such a decision is clearly not justified by the facts.

President Carter's decision to request the International Trade Commission to review the need for these import quotas was regrettable. This step alone has caused considerable consternation in the industry.

I am advised that the Commission has submitted its report to the President. I urge the President to concur with those Commission members who have urged that no modification or recession of the quotas take place.

Last month, I wrote to President Carter to request that he discontinue the review by the existing quotas. I ask unanimous consent that my letter to the President be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., September 14, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to you to express my concern for your recent decision to review the temporary import quotas on specialty steel. I urge you to rescind this review and allow these vitally needed quotas to continue without change.

Last year after a comprehensive investigation by the International Trade Commission and a thorough review by the Administration, the President granted three years of import relief to the domestic specialty steel industry. This industry had proven that it was suffering serious injury as defined by the Trade Act of 1974.

After only one year of relief the quotas are being reviewed at your request by the I.T.C. I believe this recent development is unfortunate as the relief granted is just beginning to prove its effectiveness. The specialty steel industry relied on this import relief in committing significant amounts of fresh capital in an effort to become more competitive. In addition, some workers have returned to their previous jobs.

I believe it is clear that if the quotas are terminated or modified the domestic specialty steel industry will be back where it was before relief was granted.

I respectfully urge that you discontinue the review of these existing quotas.

Sincerely,

RICHARD G. LUGAR.

Mr. LUGAR. Mr. President, the strength of the economy of Indiana depends on the health of the steel industry. This clearly justifiable import relief for specialty steel, which was imposed only after a finding of unfair and injurious competition, should be retained in its original, temporary form. Specialty steel firms in Indiana and other States have reasonably relied on this import relief. It should remain.

Mr. DANFORTH. Mr. President, our steel industry today faces a major crisis. Japanese and other foreign steel producers have gained approximately 20 percent of the U.S. domestic market. Some of this has occurred because of lower foreign labor costs and more efficient operations, but according to recent findings of the Treasury Department, much of the recent gain is attributable to predatory pricing tactics and steel "dumping" on U.S. markets by foreign producers. The net result has been a reduction in jobs—60,000 to date—profits, and investment within America's steel industry—and the situation is deteriorating rapidly.

The human tragedy of this growing problem was portrayed vividly in a recent story in the St. Louis Post-Dispatch about a steel mill closing. The story described disruptions to individuals, their community, and the local economy—with after effects likely to linger on for years.

Imported steel threatens both our basic steel and fabricated steel industries. In Missouri during 1976, over 3,000 tons of imported fabricated steel were used in the construction of buildings and bridges. This use of foreign fabricated steel cost people in Missouri jobs and the State and local governments lost tax revenues.

Specialty steel is a specific case of how predatory pricing tactics can hurt the steel industry. Specialty steel accounts for 1.5 percent of total steel production tonnage but it amounts to 9 percent of the dollar value of such output. The premium paid for specialty steel makes it most attractive as an export item from countries such as Japan, Great Britain, and West Germany. Since 1965, the U.S. specialty steel exports have steadily declined and foreign imports have steadily increased. In 1975, imports exceeded exports by approximately 300 percent; whereas in 1967 imports and exports were about the same.

The International Trade Commission has found that there is "a substantial cause of serious injury, or threat thereof, to the domestic industry" for specific items of stainless or alloy tool steel. This determination was made under the Trade Act of 1974. The Ford administration decided to grant import relief to the specialty steel industry beginning on June 14, 1976. This relief was granted for 3 years and President Carter is now giving consideration to ending it.

In considering alternatives for remedial action, the Federal Government should not be tempted to move in certain directions. For example, direct government investment or subsidy has not been successful in Great Britain and should not be attempted in the United States. Also, we should not embark on Japanese-style "impact loans"—the Japanese national bank has supplied low-interest loans to keep national steel production at full capacity.

To avoid local unemployment in Sweden, specialty steel companies receive direct government grants and loans when demand declines. I do not believe that such direct interference in the marketplace by government is either justified or wise. Nevertheless, some action appears to be necessary if the American steel industry is forced to compete in a world market where the competition receives direct assistance from foreign governments.

I believe that creative but limited solutions to the steel industry's problems can be developed, without the direct and intrusive involvement of the Federal Government. Certainly, we should enforce section 301 of the 1974 Trade Act which prohibits "dumping." Recently, Swedish and French steel producers have "dumped" stainless steel wire, rod, and stainless steel plate on the world market, and the Japanese are "dumping" steel directly in the U.S. market. There may well be other violations of this statute that should be reviewed. Several tax reform proposals could be of some assistance to the steel industry, especially a general reduction of tax rates. In addition, Congress should consider an accelerated depreciation allowance for capital expenditures, perhaps following the Canadian example of "expensing" capital investment. Another approach would allow depreciation on replacement cost rather than original cost basis for pollution abatement devices.

On the international front, our negotiators in Geneva at the Multilateral Trade Negotiations should demand that predatory pricing practices be ended and that equitable standards be established. In addition, through the general agreement on tariffs and trade (GATT), the United States should demand that the various tax incentives given by many of the major industrial countries for exporting steel and other commodities be reviewed on a comparative basis. In particular, direct and indirect methods of tax rebates should be studied carefully.

Furthermore, we should review the multifarious regulations that are imposed on the steel industry, in order that we might distinguish between valid regulations and those that are excessive. One major corporation has estimated that 40 percent of its regulation costs are questionable or not required by good business practices. Government should work with the steel industry on a cooperative basis in analyzing the whole range of regulations to determine which regulations could be simplified or abolished.

The problems for the industry are real, and some of the causes relate to matters totally outside the control of the industry. Any effective solution to such difficulties will require a constructive partnership between Government and the industry.

Mr. THURMOND. Mr. President, 5 years ago the General Legislation Subcommittee of the Senate Armed Services Committee published a report which documented how essential the American specialty steel industry is to our national defense.

The high technology metals produced by this industry are vital to our whole aerospace effort. Indeed, we could not have put men on the Moon without the heat-resistant alloys which went into the Apollo spaceships. Furthermore, we could not today maintain our orbiting surveillance programs without these metals.

As the General Legislation Subcommittee report pointed out in 1972, the steel and other metals produced by this industry are essential to all branches of our Armed Forces. The Navy needs them for its communications equipment and for many other vital items of military materiel. The Air Force relies upon these

metals for its very existence since they are used widely for the construction of all aircraft, missiles, and communications and control equipment.

If the President removes the import quotas on specialty steel, he will place all our armed services at the mercy of foreign suppliers of specialty steels. Therefore, I want to emphatically join with my colleagues in urging the President to maintain the quotas and, by so doing, insure the future strength of our Army, Navy, and Air Force.

Mr. President, I ask unanimous consent that an excerpt of the report of the Subcommittee on General Legislation of the Senate Armed Services Committee on this subject, dated May 25, 1972, be printed in the RECORD.

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

REPORT ON ESSENTIALITY OF AMERICAN SPECIALTY STEELS INDUSTRY TO NATIONAL DEFENSE

On April 7, 1972, the Subcommittee on General Legislation held hearings to examine the relationship of the specialty steels industry for the national security. The subcommittee chairman made it clear at the outset that the scope of the hearings would be confined to defense essentiality. He emphasized that it was not the subcommittee's authority to invade the jurisdiction of other committees that deal with import quotas, tariffs, and stockpiles.

WHAT ARE SPECIALTY STEELS?

Although there is no single material that is designated steel there are hundreds of materials that make up the metals industry. When speaking of specialty steels, we are dealing with only a small portion of the entire steel production. The carbon steels represent the bulk tonnage of the steel producing industry.

The specialty steels vary in their carbon content and other elements are deliberately introduced to obtain special properties for desired applications. These elements include, among others, nickel, chromium, molybdenum, manganese, vanadium, cobalt, tungsten, columbium, and titanium.

The specialty steels include stainless steels, tool steels, high temperature steels, superalloys and refractory electrical and electronic metals. The category also includes pressure and mechanical tubing of carbon, alloy, and stainless steels. The unique characteristics of these specialty metals lend themselves to many and varied applications. They are designed for use in extreme environments requiring exceptional hardness, toughness, strength, resistance to wear, erosion or abrasion or combinations of these factors.

ESSENTIALITY TO NATIONAL DEFENSE

The testimony adduced from industry and Government witnesses makes it abundantly clear that specialty steels are essential, today more than ever, in the fabrication of the major portion of our defense weapons and critical weapons systems. Moreover, these specialty steels are necessary for the proper functioning of related essential components and weapons reliability. The Department of Defense witness emphasized that "* * * no aircraft in use today or planned for production in the future could be considered safe without such critical high strength components * * *" or "* * * meet the high performance demanded of it in combat situations * * *", without the specialty designed components produced by the specialty steels industry.

The importance of the industry to our national security by the Defense Department witness was summarized as follows:

It is a common misconception that military forces alone are the sole deterrent to war. However, all of us can appreciate the fact that a nation's industrial capability and industrial readiness in case of an emergency can either strengthen or weaken a nation's military capability. The steel industry as a whole and specialty steel in particular are a vital part of this industrial capability. It is a national asset and a part of our military power that serves as a deterrent to would-be enemies.

The Department of Commerce witness had this to say.

There is no one, to my knowledge, in the Federal Establishment who believes even remotely that the specialty steel industry is not essential to our national security. We are in an age of tremendous sophistication in weaponry and other military, space, and atomic hardware. The greater the degree of sophistication the greater the need for new steel alloys. Since such is the case, it follows that there is a continuing need for a viable research and development effort to maintain weapons, space and atomic preeminence.

The representative of the Office of Emergency Preparedness (OEP) testified that:

* * * based on information available to OEP, if present downward trends in the capability to produce specific steel product continues, this situation could become a matter of concern on national security grounds.

INDUSTRY RESEARCH AND DEVELOPMENT

The testimony of industry witnesses indicates that nearly 60 percent of the costly research and development conducted by industry has been directed, in the past, toward improved specialities and high performance materials to meet the increasingly sophisticated national security needs. This, according to the testimony, is so despite the fact that Defense needs represent only a fractional part of U.S. tonnage production. Today, however, the specialty steels industry has seriously curtailed this research and development effort because of dwindling commercial markets resulting from unrestricted import quotas and foreign competition. The manpower skills developed since World War II and up-to-date technology may not be available in a period of national emergency if the industry continues to decline.

U.S. DEPENDENCE ON FOREIGN RESOURCES

As stated earlier in this report, there are many elements which are essential in the production of specialty metals such as chromite, nickel, and manganese, etc. These elements also have a direct bearing on our national defense posture. The testimony reveals that the United States is dependent on foreign imports for almost 100 percent of the minerals which are vital in the production of specialty steels. The following table shows U.S. dependence on foreign sources for strategic and critical minerals. This table was prepared by the Bureau of Mines, Department of Interior. According to the Department of Commerce, the percentages shown on the table are understated because of recent sales of surplus materials from Government stockpiles.

LIST OF SELECTED MINERALS AND METALS SHOWING U.S. DEPENDENCY ON FOREIGN SOURCES IN CALENDAR 1970

Commodity	Percent of U.S. consumption from foreign sources: Total	By source	Quantity of net imports
Aluminum	91	Jamaica 41, Surinam 16, Australia 11, Canada 6, Dominican Republic 4, Guyana 3, Haiti 3, other 7.	4,382,000 tons.
Antimony	94	Republic of South Africa 32, Mexico 20, United Kingdom 14, Bolivia 11, Guatemala 6, France 4, other 7.	18,100 tons.
Asbestos	83	Canada 78, Republic of South Africa 3, other 2	649,400 tons.
Beryllium (ore)	51	Brazil 37, Uganda 4, Republic of South Africa 3, Argentina 3, Mozambique 2, other 2.	4,940 tons.
Cadmium	53	Canada 17, Mexico 16, Japan 7, other 13	3,460 tons.
Chromite	100	U.S.S.R. 33, Republic of South Africa 29, Turkey 18, Philippines 15, other 5.	1,405,000 tons.
Cobalt	93	Congo (Kinshasa) 52, Belgium-Luxembourg 26, Norway 6, Canada 3, other 6.	6,200 tons.
Columbium	100	Brazil 58, Canada 22, Nigeria 12, Congo (Kinshasa) 2, Angola, Argentia, Belgium-Luxembourg, Burundi-Rwanda, West Germany, Mozambique, Portugal, Singapore, Uganda, United Kingdom 6.	2,860 tons.
Copper	6	Peru 2, Chile 2, Canada 1, other 1	9,900 tons.
Fluorspar	78	Mexico 60, Spain 10, Italy 6, United Kingdom, Brazil, Mozambique, West Germany, Republic of South Africa 2.	1,077,000 tons.
Iron ore	33	Canada 18, Venezuela 10, Australia, Brazil, Chile, Liberia, Peru, Sweden 5.	39,400,000 tons.
Lead	38	Canada 11, Australia 9, Peru 8, Mexico 4, Yugoslavia 2, Honduras 1, other 3.	350,000 tons.
Magnesium	0		(31,200) tons.
Manganese (plus 35 percent ore).	99	Brazil 35, Gabon 31, Republic of South Africa 8, India 4, Ghana 4, other 17.	836,600 tons.
Mercury	38	Canada 31, Spain 3, other 4	17,000 flasks o. 76 lb. each.
Mica	100	India 86, Brazil 13, other 1	5,309,000 lb.
Molybdenum	0		(55,737,000) lb.
Nickel	87	Canada 72, Norway 7, Republic of South Africa 1, other 7.	135,000 tons.
Platinum group metals.	98	United Kingdom 45, U.S.S.R. 34, Republic of South Africa 8, Japan 3, Canada 2, Colombia 2, Belgium-Luxembourg 1, Norway 1, other 2.	1,009,300 oz.
Rhenium	7	West Germany 3, U.S.S.R. 2, France 2	210 lb.
Rutile	100	Australia 92, Sierra Leone 8	242,200 tons.
Selenium	29	Canada 28, other 1	454,000 lb.
Silver	27	Canada 16, Peru 5, Mexico 2, Honduras 2, other 2	34,686,000 oz.
Tantalum	100	Canada 46, Congo (Kinshasa) 21, Brazil 17, Spain 5, Burundi-Rwanda 3, United Kingdom 2, Argentina, Australia, Belgium-Luxembourg, Cameroon, Cyprus, Japan, Nigeria, Portugal, Spain, Western Africa 6.	523 tons.
Tellurium	20	Peru 11, Canada 9	64,000 lb.
Tin	100	Malaysia 63, Thailand 30, Indonesia 3, other 4	46,100 long tons.
Tungsten	0		(18,171,000) lb.[1]
Vanadium	22	Republic of South Africa 13, Chile 5, U.S.S.R. 3, other 1.	1,033 tons.
Zinc	58	Canada 32, Mexico 10, Peru 6, Australia 3, Japan 2, other 5.	795,900 tons.

[1] Net exports largely due to Government sales.

Note: Figures in parenthesis are net exports.

Characteristic of many of these ores and minerals imported into the United States, the total import is not consumed in any one given year by the metallurgical industry. For example, chromite is consumed by the metallurgical industry, the chemical industry, and the refractory industry. 1,405,000 tons of chromite were imported into the United States in 1970 and 1,403,000 tons were consumed. Of the total consumed, the metallurgical industry used 912,000 tons of metallurgical grade chromite of which 46 percent was imported from the U.S.S.R. as shown in the following chart:

APPENDIX II.—IMPORTS OF METALLURGICAL GRADE CHROMITE FOR DOMESTIC CONSUMPTION

[In thousands of short tons]

	1960	Percent	1961	Percent	1962	Percent	1963	Percent	1964	Percent	1965	Percent	1966	Percent	1967	Percent	1968	Percent	1969	Percent	1970 [1]	Percent
Rhodesia	307	57	218	48	234	41	144	37	259	38	225	37	219	22	147	20	1					
Russia	7	1	20	4	36	6	192	49	275	42	352	27	302	29	299	40	335	47	299	39	365	41
Turkey	123	23	150	33	171	30	40	10	18	6	114	19	186	18	108	15	151	22	74	10	120	19
South Africa	80	15	54	12	101	17	18	5	64	10	119	13	184	18	95	13	74	11	143	18	87	11
Other	24	4	10	3	35	6	0	0	25	4	34	4	22	2	11	2	6	1	13	2	66	9
Subtotal	541		452		557		394		651		844	100	913	89	660	90	567	81	529	69	638	80
Stockpile shipments													115	11	71	10	135	19	243	31	160	20
Total	541		452		557		394		651		844	100	1,028	100	731	100	702	100	772	[1] 100	798	100

[1] 1970 date I.M. 146 (Department of Commerce).

Source: Bureau of Mines data (1960–69).

STATUS OF NEGOTIATIONS ON VOLUNTARY LIMITATIONS AGREEMENT

In full recognition that the principal problem facing the specialty steels industry results from circumstances outside the jurisdiction of this subcommittee, we think it proper to comment briefly on the negotiations on the voluntary limitations arrangement. In 1968 the United States entered into an arrangement with Japanese and European Common Market steel producers. The agreement was designed to moderate the flow of foreign steel into the United States by placing quantity limitations on total tonnage to be shipped by these foreign producers during 1969, 1970, and 1971. Of extreme importance was a provision in the arrangement that the signatories would not change materially the product mix of their steel exports.

According to the testimony, there has been a gross violation of this provision by foreign producers and the shift of product mix toward more expensive steels and the increasing tonnage of shipments have had a critical impact on the U.S. specialty steel products.

Negotiations are now being conducted by the State Department with a view to the reestablishment of voluntary restraints on steel exports, including specialty steels, from these countries and the United Kingdom. However, industry representatives express little hope that any voluntary workable agreement can be negotiated. Even if an agreement is reached, unless it includes mill products item-by-item the problems of the U.S. specialty steels industry will not be resolved on the diplomatic level.

CONCLUSIONS

1. Based on the testimony the specialty steels industry is essential to the national security.

2. During a period of national emergency there may not be sufficient time to train the people in the specialized and critical skills which are essential to produce the specialty metals vital for our defense requirements if the industry is not preserved.

3. The U.S. specialty steels industry is in extreme difficulty today due to the dwindling commercial market which, according to the testimony, is caused by unrestricted imports of specialty metals.

RECOMMENDATIONS

1. The subcommittee strongly urges that the responsible departments and agencies of the executive branch undertake to determine whether this country can afford to lose the specialty steel industry and the currently available skills and technology associated therewith.

2. That the responsible departments and agencies of the executive branch maintain careful vigilance over the declining trend of the specialty steel industry and to institute corrective action, if necessary.

3. That the Secretary of Defense examine the desirability of amending the Armed Services Procurement Regulation (ASPR) to provide that domestically produced specialty metals are employed to the maximum extent in the production of equipment under Department of Defense contracts.

TEMPORARY QUOTAS ON SPECIALTY STEEL IMPORTS

Mr. BAYH. Mr. President, I wish to associate myself with concern being expressed today by my able colleagues that the import quotas on specialty steel be continued. As we know, the specialty steel industry is the "high value" sector of the total steel industry in this country. While accounting for only about 1.5 percent of tonnage yearly, specialty steel constitutes about 9 percent of the dollar value of the steel sold in this country. On September 28, I urged President Carter to continue the temporary quotas on specialty steel imports for the full 3-year period determined by the previous administration. On September 30, I signed a letter to the President with 16 of my colleagues strongly recommending that the present restraints be continued. The persistence of our concern about this issue is evidenced today on the Senate floor.

The U.S. International Trade Commission seems to have concurred with the judgment of many in the Senate that we should maintain these temporary quotas in order to allow the domestic industry full opportunity to recover. By a vote of 3 to 1 the Commission has found against terminating quotas on specialty steel at this time. What was also confirmed was the contention that the industry is presently making good progress along the road to recovery both in terms of sales and employment. Sales volume was 1 million short tons in 1976—25 percent higher than in 1975 while the value of sales increased 23 percent in the same period to about $1.7 billion. The specialty steel workforce was also up by 16 percent. Profitability climbed by 123 percent.

This fairly encouraging picture further argues against terminating quotas to the ongoing restraint program since this would catch the industry in the mid-stream of its recovery. While employment is up in the industry, it is still some 16 percent below the peak year of 1974. It is important to keep in mind in this regard that productivity gains have also been realized in the industry. While productivity in the stainless steel sector slipped slightly owing to less experience employees being brought on line with less efficient equipment, the alloy tool sector did enjoy a substantial improvement in productivity for the January-June period of 1977. Stainless steel productivity was still much above the 1974 peak year.

Mr. President, I think the USITC report to the President on stainless steel and alloy tool steel contains findings which must encourage those of us who believe in fair trade. Clearly, there is little to gain by abandoning the current restraint program when we see tangible progress being made on all fronts for labor and industry. I just want to reiterate my own concern about this important issue since it impacts such a vital part of a basic industry.

RETAIN SPECIALTY STEEL QUOTAS

Mr. GLENN. Mr. President, the complex question of the impact on a domestic industry of foreign imports again requires our special attention. But this time, the issue concerns retaining, rather than imposing, import quotas.

To allow these quotas to be lifted is tantamount to relegating a sizable number of Ohio steelworkers to the unemployment lines. It is a serious threat when foreign producers, due to politically generated competitive advantage, are able to export steel to this country in quantities which threaten the livelihood of American citizens.

The first year of a 3-year quota imposition is hardly over, and the specialty steel industry has experienced increased, not decreased, imports from foreign countries. As this program represents a test, the 3-year testing period must be preserved in order to gauge the effect of import quotas on the industry.

If what little relief was granted were to be eliminated now, the effects of a 3-year test period would be aborted prematurely. Little more than 2 years remain to offer the specialty steel industry sufficient relief just to maintain growth and jobs.

THE STEEL INDUSTRY

Mr. STEVENSON. Mr. President, President Carter's impending reviews of specialty steel quotas has significant implications not only for specialty steel producers and their employees but for the entire steel industry. It is an industry beset by a sea of troubles. How we, as a nation, react to this crisis will have ramifications extending beyond any one industry or national economy.

THE SPECIALTY STEEL ISSUE

On September 30, 1977, I joined with several of my colleagues in a letter to President Carter urging him to let the quotas on specialty steel run their prescribed course until mid-1979. This letter made three essential points in support of retaining the quotas that I endorse strongly this morning.

First, the provisions of the Trade Act of 1974 have, in the case of specialty steel, proven to be effective. By May of this year, this industry was back near full employment and running at 85 percent of capacity in many plants. This clearly demonstrates, I believe, the correctness both of the original USITC recommendation and President Ford's imposition of quotas. The specialty steel industry was primarily a victim of flooding import competition, not inefficiency or lack of productivity.

Second, while the industry is recovering smartly, the gradual recovery process could be seriously undermined if the quotas are prematurely removed. The USITC originally recommended a 5-year quota; President Ford modified this by applying a 3-year quota. These recommendations were made with the knowledge that effective planning by business and labor cannot be done on a year-to-year basis. Capital investment, research, and collective bargaining decisions must be made over a longer term, and, in the case of specialty steel, business and labor have both made plans based on a 3-year period of relative market stability. We should give the industry the full 3 years to allow for full recovery and to avoid the disruptive market effects that would be sure to occur from premature termination of quotas.

Third, and I believe most important, if we do not allow the Trade Act of 1974 to function as contemplated by the Congress, the legitimacy of all trade relief actions will be greatly damaged and increasing pressure will be brought to bear for more protectionist legislation. Such legislation would threaten the stability of world trade and financial markets and which could portend a repeat of the catacylsmic policies of the 1930's. The real congressional issue in the specialty steel case is, I believe, maintaining the integrity of Trade Act decisions and remedies and the congressional role therein. The administration cannot on the one hand tell our business and labor leaders to pursue vigorously all available remedies under the Trade Act and on the other hand thereafter dilute remedies lawfully pursued and justly won at the point when they begin to be effective, and when the congressional power to veto under the Trade Act has expired. Very simply, specialty steel quotas present a crucial test of whether the Trade Act is to be allowed to work as intended by Congress.

THE STEEL INDUSTRY GENERALLY

I know many of my colleagues this morning will be speaking forthrightly on the problems of the steel industry, and their effects on their States and communities. I would like to join this debate by highlighting the perspective I feel I must take as a representative of the people of Illinois.

Illinois is the fourth leading producer of steel in the United States, producing some 11 million net tons in 1976. Steel-producing facilities in the State range from the giant U.S. Steel South Works on the South Side of Chicago to smaller independent companies throughout the State. All these companies provide employment, local tax revenues, and income that supports large and small communities. Recent and projected reductions in the work force at some of these facilities, most notably the South Works, and at similar facilities in other States has caused me great concern over the future of the steel industry in my State and in this country, and over the economic well-being of thousands of families and scores of communities. Many constituents have written to me demanding to know what the Government is going to do to prevent the ruination of this key industry by allegedly unfair foreign competition.

Illinois is also the leading exporting State in the Nation, selling abroad almost 10 percent of its agricultural exports and almost 9 percent of its manufactured goods. The Chicago Association of Commerce and Industry estimates that Illinois produced for export some $2.3 billion of agricultural commodities and $7.9 billion of manufactured goods in 1976. Approximately one out of five manufacturing jobs in Illinois result from exports. Illinois has a vital stake in insuring that we and our major trading partners overseas do not engage in reciprocal protectionist trade measures that block trade and lead to a dangerous stagnation of the world economy.

Our task, therefore, is a difficult one: We must respond to the problems of the steel industry without imperiling the delicate fabric of the free world trade. It must be made clear, moreover, that we, in Government, cannot solve by legislative or executive fiat the critical problems of the steel industry. Business and labor leaders, and leaders in affected communities throughout the Nation, must join us in this task.

Before we can begin to prescribe remedies for our ailing steel industry, we must understand its basic ills.

THE TROUBLED WORLD STEEL MARKET

Recent reports and studies have indicated that competition for steel markets is intensifying as the growth in steel demand slows, the global import market shrinks, and most producers contend with large underutilized capacity.

Our major foreign competitors, to some degree subsidized by host governments, have in many instances reacted by increasing exports and reducing prices to maintain high production and employment levels. Such policies have, however, been accompanied in some cases by staggering losses that can only be borne by Government-controlled or subsidized companies. It is estimated that Britain suffered steel-related losses of some $400 million last year. United States companies, unable to penetrate effectively export markets abroad and confronted with intensified foreign competition in a shrinking domestic market, have had to cut back production and eliminate marginal facilities at the cost of thousands of jobs.

THE MODERNIZATION GAP

While there are many conflicting views on the efficiency and productivity of the U.S. steel industry as compared with its major competitors in Japan and Europe, it is evident that the U.S. steel industry overall has not modernized as fast as its major competitors in Japan and Germany. Its labor costs are high by global standards, even by U.S. standards. Productivity levels in Japan have outstripped those in the United States, and consolidation and cartelization in the EC countries are proceeding apace. While it is difficult to make absoltue comparisons in terms of costs and efficiency, it is evident that the U.S. steel industry will not be able to compete effectively with foreign steel makers unless it achieves substantial modernization in the next several years. This will demand capital investment by an industry that is plagued by declining profits and moderation on the wage side.

The question now is what can be done in light of these ills.

THE ROLE OF GOVERNMENT

There are five policy areas where the U.S. Government has an important role to play—economic, trade, tax, environmental, and antitrust.

ECONOMIC

Continued expansion of the economy is needed to sustain increased levels of capital goods investment, crucial to the steel industry, and to afford new job opportunities for those already displaced by layoffs and cutbacks.

TRADE

Arbitrary and unilaterally imposed trade restrictions on foreign steel imports are not the answer, and can only lead to a damaging trade war in which the United States—and my home State of Illinois—would be the ultimate losers. Trade policy, however, must be responsive to changing conditions in U.S. markets. We cannot simply wrap ourselves in the banner of free trade while the United States becomes the targeted export market for foreign competitors. To this end a reasoned and equitable approach is needed.

First, the Government must promptly enforce remedies provided under the Trade Act for dumping and other forms of unfair foreign import competition. I was glad to cosponsor Senator HEINZ's recently passed resolution—Senate Resolution 279—urging the Secretary of the Treasury and Office of Special Trade Representative to act expeditiously on complaints of dumping and unfair competition. I was also heartened by President Carter's endorsement of such a policy at his recent meeting with Members of the Congress and the steel industry. Free and fair competition must be the cornerstone of our trade policy.

Second, the administration should keep alive the possibility of orderly marketing agreements with Japan and the EC countries on steel exports. This vehicle has been used well in other industries severely affected by foreign import competition, such as shoes and color TV's and, in fact, would parallel a similar form of agreement that currently exists between the EC and Japan which has caused, at least in part, increased exports to the United States. Such an agreement should be reasonable in length and fairly negotiated to insure our trading partners that U.S. markets will always be open. Even if not negotiated in the near future, such an agreement should be kept alive as a serious option—and warning. We cannot be the export

market of last resort for all other steel makers when the world market slumps.

Third, negotiations both within the OECD and under the aegis of the general agreements on tariffs and trade must proceed apace to construct an acceptable multilateral solution to the steel problem. Some form of multinational monitoring effort would be desirable to insure that one country is not made the export market for the world when demand slows. Our trading partners must be willing to adjust their exports to reflect changing world market conditions.

Additionally, we must examine critically our current export promotion policy to see to what extent lagging export growth is contributing to our overall trade deficit, which is growing at the alarming rate of almost $30 billion a year, and why our steel and other manufacturing industries are losing their share of the worldwide import market. This is an inquiry I intend to pursue vigorously as chairman of the Subcommittee on International Finance of the Banking Committee and the Subcommittee on Science, Technology and Space of the Commerce Committee.

TAXATION

In reforming our tax system, we should examine carefully incentives that will lead to greater and more rapid capital formation, which will, in turn, lead to greater growth and more jobs. Three suggestions that seem particularly worthy of serious study by the administration and Congress are: First, tax provisions allowing for more rapid recovery of capital invested in industrial facilities—such as machinery, equipment, and buildings—that produce growth and new employment opportunities; second, tax provisions permitting industries, such as steel, with long-lived capital facilities, to depreciate such facilities on a replacement cost basis, facilitating recapture for new investment; and third, immediate writeoffs of nonproductive but ecologically necessary pollution control facilities and equipment. These and other proposals could benefit selected, critical industries, not merely the steel industry.

ENVIRONMENT

I would be reluctant to see any retreat in environmental controls since they affect the health of our citizens. We should, however, be willing to create positive incentives to comply with controls as soon as possible, such as immediate tax writeoffs of pollution control equipment. We should also insure that antipollution requirements are reasonable and capable of being met within the times dictated. Industry has at time been at fault by fighting compliance instead of working with regulatory agencies on a step-by-step basis to insure gradual and orderly conversion; similarly, environmental groups have at times been too impatient and too heedless of the economic effects of compliance. The courts are too often forced by both industry and environmental groups to be the final arbiters on these very complex technological issues with important social consequences.

ANTITRUST

In antitrust law, there is a "failing company" doctrine which insulates mergers that would otherwise be subject to antitrust attack. I hope that we do not have to reach this point before we allow some steel mergers that may be necessary to enable the industry to achieve economies of scale necessary to compete both here and abroad with foreign manufacturers. This may be a necessary step in the modernization process and one requiring at thoughtful reexamination of our existing antitrust laws as they apply to steel.

THE ROLE OF BUSINESS

The steel industry itself must demonstrate that, given some form of import relief whether through Trade Act decisions or orderly marketing agreements, it can compete on an equal par with fair import competition; that, given incentives and capital to modernize, it will do so efficiently and rapidly, and in compliance with environmental controls; and that, given the importance of steel prices in the inflationary equation, it will not seek excessive or inflationary price increases when market conditions improve.

THE ROLE OF LABOR

Those who work in the steel industry must demonstrate their willingness to match or excel the productivity of foreign workers. their willingness to refrain from any excessive or inflationary wage and benefit demands, and their willingness to avoid strikes or other disruptive actions that in the past, have given foreign competitors substantial inroads into the domestic market. For those who have been or may have to be displaced by modernization, the Government should provide adequate and rapid adjustment assistance and opportunities for new and meaningful employment in other industries. We can also assist by holding down overall inflation, so that workers wages and benefits are not being constantly eroded.

In summary, it is clear that the problems of our steel industry cannot be solved overnight and cannot be solved without concerted action by Government, business, and labor. The world, as well as the Nation, is watching us closely; how we react will set an important precedent for dealing with similar issues in the future. We must proceed with the knowledge that the fabric of world trade is delicate, and that if it is damaged irreparably, we will be the final losers.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5383, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5383) to amend the Age Discrimination in Employment Act of 1967 to extend the age group of employees who are protected by the provisions of such act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceed to consider the bill (H.R. 5383), which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Age Discrimination in Employment Amendments of 1977".

SEC. 2. (a) Section 4(f)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(1)) is amended by inserting after "section" a comma and the following: "including the establishment of a mandatory retirement age less than the maximum age specified in section 12 of this Act,".

(b) Section 4(f)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(f)(2)) is amended by inserting after "individual" a comma and 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".

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of enactment of this Act, except that in the case of employees covered by a collective bargaining agreement which is in effect on September 1, 1977, entered into by a labor organization (as defined in section 6(d)(4) of the Fair Labor Standards Act of 1938), and which would otherwise be prohibited by the amendment made by section 3 of this Act, the amendment made by subsection (b) shall take effect upon the termination of such agreement or January 1, 1980, whichever occurs first.

SEC. 3. (a) Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended to read as follows:

"LIMITATION

"SEC. 12. The prohibitions in this Act shall be limited to individuals who are at least 40 years of age but less than 70 years of age.".

(b) The amendment made by subsection (a) of this section shall take effect January 1, 1979.

SEC. 4. (a) Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended to read as follows:

"(d) No civil action may be commenced by any individual under this section until the individual has given the Secretary not less than sixty days' notice of an intent to file such action. Upon receiving a notice of intent to sue, the Secretary shall promptly notify all persons named therein as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.".

(b) The amendment made by subsection (a) of this section shall take effect with respect to civil actions brought after the date of enactment of this Act.

SEC. 5. (a) Section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), is amended to read as follows:

"(e) For the period during which the Secretary is attempting to effect voluntray compliance with requirements of this Act through informal methods of conciliation, conference and persuasion pursuant to subsection (b), the statute of limitations as provided in section 6 of the Portal-to-Portal Act of 1947 shall be tolled.".

(b) The amendment made by subsection (a) of this section will take effect with respect to conciliations commenced after the date of enactment of this Act.

SEC. 6. (a) 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 by inserting "(a)" after the section designation and by adding at the end thereof the following:

"(b)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of employees who have attained 65 years of age but not 70 years of age, and who are members of a group of highly compensated management employees, if any such employee is entitled to an immediate nonforfeitable annual

retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least $20,000.

"(2) The Secretary shall adjust annually the $20,000 amount specified in paragraph (1) for increases and decreases in the cost of living in accordance with regulations prescribed by the Secretary.

"(3) In applying the retirement income test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

"(c) Nothing in this Act shall be construed to prohibit compulsory retirement of employees who have attained 65 years of age but not 70 years of age, and who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education as defined by section 1201 (a) of the Higher Education Act of 1965.

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of teachers who have attained 65 years of age but not 70 years of age, and who are serving under a contract of unlimited tenure in a local educational agency as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 of a State, if State law in effect at the date of enactment of the Age Discrimination in Employment Amendments of 1977 provides for such retirement.".

(b) The amendments made by subsection (a) of this section shall take effect January 1, 1979.

SEC. 7. The Secretary of Labor is directed to undertake a study, directly or by contract or other arrangement, of the effects of raising the upper age limitation under section 12 of the Age Discrimination in Employment Act of 1967 (as provided in section 3 of this Act). Such study shall be completed and reported to the Congress within three years after these amendments become effective. An interim report shall be completed and delivered to the Congress two years after these amendments become effective. The study shall focus on—

(1) the effect of raising the limitation to seventy years of age;

(2) the feasibility of raising the limit above seventy years of age; and

(3) the feasibility of lowering the minimum age for coverage under such Act.

The PRESIDING OFFICER. Time for debate on this bill is limited to 1½ hours, to be equally divided and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS), with 1 hour on any amendment, and with 20 minutes on any debatable motion, appeal, or point of order.

Who yields time?

Mr. WILLIAMS. 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. 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.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate on October 19, which is today, to consider revision of the criminal code.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration may meet until 12 o'clock noon today.

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

NO SESSION ON MONDAY, OCTOBER 24, 1977

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senators, there will be no session of the Senate on Monday.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

Mr. WILLIAMS. Mr. President, I take this moment to ask unanimous consent that the privilege of the floor be accorded to the following, in addition to those who were granted privileges by prior request, during consideration of H.R. 5383: Don Zimmerman, Peter Turza, John Rother, Susan Martinez, Fran Butler, and Jon Steinberg.

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

Mr. WILLIAMS. Mr. President, when Congress enacted the Age Discrimination in Employment Act in 1967, it determined that it would be our national policy to promote the employment of older workers between the ages of 40 and 65 by preventing discrimination in hiring, firing, and other conditions of employment based solely upon age.

Our experience with the law as well as with the concept of age discrimination since that time has demonstrated that while we have made some progress toward this goal, a number of critical problems remain to be addressed.

The action taken by the Human Resources Committee in reporting the Age Discrimination in Employment Act Amendments of 1977 is a long, though not complete, step toward assuring that no person with the capacity and desire to work will be denied that opportunity solely on the basis of age. This legislation does this by raising the current upper age limit of 65 in the area to age 70 and by changing the language of section 4 (f) (2) to make clear the original intent that the act prohibits mandatory retirement of individuals within the protected age group pursuant to the terms of employee benefit plans or seniority systems.

When the Age Discrimination in Employment Act was enacted in 1967, comparatively little was known about the desires or abiilties of older workers. The social and economic role of the aged in our national life was unclear as well.

In the ensuing decade, however, much of this uncertainty has been resolved. Scientific research now indicates that chronological age alone is a poor indicator of the ability to perform work. Moreover, recent studies have demonstrated the important relationship between activity and good health.

Gerontological experts agree that one of the most fundamental emotional needs which older persons have is to remain active contributing members of society. For those who wish to work, employment opportunities can provide that vital sense of personal purpose.

In the committee's view, it is a matter of basic civil rights that individuals should be treated in employment on the basis of their ability to perform a job rather than on the basis of stereotypes. I believe that the act's current age limitation unfairly assumes that age alone provides an accurate measure of an individual's ability to perform work.

This assumption is effectively refuted by the fact that there were some 2.7 million persons age 65 and older working in 1976, and 1.6 million of them were between the ages of 65 and 69, and 1.1 million of them were older than age 70.

Older workers may in fact be among the best employees because of experience and job commitment. In 1974, 33 State agencies in New York compared workers over and under age 65 with regard to absenteeism, punctuality, on-the-job accidents, and overall job performance. The results of the survey indicated that job performance of the workers over age 65 as about equal to, and sometimes noticeably better than, younger workers.

Moreover, mandatory retirement often works severe injustices against the aged. Indeed, for some, the opportunity to continue working has become a question of economic survival. Retirement results in a considerable loss of income for retirees. For half of the mandatorily retired males, retirement income represents less than 40 percent of salary.

In 1976, 3.3 million Americans age 65 and older had incomes below the poverty level. The average social security benefit for individuals is $2,750 per year, for couples $4,320 per year. According to a 1974 Harris survey, the largest percentage of persons wanting to work after 65 were those who earned less than $3,000 a year. In other words, those who want to work beyond 65 are most often those who need to work in order to maintain a minimal standard of living.

There is now widespread agreement that the present funding of the social security system is inadequate to meet future demands, because demographic projections suggest that proportionately fewer workers will be supporting a far greater number of retirees than has been the case in the past. Although I would not suggest that workers should be required to continue working beyond 65, these data suggest that we should not discourage those older Americans who wish to continue working.

But it is not merely this economic issue that concerns me. Mandatory retirement may have severe deteriorative impact on the physical and psychological health of older individuals.

The American Medical Association has observed that the sudden cessation of

productive work and earning power for an individual caused by compulsory retirement often leads to physical and emotional illness and even premature death.

A number of arguments have been advanced suggesting that raising the mandatory retirement age will have a severe impact on our economy. It has been argued that this bill will greatly increase the labor force participation rates of older workers and thereby reduce employment opportunities for younger workers.

I would be very concerned if I thought this legislation would further exacerbate the unemployment problem.

However, the best estimate that we have received from the Department of Labor indicates that increasing the mandatory retirement age to 70, as we do in this bill, would result in an increase in the labor force of approximately 200,000 people a year. That is somewhere between one-tenth and two-tenths of a percent increase in an economy which last year produced some 3 million new jobs.

Another argument which was advanced at our hearings was that the costs for pension and other employee benefit plans would vastly increase if the act's upper age limit is extended.

Mr. Donald Elisburg, the Assistant Secretary of Labor for Employment Standards, assured us that officials in the Department of Labor who administer ERISA are in complete agreement that there will be no conflict with the relevant provisions of the 1974 pension law if the upper age limit is raised.

It was feared that employers would be required to credit years of service for the purpose of benefit accrual after the normal retirement age specified in a pension plan for those workers who continued working after age 65.

The Department has assured us in a letter which we have made a part of the legislative history of this act that nothing in the ADEA requires such accrual. Neither the ADEA nor ERISA requires an employer to make any upward adjustment in benefits at the time of the employee's actual retirement in order to make sure that he will receive the actuarial equivalent of the benefits he would have received had he retired at the normal retirement age.

Most pension plans condition payment of benefits upon termination of service. However, since some plans specify that the employee is entitled to a benefit at a specific date, it was suggested that raising the mandatory retirement age would permit such an employee to collect a pension even if he continued to work. I can assure you that this is not the case. Plans which have a mandatory retirement age but which do not specify that entitlement to benefits is contingent upon terminating the employment relationship may be amended to make certain that this will not occur, without violating ERISA or the ADEA.

Concerns were also expressed regarding potential increased costs for employee welfare benefit plans, such as disability, health, life, and other forms of insurance, because of increased costs which would accompany the continued employment of older workers. Under section 4 (f) (2) of the act, an employer is not compelled to afford older workers exactly the same pension, retirement, or insurance benefits as he affords younger workers, provided that any difference in these benefits is not a subterfuge for age discrimination.

This bill would not alter existing law with respect to these practices.

This bill would amend section 12 of the Age Discrimination Act to raise the upper age limit from 65 to 70. Prior to the committee's consideration of the bill, I received a letter from President Carter in which he stated his support for the principles embodied in the bill.

However, the President expressed his desire that we should provide a sufficient opportunity for employers to adjust personnel policies to reflect the changes in existing law made by the increase in the act's upper age limit. I therefore offered an amendment, which the committee adopted, which will delay the effective date of the increase in the upper age limit to 70 until January 1, 1979.

The business community has expressed serious reservations about the impact that the elimination of mandatory retirement would have on the ability of employers to assure executive level promotional opportunities for younger workers. In order to permit employers to replace certain key employees and keep promotional channels open for younger employees, the committee adopted an amendment offered by Senator PELL which would permit the compulsory retirement of management or highly compensated employees at age 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000, exclusive of any social security benefit.

In calculating this annual retirement benefit, lump-sum distribution or installment distributions from a pension, profit-sharing, savings or other deferred compensation plan, or any combination thereof, may be included so long as the value of such benefits is actuarially adjusted to reflect the equivalent of a straight-life annuity of $20,000 per year.

The amendment also requires the Secretary of Labor to annually adjust the $20,000 figure to reflect increases or decreases in the cost of living. This cost of living adjustment will insure that in future years an employee subject to this provision will receive the equivalent of $20,000 in 1977 dollars.

The committee intends that the Secretary shall use his rulemaking authority under the act to interpret and implement the exemptions established by the bill.

During the committee's consideration of the bill, two amendments were proposed and accepted which recognize a special type of employee-employer relationship in educational institutions. Many colleges and universities maintain that for the foreseeable future the number of avaliable faculty positions will be closely related to the number of retirements, thereby making it difficult to employ younger professors, particularly women and minorities.

It was also suggested the act's exemption permitting discharge for cause could not be applied to tenured faculty members, because their employment contracts make discharge for cause virtually impossible. Senator CHAFEE offered an amendment which was adopted by the committee to permit colleges and universities to maintain compulsory retirement policies for faculty members between ages 65 and 70 who are serving under a contract of unlimited tenure or similar arrangement providing for unlimited tenure. The committee also adopted an amendment which would permit compulsory retirement of teachers between ages 65 and 70 in public elementary and secondary schools who are serving under contracts of unlimited tenure.

Section 4(F) (2) of the ADEA permits an exception to the ADEA's general discrimination prohibition 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 the act". The purpose of this exception is to facilitate the hiring of older workers by permitting their employment without necessarily requiring an employer to provide equal benefits to them under retirement, insurance or disability benefit plans. Of course, there must be some reason other than age which justifies the unequal benefits.

At the time of enactment in 1967, the legislative history on this point was made quite explicit by my colleague, Senator Javits, who stated:

> 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.

Since enactment, and despite this clear expression of our intent, the courts have disagreed over the interpretation of this section. The third and fifth circuit courts of appeals have ruled that a pension plan which requires mandatory retirement at age 65 does not violate the act, because section 4(f) (2) sanctions such a provision. *Zinger* v. *Blanchette*, 549 F. 2d 901 (3rd cir. 1977) *Brennan* v. *Taft Broadcasting*, 500 F. 2nd 212 (5th cir. 1974). However, in *McMann* v. *United Airlines*, 542 F. 2d 217 (4th cir. 1976), cert. granted, 429 U.S. 1090 (1977), the fourth circuit court of appeals held that section 4(f) (2) does not permit mandatory retirement required by a collective bargaining agreement or pension plan, because the only purpose of 4(f) (2) was to encourage the employment of older workers by permitting employers to make distinctions based on age with respect to participation in employee benefit plans.

There may be valid distinctions which can be made between older persons and younger persons with respect to the costs of providing term life insurance, for example. Section 4(f) (2) was intended to permit and will continue to permit varying coverage of workers in different age groups to reflect those differences so long as they are based on valid assumptions and applied in a nondiscriminatory manner.

But the application of a mandatory retirement provision contained in a seniority system or employee benefit plan makes no such valid distinction. Rather, it takes away an individual's right to employment solely because of his or her age. That is age discrimination plain and simple, and it is not excused by any provision of the act.

Because some courts have not properly interpreted the meaning of this section, the committee acted to clarify our original intention. The amendment to section 4(F)(2) forbids mandatory retirement required by a pension or other employee benefit plan or seniority system and serves to express congressional approval of the result reached by the fourth circuit in McMann.

Although the committee favored a complete ban on mandatory retirement, I believed that we should not prevent mandatory retirement in those instances where age has been established as a bona fide occupational qualification.

In his letter endorsing the basic purposes of my bill, President Carter expressed the same concern and asked that in enacting this legislation we clearly permit the establishment of a designated retirement age of less than 70 where age has been shown to be an important indicator of job performance. For some types of work, for example, law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age will be unable to continue performing their duties. In addition, it may be impossible or impractical to determine through medical examinations or periodic reviews of job performance the employee's capacity or ability to continue working safely and efficiently.

I therefore offered an amendment, which the committee adopted, which provides in effect that where these two conditions are satisfied and a bona fide occupational qualification has therefore been established, an employer may lawfully require mandatory retirement at that specified age. The committee also recommended that the Secretary examine the feasibility of issuing guidelines to aid employers in determining the applicability of the bona fide occupational qualification exception to their particular situation.

The committee also recognized that reciprocal agreements and concessions are often made in exchange for the mandatory retirement provisions contained in collective bargaining agreements. In order to provide maximum deference to contracts negotiated between management and labor and to give the parties an opportunity to make those clarifications in pension plan agreements which are required by this legislation, I offered an amendment, which the committee adopted, which delays the effective date of the prohibition on mandatory retirement policies for age 65 to 70, if such policy is contained in a collective bargaining agreement which was in effect on September 1, 1977.

The effective date of the prohibition on mandatory retirement between 65 and 70 in these situtions would be the termination date of the contract or January 1, 1980, whichever occurs first. Since the increase in the act's upper age limit does not go into effect until January 1, 1979, this exemption would provide at most an additional year for an agreement in effect on September 1, 1977.

Although considerable sentiment was expressed in favor of removing the act's upper age limit during our deliberations, the committee concluded, and I concur, that for the present time the act's upper age limit should not be extended beyond 70 years of age.

But because of the interest that was expressed concerning total uncapping of the act, the legislation requires the Department of Labor to conduct a study on the effect of revising the act's upper age limit to 70 years of age and the feasibility of raising the limit above 70 years of age. This study must be completed within 3 years, with an interim report due 2 years after the effective date. It is our hope that the results of these studies will alleviate many of the concerns that have been expressed regarding increasing the upper age limit from 65 to 70, and will therefore provide the impetus for early consideration of uncapping the act entirely.

The committee also voted to include two procedural amendments to the act in this bill.

The Age Discrimination in Employment Act contains a plethora of time limitations and procedural requirements. One of the most unfair is the requirement of section 7(D) that before any individual may institute a lawsuit, he or she must give the Department of Labor notice of intent to file a suit within 180 days of the occurrence of the alleged act of discrimination. This period is extended to 300 days if the alleged unlawful practice takes place in a State which has an age discrimination statute under which a State agency is empowered to grant or seek relief from discriminatory practices.

The failure to file timely notice within this 180-day period has been the most common basis for dismissal of ADEA lawsuits by private individuals. Many courts have found this limitation to be a jurisdictional prerequisite and have therefore refused to consider any excuse for not satisfying the notice requirement. It has never been our intent that the 180-day notice period be considered a jurisdictional prerequisite. Instead, the time limitation is subject to equitable modifications and in that sense is similar to a statute of limitations. Several court decisions have properly adopted this approach, such as *Dartt* v. *Shell Oil Co.*, 539 F.2d 1256 (10th Cir. 1976) and *Charlier* v. *S. C. Johnson & Son, Inc.*, 556 F.2d 761 (5th Cir. 1977).

Age discrimination is often more suitable and less well understood than other forms of discrimination. In many instances it is not discovered by the victim until long after the alleged unlawful practice has occurred. Therefore, the 180-day period is frequently too short.

In order to remove this unreasonable burden on victims of age discrimination, the bill eliminates both the 180-day and the 300-day notice of intent to sue requirement, so that a complaint alleging discrimination will be timely unless barred by the applicable statute of limitations.

The committee also provided for tolling of the statute of limitations for the period during which the Department of Labor is making informal attempts to bring about voluntary compliance with the act.

Various courts have held that failure to comply with the conciliation requirement requires dismissal of the lawsuit. Some have gone so far as to say that conciliation is a jurisdictional prerequisite to bringing a lawsuit under the act. As explained in the committee report, we have never intended that the conciliation requirement be applied so rigidly.

The purpose of conciliation is to avoid unnecessary and meritless litigation and to promote settlement of cases which do have merit. It should not and was never intended to require the Department of Labor to compromise its position. It was not intended to permit potential defendants to avoid their responsibilities under the law.

Unfortunately this has all too often become the case. In order to put an end to this practice and to assure a resolution of age discrimination charges on the merits, this bill provides that the statute of limitations will be tolled for the period conciliation is carried out pursuant to section 7(b).

Mr. President, older workers are a valuable national asset and comprehensive protection of their legitimate employment rights is a priority of the highest order. This legislation, which I am proud to have sponsored, is a significant step. It is my belief that it is the vehicle toward the day when the practice of discrimination based solely on age will be entirely eliminated.

Mr. JAVITS. Mr. President, we have before us today a bill to clarify, expand and strengthen the Age Discrimination in Employment Act, which is one of the few pieces of Federal legislation through which we attempt to establish national policy about the role of older workers in the Nation's work force. In essence, what we seek to do through this act is to assure older workers the opportunity to participate, or not to participate, in the work force in the manner they themselves choose.

Full assurance of this opportunity will of course require a good deal more, such as improved retirement income protection, expanded opportunities to pursue second careers, and the chance to shift gradually to part-time work with the same employer. But, none of this would be possible without first establishing the central matter—at what age may employers mandate the retirement of their employees? The ADEA provides this core statutory protection against employment discrimination, including mandatory retirement, on the basis of an arbitrarily selected age.

This bill, H.R. 5383, could well turn out to be as significant for our working citizens as any measure passed by this Congress. As a sponsor of one of the bills considered by the Human Resources Committee, I wish to be one of the first to acknowledge that the effects of this measure are almost certain to be far greater than a 5-year change in the covered age group might suggest.

What this bill directly prohibts—discriminatory employment practices against older workers, now to be redefined upward to age 70—is less important for the actual enforcement actions likely to ensue from it than for its signaling of a fundamental change in the way older workers perceive them-

selves and the way they are perceived by employers and society generally. Our intent here is to put an end to the now almost fixed pattern of automatically passing judgment on an individual's working capacity when he or she turns age 65.

I hope that the Senate is now prepared to promote opportunity for older workers by altering what has become an acceptance of the institutional value of efficiency as having primacy over what should be our primary individual value—that of permitting each person to continue working past age 65 as a matter of individual choice and ability. We have permitted an arbitrarily determined age factor to govern not only when a worker must retire from employment, but when workers are considered to have exhausted the value of their work to themselves, to their employers and to the national economy. I urge my colleagues to reorder our priorities by prohibiting age discrimination in employment from age 40 to age 70 as proposed in this bill.

There is nothing preordained about the 65 upper age limit of the Age Discrimination Act. 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 the use of this age in prewar Germany's social security system.

With advances in medical science and in the 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. Mandatory retirement at any specific age fails to take account of differential aging and the effects of aging on different skills. It could waste well-developed abilities and mature judgment which can be of great benefit to society. In addition, mandatory retirement accelerates the aging process and can worsen physical and emotional problems.

The fact is that not even half of U.S. workers are provided with anything approaching financial independence when they retire. Only 29 million of the 66 million nongovernment wage and salary workers, according to the latest data available, are covered by employer retirement financial benefit plans. Even among these many are not provided with sufficient benefits to supplement social security payments to enable them to retire without substantial economic difficulty.

The growth of private pension plans, which we have attempted both to promote and to regulate responsibly through the enactment of the Employee Retirement Income Security Act, has made it possible for many older workers to retire early to engage in volunteer activities and to pursue second careers. This development, coupled with greatly improved health care and increased longevity has very materially altered the working careers of millions of our citizens. The development of new retirement patterns, with such a marked contrast between those who choose early retirement and those who want to choose continued employment makes it more necessary than ever to assure older workers of the opportunity to make that choice.

That choice is today all too restricted by limiting the application of the Age Discrimination in Employment Act to those under age 65. Twenty-six years ago as a Member of the House of Representatives, I introduced legislation to prohibit discrimination in employment on the basis of age, any age.

It was not until 10 years ago that Federal law was eventually enacted to fulfill that goal at least in part.

I have viewed the act's present protection of workers who are at least 40 but less than 65 years of age from discrimination in employment on the basis of age as a first step in protecting older employees. Earlier this year, I introduced legislation with Senators EAGLETON and CHAFEE to phase out gradually the act's upper age limit by 1985. Our bill also clarified the 4(f)(2) bona fide employee benefit plan exception so that pension plans would not require the forced early retirement of employees.

Because of my desire to see age legislation passed this year, I decided to throw my support to the more conservative position of raising the age cap to 70.

Contrary to charges that Congress is blindly leaping into the unknown, there is an established track record for mandatory retirement ages above 65. Corporations like Bankers' Life and Casualty Co. have had no compulsory retirement for over 30 years. The civil service system has effectively operated with an upper age limit of 70, and General Motors Corp. uses age 68 as its compulsory retirement age.

Some employers have claimed that raising the mandatory retirement age will cause aged and unproductive employees to linger on. The record, however, strongly suggests otherwise.

The trend in recent times has been toward early retirement. In 1974, 72 percent of all new social security retirees opted for reduced benefits with age 62 as the overwhelmingly most common age. From 1950 through 1976, 60 percent of GM's hourly employees retired before age 65, and 13 percent retired at the mandatory age of 68.

In 1976, only 2 percent of such GM employees worked until age 68. Bankers Life, which has no mandatory retirement age, reports that in 1968 only 3 percent of their employees were age 65 and over, and in 1977 that figure went to 4 percent. At Connecticut General Life Insurance Co., which recently eliminated compulsory retirement, 2 of 50 retiring employees decided to stay on in 1977.

A recent Roper poll found that nearly two-thirds of Americans would like to retire before age 62, and over one-third prefer to retire before reaching 60. The Labor Department estimates that raising the mandatory age will increase the labor force by about 175,000 to 200,000 persons out of over 90 million workers.

I should add that at all times an employer may discharge an unproductive employee, whether age 70 or younger, for cause.

Employers have also expressed concern that the costs of funding their pension plans will increase if the mandatory retirement age is raised. Our analysis, which has been supported by the Labor Department, is that pension costs will not increase and, in fact, will decrease if workers stay on the job past 65. The longer an employee works, the shorter the period retirement payments will have to be made. Savings would also come from the added years of accumulated interests on the pension assets. Additional savings would arise from the fact that a plan need not provide for further benefit accruals after the participant reaches the plan's normal retirement age. Added years of service after normal retirement need not necessarily be credited toward the ultimate retirement benefit, and thus, there need be no cost increase. It should also be noted that much of the cost of medical care for workers older than age 65 would be covered by the Federal medicare program.

In order to allay fears about raising the age cap, the Senate Human Resources Committee voted for a number of amendments. The committee bills provide an exemption for corporate executives who receive $20,000 or more in employer provided retirement benefits, exclusive of social security. It also provides exemptions for teachers who have unlimited tenure at public, elementary, and secondary schools as well as higher educational institutions, whether public or private. At the administration's request, clarifying language was approved which permits the establishment of a designated retirement age less than age 70 where the employer can show that age is a bona fide indicator of job performance. The effective date for the changes in section 12 has been moved back to January 1, 1979 and for collectively bargaining pension plans which have 65 as the mandatory retirement age, the effective date for making changes will be no later than January 1, 1980.

In my view, the corporate executive exemption is troublesome. Corporations which have no compulsory retirement have used sophisticated management techniques to avoid blocked lines of progression for executives. For example, years of service in any one position could be limited, much the way the President of the United States term of office is restricted. Rotation of personnel between different divisions could also be stipulated, as could increased pension benefits for early retirees. Company growth, organizational structure changes, and employee counseling are other factors to be considered. A recent poll of 450 executives indicated that only 13 percent planned to work past age 65. This poll suggests that executives do not wish to stay on the job any longer than the hourly employees they supervise.

In order to effect the will of the Committee, however, I am willing to accept the exemption, as is Senator WILLIAMS, even though neither of us is very happy about it.

The tenured teacher exemptions are also troubling. The elementary and sec-

ondary public school teacher exemption is potentially overbroad. There are approximately 2,190,000 elementary and secondary public school teachers who could be covered by this exemption. The committee hearing record contains no estimates on the number of public school teachers covered by superior State mandatory retirement statutes who would not come under this exemption. It is fair to say that the committee acted on this amendment without sufficient information.

With respect to college faculty, the percentage of professors who work past age 65 where permitted to do so is only 0.027 percent of the number of tenured professors who are eligible to do so. In New York State, where professors in the State system are required to retire at age 70, only 12 of 10,000 professors in the system are between the ages of 65 and 70. It appears that the trend toward early retirement among professors may be greater than the trend for the general population and that the need for a professor's exemption may be woefully lacking.

In order again to carry out the judgment of the committee, I am going to accept the tenured professor exemption. However, Senator WILLIAMS and I simply cannot swallow the public school-teacher exemption which covers so very many employees.

So, Mr. President, I will find it necessary to oppose the public teacher exemption, although, most reluctantly, I shall stay with the chairman and the committee with respect to the corporate executive exemption and the tenured professor exemption.

Mr. President, I will not take the time of the Senate to go into further detail. I would, though, like to bring to the Senate's attention a recent survey released by the conference board. The survey shows that the vast majority of Americans oppose any kind of mandatory retirement age. Interestingly, about 75 percent of persons under 25 years of age opposed a fixed retirement age even though these are the very individuals, we are told, who feel they will be harmed by the closing off of promotional paths. I ask unanimous consent that the October 18 Bureau of National Affairs' description of the conference board survey be included in the RECORD.

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

SURVEY SAYS VAST MAJORITY OF AMERICANS, INCLUDING YOUNG, OPPOSE FORCED RETIREMENT

A vast majority of Americans oppose any kind of mandatory retirement age—with the strongest opposition coming from young persons, according to a survey released by the Conference Board.

The survey, covering some 5,000 households across the nation, was conducted for the Board by National Family Opinion, Inc. of Toledo, Ohio. The polling was done in September just prior to House passage of the bill (H.R. 5383) lifting the permissible mandatory retirement age in the private sector from 65 to 70 (1977 DLR 186: AA-1). A companion Senate measure (S. 1784) is scheduled to be considered on the Senate floor on October 19.

About 64 percent of those surveyed are against mandatory retirement at any age, the Board says, with some 32 percent supporting mandatory retirement at age 65 or earlier. The remaining 4 percent are in favor of mandatory retirement at 70.

The largest vote against mandatory retirement was cast by those who would be expected to gain the most from such a policy. Approximately 75 percent of persons under 25 years of age opposed a fixed retirement age, compared with 56 percent of those in the 55 to 64 age group. Only 51 percent of those 65 and over in the survey oppose a mandatory retirement age.

The survey also indicates that attitudes on mandatory retirement vary significantly according to income. More than 68 percent of the families earning at least $20,000 a year oppose mandatory retirement, the survey reports, compared with 58 percent of those with incomes under $10,000.

"The retirement urge is apparently linked to the type of work one does," remarks Fabian Linden, director of consumer research at the Conference Board. "While a large number of those in the low-income brackets are performing physically demanding work, the upper-income brackets are largely comprised of people in professional or other white-collar occupations where job satisfaction tends to run higher," Linden adds.

The survey also finds that some 69 percent of the white-collar workers are against forced retirement, compared with 62 percent of the blue-collar workers. It shows that 21 percent of the blue-collar workers surveyed favor compulsory retirement at age 60, a view held by less than 12 percent of those in white-collar jobs.

The House bill, which passed by a vote of 359 to 4, would prohibit a mandatory retirement age for federal employees, and would raise the upper age limit of private sector workers covered by the Age Discrimination in Employment Act from 65 to 70.

On September 30, during its markup of the companion measure (S. 1784), the Senate Human Resources Committee voted to raise the mandatory retirement age to 70, but decided to allow the involuntary retirement at 65 for executives whose pensions total at least $20,000 a year and teachers with full tenure (1977 DLR 191: AA-1).

Representative Claude Pepper (D-Fla), principal author of H.R. 5383, immediately decried the Senate panel's action and called on the full Senate to strike the "arbitrary exemptions" from the bill when it reaches the Senate floor. Pepper also attacked the committee's vote postponing the effective date of the age 70 level until January 1, 1979, in accordance with a request by President Carter for such a delay. The House version makes the age 70 cutoff effective six months after enactment.

"If ending mandatory retirement offers the elderly a whole loaf, the House bill offers them three-fourths of a loaf with the promise of a whole loaf, while the Senate bill tells them to go hungry for a while longer while waiting for the crumbs," Pepper declared. He urged every elderly person in the country to write his or her Senator in support of the House-passed bill.

The American Federation of Teachers also registered its opposition to the language in the Senate bill that retains the current age 65 permissible mandatory retirement age for tenured teachers. In a letter to members of the Senate AFT President Albert Shanker stated that the exemption of teachers from the ADEA amendments was "neither sought nor desired by teachers or the organizations representing them." He contended that there is "no rational justification" for requiring teachers to retire earlier than other professionals.

"Experience is as valuable a commodity among educational personnel as it is with any other professional," Shanker said. He exhorted the Senate to support an amendment that will be offered by Senators Frank Church (D-Idaho) and Alan Cranston (D-Calif.) which would eliminate the teacher exemption provision. The teachers' union reiterated its support for the remainder of the bill.

The Senate Human Resources Committee amendment to exempt tenured teachers arose out of a proposal by Senator John Chafee (R-RI) to retain the mandatory retirement age at 65 for tenured faculty at colleges and universities. Chafee argued that teachers with unlimited tenure are different from other employees because they have career appointments that do not allow for subsequent merit reviews. He also warned that "bright and ambitious" young teachers would be kept out of jobs in higher education if the age level were raised.

Subsequently, Senator William Hathaway (D-Maine) proposed that the exemption for tenured faculty apply to all teachers, on the ground that the rationale behind the Chafee amendment also applies to elementary and secondary school systems.

Benjamin Hooks, executive director of the NAACP, has asked the Senate to retain the one-year delay of the effective date that is currently in the bill. Citing the "crisis" of teenage unemployment," Hooks said that the NAACP and other groups need time for additional study of the proposed legislation before taking a final position. He emphasized that although the NAACP's initial reaction to raising the mandatory retirement age is unfavorable, the civil rights organization is not asking that the bill be defeated.

Both the Senate and House bills would clarify Section 4(f)(2) of the ADEA by providing that pension plans and seniority systems in the private sector may not be used to force retirement before age 70. Section 4(f)(2), which permits employers to observe the terms of a bona fide employee benefit plan if such observance is not a subterfuge to avoid the purposes of the Act, has been interpreted by some courts to allow involuntary retirement prior to age 65.

Unlike the age 70 extension, the provision in the Senate bill clarifying Section 4(f)(2) would become effective upon enactment, but the committee-approved language providing that pension plans in collective bargaining contracts in existence on September 1, 1977 may continue to be used to force retirement before age 70 during the life of the contract or until January 1, 1980, whichever comes first.

The House-passed bill contains a similar "grace period" allowing such pension plans to operate until the contract expires or two years after enacmtent, whichever comes first, in cases of contracts in effect at least 30 days prior to the date of enactment.

In sum, what we propose to do through this bill is to permit older workers to remain on the job longer if they so choose. The heart of the matter is personal opportunity, which cannot be fulfilled without the extended protection provided in this bill. It is not too much to expect, I believe, that workers no longer facing an age 65 age barrier to employment will seek, and receive, individual evaluation of their working capacity when employers are required to exercise their managerial responsibilities to make employment decisions based on performance rather than a fall back on arbitrary forced retirement at age 65. The dignity of employees—and of their employers—is at stake.

Mr. President, I ask unanimous consent that Tim Smith, of Senator STAFFORD's staff, may have the privilege of the floor during the consideration of this measure.

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

Mr. JAVITS. I thank my colleague from California.

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

Mr. CRANSTON. I yield.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Lee Verstandig and Nancy Barrow, of my staff, have the privilege of the floor during the consideration of this measure.

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

Mr. CHURCH. Mr. President, I support the provision in the 1977 Age Discrimination in Employment Act Amendments except section 6, which would permit mandatory retirement at age 65 for college professors, elementary and secondary teachers, and highly paid employees.

Later, Senator CRANSTON and I shall offer an amendment to strike this language from the bill.

At this time, though, I would like to direct my remarks to the other provisions of H.R. 5383—several of which I either advanced or sponsored.

First, the bill would increase the upper age limit of the anti-age discrimination law from 65 to 70.

This represents an important step toward the goal of employment based on merit.

I have long maintained that functional capacity—not chronological age—should determine whether a person is hired, fired, promoted, or demoted.

Unfortunately, many Americans now believe that advancing age shuts them off from purposeful activity.

Elderly persons have repeatedly asked the Committee on Aging: Why should our Nation encourage inactivity when inactivity may be our greatest enemy?

Today almost 11 percent of our total population is aged 65 or older. Yet, older Americans represent only about 3 percent of the civilian labor force.

Many elderly persons need to work because inflation is placing them in a financial squeeze. Others want to work because they find it fulfilling.

Older Americans should have an opportunity to compete on the basis of ability and not chronological age.

The 1977 Age Discrimination in Employment Act Amendments will help to implement this goal.

Second, the bill includes a proposal that I sponsored with Senator WILLIAMS to prohibit mandatory retirement before age 70.

This measure would not—and I want to stress this point—prohibit early retirement on a voluntary basis.

Workers who are now involuntarily retired at an early age may find themselves on an economic treadmill. If they retire before age 62, they are ineligible for social security. If they are mandatorily retired at age 62, 63, or 64, they will receive actuarially reduced social security benefits for the rest of their lives.

Forced retirement may also be psychologically damaging, especially for individuals who have lived active and productive lives. A person does not suddenly change upon reaching the age of 65.

Third, the committee bill would authorize the Secretary of Labor to conduct a study to determine the feasibility of abolishing mandatory retirement completely.

Finally, I am pleased that H.R. 5383 includes my proposal to extend from 180 days to 22 months the notice of intent to sue requirement for employees.

The Department of Labor estimates that the courts have dismissed nearly two-thirds of all private age discrimination suits without a hearing on the merits because an individual failed to comply with the act's procedural requirements.

One of the most troublesome is the 180-day notice of intent to sue provision, which has proved to be a trap for the unwary or unsophisticated.

The anti-age discrimination law is designed to promote employment on the basis of ability and to prohibit job bias because of age.

These purposes are not fulfilled if disputes are decided on procedural technicalities, instead of substantive issues. The policy of the act should be to encourage decisions on the merits of the claims.

Quite often, a plaintiff may need more than 180 days to notify the Department of Labor of his intent to sue, for several reasons, including:

He may want an informed legal opinion concerning the likelihood for success if a lawsuit is filed.

He may attempt to resolve the dispute himself or work out a compromise with an employer.

For these reasons, I reaffirm my support for these provisions.

UP AMENDMENT NO. 948

(Purpose: To provide for technical corrections respecting the exemption regarding highly compensated or management employees. and the statute of limitations under the Age Discrimination in Employment Act of 1967.)

Mr WILLIAMS. Mr. President, there are two technical amendments that should be taken care of at the outset. I send to the desk an amendment to provide for technical corrections respecting the exemption regarding highly compensated or management employees and the statute of limitations under the Age Discrimination Employment Act of 1967.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposed an unprinted amendment numbered 948:

On page 9, line 8, strike out "to read as follows" and insert in lieu thereof the following: "by inserting '(1)' after the subsection designation and by adding at the end thereof the following".

On page 9, line 9, strike out "(e)" and insert in lieu thereof "(2)".

On page 10, line 1, beginning with "group" strike out through "employees" and insert in lieu thereof: "select group of management or highly compensated employees".

Mr. WILLIAMS. Mr. President, these are technical corrections. A mistake was made in the printing and these are designed to correct those mistakes.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. JAVITS. I yield back my time.

Mr. WILLIAMS. I yield back my time.

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

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of amendment No. 1459: Senator ABOUREZK, Senator CLARK, Senator BURDICK, Senator HATFIELD, Senator HASKELL, Senator HUMPHREY, Senator MELCHER, Senator DURKIN, and Senator MATSUNAGA.

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

AMENDMENT NO. 1459

(Purpose: To delete the exclusion of tenured elementary and secondary teachers, university professors, and persons with certain retirement benefits.)

Mr. CRANSTON. Mr. President, I call up amendment No. 1459, on behalf of myself and the chairman of the Select Committee on Aging, the Senator from Idaho (Mr. CHURCH), as well as the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. DECONCINI), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from North Dakota (Mr. BURDICK), the Senator from Oregon (Mr. HATFIELD), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Montana (Mr. MELCHER), the Senator from New Hampshire (Mr. DURKIN), and the Senator from Hawaii (Mr. MATSUNAGA).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself and others, proposes an amendment numbered 1459:

On pages 9, 10, and 11, strike out all of section 6.

On page 11, line 14, strike out "SEC. 7" and insert in lieu thereof "SEC. 6".

Mr. CRANSTON. Mr. President, while I am in full support of the purpose underlying H.R. 5383 as it seeks to raise the upper age limit of the Age Discrimination in Employment Act of 1967 from 65 to 70, I am deeply concerned over the provisions of the bill as reported by the Human Resources Committee which exempt from the full protections of the act certain categories of workers.

Section 6 of the bill as reported would exempt from the extension of the age limits, employees with retirement benefits of more than $20,000, tenured teachers and college professors.

The net effect of this provision would be to permit the mandatory retirement of workers in these categories at age 65 solely on the basis of age while forbidding it for all other workers. This discrimination is unnecessary and contrary to the underlying principles of the Age Discrimination Act.

Mr. President, I oppose these exclusions because I believe that they are contrary to the basic principles of equal treatment and equal rights for all Americans which is the basic purpose underlying the Age Discrimination in Employment Act.

I firmly believe that an individual's competency, not age, should determine his or her job performance capability and this is so regardless of the category of work involved. A blanket exclusion of educators and business people merely because of the category of work involved bears no relationship to the question of

competency. Should we start making exceptions to other civil rights laws for certain jobs? I certainly hope not.

Mr. President, I must point out that the act already provides for exceptions where age is actually a factor in an individual's ability to perform his job. The new exclusions in the committee bill, however, have nothing to do with an individual's ability to perform. They are blanket exclusions based upon claims that without such exclusion, there would be various difficulties in complying with the requirements of the law, and that lacking the ability to force the retirement of certain older workers, educational institutions, and businesses would be unable to provide job opportunities for younger workers.

I oppose these exclusions because I believe that they are philosophically indefensible. To say that a college professor is unable to do a job because he has reached his 65th birthday is as offensive to me as saying a person cannot do a job because she happens to be a woman. Age discrimination is as arbitrary and reprehensible as employment discrimination based upon sex, race, or other irrelevant factors.

Mr. President, I further oppose these exclusions because I believe that the facts do not support the arguments advanced in their support.

Those who support the exemption of college professors from the new coverage of the act argue that tenure provisions and the need for infusion of new ideas from young professionals requires mandatory retirement at age 65.

This argument is refuted by the fact that there are many distinguished institutions of higher learning which today provide for retirement at age 70, not 65. These institutions include such distinguished universities as Duke University, Rutgers, the University of Virginia, the State University of New York, Indiana University, and the University of Michigan.

I ask unanimous consent that there be printed in the RECORD at this point a lengthy list of States in which public universities today have retirement ages of 70 or above along with a number of additional private colleges.

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

The public institutions in the following states either specify no mandatory retirement or specify an age of 70 or above:

	Source of information
Alabama	NEA
Alaska	NEA
California	CRS
Georgia	NEA
Hawaii	NEA
Maryland	NEA
Montana	NEA
New Jersey	NCES
New Mexico	NEA
New York	NEA/NCES
Ohio	NEA
Rhode Island	NEA
South Carolina	NEA
Florida	CRS

The following institutions either specify no mandatory retirement or specify an age of 70 or above:

	Source of information
University of Connecticut	DI
University of Missouri	DI
University of Texas	DI
University of Washington	DI
University of Wisconsin	DI
University of Louisiana	DI
University of Massachusetts	DI
American University	NCES
Central Methodist College (Mo.)	NCES
Central Michigan University	NCES
Dominican College of Blauvelt (N.Y.)	NCES
Drake University (Iowa)	NCES
Duke University (N.C.)	NCES
Emporia, Kansas, State College	NCES
Ferris State College (Mich.)	NCES
Fort Hays, Kansas, State College	NCES
Geneva College (Pa.)	NCES
Gettysburg College (Pa.)	NCES
Hampden-Sydney College (Va.)	NCES
Hiram College (Ohio)	NCES
Indiana University	NCES
Institute for Advanced Study (N.J.)	NCES
Iowa State University	NCES
Kansas State University	NCES
Kansas Technical Institute	NCES
University of Kansas	NCES
Michigan Technical University	NCES
University of Michigan	NCES
University of the Pacific (Calif.)	NCES
University of Pittsburgh	NCES
University of Richmond (Va.)	NCES
Texas A&I University	NCES
Valparaiso University (Ind.)	NCES
University of Virginia	NCES
Wake Forest University (N.C.)	NCES
Wayne State University (Mich.)	NCES
Western Michigan University	NCES
Wichita State University (Kans.)	NCES
University of Oregon	DI

NCES—National Center for Educational Statistics.
NEA—National Education Association.
DI—Direct Inquiry.

Mr. CRANSTON. I wish to note in passing that one of my sons, Kim, is a student at Hastings Law School in San Francisco. That is a school that has no mandatory age retirement at any age, and it is I think generally recognized as an outstanding law school. It picks up people who are forced into retirement at other institutions, many of them in the prime of their teaching capacities, and has them for as long as they are able to teach. Many of them continue to teach with great excellence. This policy has contributed to the ability of this school to hire some of the finest teachers and professors in the United States.

Mr. CHAFEE. Mr. President, will the Senator yield for a question on that point?

Mr. CRANSTON. I yield.

Mr. CHAFEE. The point here is tenured professors, and I believe at Hastings they do not have tenure. In other words, their performance can be reviewed objectively every year. That is just the point of what we are talking about here today.

I am very familiar with Hastings because many professors from Harvard Law School upon their retirement go to Hastings and teach and have very fruitful, successful careers there, but they are not tenured and Hastings can let them go whenever they choose to do so.

Mr. CRANSTON. I think there is an answer to the issue of tenure. Tenure provisions uniformly provide for removal of employees for cause—cause meaning incompetency, inability to perform, or gross misconduct in office. The argument has been made that because tenured teachers or professors cannot be removed except for cause, educational institutions will not be able to remove employees between the ages of 65 or 70 who are unable to perform adequately unless this exemption is maintained. The argument is made that although the right to discharge for cause exists under tenure systems, it is rarely utilized.

Mr. President, coverage of these employees will simply mean educational institutions have to make the tough decisions they want to avoid. When is an employee no longer competent? That is the basic question they are seeking to avoid by simply lumping all employees together and putting them all out at a specific point in their life cycle.

I think making those hard decisions is far preferable to discriminating against the competent solely because of age and the fact that is an easier way to do it.

Mr. President, I also wish to point out that tenure is not unique to education.

State and Federal civil service systems customarily have tenure provisions which prevent discharge except for cause or unfitness. The Federal civil service system operates with a retirement age of 70. There is no real basis for distinguishing educational tenure from tenure in State or Federal civil service systems. If it is a little too difficult to remove incompetent people under the tenure system, then we should deal with that problem and make it a simpler process to remove an employee who has reached the point where he or she can no longer serve or who in the vast technical world can no longer teach effectively.

Mr. President, the fact that these colleges and universities on the list that I have inserted to the RECORD, function with a retirement age of 70 without undue detriment amply demonstrates that the exclusion of college professors from the protection of this bill is not, as a practical matter, necessary.

Mr. President, I might also add that although a great many public as well as private universities permit faculty members to work up to the age of 70 and in some cases beyond, very few actually elect to do so. For example, in New York where the retirement age for professors is 70, only 0.027 percent—a quarter of 1 percent—actually worked past the age of 65.

Thus, Mr. President, the facts are that very few professors who have the choice actually continue working. But it is vitally important that we give to those who wish and are able to continue their contributions, the option of doing so. The alternative is to force people to give up their employment without regard to competency, ability to contribute, or any other relevant factor.

Turning from that exception to another, Mr. President, the exclusion of tenured elementary and secondary teachers is, I believe, equally unwarranted. This exclusion—as with the other two—was never raised at any hearing. It has not been sought by any organized group. It is opposed by the National Education Association.

It is also contrary to the laws of a majority of the States—with well over half of the Nation's population—which provide for either no mandatory retirement or retirement at age 70 or above for teachers. States which provide for retirement at or over the age of 70 for elementary and secondary teachers include the following long list of States: Alabama, Alaska, Arkansas, California, Connecticut, Georgia, Hawaii, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, Montana, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia.

Mr. President, I ask unanimous consent to print in the RECORD a State-by-State breakdown of elementary and secondary retirement laws compiled from National Education Association reports.

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

ELEMENTARY AND SECONDARY SCHOOL TEACHER RETIREMENT SYSTEMS [1]

Mandatory or compulsory at age 65 [2]	Mandatory or compulsory at 70 (or above) [2]	No mandatory or compulsory under State law	Comments
	Alabama		
		Alaska	Recent change.
Arizona			Mandatory at 70; from 65 to 70 at option of employer.
	Arkansas (72)		
		California	Recent change.
		Colorado	Compulsory retirement not part of retirement law; State law ends tenure at 65.
	Connecticut		
Delaware			Mandatory at 70; from 65 to 70 at option of employer.
		Florida	None under State law; counties may establish.
	Georgia		
	Hawaii		
Idaho			Mandatory at 70; from 65 to 70 at option of employer.
		Illinois	None under State law; local boards may establish.
	Indiana		
Iowa			After 65 is at option of employer (mandatory at 70 in Des Moines).
	Kansas		
	Kentucky		
Louisiana			
	Maine		
	Maryland		
	Massachusetts		
		Michigan	None under State law; local districts may establish.
Minnesota			
Mississippi			Mandatory at 70; from 65 to 70 at option of employer.
	Missouri		
	Montana		
Nebraska			Mandatory at 72; from 65 to 72 at option of employer.
		Nevada	None under state law; local boards may set.
New Hampshire			Mandatory at 70; from 65 to 70 at option of employer.
	New Jersey		
		New Mexico	Application for retirement may be made only by the employee.
		New York	None under State law; local districts may impose at 70 or above.
North Carolina			After age 65 is at option of employer.
		North Dakota	None under State law; local boards may establish; many now at 65.
	Ohio		After age 70 is at option of employer.
		Oklahoma	None under State law; local boards may establish.
	Oregon		
	Pennsylvania		
	Rhode Island		
	South Carolina (72)		
		South Dakota	None under State law; local boards may establish.
Tennessee			Mandatory at 70; from 65 to 70 at option of employer.
		Texas	None under State law; local boards may establish.
		Utah	None under State law; local boards may establish; most now at 65.
	Vermont		
	Virginia		
		Washington	None under State law; local boards may fix; many do at 65.
West Virginia			After 65 is at option of employer.
		Wisconsin	None under State law; local boards may establish; Milwaukee is at 70.
		Wyoming	None under State law; local boards may establish.

[1] Compiled from data provided by the National Education Association and from data provided by the State education departments of various States.

[2] Virtually all systems provide for retirement at the end of the school year during which the individual reaches the indicated age rather than on the birthday.

Mr. CRANSTON. The fact that so many of our States have found it feasible and appropriate to use retirement ages of 70 or above amply demonstrates that the exclusion of elementary and secondary teachers from the provisions of this bill is not necessary nor justifiable.

Finally, turning to one other exclusion, the third of these exclusions that I seek to strike covers workers with retirement benefits of more than $20,000. This amendment, sought by some employer groups, is alleged to be necessary to provide job and promotional opportunities for younger workers.

There appears to me to be no justification for this exclusion, as there is none for the others.

As my esteemed colleague from New York, Senator JAVITS, noted in his additional views in the committee report on this bill, many large corporations—such as General Motors—have operated for years with retirement ages above 65. Yet, few employees choose to remain on the job. These corporations have developed various management techniques to keep promotional opportunities open. The various approaches which have been demonstrated to be effective in this regard are described in Senator JAVITS's separate views in the committee report at pages 32–33.

The ability of these corporations to deal with these problems through innovative management techniques demonstrates that the exclusion of this category of workers from the extended protection of this act is unnecessary.

Finally let me close by saying this:

Exclusion of categories of workers without any relationship to their ability to perform undermines the spirit of the Age Discrimination in Employment Act and adversely affects the health and well being of those who want to remain active or need to work and have the capacity to do so effectively. The proposed exclusions are arbitrary and unjust, and I urge their removal.

Mr. President, I have been contacted by many, many organizations who join me in opposing these exclusions. These organizations are:

American Association of Retired Persons.

American Retired Teachers Association.

American Association of University Professors.

National Education Association.

National Council on Aging.

National Center on Black Aged.

National Association for the Spanish-speaking Elderly.

National Indian Council on Aged.

National Association of State Units on Aging.

National Association of Area Units on Aging.

American Association of Homes for the Aging.

Urban Elderly Coalition.

Western Gerontological Society.

National Association of Retired Federal Employees.

Association for Gerontology.

International Center for Social Gerontology.

Task Force on Aging of the U.S. Conference of Mayors.

Mr. President, I urge my colleagues to support our amendment to delete the arbitrary exclusions from the full protections of the Age Discrimination in Employment Act.

Mr. President, Congressman CLAUDE PEPPER, chairman of the House Select Committee on Aging and a distinguished Member of this body for 14 years has circulated an eloquent statement of opposition to the exclusion of teachers and persons with retirement benefits over $20,000.

I ask unanimous consent that Congressman PEPPER's letter and statement be printed in the RECORD at this point.

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

SENATE TO VOTE ON MANDATORY RETIREMENT LEGISLATION THIS WEEK

DEAR COLLEAGUE: As someone who had the privilege of serving in the U.S. Senate for 14 years, I request your support of legislation (H.R. 5383), scheduled for Senate floor action this week, to raise the minimum age at which most workers can be forced to retire from 65 to 70. I also urge your support for an amendment to be offered by Senator Cranston to strengthen the bill by removing its exemptions of teachers and persons whose pensions minus Social Security benefits exceed $20,000. Similar legislation to curb mandatory retirement, without any of these exemptions, has already passed the House by an overwhelming vote of 359 to 4.

Under existing law, the so-called "Age Discrimination in Employment Act" (ADEA), only workers who are between 40 and 65 are protected from mandatory retirement, making this law its own worst offender. The tragic result is that the talents and abilities of millions of older persons who are willing and able to go on working are wasted.

Enactment of H.R. 5383 would be a major step forward in the fight to end age discrimination. Specifically, the bill would:

(1) Raise from 65 to 70 the upper age limit for protection under ADEA, thereby giving an additional 5 years of protection against age-based mandatory retirement.

(2) Clarify section 4(f)(2) of ADEA to prohibit the use of pension plans or seniority systems to force the retirement of workers in the protected age groups.

(3) Require completion, within three years, of a study on the impact of involuntary retirement and on the feasibility of totally eliminating the upper age limit for all workers.

Yet, because of a number of exemptions the bill, in its present form, would legitimize new forms of age discrimination. Passage of H.R. 5383 without the Cranston amendment would mean, in effect, telling the American people that competence, not age, ought to determine whether a person may retain a job past 65 unless that person happens to be a competent teacher or a competent worker in any profession who is entitled to a certain pension.

The arbitrary and blatant exemption of teachers is based on fallacious arguments. Mandatory retirement will not solve the Ph.D. glut or the problems universities visit upon themselves through their refusal to evaluate the competence of tenured professors. Extending protection from mandatory retirement to age 70 will have little impact on either job openings or job mobility because few professors elect to remain at their jobs past 65 when given the option. Moreover, it is unfair to retire 8.87% of professors and 16.5% of the associate professors in the country who are female in the name of affirmative action. If we use age discrimination in order to aid in abolishing sexism or racism, women and minorities would ultimately suffer the double or triple burden of age, sex and race discrimination.

In addition, the exemption against the right to continue working for persons whose pensions, minus Social Security, exceed $20,000, amounts to class discrimination against those persons who are lucky enough to have pensions above an arbitrary level. I see no grounds for discrimination against any person of any income or pension level.

Age-based compulsory retirement arbitrarily severs productive persons from their livelihood, squanders their talents, scars their health, strains an already overburdened Social Security system, and drives many elderly persons into poverty and despair. It is based on stereotypes and assumptions that old people are feeble-minded and worthless while in truth chronological age is a poor indicator of ability to perform a job. In short, mandatory retirement is a euphemism for discrimination on the basis of age and is as odious as any other form of discrimination.

I hope that the Senate will act decisively to enact the strongest possible legislation to curb mandatory retirement by passing H.R. 5383 and by accepting the Cranston amendment.

Believe me,

Always sincerely,

CLAUDE PEPPER,
Chairman, House Select Committee on Aging.

PEPPER ARGUES AGAINST EXEMPTIONS OF TEACHERS AND INCOME IN MANDATORY RETIREMENT BILL

Rep. Claude Pepper (D-Fla.), chairman of the House Committee on Aging and principal author of a bill (passed by the House on September 23 by 359–4 vote) extending protection from mandatory retirement to age 70 in the private sector and banning mandatory retirement in the federal sector, today issued a statement opposing the Senate mandatory retirement bill's exemption of teachers and of persons whose pensions minus social security exceed $20,000. The statement follows:

EXEMPTION FOR TEACHERS

It is ironic that the Universities will arbitrarily retire the scholars who established that neither productivity nor intelligence decline with age. It is also ironic that Universities, which teach courses in Government and Politics, now claim that they were caught unaware by this landmark legislation. In fact, University spokespersons concede that they knew of the legislation but failed to take it seriously. That fact might explain why the Presidents of Harvard and Yale declined to testify and why, during the two years in which hearings were held, no spokesperson for the Universities appeared to defend mandatory retirement. Nonetheless, available data suggest that the concerns finally voiced by University representatives are exaggerated.

The outcry overestimates not only the extent of forced faculty retirement at 65, but also the number of University jobs opened by forced retirement. In fact, most of the Universities which specify 65 as a normal age of retirement permit extensions to age 70. In those institutions which do not permit a reprieve from forced retirement, 70 is the most common retirement age. The major Universities which set 70 as the retirement age and consequently are unaffected by my bill, include all of New Jersey's two and four year state colleges, the University of New York, University of Wisconsin, University of Michigan, University of Kansas, Indiana University, Iowa State University, and Wayne State University. Mandatory retirement in California colleges and universities is banned entirely under a new law recently signed by Gov. Brown.

The bill's opponents also assume that, unlike workers in other occupations, professors spurn early retirement. Yet a 1976 Carnegie Commission on Higher Education report projects that early retirement will increase the rate of retirement by 10% in 1976–1980, 30% in 1981–85, and 50% in 1986–90. And in 1976 a third of the TIAA–CREF (Teachers Insurance and Annuity Association and College Retirement Equities Fund) annuities were started at ages below 65.

The assumption that forced retirement opens large numbers of jobs for young scholars is equally unjustified. The Labor Department estimates that between now and 1985, such factors as death and voluntary and involuntary retirement will open only an annual average of 3,615 University and non-University jobs requiring a doctorate. However, because economic growth will open 140,000 jobs for Ph.D.'s between 1972 and 1985, even a total ban on mandatory retirement would not create a lost generation of scholars.

Nonetheless, whether or not mandatory retirement is retained, by 1985 more than two Ph.D's will be competing for every available job. The Ph.D. glut is only one of the self-created problems which the Universities unmask in their defense of mandatory retirement. Another is uncritical non-competitive retention of professors. Bound by a system of tenure, Universities have relied on mandatory retirement to weed out those incompetents who were uncritically tenured during the Ph.D. shortage of the 1950's and early 1960's or whose performance failed to match the promise which justified tenure. As Kingman Brewster, Jr., then President of Yale, noted, tenured professors are retained "even in cases where performance has fallen way below reasonable expectations." Norman Hackerman, President of Rice University adds, "an administrator cannot even look at a tenured faculty member's performance without being accused of harassment, even though the administrator is realistically trying to monitor the quality of an institution." Universities ought to weed out incompetents when incompetence is recognized rather than waiting for mandatory retirement to force them out at 65 or 70.

The Universities' plea on behalf of women and minorities is insidious because it advocates age discrimination in the name of abolishing race and sex discrimination. In fact, women and minorities ultimately suffer the double or triple burden of age, race and sex discrimination. Ironically, the Universities would force 8.8% of the professors and 16.5% of the associate professors in the country who are female from the classroom at 65 in the name of affirmative action. Those defending mandatory retirement as a form of salvation for women and minorities might note that the National Organization for Women and the National Center for Black Aged have endorsed my bill. I am also pleased to note that both the National Education Association and the American Association of University Professors oppose the Senate bill's exemption of teachers.

The Universities do not defend mandatory retirement as protection against doddering professors. Academic research renders such contentions indefensible as does the experience of a college built on the mandatory retirement of other Universities. California's prestigious Hastings College of Law employs only professors over 65 who have been retired from the nation's finest law schools. Consequently, Hastings, where the average age of the full time faculty is 73, houses the authors of the profession's most respected law texts.

The professors and students at Hastings are fortunate. Under policies which drive professors from the classroom by the age of 70. Freud could not have taught "Civilization and Its Discontents" for he published it in his 74th year, Bertrand Russell could not have lectured on his "History of Western Philosophy" for he completed it at age 73, and, during the last twelve years of his life, Tolstoy would not have been permitted in the classroom to discuss "War and Peace."

PENSION EXEMPTIONS, DELAY, AND FEDERAL SECTOR

The Senate's exemptions legitimize age discrimination against persons whose pensions, minus Social Security, exceed $20,000. I am opposed to the arbitrary blanket exemption of teachers and to what amounts to class discrimination against those whose pensions exceed an arbitrary amount. The Senate is telling the American people that competence not age ought to determine whether a person may retain a job past 65 unless that person happens to be a competent teacher or a competent worker in any

profession who is entitled to a certain pension. I see no grounds for discrimination against any person in any profession, of any income, or any pension level. Nor do I see what data not already available can be gathered by delaying implementaion to January 1979. Delay simply compounds our complicity in discrimination while at the same time stalling the studies mandated by the bill, which will pave the way to a total ban on mandatory retirement.

I realize that adding a federal sector ban to the Senate bill would have further delayed the bill but am confident that such a provision will be added on the Senate floor or in conference when the House and Senate bills are considered by a joint committee. By studying the impact of a total ban on mandatory retirement in the federal sector we establish the Federal Government as a model employer and provide a data base useful in determining the impact a complete ban on mandatory retirement would have in the private sector.

Mr. CRANSTON. I thank the Chair.

The PRESIDING OFFICER. Who yields time? Does the Senator from Rhode Island wish to be recognized?

Mr. PELL. I just wanted 2 minutes to speak on the general issue or should we wait until later?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I just want to make a couple of comments on the general issue here because we discussed it at length in our committee.

As Senator CRANSTON, who is a member of the committee knows, it is a very humane, very liberal committee, and we were all concerned about the plight of our older citizens, but we were also concerned about the plight of our younger citizens.

My older son is 32. He is working in a bank as an officer. I think if he has to figure out he has to wait 35 years until he is 67 or 68 before he gets a responsible job that would remove the enthusiasm of working in this particular institution.

I think this applies, as we all know, to teaching, too. There are old teachers who are absolutely wonderful. But we also want to have young teachers who can identify with the students and, particularly, minority students, minority teachers, blacks, women, and give them an opportunity to get into the system.

I think what this amendment of Senator CRANSTON'S would do if it were approved would be to postpone for another 5 years, lengthen the time, before minorities and women could have a reasonably equal place with men.

We thought about this in the committee, and we were very torn because of the problems of being kind to the older people and being just to the younger people.

We also thought about the question of tenure. I am a trustee of a university where they have tenure. They have too much tenure there. I think it is 70 percent, going up to 75. It makes it very difficult when that university has to cut back because they have to cut back by about 50 percent, and what that means is they reduce by half the untenured, who include just about all of the blacks and the women.

The only way you can let people go if they are tenured is on the ground, as I understand it, of moral turpitude, gross incompetence, or the financial distress of the institution.

These are all pretty hard to establish. Maybe the last is the least difficult to establish.

But also in the field of business, returning to the field of business, we felt very strongly there should be some grounds for promotion and for optimism on the part of the younger employees.

It has been figured out that by having somebody retire at 65 as opposed to 70, it has a ripple effect of 5 to 8 additional promotions. This again speaks well for the initiative and the effectiveness of the American industrial machine.

For these reasons I would like to see us hold firm to the original amendment, to the original language of the bill, which I supported in the committee and combined the amendments of my junior colleague from Rhode Island, the Senator from Maine, and my own.

Mr. CRANSTON. Mr. President, I would like to say just in very brief response to my good friend from Rhode Island, first, on the matter of young people, there can be no assurance that if somebody who is 65 or thereabouts retires that somebody who is 20 or 30 will replace that person.

On the matter of employment opportunities for minorities and women, I wish to point out that the very groups the distinguished Senator from Rhode Island argues are in need of employment opportunities are the same groups which are hit the hardest by mandatory retirement.

Blacks and women, who are generally underemployed in our society also have the lowest retirement benefits because of the limited duration of their prior employment and low rates of wages. Forced retirement for minorities and women all too often means relegating them to an existence at the poverty level with less than adequate income to insure a decent retirement living standard.

For this reason, such groups as the National Center on Black Aged, the National Association for the Spanish-speaking Elderly, the National Indian Council on Aging, and the National Organization for Women oppose mandatory retirement legislation.

Mr. President, I ask unanimous consent that there be printed in the RECORD statements by the National Organization for Women (NOW) on the effects of mandatory retirement laws on women, and by the National Caucus on the Black Aged setting forth the reasons why mandatory retirement strikes especially hard at the black elderly.

These statements amply demonstrate that older women and blacks have a vital interest in elimination of age discrimination for all workers.

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

STATEMENT ON MANDATORY RETIREMENT

The National Organization for Women (NOW) supports passage of H.R. 5383 (Pepper) as an important step toward elimination of age-related mandatory retirement. H.R. 5383, as reported unanimously by the House Committee on Education and Labor to the House floor on July 14, would ban age-based mandatory retirement in Federal Service, in the private sector to the age of 70, and would assure, with a few exceptions, that those between the ages of 40 and 70 will not be forced to retire because of a retirement age written into a pension plan or seniority system. Chronological age, like sex, is a poor indicator of ability to perform a job.

Women have a special stake in elimination of age-based retirement practices. A majority of women try to return to the labor market after their children are raised. They often have a difficult time finding work, in part because they are too close to the retirement age. If they do find employment, forced retirement limits the years which they can work to build up pension benefits or social security credits.

In addition, one-third of women in their middle years are no longer married. Of persons over 65, less than one-quarter of the men but well over half of the women are without spouses. In this age bracket, there are five times as many widows as widowers. Women alone seek work for economic as well as psychological reasons, and many would continue working if not forced into idleness and loneliness by mandatory retirement rules.

Women have a greater need than men to have the option to continue working, because of their lower economic status and more limited resources on retirement. Eighty percent of female retirees (as compared with 68.6% of male) have no pension to supplement social security. In the 55 to 64 age bracket, the median woman's income is about one-third of her male counterpart. But on top of this, earnings replacement rates of retirement income are lower for women than for men. Because more men than women receive pensions in addition to social security, the median income replacement ratio for women is 38% as compared with 43% for men. According to the Task Force on Social Security Paper prepared for the Senate Special Committee on Aging, "A retirement income crisis now affects millions of aged and aging women and threatens to engulf many more." ("Women and Social Security: Adapting to a New Era"—Special Committee on Aging, U.S. Senate, October 1975). More than two out of every three poor persons 65 or over are women. The average benefit for an aged widow falls $78 below the $2,574 (official poverty threshold for an elderly single woman, and this $200 a month is too low to live on in decency. Almost three times as many women receive SSI welfare as men.

In part because of mandatory retirement, women tend to retire earlier than men, which aggravates their economic situation. Over 70% of eligible women apply for social security before age 65, and by so doing receive lower benefits for life through actuarial reduction. In many cases there is pressure upon women, who tend to be younger than their husbands, to retire early when their spouses reach mandatory retirement age.

Women also have a special stake in the elimination of mandatory retirement because of their greater longevity. Because most women outlive their husbands, and the compounding impact of inflation systematically reduces the value of fixed incomes, more and more women desperately need the opportunity for employment in their middle and late years. Coping with combined age and sex discrimination in employment is bad enough without legally sanctioned restrictions.

While the argument is sometimes made that mandatory retirement opens up more jobs for women, evidence suggests that such jobs are more often phased out or filled by men. Furthermore, in industries where mandatory retirement has been eliminated, the large majority of persons with adequate income choose to retire at 65 or earlier.

NOW supports equal opportunity for all people, and our organization considers dis-

crimination based on age to be as odious as discrimination based on sex or race. By sanctioning mandatory retirement, this nation reinforces the myth that to be old is to be feebleminded and worthless, which then becomes a self-fulfilling prophecy to the detriment of our whole society.

For these reasons, and because we believe that a full employment program to provide jobs for all those willing and able to work is the only solution to a contracting labor market, we urge support of H.R. 5383, and will work for its passage.

THE NATIONAL CAUCUS ON THE BLACK AGED OPPOSES MANDATORY RETIREMENT

The National Caucus on the Black Aged advocates elimination of the several policies in government, industry and business, which force a physically active and productive individual into retirement merely because he or she has reached an arbitrarily set chronological age.

Compulsory retirement denies society the benefit of the skills and abilities of the older worker which have been accumulated through years of experience. It strikes especially hard at the Black elderly in their particularly paradoxical situation. Having worked extremely hard at menial physical labor for low pay, all of their lives, over sixty percent of the Black elderly are most deserving of a rest in their senior years, yet they are least able to afford it. So, unlike most of their white counterparts, to whom retirement means feelings of rejection and worthlessness but economic well being, for the Black elderly, retirement too often means abject, grinding poverty, with no respite from pain, loneliness and isolation.

After having attained the age for full Social Security benefits, retirement should be a matter of personal choice. At that point an individual should be allowed to work until he or she is no longer able to produce at full capacity.

The National Caucus on the Black Aged does not accept the contention that this country, with its trillion dollar gross national product and the multi-billion dollar aggregate income of its industries, cannot maintain productive older workers on their jobs, as well as provide them a decent income in retirement. Social decency demands that we do this. Public opinion will accept nothing less.

Mr. PELL. Mr. President, if the Senator will yield——

Mr. CRANSTON. I yield.

Mr. PELL. I would also like to cite the specific statistics of Brown University, where I am a trustee, and where I was at a meeting of the trustees 3 days ago.

The problem we faced there is that because of the financial distress reason we have to reduce the faculty by about 15 percent.

Since 70 percent of the faculty is already tenured and, as I pointed out earlier, can only be let go for reasons of moral turpitude, gross incompetence, or the financial distress of the institution, it means that out of the remaining 30 percent half have to be let go, and what has happened is that the very groups the Senator from California has referred to, blacks and women, are in that 30 percent. So what it means is that they are going to bear the brunt of the people who are going to be let go. Just the opposite set of circumstances is arising in the institution with which I am most familiar.

Mr. CRANSTON. Mr. President, I am prepared to yield back time in order to expedite the action on the amendment.

Mr. WILLIAMS. I just wondered if the junior Senator from California wanted time at this time?

Mr. HAYAKAWA. Yes.

Mr. DURKIN. Mr. President, will someone yield for a unanimous-consent request?

Mr. WILLIAMS. I yield.

Mr. DURKIN. Mr. President, I ask unanimous consent that Mark Coven, Robert Solomon, and Jane Yanulis be given floor privileges during the remainder of this and the GI bill which follows.

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

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that Senator HEINZ be added as a cosponsor of my amendment.

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

Mr. PELL. Mr. President, will the Senator yield? I ask unanimous consent that Peter Harris of the Committee on Human Resources be given permission to be on the floor.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that Ginny Eby of Senator HAYAKAWA's office, Chris Brewster of Senator DANFORTH's office, and Marianne Simpson of Senator STEVENS' office be granted floor privileges.

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

Mr. WILLIAMS. Mr. President, we are controlling the time in opposition to the Cranston amendment, and I understand the junior Senator from California desires to speak.

Mr. HAYAKAWA. I thank the Senator.

Mr. President, I do wish to speak against this amendment. As one who spent my entire life in academic pursuits in universities teaching, I would say that one of the most serious problems we have in academic life is the static quality of life in universities because it is so slow in turnover of personnel.

It is not only because people take a long time to retire, but because they have tenure they do not move from place to place as they do in industry, so that you have to wait not just for senior professors to move somewhere else, which they never do, but you have to wait for them to reach the age of 65.

The stagnation that results in so many departments and universities which is the result of this slowness of personnel turnover is something which has always distressed me about academic life.

In fact, it distressed me so much when I first acquired tenure in the year 1948 I resigned in order to keep moving because it is kind of a trap; it is a trap that people welcome.

I just got news the other day that some of the professors in the English Department at the University of Wisconsin, where I studied in its graduate school over 40 years ago—it is nice to include the young professors with whom I studied—they have just been there almost 40 years, and they just retired. It means that that particular department for 40 years had no room for other personnel, young students and Ph. D.'s, and so forth. This stifles university development and stifles authorship and curiosity, and if you extend the retirement age to the mandatory age of 70, the thing simply grows worse to the frustration of ambitious young men and women and minority groups, and so forth, who would like to move up in their profession.

One idea that has occurred to me—and I do not know how it is going to be adopted, but it illustrates the point—I understand that many corporations have a custom of retiring executives at the age of 55, at which point they do not quit work, they retire at half pay or two-thirds pay, and for whom no further tenure rights exist.

The point of it is this: With their children grown up, their family budgets and their expenses are not as great as they were when their children were in high school or college, and so, at the age of 55 or 60, they can live on less, and then they can continue, year by year at reduced salaries on an individual basis, subject to physical examination.

If a retiring professor, at 65 or 68, under the new system, is getting $30,000 a year, he gets $30,000 a year regardless of the fact that his children are grown up and he does not have the expenses any more, and therefore he takes up a whole salary level that would hire two young instructors. This freezes an unreasonable amount of stagnation into academic life, and slows down the progress, especially, of the younger people who want to get up in the world.

So, Mr. President, just as a matter of preventing stagnation in academic life, I would like us not to extend the mandatory retirement age to 70 for teachers and professors. The thing that is important about teachers and professors is the fact that they should get around, expose themselves more, have more time for the development of theories, which is what advanced educations are for. They should have a larger degree of freedom in order to make maximum use of their background and experience, and in order to take advantage of these new programs in extended education and continued education in outfits like the school at Brown University to which our distinguished colleague from Rhode Island has referred, affording opportunities for retired professors at 65 who are still in full possession of their faculties. There is lots of room for them in the world as now constituted, because education itself has changed so much.

There are, as I say, these external degree programs. There are extension programs, continuing education programs, and so on, and all sorts of interstitial places in the academic system where they fit in very well, in their own time and on their own level of activities.

This is the reason, Mr. President, why I oppose the amendment.

Mr. CRANSTON. Mr. President, will the Senator yield for a question?

Mr. HAYAKAWA. Yes, indeed.

Mr. CRANSTON. I was unclear about part of the Senator's statement. Was he objecting to a mandatory retirement age by legislation which the Federal Govern-

ment would pass for the Nation, which would, in effect, tell schools at what age teachers should retire?

Mr. HAYAKAWA. No. The thrust of the present legislation, is it not, is that the Federal Government is requiring that companies and institutions not require retirement before the age of 70?

Is that what is proposed?

Mr. CRANSTON. Yes, that is the effect of my amendment.

Mr. HAYAKAWA. Yes. Well, I do not want teachers included under that particular "protection."

Mr. CRANSTON. I thank the Senator.

PRIVILEGE OF THE FLOOR ON S. 457—GI BILL IMPROVEMENT ACT OF 1977

Mr. CRANSTON. Mr. President, I ask unanimous consent that committee staff members Jon Steinberg, Ed Scott, Jack Wickes, Mary Sears, Erica Baum, Babette Polzer, Gary Crawford, and Garner Shriver be granted the privileges of the floor throughout consideration of S. 457, the next item with which we will be dealing.

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

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

Mr. CHURCH. Mr. President, as a cosponsor of the amendment that has been offered by the distinguished Senator from California, I would like to say a few words in support of it.

I listened with great interest to the remarks of the junior Senator from California, whose credentials as a professor cannot be questioned, I cannot reply to him in terms of one who has spent his life in that capacity. However, in my university years, the professors who had the greatest influence on me and, as far as I can remember, on my fellow classmates were the older professors. Certainly that was true in my law school experience. But it was also largely true in my undergraduate experience. The teachers I remember today were senior professors with much seasoning and skill, who had achieved an eminence in their particular disciplines after many years of teaching.

It seems to me that if we are establishing a policy of moving the permissible age for mandatory retirement from 65 to 70, there is no reason to exclude university professors. In fact, based upon my own experience, that would be one group I would want most to see included in a bill of this kind.

After all, Mr. President, the bill is certainly not a radical departure from present law or policy. It simply extends the existing upper age limit of the Age Discrimination in Employment Act from 65 to 70. The bill does not lead public opinion on this issue; it follows.

I call the attention of the Senate to a very interesting article in the Wall Street Journal. It is a short account, and I should like to read it to the Senate, in order to demonstrate that public opinion in this country is well ahead of the bill we are now considering. The article reads:

> Nearly two-thirds of all Americans oppose mandatory retirement at any age, according to a special survey conducted for the Conference Board.
>
> The board, a business research organization based here, said the strongest opposition to compulsory retirement came from younger workers, those with higher incomes, and those in white-collar jobs.
>
> Some 5,000 households were surveyed for the board by National Family Opinion Inc., Toledo, Ohio. The poll was taken in September just before the House of Representatives passed a bill raising the mandatory retirement age to 70.
>
> Nearly 64% of those surveyed opposed compulsory retirement at any age. Some 32% back mandatory retirement at age 65 or earlier, while 4% favor retirement at 70.
>
> About 75% of those under 25 oppose mandatory retirement at any age, compared with 56% of those in the 55-64 age group.
>
> More than 68% of the families in the $20,000-and-over bracket oppose compulsory retirement, against 58% for those with income under $10,000.
>
> Some 69% of the white-collar workers are against forced retirement, compared with 62% of the blue-collar workers.

So, Mr. President, no matter how you view the country—whether you consider the opinion of blue collar workers or white collar workers, or whether you look at each category in terms of actual income—the overwhelming sentiment of the people of this Nation is against involuntary retirement at any age.

This reflects an understanding that older people who wish to continue to work actively should have that opportunity. Some may want to postpone retirement, out of a love for the work they do. Others, in vigorous health, may be unprepared for a life of leisure, knowing they still have much to contribute to society.

For these reasons, I support the bill without exemptions. In my opinion, it makes no sense to carve out an exception for professors who hold tenure at our universities. My own personal experience would suggest that they should definitely be included in the bill.

One of the major purposes of the 1977 Age Discrimination in Employment Act amendments is to permit productive workers to remain on the job.

This goal is not well served by carving out exemptions in the law. These exceptions will only dilute or weaken a bill which already has strong bipartisan support.

The better course of action, it seems to me, is for businesses and educational institutions to determine carefully whether their existing employment and tenure practices need modification in our changing society.

The proposed exemptions reflect a fear that prohibiting mandatory retirement before age 70 would somehow clutter businesses and classrooms with unproductive and incompetent personnel. The evidence is to the contrary.

First, several studies make it clear that older workers perform as well on the job as younger workers.

The New York State Division of Human Rights, for example, found that employees 65 or older are generally equal to, and in some cases noticeably better than, their younger counterparts in the areas of attendance, punctuality, on-the-job safety, and work performance.

Second, all evidence suggests that the vast majority of older workers will continue, as they have in the past, to retire upon becoming eligible for social security, or shortly afterwards. Employees would still be free to retire at earlier ages—such as 60 or 55—under the 1977 Age Discrimination in Employment Act Amendments, provided this is done voluntarily.

The Department of Labor estimates that perhaps 175,000 to 200,000 persons would delay retirement because of this legislation. This figure, however, is small, considering our civilian labor force is approaching 100 million now. Surely, these older workers, who would represent only about two-tenths of 1 percent of the work force, can be absorbed by even a very modest rate of economic growth.

Supporters of these exemptions may claim that mandatory retirement can save face for older workers who are coasting into retirement, sparing them and their employers the burden of competency-based evaluations. But I think the central question here is whether it is fair to shield a small group of persons who may not be performing satisfactorily by denying a far larger number of productive workers reaching a certain age from continuing to work. Administrators and personnel officers constantly make judgments each day about the competence of employees under 65 years of age. Why does it suddenly become so much more difficult when these same workers reach age 65? On-the-job standards applicable to those under 65 should also be applicable to those in the 65-plus age category.

Older workers are not asking for any preferential treatment. All they want is a chance to compete on equal terms with others on the basis of ability and not chronological age.

As chairman of the Senate Committee on Aging, I strongly believe that they deserve this opportunity.

Mr. President, I ask unanimous consent to have certain items printed in the RECORD.

The first is a letter from one of my constituents—Dr. Ralph Maughan, a 32-year-old professor at Idaho State University.

Dr. Maughan is opposed to the exception for university faculty members with unlimited tenure. He says:

> . . . Keeping the retirement age at 65 may aid me to advance faster. However, old age is a minority that almost everyone eventually joins (hopefully including myself). I'm not too anxious to advance faster now only to be forced out before I feel I'm ready.

He also points out that Idaho State University has a tenure competency review every 5 years. Other higher educational institutions may wish to follow Idaho State University's tenure policy. This approach, it seems to me, is much more desirable than attempting to create

a special exemption for all tenured professors.

Second, a recent New York Times editorial opposes the exemptions in the committee bill for teachers and executives, saying:

. . . There should be no specific exemptions for professors or teachers or executives; the problems that would confront these institutions exist in other occupations as well. All institutions should seek seriously to understand the consequences—and opportunities—of a change.

Third, I insert a recent column by Marc Rosenblum, which appeared in the New York Times:

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

OCTOBER 4, 1977.

The Honorable FRANK CHURCH,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: I want to go on record as supporting enactment of legislation that would raise the mandatory retirement age to 70. I also oppose attempts to exempt certain industries or types of jobs, particularly those attempts by educational organizations to get an exemption for teachers.

I am a college professor, age 32. Keeping the retirement age at 65 may aid me to advance faster. However, old age is a minority that almost everyone eventually joins (hopefully including myself). I'm not anxious to advance faster now only to be forced out before I feel I'm ready.

There is a glut of job seekers now in education, but who really knows what will be the case in 35 years? The decline in birth rates now means fewer students, but in 20 or 30 years it will mean a shortage of professors. Not everyone in education is as short-sighted as some of the organizations that claim to represent us on this issue.

Finally, let me make a comment on the issue of tenure. It is claimed that raising the retirement age for professors will lock in unproductive persons who can never be fired. Here at Idaho State University we have a tenure competency review every five years. An unproductive tenured faculty member can only rest for a term not exceeding five years.

Thank you for your consideration.

Sincerely,

RALPH MAUGHAN.

[From the New York Times, Oct. 9, 1977]

HOW RETIREMENT SHOULD WORK

The graying of America has transformed politics and it is about to transform the nation's retirement policy. Last month, with uncommon speed and near-unanimity, the House voted to lift the mandatory retirement age from 65 to 70 and to eliminate mandatory retirement altogether for employees of the Federal Government.

The Senate is now pondering the same measure, but its bill would still permit the mandatory retirement at 65 of teachers and high-paid executives to meet the fears of schools and corporation that younger talent would be denied employment and advancement. Many businessmen remain opposed to the legislation because of the uncertain consequences for pension arrangements and personnel policies. Unions are opposed because they fear higher unemployment among younger workers. The Administration, also worried about unemployment, is lukewarm.

Some of the concern arises from the confusion of two distinct policy issues in one bill. To eliminate all age limits on work is one question; to raise the age for mandatory retirement to 70 is another.

The opposition to any age limit on work is, clearly, appealing in principle. The courts and Congress have established that the right to a job should be determined only by ability and not by color or sex—until a person turns 65. Now the idea is dawning that this is both arbitrary and discriminatory. In a recent poll, 86 percent of those questioned agreed that "nobody should be forced to retire because of age if he or she wants to continue working and is still able to do a good job." That well explains the political momentum behind the demands for change, not only in Congress but in many states and inside many businesses. If Congress fails to address the situation, the courts probably will.

Poignant arguments accompany the demand. Many people feel no automatic loss of ability or capacity at age 65. That age crept into social custom and law because Bismarck used it for a public retirement program in Germany in the late 19th century—when life expectancy was much shorter than today. The age was borrowed by Social Security in the 1930's and it is common today in pension and retirement plans. Incalculable human talent—and spirit—has been wasted as able workers have been forced into premature idleness. Now that most people live well beyond 65, while the value of their pensions declines dramatically with inflation, the problem has been greatly compounded.

But the attractive principle of judging every worker individually must not be hastily enacted, for two reasons. First, it would unsettle existing work arrangements throughout the country, in wholly unpredictable ways. No one can be sure of the financial and social costs. Second, the principle has a disruptive corollary: If workers are to be judged individually on merit at retirement time, they will inevitably come to be judged more severely throughout their careers, perhaps losing the virtual tenure and job security that have been acquired over recent decades—and not just on campuses.

Employers typically give workers a test run on a job for a relatively few years, or even months. After that, firings are rare even where competence and productivity are in doubt. In part, this tenure tradition persists because employers can count on a terminal date for the retirement of inferior workers. If workers come to be judged on merit and productivity in later life, they will face less lenient judgment in earlier life as well.

In light of these competing rights, it would be irresponsible to legislate a principle before the consequences are understood. Fortunately, a major experiment is at hand. California has recently abolished all mandatory retirement. Congress should await the results before imposing the experiment on the entire nation or the Federal Government.

Extending the productive work years to age 70 would be just as arbitrary as the past fascination with 65. But given the changes in life expectancy and the social value of moving toward a system that weighs individual merit and capacity, it is an attractive proposition.

No one really knows how many workers would claim the extension; the trend in recent years has been toward earlier retirement, not later. What people seem to want most, and deserve, is greater choice. The savings that business firms might make on pension funds from later retirements could perhaps be invested in incentives for the earlier retirement of workers who lose their effectiveness. In no event should the legal opportunity to work until 70 diminish workers' financial opportunity to retire sooner. That would be pedaling backward in the name of progress. Congress needs time and care to weigh this factor.

Congress should also give employers with union contracts at least two years, as proposed, to examine the consequences of a change and to renegotiate retirement features. The Secretary of Labor, with particular responsibility for reducing unemployment, should retain the power he now has to authorize earlier mandatory retirement wherever the national standard causes social hardship. There should be no specific exemptions for professors or teachers or executives; the problems that would confront their institutions exist in other occupations as well. All institutions should seek seriously to understand the consequences—and opportunities—of a change. The hard-pressed Social Security trust funds may benefit if enough potential recipients remain active contributors, but this too needs study.

Recognizing the merits of a move away from mandatory retirement at 65—or, indeed, any automatic age—we urge Congress to accept the principle and to place the country on notice of a change to 70. At least a year for planning the transition, however, is essential; two years are probably desirable. The available experience could then be absorbed and incorporated into the law.

THE SENATE AND AGEISM

(By Marc Rosenblum)

WASHINGTON.—Business and higher education have combined to oppose extension of Federal age-discrimination laws to persons beyond age 65. Their efforts led to adoption recently of two exemptions that would negate the proposed legislation's effect on executives and professors.

These exemptions reflect the fear that forbidding mandatory retirement between ages 65 and 70 would result in the nation's board rooms and classrooms becoming haven for the senile. Such fears run counter to most available evidence. Nevertheless, sufficient pressure on the Senate Human Resources Committee led to adoption of amendments excluding from coverage businessmen who are to get $20,000 pensions and tenured professors.

The Senate should reject these exemptions or, alternatively, the House-Senate conference that will reconcile different versions of the 1977 Age Act amendments should refuse to accept the weaker Senate formula. The House, 359 to 4, passed legislation forbidding termination of employees before the age of 70 in the private sector without excepting special-interest groups.

These groups' special pleadings are unfounded, unnecessary and, in light of a recent Federal court ruling, probably unconstitutional. Underlying the academic and business opposition is concern that traditional staffing policies will require revision, without consideration of the adequacy of such practices in a changing environment.

The customary policy of permitting unproductive executives to coast into retirement and providing tenure protection unrelated to academic performance might be aggravated by extending the Act's coverage to age 70. But it is these hoary practices themselves that require re-examination; they should not be permitted to serve as an excuse for diluting a bill that permits all productive older workers to remain on the job.

Largely absent from most news analyses and press coverage is any indication of the substantial extent to which Federal law permits nonproductive business executives and professors—to be removed legally. Thus, special exemptions should be viewed as nothing other than a convenience for groups unwilling to face the shortcomings of their own ingrained practices.

Even the argument that younger workers' ambitions should be a factor in pending legislation may be unlawful under the Fifth Amendment. A Federal court held recently that equal-protection guarantees preclude

the singling out of certain employees for early retirement when most others in similar circumstances were allowed to continue. Moreover, the three judges specifically rejected as illegal the argument that personnel practices affecting older workers could be based on a policy of enhancing the status of younger ones.

The opposition of business leaders and higher education, while ill-founded, was not unexpected. The same cannot be said of the National Urban League leader, Vernon B. Jordan, Jr., who believes that blacks would suffer if older workers were better protected from job discrimination. The expedient trade off of one group's civil rights by those supposedly sensitive to discrimination serves to particularly underscore how engrained *ageism* is in American life. In truth, not only would older black workers benefit from the revised statute immediately, but younger blacks—and other minority members as well—as they got older would enjoy the law's protection.

The overwhelming majority of older workers will continue to retire on becoming eligible for Social Security, or soon after. Perhaps 200,000 would postpone retirement for a number of years, but that number could easily be accommodated by any resumption of economic growth. To suggest, as do opponents of the bill's original version, that our 100-million-member labor force cannot properly function if protection is extended to all workers between age 65 and 70, is to deny our economic system's vitality and underlying strength.

The Senate ought to recognize that the House has passed a better version of the Age Act amendments. While short of ideal, it more nearly captures the belief that added safeguards are needed for the older worker. The final language that both houses send to President Carter should reflect that realization.

Mr. CHURCH. I hope the Senate will see fit to adopt this amendment.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. CHURCH. Certainly.

Mr. CHAFEE. The Senator has pointed out his experience in law school, that the older professors were found to be the most effective. That is the very point of this legislation. To discuss the legislation in terms of compulsory retirement it seems to me is inaccurate. The point is that anybody can be kept on after 65, as apparently the professors in the law school of the distinguished Senator were. There is no mandatory requirement that professors with tenure be retired. They can be kept on the faculty.

What this does is to say that they do not have a right to be kept on in their tenured status. Of course, tenure means that their performance cannot be objectively evaluated. The distinguished senior Senator from California said they can be let go for cause, but suggest I would like to have cited somewhere in this Chamber an instance where a tenured professor was let go for cause. I understand in the history of Harvard, in 300 years-plus, there has never been a professor let go for cause even though one did murder his wife and did go to the electric chair with his tenure still intact. (Laughter.)

Mr. CRANSTON. I do not want to name an individual, but I do have the names of individuals who have been retired for cause in my own State of California.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Does the junior Senator from California want to proceed?

Mr. HAYAKAWA. I yield to no one, Mr. President, in regard to concern for the aged, in view of the age of myself. I believe they are important parts of society. Nevertheless, I cannot help but be impressed by the fact that economically speaking they do not need the protections of tenure any more, nor do they need a full professor's salary any more. There are many, many opportunities where the young take advantage of their experience by attending all kinds of senior institutions or institutions where seniority is respected and valued, as the Hastings Law School, which Senator CHAFEE mentioned. There are other institutions of a similar kind. There is the emeritus program, for example, at the University of San Francisco, in which emeritus professors from various institutions lecture to groups of students in philosophy, religion, and other subjects. These new, innovative programs in adult education, in professional education, and in postgraduate seminars, and so on, are springing up all over the country.

It is not as if compulsory retirement at 70 would throw these people out on the street with nothing to do. There is still ample opportunity for the public to make use of their talents and their experience.

I cannot help but again think in terms of the younger teacher who wants to broaden his profession. I cannot help worrying about how, in an academic life, there is the history of keeping old people in their present posts, absent the possibility of promotion.

In this situation, I sympathize very much with the young, with the minorities.

I thank the distinguished Senator for yielding.

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

Mr. HATHAWAY. Will the Senator from New Jersey yield 5 minutes?

Mr. WILLIAMS. I yield 5 minutes.

Mr. HATHAWAY. Mr. President, I think perhaps our differences would be settled if we could come to some agreement on what we mean by unlimited tenure. When the Senator from Rhode Island offered his amendment in committee, it was my understanding that what we were protecting against was the situation where the school could not discharge a professor who was no longer competent even when he reached the age of 65. With that understanding, I offered the amendment that such tenure not be allowed at elementary and secondary schools beyond the age of 65, subject, however, to State law. Certainly, the reasons for discharging a teacher who is no longer competent are more pressing at that level of education than later.

It seems to me, from what I have heard this morning, that perhaps tenure does not mean what I originally conceived it to mean. I assumed that it meant that the person who had tenure could not be fired for incompetence. If I am wrong in that regard, I wish someone, either for or against the amendment, would correct me. It seems to me that if that is the definition of tenure, no one should have any disagreement that someone who is incompetent should not be kept on after the age of 65, as this bill would do.

Mr. CHAFEE. Tenure means that the member has permanent membership in the professional faculty and he has status and the assurance of continuous academic employment, barring incompetence or his being fired for cause. The problem is trying to prove incompetence or just cause. History shows that it is practically impossible to do that. I suppose if a professor shows up drunk 3 months in a row, that would indicate lack of competence and they could fire him for cause. But if he drifts along doing the minimum, not producing to the highest standards of the university, then there is no way in the world that a professor can be let go.

Mr. HATHAWAY. If the Senator will yield, what is the difference between the competency standards required for a tenured professor and one who is not tenured?

Mr. CHAFEE. The untenured man can certainly be let go for any reason the university deems sufficient, such as to make room for somebody else. They do not have to prove a case. It is just like an employee who works for any of us. The employee can be let go. The Senator does not have to prove to the world the person is not competent. It may be that one just does not want him around.

Mr. HATHAWAY. So while there is no reason that he would have to be shown to be incompetent, the tenured one would indeed have to be proven incompetent. Is that correct?

Mr. CHAFEE. Yes. But it is very difficult to prove. The distinguished Senator from California stated he knew of some who had been let go. I can only discuss university faculty. I am not familiar with elementary or secondary school teachers.

Letting the one with tenure protection go is very, very difficult. I shall not say impossible, but I would say it is very difficult.

Mr. HATHAWAY. It seems to me that the answer that the Senator from Rhode Island is giving is, in effect, protecting the schools from doing something that they are unwilling to do themselves. Would that be a fair statement?

Mr. CHAFEE. No, because that is the very definition of tenure, to give protection to professors. It was originally conceived in order to give protection to professors in the cause of academic freedom, so they could speak forth on whatever they desired without being subject to harassment or discharge. That is what tenure is all about. The question is, Should it be extended to the age of 65 without having any right of review, as now exists when somebody is reviewed?

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

Mr. HATHAWAY. May I have an additional 1 minute?

Mr. CHAFEE. I do not control the time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HATHAWAY. It seems to me that the reason some professors who have tenure have not been fired is, as the Senator from Rhode Island said, because the board of trustees or the governing body of the schools has been reluctant to discharge them for incompetence. But it does not then seem to me that Congress should take that role into its hands and go ahead so as to save the schools from whatever embarrassment it might cause them for calling these professors to task for incompetence.

Mr. CHAFEE. The question is not always one of incompetence. It is a question of being able to produce at the high level that we hope that university professors will. Furthermore, as we will see as we get into the subsequent debate, the problem more involves the situation universities and colleges are in as a result of the tremendous expansion and the majority, close to 80 percent, of their faculty being tenured, with no opportunity for the younger people to come in below, as my senior colleague from Rhode Island pointed out.

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

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I am prepared to yield back my time on the amendment.

Mr. WILLIAMS. We yield back our time.

Mr. JAVITS. I yield back my time.

UP AMENDMENT 949

(Purpose: To strike one exemption from the provisions of the Age Discrimination in Employment Act of 1967.)

Mr. CHAFEE. Mr. President, I send to the desk a perfecting amendment to the language proposed to be stricken by Mr. CRANSTON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows.

The Senator from Rhode Island (Mr. CHAFEE) proposes unprinted amendment numbered 949.

On page 11, line 4, strike out down to and including line 11.

Mr. CHAFEE. Mr. President, I understand we have an hour on this.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I do not know how it should be divided.

Do I control 1 hour?

Mr. JAVITS. Mr. President, I ask unanimous consent, whatever may be the agreement, that Senator CHAFEE control the half hour.

The PRESIDING OFFICER. The mover of the amendment would get the half hour and the manager of the bill would get the other half hour, unless he is in favor of the amendment.

Mr. WILLIAMS. I believe it would be appropriate for the Senator from California to have the opposition time.

Mr. CRANSTON. I thank the Senator very much.

Mr. CHAFEE. Mr. President, where we are now is that Senator CRANSTON has submitted an amendment which would eliminate the three exemptions that are currently in the bill. Namely, he would eliminate the tenured professors, he would eliminate the executives whose pensions are over $20,000 a year, and he would eliminate the tenured elementary and secondary school teachers.

The effect of the perfecting amendment which I have submitted eliminates only the tenured professors and executives whose pensions are over $20,000 from the provisions of the bill. The elementary and secondary school teachers are untouched. In other words, they would be included in the bill and be able to go to 70 should the local community not find cause, other than age, to discharge them. Mr. President, I should like briefly to address the tenured professor situation and then my colleague from Rhode Island will discuss the executives whose pensions are over $20,000 exclusive of social security.

I might say, Mr. President, that I am for this bill and I am for the concept. As a matter of fact, I supported a bill that went much farther than this. I am a cosponsor of the bill submitted by the senior Senator from New York that would eliminate the retirement age completely. However, that did not receive favor, and now we are just talking about extending the prohibition against discrimination to the age of 70.

The part I am addressing is the tenured professors. It seems to me that we are not bearing in mind here the fact that tenure is something unique. Tenure provides for a career-long appointment without any real means of objective review.

I am not for abolishing tenure. Some people say, well, leave it up to the universities; they ought to handle this problem themselves; get rid of tenure. I do not think we want to get rid of tenure in our universities. It is a very important method of providing academic freedom. The universities need and they do support the tenure system. So I am not suggesting, and I do not think anybody here is seriously suggesting, getting rid of the whole system.

Let us talk about demographics. Demographics have been mentioned here with regard to the population getting more elderly. That is true. But there is another part of demographics. The universities and colleges all expanded, as we wanted them to do, very drastically in the 1950's and the 1960's. They gave us our education, many of them. They did expand to meet this increased demand. But now they are in a contracting period, because of demographics. There are fewer young people coming along.

Let me take the University of Rhode Island, in my own State. In 1979, the eligible high school graduates from Rhode Island will be 14,000. Fifteen years from now, there will not be 14,000. There will be only 8,000 in this pool. We know this. We know where the young people are.

This, combined with the financial constraints placed upon all our universities, but especially our privately supported ones, like all the ones we know about—just what has been mentioned about Brown University applies to Yale, to Harvard, to any private university we can talk about, privately supported ones. They are having to contract their faculties. This means that they are reducing the number of their faculties. Already they are at 60 to 80 percent tenured faculty. So the young, untenured ones at the bottom go out and soon there will be 90 percent, perhaps, of their faculties tenured. All this means that there is no opportunity for the young Ph. D.'s, the people we need, if we are going to keep this leavening in our colleges alive.

We talk about minorities. The Senator from California is concerned about minorities. What I am talking about are the minorities who are not there now, who are not tenured and will not have an opportunity to be tenured if this legislation passes, because there will not be the openings. If they are going to keep openings for affirmative action—and I have dealt with this on a university board—we have to have the openings through retirements. That is the only way we can achieve the openings.

So, who is going to be worse hit by this bill? The women and the minorities.

Mr. President, if we are seriously concerned about the quality of our universities, it seems to me that we have to bring along the young people. Here is an example, an interesting one, which is a fact: the average age of the Nobel prize winners at the time they did their prize-winning work—not when they got the Nobel prizes, but when they did their prize-winning work—is 28 years. These are the people we have to look to, for the good of the country and for a whole host of other reasons.

I want to point out something else: nothing in this bill prohibits a professor's contract from being extended after 65. The Senator from Idaho mentioned that his professors were good after 65. Great. They can stay on. Their contracts can be extended. There is nothing that prevents that.

Furthermore, any State can pass legislation that keeps a professor, a teacher, anybody, on until age 70. There is nothing in this legislation that overrides a State law. That is more liberal than the Federal law. If California wants to keep the professors on, tenured professors, until 70, that is their right. There is nothing that prohibits it in this legislation.

In conclusion, Mr. President, we are venturing into new territory with this legislation. There is no doubt about it. There is a tremendous sentiment behind it and it has whipped through the House of Representatives with only, I think, four dissenting votes. I am for it. I think everything is for the concept. But if we pass it with these two exemptions I am fostering and encouraging today—and if we feel we do not like them, we can always change the act.

There is nothing that prohibits that. But let us take a look at what we are doing, Mr. President.

Therefore, I very strongly urge the support of the Members for the perfecting amendment as presented.

Mr. President, I would like to yield, and I believe we have 26 minutes.

Mr. WILLIAMS. Will the Senator yield for a moment?

Mr. CHAFEE. Yes.

Mr. WILLIAMS. Mr. President, I, too, am concerned with the amendments that have been proposed and accepted in the committee providing for exemptions from the prohibition against mandatory retirement for certain classes of employees. One of the major difficulties is that no hard evidence was presented in the hearings to justify these exemptions as they have been presented. Indeed, in my discussions at the time with business leaders and representatives of higher education, it was suggested that additional time was needed so that they could come forward with the evidence which would support the exemptions.

My deepest concern throughout the consideration of this bill has been for those who simply do not have adequate retirement income on which to maintain an adequate standard of living. There are many, many Americans who fall into this category. To the extent these exemptions do not apply to low-income Americans, I am less concerned about their enactment.

There has never been any question in my mind that management ought to be able to keep promotional channels open for younger employees. However, even though the amendment has been very carefully drafted. I was not entirely certain that it would have a limited application.

Fortunately we now have the results of a study of 17 major corporations which reveals that, if the retirement formula in the amendment applied to those corporations in 1975 only 392 employees or about 1 percent of 82,000 employees who retired in 1975 would have qualified under the exemption.

Consequently I am now convinced that the exemption for business executives should be adapted.

In committee I voted against the amendment which would extend the education exemption for tenured faculty members to elementary and secondary schoolteachers. No evidence whatsoever was submitted that this was either necessary or desired, and indeed today we see that groups representing these teachers are opposed to the exemption. In my view, it is not justified and should be rejected.

I am, however, persuaded that there is some justification for the exemption covering faculty in colleges and universities. There are two principal reasons for this: First, I think there is a difference between a university and other institutions with respect to the ability of the employer to discharge an employee for cause.

The normal tenure contract usually offers protection under a career-long appointment with an explicit agreement that retirement will come at a fixed age. Unlike a blue-collar worker who may have the protection of a collective bargaining agreement permitting discharge for cause, the subjective nature of the work performed by faculty makes it extraordinarily difficult to demonstrate that he or she is not performing competent work. In fact, discharge for cause has in many cases, as Senator CHAFEE pointed out, been interpreted to require an act of moral turpitude rather than a lack of academic rigor.

It certainly cannot be argued that either blue-collar workers or business executives enjoy the protection of a tenured faculty member.

Second, there are other special circumstances which merit consideration with respect to colleges and universities. Princeton University, in my State of New Jersey, indicates that much of their problem with the bill results from the abnormal age distribution created by the large number of faculty members who were hired in the growth period of the late fifties and early sixties. As a result, there is today a correspondingly large number of older faculty during a period when little growth in the number of available positions can be anticipated. Princeton estimates that if there was a normal age distribution between younger and older faculty members, there would be 55 new appointments in the next 5 years and 100 over the next 10 years.

Because of the abnormal age distribution which I referred to, as it now stands, there will only be 30 openings over the next 5 years and 70 over the next 10.

If mandatory retirement is eliminated and if all of the professors choose to remain on the job, there will only be 8 new appointments over the next 5 years and 50 appointments over the next 10.

Because of the nature of the job, most professors would be able to continue working. Admittedly this is what this legislation is designed to encourage.

But in this one case policy considerations require a different result. The numbers of new Ph. D.'s who have been unable to find appointments in the academic community—many of them women, many of them minorities—has been staggering. Moreover, tenured faculty, like the business executives, are likely to have an adequate income if forced to retire.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from William Bowen of Princeton University, which falls right on the remarks of the Senator from Rhode Island.

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

PRINCETON UNIVERSITY,
Princeton, N.J , October 17, 1977.

Hon. HARRISON A. WILLIAMS, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR PETE: I appreciate greatly your understanding of the special problems posed for higher education by proposed legislation requiring the extension of regular retirement to age 70, and I appreciate especially your efforts in committee to exempt tenure systems in higher education from such legislation. Now I understand that this bill is expected to reach the floor of the Senate early this week and that Senator Cranston plans to introduce an amendment to eliminate this exemption. As you know, loss of this exemption would nave very serious implications for the educational purposes we serve, and I hope that you will do all that you can to see it through the Senate.

In an effort to be helpful, I take the liberty of offering the following comments for whatever use they may be to you in discussing this subject with your colleagues.

1. The concern for the effects of such legislation is widespread within higher education. I have just returned from a meeting of the Board of Directors of the American Council of Education in Washington which, as you know, represents community colleges, state colleges and universities, private colleges and universities, and essentially all institutions of higher education. The Board voted overwhelmingly in favor of the effort your Committee has made to exempt tenure systems in higher education from this legislation. Having just been elected Chairman of the Board of the ACE, I believe I can speak for that organization, as well as for my own institution, in arguing for the freedom to devise our own retirement arrangements.

2. Nor is it just presidents and administrative officers of educational institutions who feel this way. When I returned to campus on Friday, I met with our Faculty's elected Advisory Committee on Policy, and this group felt strongly—and unanimously—that we should do everything that we can to retain the retirement age that is in effect now. I was reminded that the present retirement arrangements here—and, I'm sure, at many other institutions—have been developed with the active participation of the faculty themselves and have been approved by the faculty. Thus, on many campuses this is not an issue that divides faculty from administration, and I hope that the Congress will want faculties and administrators to continue to have the freedom and flexibility to design plans that meet the particular needs of individual institutions.

3. The proposed extension of statutory retirement to age 70 is a matter of especially serious concern to colleges and universities in part because faculty members, as a group, are much less likely than most other groups of workers to take early retirement. In contrast to the figures for workers generally, only about 9 percent of our eligible tenured faculty have taken early retirement over the last decade. Thus, there is every reason to believe that a move to age-70 retirement would have an immediate and substantial impact on the age distribution of the faculty, on the finances of the institution, and on opportunities for younger faculty members.

4. Obviously the immediate dollar impact of a change of this kind is worrisome in and of itself at a time when finances are so strained and all of us are concerned about rising tuitions. One other university with a tenured faculty of somewhat over 900 has estimated that, were the retirement age to go to 70, the increased direct cost of retaining higher paid senior faculty over the next five years would be $2.9 million.

5. It is not, however, the dollar costs that are most worrisome. It is the potential loss of teaching opportunities for a generation of younger faculty members already suffering from extraordinarily grim job prospects. The same university that I referred to above has estimated that if the retirement age moves to 70, employment opportunities for 62 young faculty members will be lost over the next five years. At Princeton, a smaller university, we estimate that we would lose 22 openings over this same period. The number "22" may not sound like a lot—until one realizes that because of the present age distribution of the faculty (skewed toward the middle age range because of the growth of the faculty in the 1950's and 1960's), we now anticipate only 30 openings as a result of scheduled retirements over the next five years. Thus, the projected loss of 22 openings would mean that we could be confident of only 8 openings due to retirements over a five-year period.

6. This is obviously an extremely serious matter from the standpoint of those individuals who have entered graduate schools or who are now junior faculty members and who expect to have at least some reasonable opportunity to qualify for regular faculty positions. Extension by Congress of the retire-

ment age to 70 would have an unexpected, traumatic, and unfair impact on their expectations.

7. For the institutions, and for the society at large, the implications are, if anything, even more serious. The efforts so many colleges and universities are making to broaden the composition of faculties to include more women and members of minority groups would be disrupted dramatically. More generally, colleges and universities simply must have a healthy representation of relatively young faculty members if they are to continue to be effective centers of teaching, learning, and scholarship. In some fields, and mathematics is a particularly good example, the major contributions of an individual often are made at a very young age. And in *all* fields it is the younger faculty members who so often stimulate both students and older colleagues by challenging old ways of thinking and bringing new perspectives and new energies to their disciplines. It was one of my senior faculty colleagues, I might add, who made this point most forcefully to me.

8. The concern that has motivated the legislation to extend the retirement age to 70 is a concern that we share. Clearly many faculty members, as well as other civilians, continue to be able to make extraordinarily effective contributions after they have passed age 65 or age 68. Some mechanisms exist now which enable us to take advantage of such talents (including annual reappointments and part-time or full-time employment at other institutions based on new evaluations of both the capacities of the individual and the needs of the institution). I believe strongly that we must continue to search for other mechanisms of this kind. But I do not believe that the blanket extension of tenure to age 70 is sensible in and of itself or desirable from the standpoint of the serious adverse consequences that would accompany such a change.

Again, my thanks for your continuing interest in this matter and for all of your help. Please let me know if there is anything else we can do to explain more fully the reasons why it is so important that Congress not extend the retirement age for tenure faculty.

With best personal regards,

WILLIAM G. BOWEN.

Mr. WILLIAMS. Mr. President, certainly, the statistical situation which exists at Princeton University is very much like the situation at other universities we have heard described here today. Without the amendment offered by the Senator from Rhode Island, there would be a significant reduction in the number of job openings for younger faculty over the next decade. Such a development I think, will be detrimental to the mission of the university.

So I support the Senator.

Mr. CHAFEE. I thank the Senator.

Mr. President, I yield to my colleague from Rhode Island.

Mr. PELL. Mr. President, H.R. 5383, the Age Discrimination in Employment Amendments of 1977, raises the age protection against retirement policies based solely on age from 65 to 70 years for millions of workers in our Nation. I believe that this is generally a good and fair policy, which should become the law of the land. When this bill was considered by the full Human Resources Committee, the committee accepted a provision I offered to exempt a very small and very well defined group of high level executives from coverage under this bill after age 65. Today I ask for the support of my colleagues in retaining that exemption.

In my view, an exemption for high level executives is wise and necessary. Large corporations depend upon a regular and predictable turnover in high level personnel to assure themselves of a constant replenishment of new ideas and perspectives at the topmost levels of corporate decisionmaking.

An automatic retirement age for top level personnel is recognized and widely used as an effective and proven element in this transition process. The executive exemption contained in this bill permits this automatic retirement policy, beginning no lower than age 65, to remain in effect.

Regular and predictable executive turnover also creates opportunities for the advancement and promotion of middle level personnel—opportunities which would be denied to these individuals if high level executives were logjammed at the top for an additional 5 years of employment. Estimates I have received from large corporations indicate that each age 65 high level management retirement creates between five and eight middle level management promotions. These promotions are necessary to keep good, talented personnel with a large corporation. If 35- or 40-year-old management employees find themselves with no promotion opportunities available until age 60, they will leave in search of these promotions, and that corporation will lose a whole generation of talent and innovation.

A logjam in executive retirements also harms the affirmative action plans which these corporations have placed in effect. As women and minority group members move through the middle management promotional ladder, their progress and upward mobility will be harmed and stalled unless there are top spots and ancillary promotions available to them.

Finally, there is also the problem of how very difficult it is to evaluate the performance of a top executive compared to other workers. Objective performance criteria are almost impossible for companies to establish, and without a fair and uniform retirement policy, it will be terribly difficult to make room for new, top level personnel via the retirement process at age 70.

The executive exemption which was incorporated in this bill would solve these very real problems. This exemption is very narrow, and it protects the economic well-being of this category of high-salaried executive. The exemption, as passed by the committee, only applies to executives whose retirement pension income from the company, and not including social security, would be $20,000 or more annually. I am advised by many large corporations that this translates into an annual earning of between $50,000 and $60,000.

Mr. President, this executive exception touches only a very small fraction of any company's work force, and even a small fraction of its executive personnel per se. I have collected statistics from 23 large corporations on their retirement patterns over the last 3 years, and if this language is retained in the bill as it is presently drafted, my executive exemption would affect less than fourtenths of 1 percent of their retirements. This very narrow amendment, nevertheless, will provide a real benefit to businesses at no real economic hardship to employees.

The protection for an employee's economic interest in this language is very clear. The employee has to be receiving $20,000 in annual company-sponsored pension benefits. In addition to these benefits, we may assume that the employee is receiving about the top end of the social security scale, which would be approximately $7,500 per year.

I established the $20,000 level to be sure that the economic security concerns of employees were met. This figure is about twice what the Federal Bureau of Labor statistics estimates as the upper income budget for a retired couple. This benefit, when added to social security benefits, means that the executives who retire under this provision between the ages of 65 and 70 will be receiving almost $30,000 in annual pension and Federal retirement benefits alone, a very decent income.

Further protection is afforded the executive employee by provisions in the bill which state that rollovers or previous employee contributions do not count in establishing the $20,000 figure. Therefore, I believe that this provision will be very limited in effect, but will insure those employees who do come under its reach, of a fair and high retirement income.

Mr. President, this partial exemption from the bill is very small, but it still provides real financial protection for those employees affected, and at the same time provides badly needed flexibility to the many businesses it would assist. There is nothing in this section of the bill which would require these very few executive employees to be mandatorily retired at age 65, so that if they were performing extraordinarily valuable services to their company, it is very likely that they would remain on the job. But it does provide some flexibility where flexibility is badly needed and does so fairly. I urge my colleagues to vote to retain it in this legislation.

Mr. President, the portion of the amendment that particularly interests me is the business portion of it which says that any individuals who have a combined pension income, not including social security, of $20,000 or better would not be covered by this bill and could be under a retirement scheme where they were retired at 65.

The reasons, I think, are pretty obvious. They try to make sure the wonderful and ingenious American business and industrial machine continues to have the vigor, the freshness, and the innovative qualities so needed to give us, in the first place, that which we presently enjoy in the world today in this regard.

If it is going to be the custom that business executives stay until 70, I think that will be sapped.

I am well aware of the fact that we have had great business executives into

their eighties. I can even think of one into the nineties. But, as a general rule, most of us start flagging around 65, I think, if not before.

For this reason, I believe we should keep it possible for the larger companies, in order to provide promotion opportunities, and some growth for optimism and ambition on the part of their younger executives, to have a 65 years of age retirement limit, provided the retirement benefits are adequate.

In this regard, I would like to have printed in the RECORD at this point the effect of the executive exemption to H.R. 5383 based on the retirement experience of the last 3 years, 1975 through 1977, of some 20-odd companies.

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

EFFECT OF EXECUTIVE EXEMPTION TO H.R. 5383 BASED ON RETIREMENT EXPERIENCE, 1975–77

Company	Number of employees	Total retirements	Affected retirements	Percent of total retirements
AT & T	753,965	18,239	229	1.25
Bethlehem Steel	106,393	11,639	34	.9
DuPont	103,000	7,500	52	.69
Eli Lilly	12,119	543	4	.74
Exxon (U.S.A.)	28,881	2,652	25	.94
Firestone	56,216	3,451	3	.09
General Electric	26,200	11,900	8	.07
Goodyear	76,557	3,508	1	.03
Monsanto	36,056	2,506	8	.32
Potomac Electric Power	4,521	224	2	.89
Morgan Trust	7,551	355	2	.56
PPG Industries	28,354	2,000	9	.45
Procter & Gamble	25,633	890	1	.11
Union Carbide	76,592	4,121	11	.27
Chrysler	121,781	11,895	3	.08
Ingersol Rand	18,342	779	0	0
Continental Group	41,000	2,974	4	.13
Allied Chemical	23,942	1,765	4	.23
Carolina Power/Light	4,858	83	0	0
Bristol-Meyers	15,031	658	1	.15
Alcoa	39,817	3,680	8	.22
N.L. Industries	17,151	1,039	10	.96
U.S. Steel	164,716	19,175	45	.23
Total, 23 companies	2,030,676	111,576	464	.42

Mr. PELL. Mr. President, this shows when they are put together—these companies include Bethlehem, A.T. & T., Exxon, General Electric, et cetera—that of the total number of employees, there are 2 million, and the total number of retirements is 111,000 in this 3-year period, of that 111,000 only 464 would be affected by this amendment. That is less than half of 1 percent. But, by permitting this half of 1 percent to retire, making sure they do retire at 65, it has a ripple effect so that anywhere from five to eight middle management promotions come up.

I believe it would be a good idea for this amendment to be accepted.

In this regard, I add that I am supportive as well of the exemption of the tenured professors, and, under the same logic and same extension, agree with the reasoning of my colleague from Maine who said it should apply in his area as well.

For all these reasons, I hope very much, indeed, that this amendment can be accepted and I intend to support it.

Mr. CRANSTON. Mr. President, does any other Senator wish to speak on this amendment at this time? I want to move to table, but not to cut off anybody's time.

Mr. CHAFEE. Senator MOYNIHAN wishes to speak.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from New York.

Who yields time?

Mr. CRANSTON. Mr. President, may I ask for the yeas and nays on a tabling motion? I think there are sufficient Members in the Chamber.

Mr. President, I ask unanimous consent that I may ask for the yeas and nays now.

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

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to support the amendment of the Senator from Rhode Island and to speak, in particular, to the question of the impact of this proposed action upon higher education in the United States.

If there is one general point we have learned about Government in the second half of the 20th century, it is that a great many of the most important policies we adopted have been adopted unintentionally and, indeed, rise out of actions in Government that are seemingly unrelated.

It is to this point of the unintended and unanticipated consequences of what we are doing today that I would like to speak.

Mr. President, the bill before us, as it now stands, would be one of the most important Government acts with respect to the conditions of American intellectual and scientific life, that we have carried out in a very long while.

It seems to me that the impact would be deleterious, it would be harmful. It seems to the universities involved that it would be harmful. I think it is incumbent upon us to ask, are we prepared to proceed with a measure which is so disturbing to the universities and colleges, particularly the private institutions of this country, without having any educational purpose or intent in this act?

Now, the question comes specifically to the matter of tenure. I believe it is important to ask clearly, what is the time at which we do this?

American colleges and universities underwent a great expansion in the course of the 1950's and 1960's, they hired a large number of faculty members who acquired tenure and who are now on the verge of retirement.

Their prospect of retiring comes at a time when there is very little prospect for any increase in university and college enrollment, such that there is no increase in the demand for teachers at them, such that, to an extraordinary degree, few new faculty are going to be hired as old faculty retire.

The statistics on this are striking and they are something we have never known before in our country. I will give the estimates for the years 1980 to 1985.

During this period, we are going to be awarding some 35,000 doctoral degrees each year. During that period the 3,000 colleges and universities in the country are expected to hire some 3,700 faculty members. In round terms, one Ph. D. in nine can expect a position in a university. In round terms, each university or college will be adding one tenured member a year to its faculty.

It is estimated that if Congress takes the action now before it, those 3,700 faculty members to be hired each year in the Nation, will be cut in half, to some 1,600 in number. Our great system of higher education will face the prospect that every other year, on the average, an institution will acquire a new tenured professor. That is a formula for intellectual suffocation.

The junior Senator from Rhode Island mentioned that the median age at which the scientific work for the Nobel Prizes is done is 28. That would be an old age for the median achievement of mathematicians. Mathematicians, typically, are old at 22. It is the ineluctable, seemingly physiological, fact that the most creative work done in the demanding sciences is done very early in life.

The system of tenure which evolved in American universities evolved not as a retirement policy but as a system of doing two things: one, protecting faculty against the changing political and intellectual fashions of the time and, two, insuring sufficient periods in which work requiring long gestation could be done. It is not a retirement policy. It is an intellectual policy. It is an academic policy. It has to do with creativity and productivity and scholarship.

With the most extraordinary unanimity in my State—I think I can speak for other States as well—the heads of our great institutions have asked Congress not to do this. I spoke just an hour ago with Mel Eggers, an economist, the president of the University of Syracuse, where I once taught, who said that it is simply a fact that this would impose hardships on Syracuse University which it cannot comprehend and certainly does not desire.

Graduate student Don Hess, of the University of Rochester, has estimated that for the private colleges and univer-

sities of New York State, this measure would eliminate some 1,350 positions that are opening now; these would disappear. There is something further for which the Senate, surely, should have some regard: By enabling the higher salaried tenured professors to stay on past the contract into which they have entered, past faculty arrangements, we impose on these very colleges and universities considerable extra costs.

The administration of New York University, for example, estimates that a cumulative cost over 10 years for this measure would be $9 million—$9 million which NYU does not have, has not budgeted, has no new source to furnish, and which I suggest nobody in this Congress seems intent upon providing.

However, there is the larger point—and I should like my remarks to rest on this point—that the governance of universities is a complex and subtle process which has evolved not over decades and not over centuries but over almost the longest period of time of any institution in the Western World. Members of faculties are engaged for periods of time which relate not to their working life but to the creativity of the institution of which they are a part. The rules have been set by the professors themselves. They are rules designed to see that the end purposes of the universities and colleges are served. It is not for us casually, and with respect to a large matter having to do with other things altogether, to interrupt and so distort those arrangements as to have the consequences which the Senator from Rhode Island and I have described.

The universities and colleges of the country ask that this not be done to them. They are capable of managing their own affairs. It is fundamentally in the interest of a liberal society that the liberal arts colleges and universities and the scientific institutions of this country be able to create their own affairs.

It is not for nothing that we have opened the newspapers in the last 2 weeks to find one after another of the great Nobel Prizes awarded to American academics. When did a former colleague of mine at Harvard do his great work? John H. Van Vleck did it practically as a graduate student. He did it on magnetism, in the early 1930's, Einstein having received the Nobel Prize in physics in 1921. After 1921, that kind of work became possible for a brilliant young scientist. If it took a half century for the Nobel Prize to catch up with him, that was of no great matter. What mattered was that he was at Harvard University at that moment.

The question is, If we act as this bill unintentionally would have us act, how many Nobel laureates of the year 2020 are not going to be at our universities in 1980 to do the work that would bring them honor and achievement?

I ask, in the name of the independence of learning and the self-governance of academies, that the amendment of the Senator from Rhode Island be accepted; and I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. CHAFEE. I thank the Senator.

Mr. President, does anyone else desire to be heard on this amendment?

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

Mr. CHAFEE. I yield.

Mr. JAVITS. Mr. President, I intend to support the amendment, because I believe that we have gone about as far as we should with respect to exemptions, with respect to the two exemptions which would be left in the bill by Senator CHAFEE.

As I said when I spoke initially on the bill, as one of its comanagers, I deeply feel that the public school and secondary school exemptions are really impossible to justify for the 2.1 million teachers in the country; that what tenure means to primary and secondary school teachers would be completely up in the air; and that the teachers union, itself, opposes any exemption for those teachers. So it seems to me to be highly improper.

Therefore, I shall favor the Chafee amendment, with all the cosponsors who are engaged in it.

Mr. MOYNIHAN. Mr. President, will the Senator from Rhode Island yield for an additional remark?

Mr. CHAFEE. I yield.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. MOYNIHAN. Mr. President, I join in the statement made by my senior colleague from New York.

The question of public school teachers has nothing to do with the nature of the governance of the public school system. They are persons who have every right to the same protection of our labor laws and social security laws as do other persons employed in this economy.

The matter of the governance of universities and the tenure of professors is a wholly different matter and should be distinguished, as the Senators from Rhode Island propose to do.

Mr. CRANSTON. Mr. President, if there are no further speakers, I want to stress briefy that my reason for opposing this amendment is that I hope we can have no exclusions of categories of employees from the extended protection of the act. This amendment may reduce the chances of having no exclusions at all. Hence, I oppose it and will have to table it.

I, therefore, move to table the pending amendment.

The PRESIDING OFFICER. Without objection, the motion to table is in order.

Do all Senators yield back their time?

Mr. CRANSTON. I yield back my time.

Mr. CHAFEE. I only wish to say that this is an extremely important measure, as the Senator from New Jersey has pointed out, to our universities and colleges. This is not something that I think we should blithely pass over, and I am not suggesting we are, but it is of great consequence to the ability of our universities and colleges to bring in young people that they have to have.

I hope that everyone understands what we are voting on and particularly the aides around here who flash the word to Senators as they pour in. What we are voting on is a motion to table a provision that provides two exemptions to the extension of the age to 70. It would exempt from that provision tenured university professors, college professors and executives whose retirement pay, exclusive of social security, is $20,000 or more. Elementary and secondary teachers would be covered by the bill up to age 70 under the mechanics that we have gotten here.

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

Mr. CHAFEE. I yield.

Mr. JAVITS. I ask unanimous consent that David Rust of the staff of the Special Committee on Aging, be accorded the privilege of the floor during the debate on this bill.

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

Mr. CHAFEE. Mr. President, the yeas and nays have been ordered for the tabling of the amendment.

Mr. JAVITS. Have they?

Mr. CHAFEE. I ask for the yeas and nays on the amendment itself.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I move then to table the pending amendment.

Mr. JAVITS. Mr. President, the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

The question is on agreeing to the motion to table the amendment of the Senator from Rhode Island.

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 South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

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

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

I also announce that the Senator from New Jersey (Mr. CASE) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 41, nays 50, as follows:

[Rollcall Vote No. 565 Leg.]

YEAS—41

Bayh	Chiles	Ford
Brooke	Church	Glenn
Bumpers	Clark	Gravel
Byrd, Harry F., Jr.	Cranston	Griffin
Byrd, Robert C.	DeConcini	Haskell
Cannon	Domenici	Hatfield
	Durkin	Hathaway

Heinz	Matsunaga	Schmitt
Hollings	Metzenbaum	Scott
Huddleston	Percy	Stevens
Jackson	Proxmire	Stone
Laxalt	Randolph	Talmadge
Long	Ribicoff	Thurmond
Magnuson	Sasser	Weicker

NAYS—50

Allen	Hatch	Nunn
Anderson	Hayakawa	Packwood
Baker	Helms	Pearson
Bartlett	Inouye	Pell
Bellmon	Javits	Riegle
Bentsen	Johnston	Roth
Biden	Kennedy	Sarbanes
Burdick	Leahy	Schweiker
Chafee	Lugar	Stafford
Culver	McClure	Stennis
Curtis	McIntyre	Stevenson
Danforth	Melcher	Tower
Dole	Metcalf	Wallop
Eagleton	Morgan	Williams
Eastland	Moynihan	Young
Garn	Muskie	Zorinsky
Hansen	Nelson	

NOT VOTING—9

Abourezk	Hart	McClellan
Case	Humphrey	McGovern
Goldwater	Mathias	Sparkman

So the motion to lay on the table Mr. CHAFEE's amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Rhode Island. The yeas and nays have been ordered.

Mr. CHAFEE. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. This is a vote on the substantive Chafee amendment.

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. As proposed, is that correct?

The PRESIDING OFFICER. Yes.

Mr. CHAFEE. Mr. President, could the Parliamentarian explain exactly what happens if we vote on the amendment?

Mr. JAVITS. Mr. President, I yield 2 minutes on the bill to the Senator from Rhode Island, and I will also yield time to anyone who wants time in opposition.

Mr. STONE. Mr. President, will the Senator yield for just one question?

Mr. RANDOLPH. Mr. President, the Senate is not in order. We cannot hear.

The PRESIDING OFFICER. Will the Senator use his microphone, please?

Mr. STONE. If the Senator from Rhode Island will yield for this one question, in the light of the fact that the motion to table was not agreed to, would the Senator be willing to consent to a voice vote on his amendment?

Mr. JAVITS. No; we need a vote.

Mr. CHAFEE. Except that we have another step. I would like to make a parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHAFEE. As I understand it, if my amendment is approved, we would then go to the Cranston amendment, and if that were rejected, then the bill would have only two exemptions?

The PRESIDING OFFICER. If the Senator's amendment striking one subsection of the bill is agreed to, the question would then be on agreeing to the amendment offered by the Senator from California (Mr. CRANSTON), which has not been perfected, because the motion to strike was not amended, the matter sought to be stricken was perfected.

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

The PRESIDING OFFICER. Could the Chair finish first?

Mr. JAVITS. So we will understand the situation, the technicalities may be very complex, but the situation is very simple. Here it is: If you wish to leave in the bill two exemptions, one for tenured college professors and the other for high level executives over $20,000, but you wish to strike out of the bill the exemptions for secondary and public school teachers, which means that they will have until age 70, whereas the other two groups will only have until age 65, then you must vote "yea" on the Chafee amendment.

If, on the other hand, you wish all exemptions eliminated—all three, to wit, public school and secondary school teachers, tenured college professors, and high-level executives—then you must vote "nay" on Chafee and "yea" on Cranston. That is the pattern of voting, and the tabling would follow suit.

That is the choice which the Senate has. If any Member is dissatisfied with the tenor of the debate, we have time on the bill, and we will yield it.

The PRESIDING OFFICER. The Senator from New York is not correct. A "yea" vote on both could achieve the effect he has just described.

Mr. CRANSTON. That is correct.

Mr. JAVITS. That is correct; but it is also correct, is it not, that even if Chafee carries, when you vote for the Cranston amendment you eliminate the exemptions?

The PRESIDING OFFICER. You eliminate the other two. The Chafee amendment would eliminate one.

Mr. JAVITS. All three, that is right.

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

The PRESIDING OFFICER. Senator Cranston would eliminate the remaining two.

Mr. JAVITS. If the Chafee amendment carries——

The PRESIDING OFFICER. The Chafee amendment would eliminate one, and the Cranston amendment would eliminate the other two.

Mr. JAVITS. So if you want to eliminate all three, then you will vote "yea" on both Chafee and Cranston.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if you want to keep the exemption for university professors who are tenured and executives whose pension is over $20,000, not counting social security, then you vote "yea" on the Chafee amendment and you vote "nay" on Cranston; is that not correct? I just want to be very positive here.

Mr. JAVITS. Mr. President, let us start all over again, if we can have a moment.

The fact is that all Chafee is seeking to eliminate is the public school teachers and secondary school teachers. If they are eliminated, what is left in the Cranston amendment is the opportunity to eliminate the two exemptions which remain, to wit, the tenured professors and the high-level executives. Is that not correct?

The PRESIDING OFFICER. It would eliminate the other two subsections.

Mr. JAVITS. Chafee would eliminate one and Cranston eliminates the remaining two.

The PRESIDING OFFICER. All of section 6 would thereby be eliminated.

Mr. CRANSTON. Mr. President, I would like an opportunity to make my own explanation, if I may.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield the Senator 2 minutes on the bill.

Mr. CRANSTON. I would like to explain that the reason for the motion to lay on the table was to keep in tact my amendment that would have eliminated all three exclusions, for elementary and secondary teachers, university professors, and certain business executives.

I, therefore, moved to table the Chafee amendment. That having failed, I will now support the Chafee amendment, because that will remove one—indeed, by far the most far-reaching—of the exclusions, for elementary and secondary teachers. There will then be pending my amendment, which would eliminate either all there if the Chafee amendment fails on, if it succeeds, as I hope, the remaining two exclusions—for professors and the exclusion for business executives.

So an "aye" vote for Chafee removes one, an "aye" vote following that for my amendment would remove the other two, and we would have no exclusions.

Mr. CHILES. If the Senator would yield, there would be no reason for the yeas and nays on the Chafee amendment, if the Senator from California is supporting it, Senator CHAFEE is supporting it, and the motion to table failed.

Mr. CRANSTON. I see no particular reason for the yeas and nays on this.

Mr. JAVITS. Our problem is that we will be in a rather hot conference on this.

Mr. PELL. I think we should keep the yeas and nays.

Mr. CHILES. But everybody is supporting it.

Mr. JAVITS. But we will be in a difficult conference and need that support.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. May we have order?

Mr. ALLEN. As I understand it, the Chafee amendment added to the Cranston amendment would not provide a method of choosing but merely to provide that the business executives might be retired under certain conditions. This applies to two, leaving one other. We are not given the opportunity of just having the exemption apply to the business executives. Is that correct?

Mr. JAVITS. That is correct. But there is an answer to that. What the Senator can do is as soon as Chafee is disposed of—this is a perfecting amendment—the Senator could interpose another.

Mr. ALLEN. I was referring to confin-

ing it only to business executives with $20,000 of income exclusively.

Mr. JAVITS. In that case, the Senator would have to introduce another perfecting amendment, exactly the same as Chafee's, except to a different subsection of section 6.

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

Mr. CHAFEE. Mr. President, I am delighted to have a very strong vote. If the yeas and nays are ordered, I hope the momentum rolls right through so Senators will support me the next time.

Mr. JAVITS. Mr. President, that seems to be the general feeling. Does the Senator want a rollcall?

Mr. PELL. I believe so, because they have no exemptions in the House. We will be in a very difficult position.

Mr. CHILES. We are going to have a rollcall vote on the Cranston amendment. Can the Senator remember a conference in which he cited a rollcall vote?

Mr. JAVITS. I certainly can.

Mr. CHILES. If there is a split in the Senate, it may be necessary, but if there is no split in the Senate why is it necessary?

Mr. JAVITS. We had it on the minimum wage, on tip credit.

Mr. CHILES. Why not have a rollcall on every line in this bill? This is so crazy.

Mr. CHAFEE. Mr. President, I ask unanimous consent to dispense with the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. I object.

The PRESIDING OFFICER. Objection is heard.

SEVERAL SENATORS. Vote! Vote!

Mr. PELL. May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Maybe we can reach a simple solution by asking for a division.

Mr. JAVITS. Does the Senator want that?

Mr. PELL. I would not object if we had a division.

Mr. CRANSTON. Let me repeat the unanimous-consent request that the yeas and nays be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I request a division on the amendment.

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

Mr. CRANSTON. Mr. President, what is the question? What is the pending matter?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. CRANSTON. But the yeas and nays have been withdrawn.

The PRESIDING OFFICER. Is there objection to vitiating the order for the yeas and nays? The Chair hears none and it is so ordered.

Mr. JAVITS. Now, Mr. President, I request a division on the amendment.

The PRESIDING OFFICER. A division is requested. Senators in favor of the amendment will rise and stand until counted.

(After a pause.) Those opposed will rise and stand until counted.

On a division, the amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PELL. Is it in order for the RECORD to show that only three people stood up on the "nay" side?

The PRESIDING OFFICER. The RECORD will so indicate.

Several Senators addressed the Chair.

PRIVILEGE OF THE FLOOR

The privilege of the floor was requested by the following Senators for various staff personnel, for which unanimous consent was obtained: Senator THURMOND, Senator HATCH, Senator HEINZ, Senator BARTLETT, Senator KENNEDY, and Senator LEAHY.

Mr. ALLEN. Will the Senator yield?

Mr. JAVITS. On my time on the bill I will yield.

Mr. ALLEN. As I understand the bill, State law could change the retirement age up or down as to any of these classifications. Is that correct?

Mr. CHAFEE. No, that is not correct. The State law can only increase it.

Mr. ALLEN. The State law can increase it?

Mr. CHAFEE. Yes.

Mr. ALLEN. In other words, this State law could take the ceiling off, if it wanted to?

Mr. JAVITS. That is correct.

Mr. ALLEN. It could not lower it but it could raise it, and these provisions for retirement that now apply are to apply if the Cranston amendment, as amended, is agreed to. They could be overturned by State law. In other words, the forced retirement of business executives and college professors could be overturned by State law.

Mr. JAVITS. But the Cranston amendment would prohibit mandatory retirement before 70 for all of these categories, so it would not alter the Federal right in that sense.

Mr. ALLEN. As I understood the Chafee amendment, it would have permitted the primary and secondary schools to go on to 70, but for the college professors they could be retired, under the Chafee amendment.

Mr. JAVITS. Under the Chafee amendment, as we stand now with the Chafee amendment agreed to, college professors and high-level executives can be mandatorily required to retire at age 65.

The PRESIDING OFFICER. May we have order in the Senate?

Mr. ALLEN. Business executives earning $20,000 by pensions exclusive of social security could be retired also.

Mr. JAVITS. But only between ages 65 and 70.

Mr. ALLEN. But State law could lift those ceilings; is that correct?

Mr. JAVITS. Yes. The State law could specify a higher age, for example, age 66 or 67.

Mr. ALLEN. In other words, they could nullify what the Chaffee amendment seeks to do.

Mr. JAVITS. Yes. Under State law forced retirement could be prohibited.

Mr. ALLEN. I just wanted to know for sure that this does not preempt State law to raise the ceiling nor to nullify what the Cranston amendment, as amended by the Chafee amendment, seeks to do.

Mr. JAVITS. I want to emphasize that there is no preemption of State law here. State laws can provide for a higher mandatory retirement age than the Federal law or can provide for no upper age limit at all.

Mr. CRANSTON. I would just like to explain that my amendment was not amended by the Chafee amendment. The bill was amended by the Chafee amendment.

Mr. CHAFEE. Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CRANSTON. I ask for the yeas and nays on my amendment, Mr. President.

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

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I think it is important that we know what is going on here.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is a vote on the Cranston amendment. If you vote "aye," you eliminate all exemptions from the bill. If you vote "nay," the bill passes with two exemptions: Tenured university professors can be retired for age at 65, although they do not have to be; executives whose pension is $20,000 or more—not counting social security—can be retired for age at 65, but they do not have to be. Furthermore, if State law provides otherwise, such as in California, which says you cannot retire university professors until age 70, that would provide.

So, if you want to see the universities have a chance to retire their tenured professors at the age of 65, then you vote "nay," and corporations retire executives at $20,000 pension—if you want that, you vote "nay" to the Cranston amendment. If you want no exemptions, you vote "aye."

Mr. JAVITS. Mr. President, I yield myself 2 minutes and happily yield to Senator CRANSTON 4 minutes, which represents cumulative time.

Mr. President, we had a very extensive debate this morning. A number of Senators spoke. Senator MOYNIHAN spoke; other Senators spoke. We wrestled with this matter in the committee. We came to the considered judgment, in which Senator WILLIAMS, the chairman, and I concurred, that these two exemptions were justified. I am not happy about them any more than is Senator CRANSTON. But they are very limited amendments and because of those limits, they

are justified. Therefore, I just want to make it plain that I shall vote "nay" on the Cranston amendment for that reason, because it does wipe out those exemptions.

In response, Mr. President, to those who say no exemptions, I point out that we have already made an exemption—to wit, 70 years of age. That is a compromise itself. My original bill, in which a number joined, including Senator CHAFEE, eliminated the age cap altogether. To me, that makes the best sense. But we are living in a practical, working world. So I believe that these two exemptions are simply an acknowledgment of the organization of our society which, I think, dictates that, as an interim step—and that is what this is—these exemptions should be made now.

Mr. FORD. May I ask the Senator a question?

Mr. JAVITS. Of course.

Mr. FORD. If a State has early retirement for the educational community at age, say, 55 or 60, does this bill interfere with that State plan?

Mr. JAVITS. If the State permits early retirement at 55 or 60, but does not require that retirement, the State plan is unaffected. It is only forced retirement prior to age 70 which is prohibited.

Mr. FORD. I thank the Senator.

Mr. CRANSTON. Will the Senator from New York yield me 2 minutes?

Mr. JAVITS. I yield him 3 or 4.

Mr. CRANSTON. For purposes of clarification, the success of the Chafee amendment eliminated one of the exclusions, elementary and secondary teachers. My amendment now pending would eliminate the other two exclusions, college professors and individuals with annual retirement benefits of $20,000.

Let me say that my reason for opposing each of the proposed exclusions, and therefore supporting the Chafee amendment to delete the exclusion of elementary and secondary teachers is that I believe that exclusions are contrary to the basic principles of equal treatment and equal rights for all citizens, which is the basic purpose underlying the Age Discrimination in Employment Act. I firmly believe that an individual's competence, not an individual's age, should determine his or her job performance capability. This is so regardless of the category or particular type of work that somebody is involved in. A blanket exclusion of educators and business people merely because of the category of work involved bears no relationship—none at all—to the matter of competence. Should we start making exemptions to other civil rights laws for certain jobs? I hope we do not. Therefore, I urge a favorable vote on my amendment.

(Mr. GLENN assumed the chair.)

Mr. CHAFEE. Mr. President, if I may have 2 minutes briefly to discuss this amendment, we are talking about a separate group here. We are talking about tenured university professors, whose performance is not subject to objective evaluation. As we mentioned earlier in the debate, in over 300 years of Harvard's history, they have never gotten rid of a tenured professor, even though one of them murdered his wife and went to the gallows with his tenure still intact. So we are not talking about the normal situation. We are talking about a group who are locked in.

We are further talking about a very severe crisis in our universities and colleges where, because of the contraction of the faculties, that means that the junior, nontenured ones go out, so that, now, in many of our colleges and universities, we have between 60 and 80 percent of the faculty tenured.

If this bill goes through and they are kept on automatically to age 70, no chance will there be for the young people to come in. We are talking about the young, bright, innovative people that we have to have if our universities are going to make their contribution to this society, as they have in the past. The average age of the Nobel Prize winners, when they did their Nobel Prize-winning work, was 28.

Furthermore, there is a tremendous effort through affirmative action programs to bring women and minorities into the tenured ranks. They will not be able to do it if you vote "aye" for the Cranston amendment.

Mr. MOYNIHAN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. Some of the Members of the Senate have arrived since we had our debate. They might be interested that——

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

Mr. JAVITS. I yield 2 minutes.

Mr. MOYNIHAN. I want simply to say that the two Members of this body who have most recently joined it from the ranks of tenured professors, Senator HAYAKAWA and myself, both stood in the name of academic governance and the quality of American education. We pleaded that you support Senator CHAFEE and the committee and not support the amendment of Senator CRANSTON, which is certainly well intended, but which would have a devastating impact on the quality of American education at a time of altogether sufficient crisis as it is.

Mr. HEINZ. Will the junior Senator from New York yield for a question, please?

Mr. MOYNIHAN. I yield.

Mr. HEINZ. What is to prevent a university from granting tenure only up to age 65 and then having a professor subject to different terms of employment—to deem which do not include tenure but which respects the mandatory retirement policy set by this legislation? What is to prevent that?

Mr. MOYNIHAN. Nothing would. This is a practice that takes place. The point is that this is self-governance of an academic community on terms that one hopes they will be allowed to continue.

What we ask is that the Federal Government not enter in and impose upon the complex relationships of an intellectual community a rule that has to do with retirement and the work force. Tenure has not to do with retirement; it has to do with the conditions of academic pursuits. This is an inappropriate manner in which to impose upon universities a judgment affecting the quality of university life.

Mr. HEINZ. What does the Senator claim is being imposed by the Cranston amendment?

Mr. MOYNIHAN. The Cranston amendment would cut in half the number of new tenured openings in American universities in the next 5 years.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. HEINZ. Will the Senator yield an additional minute to me?

Mr. JAVITS. Yes.

Mr. HEINZ. As I understand my good friend from New York, he just said a moment ago that a university can grant tenure independently of the conditions or length of employment, that tenure is a particular relationship enjoyed between the professor and the university. As I understand what the Senator's objections are, he objects to the fact that tenure might be granted to universities to age 70, as would be permitted under the bill unless the Cranston amendment is to pass.

Now, it is true, as I understand the Cranston amendment and the bill that, indeed, it would be possible. But by no means would it require that the privilege of tenure be granted beyond age 65. That is a decision left to the academic community. I speak of Carnegie-Mellon, where I taught, and this is my recollection of the conditions of employment given to a tenured professor. I was not there long enough to be given such consideration, as was my friend from New York. But I say, if the argument is that the Cranston amendment in some way interferes with the academic community, I disagree strongly. The bill, however, if left in its present form, continues the interference, which is already quite obvious.

Mr. CHAFEE. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. 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 South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

I also announce that the Senator from New Jersey (Mr. CASE) is absent on official business.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 566 Leg.]

YEAS—45

Bayh	Griffin	Metcalf
Burdick	Haskell	Metzenbaum
Byrd, Harry F., Jr.	Hatfield	Packwood
	Hathaway	Proxmire
Byrd, Robert C.	Heinz	Ribicoff
Cannon	Helms	Riegle
Chiles	Hollings	Sasser
Church	Huddleston	Schmitt
Clark	Inouye	Scott
Cranston	Jackson	Stevens
DeConcini	Laxalt	Stone
Domenici	Magnuson	Talmadge
Durkin	Matsunaga	Thurmond
Glenn	McClure	Weicker
Goldwater	McIntyre	
Gravel	Melcher	

NAYS—48

Allen	Ford	Nunn
Anderson	Garn	Pearson
Baker	Hansen	Pell
Bartlett	Hart	Percy
Bellmon	Hatch	Randolph
Bentsen	Hayakawa	Roth
Biden	Javits	Sarbanes
Brooke	Johnston	Schweiker
Bumpers	Kennedy	Stafford
Chafee	Leahy	Stennis
Culver	Long	Stevenson
Curtis	Lugar	Tower
Danforth	Morgan	Wallop
Dole	Moynihan	Williams
Eagleton	Muskie	Young
Eastland	Nelson	Zorinsky

NOT VOTING—7

Abourezk	Mathias	Sparkman
Case	McClellan	
Humphrey	McGovern	

So amendment No. 1459 of the Senator from California was rejected.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 950

Mr. RIEGLE. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The Senate is not in order. Those conversing will please take their seats or retire to the cloak room.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 950:

On page 12, line 5, insert the following:

SEC. 8. Section 14(c) of the Fair Labor Standards Act (29 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

"(4) The Secretary of Labor shall appoint a committee to advise on the administration and enforcement of this section. The committee shall be composed of handicapped consumers, and of representatives of the public, labor, industry, and programs functioning under this section."

Mr. RIEGLE. Mr. President, I have discussed this with members on both sides on the committee.

This amendment simply adds to the Fair Labor Standards Act a provision recreating the Advisory Committee on Sheltered Workshops to the Department of Labor. The administration recently abolished this effective advisory committee despite its effectiveness at channeling citizen participation into the Department.

Earlier this month, I introduced this amendment as a separate bill cosponsored by the chairman of the Human Resources Committee, Senator WILLIAMS; the ranking minority member of that committee, Senator JAVITS; and the chairman of the Subcommittee on the Handicapped, Senator RANDOLPH. The support which it has gathered from groups representing handicapped citizens is truly impressive.

All our citizens deserve the opportunity to participate in adding to the economic well-being of the Nation; sheltered workshops help extend this opportunity to handicapped workers. Similarly, all our citizens deserve the opportunity to participate in formulating Government policy; the Advisory Committee on Sheltered Workshops has served this purpose.

I hope, then, that we will have support for this amendment, and I hope the committee will accept it.

Mr. WILLIAMS. Mr. President, I yield myself a minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. WILLIAMS. Personally I have been a supporter of continuation of the Advisory Council in this area and suggest that this is the time to consider it. I approve it and shall take it to conference.

Mr. JAVITS. Mr. President, I agree with Senator WILLIAMS. I think in fairness to the Senate it should be noted that this is an amendment to another statute, the Fair Labor Standards Act, not the age discrimination in employment statute. If any Member wished it, which I hope he would not because the idea of having a proper advisory committee for the handicapped is extremely desirable, an objection could be made on the basis of the amendment not being germane, I hope that no Member will do that. I favor this amendment, and unless there is such an objection, agree with my chairman to take it to conference.

Mr. RIEGLE. I thank both Senators, and if there is no objection, I ask the amendment be approved.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. WILLIAMS. Yes. I yield back my time.

Mr. JAVITS. Yes.

The amendment was agreed to.

Mr. ALLEN. Mr. President, will the Senator from New York yield for a question?

Mr. JAVITS. I yield.

Mr. ALLEN. Earlier in the day, I was engaging in a colloquy with the distinguished Senator from New York on the applicability of State law in the circumstances provided by this bill, and then, I might state, the distinguished manager of the bill was not in the Chamber at that time, or I would have engaged in colloquy with him. But inasmuch as I was engaging in colloquy with the distinguished Senator from New York (Mr. JAVITS), I shall continue. The distinguished Senator from New York said that if a State should later enact a law which raised the age for the instances that are excepted under the bill, that is the business executives with certain income over $20,000 exclusive of social security, that is from pension, and tenured college professors, that is, if the State should raise those ages by law, then the State statute would apply notwithstanding the exception provided in this bill.

The question I ask now is: If existing State law provides for a higher age retirement in these excepted circumstances, for instance, the tenured professors, providing in my State for retirement at age 70, and I do not imagine there is any provision now as to the business executives, but if these provisions providing these exceptions are contrary to existing law as well as future law, they would not be applicable in that particular State? Is that correct?

Mr. JAVITS. As I indicated earlier today, the State may raise the age cap higher than the Federal cap.

Mr. ALLEN. Whether in the future or by existing statute?

Mr JAVITS. Exactly. And that is stated at page 5 of the committee report which cites section 14(a) of the basic law which we are amending and which also says: "As this language makes clear the ADEA does not preempt State laws."

Mr. ALLEN. Yes; if the distinguished manager of the bill will concur in that view, I shall appreciate it, for the legislative history.

Mr. WILLIAMS. Yes, we will do it for the record. Yes, that is correct.

Mr. ALLEN. I thank the distinguished Senators.

UP AMENDMENT NO. 951

(Purpose: To provide for limiting to 2 years the period in which the statute of limitations under the Age Discrimination in Employment Act of 1967 may be tolled.)

Mr. JAVITS. Mr. President, I sent to the desk an amendment which is an amendment intended to be proposed by Senator DOMENICI. So I hope his name will be carried in parenthesis or in some other way.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for Mr. DOMENICI, proposes an unprinted amendment numbered 951. On page 9, line 14, before the period insert a comma and the following: "but in no event for a period in excess of two years".

Mr. JAVITS. Mr. President, I shall explain the amendment. Senator DOMENICI is very properly engaged in the energy conference and asked as a courtesy for the managers of the bill to present this amendment in view of the fact that it is acceptable to us and is germane.

What the amendment does is to place a 2-year limitation on the period during which the statute of limitations is tolled while the Department of Labor is engaged in conciliation, as required by the act.

As we have it in the bill, the tolling period is not limited. In other words, for as long as the Department is engaged in conciliation, the statute is tolled.

Senator DOMENICI feels that there should be some limit upon the overall time during which the statute of limita-

tions is tolled. His amendment places 2 years as that limit; thus, if it is a nonwillful violation, suit must be filed within 4 years from the date of the violation, in order to preserve the full amount of back wages. If it is a willful violation, the aggregate period would be no more than 5 years.

This amendment is acceptable to me, and I believe if Senator WILLIAMS will answer, it is acceptable to him.

Mr. WILLIAMS. Yes.

Mr. DOMENICI. Mr. President, my amendment would place a 2-year limitation on the period during which the statute of limitations could be waived by the administrative actions of the Department of Labor. Section 5 of H.R. 5383 provides for an open-ended tolling of the statute of limitations while the "Secretary is attempting to effect voluntary compliance with requirements of this act through informal methods of conciliation, conference and persuasion." While I understand that complex administrative requirements, protracted negotiations, and a series of judicial decisions have resulted in a number of cases being dismissed on procedural grounds without a review of their merits, I am not at all sure that we should redress that problem by creating the potential for mischief in the opposite direction.

Mr. President, section 7(e) of the Age Discrimination in Employment Act of 1967 incorporates into its enforcement procedures sections 6 and 10 of the Portal-to-Portal Act of 1947. Under this provision the Secretary of Labor must file suit within 2 years of an alleged unlawful act and within 3 years in cases involving willful age discrimination. When the Department first approached the House Education and Labor Committee and the Senate Human Resources Committee, they portrayed the language contained in section 5 of H.R. 5383 as a technical amendment. Our colleagues in the other body did not share the Department's view of this sweeping substantive change in the enforcement mechanism for the Age Discrimination in Employment Act. The House-passed version of H.R. 5383 does not contain this Labor Department initiative.

Mr. President, I understand and can sympathize with the fact that in some cases, especially large and complex cases involving a number of individuals, more time is needed for the conciliation process. I can also appreciate that it is desirable for all concerned—the employees, the employers, and the Labor Department—to resolve as many cases as possible by means of voluntary compliance. Having said that, Mr. President, I would like to stress that I do not think it is necessary to grant the Department an unlimited tolling of the statute of limitations during which time the employer continues to be liable for additional back-pay damages.

The potential for mischief which I referred to earlier is simply this. If we enact the open-ended language contained in section 5 of this bill we will be granting to the enforcement bureau within the Department of Labor the power to exert vast leverage against a given employer. The growing financial burden that could accumulate during a prolonged period of "conciliation" could force an employer to make unnecessary and unfounded concessions in an effort to settle on terms acceptable to the Department. In seeking to overcome existing shortcomings in the enforcement mechanism, we should not tilt the scales too far in the opposite direction.

My amendment would give the parties up to 2 additional years to resolve their differences in informal negotiations. That is probably more time than will be needed in most instances. Some would argue that a 3- to 6-month period would be sufficient, but I wanted to make an effort to meet the legitimate needs of the claimants and the enforcement agency without creating an undue burden on the business community.

Mr. President, I ask unanimous consent that a letter dated July 13, 1977, from Mr. Forrest I. Rettgers, executive vice president of the National Association of Manufacturers, to Representative CARL PERKINS, chairman of the House Education and Labor Committee, be printed in the RECORD.

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

JULY 13, 1977.

Hon. CARL D. PERKINS,
Chairman, House Education and Labor Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Two days ago the National Association of Manufacturers presented to you by letter our views on H.R. 5383. It is our understanding that amendments to the statutes of limitations governing the Age Discrimination in Employment Act will also be considered during full Committee mark-up. I would therefore like to share with you our evaluation of the impact these procedural amendments would have on industry.

These amendments would generate a substantial additional record-keeping burden. Equally important is the effect the infinite period of conciliation would have on the efficient processing of ADEA claims by the Labor Department. We believe the effectiveness the Labor Department has demonstrated in its processing of age claims to date results in part from the time limitations to which it has had to adhere. With open-ended conciliation periods the Department might well drag on with a case for many months, even years, as does the EEOC. Such delay would work an obvious disservice to employers, whose potential liability would continue to accrue, and to legitimate claimants whose rights would go unsatisfied.

Proposals to toll the statute of limitations on filing suit for the entire conciliation period effectively defeats the purpose of a statute of limitations. Suits could quite conceivably be filed many years after the alleged violation occurred during which time records are destroyed, and witnesses move away or die.

In setting a limitations period a balance must be struck between the right of the claimant to achieve redress, and that of the defendant to conduct an effective defense. A new statute of limitations potentially years longer than that originally set by Congress does not weigh both considerations equally.

Should modifications of existing limitations periods be deemed necessary, we advise reasonable and *fixed* extensions. Such extensions should be based on the practical considerations of case processing, and not on the EEOC's bad example.

Sincerely,

FORREST I. RETTGERS.

Mr. DOMENICI. I would draw my colleagues' attention to the last paragraph of Mr. RETTGERS' letter in which he states that—

Should modifications of existing limitations periods be deemed necessary, we advise reasonable and fixed extentions.

I think this is a reasonable request on the part of the business community and I think that their concerns would be alleviated, in large part, by the adoption of my amendment.

Mr. President, I would hope that the distinguished managers of this bill will accept and support my amendment.

Mr. JAVITS. We yield back our time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

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

The amendment was agreed to.

UP AMENDMENT NO. 952

(Purpose: To provide for jury trials in actions brought under the Age Discrimination in Employment Act of 1967.)

Mr. KENNEDY. 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. KENNEDY) proposes unprinted amendment numbered 952.

Mr. KENNEDY. Mr. President, I ask 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 8, between lines 16 and 17, insert the following:

Sec. 4. (a) Section 7(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(c)) is amended by inserting "(1)" after the subsection designation and adding at the end thereof the following new paragraph:

"(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury in any action involving monetary damages (including an action for back pay) regardless of whether equitable relief is sought by a party in the same action.".

(b) The amendment made by subsection (a) of this section shall take effect with respect to civil actions brought after the date of enactment of this Act.

On page 8, line 17, strike out "Sec. 4." and insert in lieu thereof "Sec. 5.".

On page 9, line 6, strike out "Sec. 5." and insert in lieu thereof "Sec. 6.".

On page 9, line 18, strike out "Sec. 6." and insert in lieu thereof "Sec. 7.".

On page 11, line 14, strike out "Sec. 7." and insert in lieu thereof "Sec. 8."

Mr. KENNEDY. Mr. President, the Fair Labor Standards Act provides for a jury trial on legal issues raised under that act. This particular amendment is to clarify section 7(c) of the Age Discrimination in Employment Act, which applies to lawsuits brought by aggrieved individuals on their own behalf. The amendment guarantees the availability of a jury trial on legal issues in private actions brought under the Age Act.

It seems to me, Mr. President, that

this clarification would be desirable. The provision will not have an adverse impact on the courts. The fact is that only 7.8 percent of the civil cases filed come to trial. In the Fair Labor Standards Act area, of the small number which get to trial, 89 percent of the cases are tried by the judge and not by the jury even though the parties could demand a jury. So we are not causing a great increase in court activity by clarifying that the jury right exists in private actions in the age discrimination area.

But this is still an important addition to the legislation. For, juries are more likely to be open to the issues which have been raised by the plaintiffs. Sometimes, a judge may be slightly callous, perhaps because he himself is protected by life tenure, or because he is somewhat removed from the usual employer-employee relationship. The jury may be more neutral in such circumstances.

It does seem to me that when a particular plaintiff in an age discrimination case feels aggrieved, if he desires to be able to utilize the procedures which are in the Fair Labor Standards Act, which do provide for a jury trial, that it would be important not to deny him that possibility.

Mr. President, I would point out that three out of the four circuits which have ruled on the availability of a jury trial under this act have held that it is the right of the individual to seek a jury solution.

It seems to me to be wise to insure that particular protection to those who are subject to age discrimination.

By this section, we are not attempting to define other circumstances under which a jury trial is required. Thus, decisional law which holds that jury trial is not required in suits brought for back pay as restitution under title VII, Civil Rights Act of 1964, 42 U.S.C. 2000(e) et seq., is unaffected by this section.

We talked about the issue of jury trials in age discrimination cases before the full committee, but it was not a part of the hearing process. Rather than have a final vote in the committee, we wanted to give an opportunity to the Members to examine it in greater detail, and I believe they have, and I hope my amendment will be accepted.

Mr. WILLIAMS. The Senator is correct. Mr. President, when we considered this bill in committee there were some questions regarding the right to a jury trial under the ADEA. At the time we wanted to get the bill reported. Since that time there has been an opportunity to clarify the issue.

There is a judicial conflict in this area. The amendment offered by the Senator from Massachusetts clarifies the conflict by guaranteeing plaintiffs the right to a jury trial. The amendment is most acceptable to this floor manager of the bill.

Mr. JAVITS. Mr. President, the amendment is acceptable to us.

The PRESIDING OFFICER. Is all time yielded back?

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

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. I assume someone has to yield me some time.

Mr. JAVITS. I yield whatever the Senator wishes.

The PRESIDING OFFICER. How much time is yielded?

Mr. JAVITS. Five minutes.

Mr. GRIFFIN. I would like to direct a few questions, if I might, to the managers of the bill.

As I understand the state of the bill now, a mandatory retirement program could not be adopted or adhered to except with respect to high-level management and university professors; is that correct?

Mr. JAVITS. May I interrupt?

Mr. GRIFFIN. Yes.

Mr. JAVITS. The only change is that the amendments provide protection from mandatory retirement until age 70 instead of 65. For those two exceptions, it is 65.

Mr. GRIFFIN. Even though a union representing employees and management may have agreed in a collective-bargaining agreement that it is desirable and in the interest of all parties to require retirement at age 65, this bill will prohibit such a retirement program effective upon expiration of any existing contract, or 1980, whichever is earlier; is that correct?

Mr. JAVITS. That is correct. They will be precluded in this way, I may say to the Senator: There can be no mandatory retirement if the action is based on age, rather than ability or performance. In other words, an employer may justify a lower age for mandatory retirement for some reason other than age—for example, airline pilots, if age is shown to be a bona fide occupational qualification.

Mr. GRIFFIN. I was going to come to airline pilots. I do not accept the Senator's classic example so readily. I think it is altogether possible that there could be many airline pilots at age 70 who would be able and fit to fly their planes.

Mr. JAVITS. The Senator caught me a little too fast. I did not mean to state that generically—that just because a person is an airline pilot he can be retired at 60. All I meant to say was that the law permits that distinction to be made if the employer has a valid reason other than age. In other words, if the employer has factual proof of diminished capacity or an agency with regulatory authority finds that on the basis of skill and competence, quite apart from age, a person is unable to perform his duties as an airline pilot, the law permits that retirement. But the action must still be based on a factor other than age.

Mr. GRIFFIN. It seems to me it would be very difficult to sustain the burden of proof that all airline pilots over 65, or over age 60, or over age 70, are ipso facto unqualified to fly airplanes.

Let me ask the Senator this: What about airline stewardesses? Will it be the law that airline stewardesses would have the right to continue working until they are age 70?

Mr. JAVITS. Unless the employer can prove that they are unable to perform adequately in the duties of their job.

Mr. GRIFFIN. They could under this bill.

Mr. JAVITS. The law permits, and I would like to read it to the Senator, because I think it is very important:

> It shall not be unlawful for an employer . . . to take any action otherwise prohibited under (the Act) . . . including the establishment of a mandatory retirement age less than the maximum age specified in section 12 of this Act, where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; . . .

So it is simply a question of whether the employer can carry his burden of proving entitlement to the exception. I cannot substitute my judgment for that proof.

Mr. GRIFFIN. The Senator from New York is one of the best lawyers in this body; indeed, he is one of the best lawyers anywhere. He knows, as well as I, that if this bill becomes law it will be very difficult for any employer or any union to require retirement by any group in the work force before age 70.

The Senate just adopted an amendment offered by Mr. KENNEDY which would give anyone claiming age discrimination a trial by jury. It is said that an employee under age 70 can be fired "for cause", but it is very difficult these days to get a civil suit tried in Federal court, because of the speedy trial law giving priority to criminal cases. An employer requiring an employee to retire before age 70 might have to wait 3 years or more for a decision. In the meantime back pay claims would build up. Instead of saying "this employee (between 65 and 70) is still qualified—and that one is not," it will be easier to make no distinctions and to allow all to work until age 70.

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

Mr. GRIFFIN. Maybe I could have some more time?

Mr. JAVITS. I yield the Senator an additional 5 minutes.

I understand the Senator's disquiet, but this is not a new law. It has been on the books for 10 years, and the upper age limit of 65 has been on the books for 10 years.

The dangers which the Senator fears in this law have been disproved in the past 10 years. What we are doing here does not change employers' experience at all. Section 4(f)(1) is now in the law and, apparently, it has not presented the difficulties raised by the Senator.

Now, individual cases in many establishments occur where you do have dif-

ferent types of physical activity, different types of required alertness, and so on. The burden is, of course, on the employer, to prove the applicability of the exception. But I can only point out this law has been in effect for 10 years and has not engendered any undue amount of litigation.

Mr. GRIFFIN. If I may proceed for a few minutes, I do have some contrary points of view I would like to express.

Mr. JAVITS. The Senator can have as much time as he wishes.

Mr. GRIFFIN. I thank the Senator.

Mr. JAVITS. How much time does the Senator wish? Fifteen minutes? I have no desire to curtail the Senator.

Mr. GRIFFIN. Five minutes.

Mr. JAVITS. I yield the Senator 5 additional minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. Mr. President, frankly I concur with the spokesman for the AFL–CIO who testified before the House committee when he said:

> Because the appropriate age for retirement will vary from industry to industry and from occupation to occupation, labor and management are best equipped to work out retirement problems unique to their industries through the collective bargaining mechanism.

The earlier law, passed 10 years ago, which allowed mandatory retirement at age 65, made some sense, because age 65 ties in with the social security program. But I am deeply concerned that Congress is now about to change the age to 70 without enough study and deliberation about the effects of this action.

First, as we have already pointed out, this bill will preclude a union and management from negotiating a sensible retirement policy if it does not fit the rigid mold of this bill and—even though retirement at 65 or 62 might make good sense for all concerned in a particular group or industry.

Second, I am concerned about the effect of this bill upon pension plans now in effect, particularly plans covering employees who are not represented by labor unions. Many of those plans contemplate retirement at age 65. But, of course, it would be cheaper for an employer to fund a plan if employees worked until age 70. What will prevent an employer from changing such a plan—or establishing a new plan that lengthens the time an employee will have to work in order to benefit?

The Senate should also be concerned about the impact of this bill upon the economy, the productivity of the work force, the unemployment rate, and upon our whole social structure. Under this bill it is possible that a good many more workers will continue to work past age 65 until they reach age 70. As a practical matter, the employer is put in an impossible position by this bill. He will not be able to say, as among employees in the 65 to 70 age group: "You are still qualified—but you are not." So all who think they want to work, regardless of productivity, will get to do so.

How will this affect the employment opportunities of those who are now out of work, particularly young men and women who are seeking entry for the first time into the work force?

Obviously, every older person who continues to work past 65, because of this bill will be blocking a younger person from entering the work force at the bottom of the economic scale. If we are concerned about black unemployment—if we are concerned about teenage unemployment in the inner city, this bill will not advance their cause.

Despite my concerns, I do not advance the argument that the policy change embodied in this bill should never be made. I am saying, however, that it should not be made without more thought and consideration than the Senate is devoting to this measure on this occasion.

As this amended bill now stands all elementary and high school teachers with tenure will be able to continue teaching until they are 70 years of age, if they wish. To say that a school board, even in conjunction with a teachers union, cannot set a different, more sensible policy is ridiculous on its face. This move will surely be bad news for many students—and for many young newly graduated teachers who are out of work.

As the bill now stands, employees in such groups as airline pilots, stewardesses, and air controllers will be able to insist on working until age 70, even though their unions might see the wisdom of an earlier retirement age.

At the same time, without much logic or reason, this bill arbitrarily exempts two groups: College professors and highly paid corporate executives. In other words, persons in those two groups only, can be required, despite the law, to retire at age 65.

To recognize the need for exemption of those two groups, arbitrarily, is to recognize the basic weakness of this legislation. If those two groups ought to be exempted, can anyone really say, with a straight face, that they are the only ones to whom the policy of this bill should not apply?

I predict that the Senate will rue the day it passed this bill. I intend to vote against it, and I hope other Senators will do the same.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Will the Senator from New Jersey yield me 1 minute?

Mr. WILLIAMS. I am glad to yield the Senator from New York any time I have.

Mr. JAVITS. Just 1 minute.

Mr. President, we dealt with this question which has just been referred to in the committee report. I believe the questions raised by the Senator from Michigan are so important that we should include that whole section of the report which deals with this matter in the RECORD. It is found at page 10, relates to the amendment to section 4(f)(1) which is now in the bill, and makes it very clear that we intend that employers may establish a mandatory retirement age that is lower than age 70 where the requirements of section 4(f)(1) can be proved by the employer—that is, where the employer can demonstrate that there is an objective, factual basis for believing that virtually all employees above a certain age are unable to safely perform the duties of their jobs and where, in addition, there is no practical medical or performance test to determine capacity.

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

AMENDMENT TO SECTION 4(f)(1)

> The committee intends to make clear that under this legislation an employer would not be required to retain anyone is not qualified to perform a particular job. For example, in certain types of particularly arduous law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age would be unable to continue to perform safely and efficiently the duties of their particular jobs, and it may be impossible or impractical to determine through medical examinations, periodic reviews of current job performance and other objective tests the employees' capacity or ability to continue to perform the jobs safely and efficiently.
>
> Accordingly, the committee adopted an amendment to make it clear that where these two conditions are satisfied and where such a bona fide occupational qualification has therefore been established, an employer may lawfully require mandatory retirement at that specified age. The committee also expressed its concern that litigation should not be the sole means of determining the validity of a bona fide occupational qualification. The Secretary is presently empowered to issue advisory opinions on the applicability of BFOQ exception. The committee recommended that the Secretary examine the feasibility of issuing guidelines to aid employers in determining the applicability of section 4(f)(1) to their particular situations.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. JAVITS. May I get 1 more minute?

Mr. WILLIAMS. Yes.

Mr. JAVITS. I would like to assure the Senator from Michigan that, however he may vote on the bill, we have not taken this step without carefully studying the problem. To delay further would be to countenance continued discrimination on the basis of age. Individuals deserve to have their performance evaluated without reference to their age, and neither employers nor unions should be able to substitute their notions of when an employee is "ready" to retire. And with respect to your comments about youth unemployment, I want to reemphasize my belief that we cannot pit one disadvantaged group against another. During this session, we have passed landmark legislation addressed to the problems of youth unemployment; it is now time for the older worker.

Mr. GRIFFIN. Mr. President, will the Senator from New York yield?

Mr. JAVITS. Yes.

Mr. GRIFFIN. I do not understand what the standard is supposed to be. Would he say, for example, that if most policemen are physically unqualified after age 65 to continue to serve on the police force, then all policemen could be required to retire at 65, rather than 70?

Mr. JAVITS. If it is reasonable, factually based, and can be justified as a bona fide occupational qualification for that type of employment.

The PRESIDING OFFICER. The Sen-

ator's minute has expired. Who yields time?

Mr. JAVITS. I ask for 1 more minute.

Mr. WILLIAMS. I yield the Senator 1 more minute.

Mr. GRIFFIN. Is a large majority required? Obviously, in almost any group—even including the Senate of the United States—there are some who are able and qualified to work beyond the age of 70, or 75, or 80, or even 90; of course, others are not.

Mr. JAVITS. Let me read it to the Senator, because I think it is important:

The committee intends to make clear that under this legislation an employer would not be required to retain anyone who is not qualified to perform a particular job. For example, in certain types of particularly arduous law enforcement activity, there may be a factual basis for believing that substantially all employees above a specified age would be unable to continue to perform safely and efficiently the duties of their particular jobs, and it may be impossible or impractical to determine through medical examinations, periodic reviews of current job performance and other objective tests the employees' capacity or ability to continue to perform the jobs safely and efficiently.

The PRESIDING OFFICER. The Senator's minute has expired.

Mr. JAVITS. One more minute.

Mr. WILLIAMS. One minute.

Mr. GRIFFIN. Who is going to make that determination?

Mr. JAVITS. Employers are always free to request an opinion from the Secretary of Labor, which may be relied upon under the provisions of the Portal-to-Portal Act. And, of course, the courts are the last resort in a disagreement on the applicability of the exception.

Mr. GRIFFIN. Well, putting such power in the hands of the Secretary of Labor is one more reason why I shall vote against the bill.

ADDITIONAL STATEMENTS SUBMITTED

Mr. CRANSTON. Mr. President, the Age Discrimination in Employment Act (ADEA) was enacted to prohibit discrimination in employment on account of age in such matters as hiring, job retention, compensation, and other terms, conditions and privileges of employment. Its purpose is threefold: to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; and to help employers and workers find ways of meeting problems arising from the impact of age on employment.

The ADEA currently prohibits most employers, employment agencies, and labor organizations from discriminating in employment practices against persons between the ages of 40 and 65 on the basis of their age. The law applies to employers having 20 or more employees, public employers, employment agencies serving such employers, and labor organizations with 25 or more members.

The act contains exception for cases where age is an established occupational qualification reasonably necessary to the normal operation of a particular job. This is known as the "BFOQ" provision.

On September 22, the House of Representatives approved H.R. 5383 by an overwhelming vote of 359 to 4. The House-passed bill includes provisions to raise from 65 to 70 the upper age limit of coverage under ADEA. The Senate bill, as reported by the Human Resources Committee on October 12, also raises the age of coverage to 70, but included in section 6 provisions to exclude from the extended coverage tenured teachers, college professors, and certain employees with retirement benfits of more than $20,000.

OPPOSITION TO EXCLUSION FROM COVERAGE

Mr. President, I sought to delete these exclusions from coverage because I believe that they are contrary to the principle of equal treatment and equal rights for all Americans which underlies the ADEA. We failed by the narrowest of margins, but I think we have made it clear that these provisions have the support of only a bare majority of Senators. I am pleased that the Senate has agreed to delete the exclusion of elementary and secondary teachers from the bill. That was the biggest loophole. I think it would have been a grave mistake to deny the over 2 million elementary and secondary teachers the full protections of the ADEA.

While I regret that the Senate did not remove the other exclusions, I believe that the very close vote—45 to 48—on my amendment to strike these exclusions from the bill demonstrates that a large number of my colleagues share my view that these exclusions are inappropriate and unjust.

ARGUMENTS AGAINST MANDATORY RETIREMENT

Mr. President, it is the view of the Committee on Human Resources—which I strongly share—that mandatory retirement works severe injustices against older workers.

Substantial evidence exists that mandatory retirement may have severe deteriorative impact on the physical and psychological health of older individuals. Dr. Albert Gunn, assistant director for hospitals at the M. D. Anderson Hospital Reheabilitation Center at the University of Texas in Houston, testified in hearings before the Labor Subcommittee that mandatory retirement based on age often subjects workers to sudden and sometimes strong negative reactions that affect mental attitudes, health, and perhaps even longevity. It detracts from the quality of life by taking away a sense of fulfillment and self-sufficiency that many workers find can be realized only from productive employment.

The American Medical Association opposes mandatory retirement. In the view of this organization, enforced idleness robs those affected of the will to live full, well-rounded lives, and deprives them of opportunities for rewarding physical and mental activity.

Mr. President, although I oppose any mandatory retirement age, I support the committee's decision to raise the age of coverage of the ADEA to 70, while we await the results of a study, also authorized by this legislation, on the impact of further changes in the age coverage of the ADEA.

NEW CALIFORNIA LAW BANS MANDATORY RETIREMENT

In this regard, Mr. President, I would like to point out that in my home State of California, our Governor recently signed into law legislation that completely removes the upper age limit of California's State law banning age discrimination in employment for workers in both the public and private sector. California thus joins the dozen or so States which proscribe mandatory retirement at any age.

Gov. Edmond J. Brown, Jr., in signing California's new law, rejected the arguments raised by the opponents. Noting that the opposition to this type legislation came mainly from the universities, corporations and "other holders of power." Governor Brown stated, "This is a classic case of gigantic institutions putting their own archaic and stereotyped work rules ahead of individual freedom." Governor Brown also said, "I would urge other States and other countries to do the same thing—the new California law—expands the available talent that society can draw on. It not only enhances individual liberties but also the ability of society to meet its needs."

I am proud that my home State is among the leaders in abolishing this form of employment discrimination and am proud to join with Governor Brown in opposition to age discrimination in employment.

MANDATORY RETIREMENT AS ARBITRARY AS OTHER FORMS OF DISCRIMINATION

Mr. President, I am against age discrimination in employment just as vehemently as I am against discrimination in employment based on sex, race, or other arbitrary factors. It, too, has the tragic result of wasting the talents and abilities of millions of Americans.

Those in favor of mandatory retirement claim that old age brings frailty and increased sickness—thus accident proneness—increased absenteeism, and actual reduced vigor in job performance. Yet, a number of studies have contradicted these categorical assertions by finding that older workers can produce a quality and quantity of work equal or superior to other workers, that they have as good, and usually better, attendance records as other workers, that they are as capable of learning new skills and that they are generally more satisfied with their jobs than other workers.

HISTORICAL PERSPECTIVE

Mr. President, the age of 65 was generally considered a reasonable retirement age when the social security program was established in 1935. In that year, life expectancy in this country was an average of 61.7 years. The life expectancy in 1976 was 72.5 years, an increase of more than 10 years. This fact in itself presents a persuasive argument for a reevaluation of the assumption that age 65 is acceptable as a "reasonable" retirement age. The upper age limit of 65 in the ADEA was selected only because it was the age at which pensions became payable under the 1935 Social Security Act. Reconsideration of this figure is clearly appropriate today.

ELIMINATION OF MANDATORY RETIREMENT WOULD HAVE MINIMAL IMPACT ON OPENING JOB OPPORTUNITIES FOR YOUTH

Mr. President, it has been argued that raising the mandatory retirement age would greatly increase the labor force participation rate of older workers and thereby reduce employment opportunities for younger workers. However, estimates by the Department of Labor indicate that if mandatory retirement had been prohibited for all workers under 70 in 1976, the male labor force would have increased by only one-tenth to two-tenths of 1 percent.

Further, studies demonstrate that only 30 to 40 percent of forced retirees have both the ability and the desire to continue working; of the total sum of voluntarily retiring male workers, only 7 percent of all retired male workers would be competing on the job market. Moreover, it may not be necessary to make room for the young in the coming years since the percentage of young people in the country will continue to decrease.

Mr. President, the premise that there is a need to make room for young entrants into the ranks of the employed was a product of the inevitable maturation of all those born during the "Baby Boom" years between 1949 and 1959. Since 1960, however, the birth rate has followed a sharp decline. Thus, by the end of the 1970's there will be 30 percent fewer entrants into the working population annually. If we allowed mandatory retirement to continue, there would not only be a reduced labor force, but the burden of social security and pension funds will weigh more heavily on the diminished number of younger workers.

BENEFITS TO RETIREMENT SYSTEMS

On the other hand, eliminating mandatory retirement would strengthen the social security and private pension systems, for workers would continue to contribute beyond age 65 instead of drawing benefits. Moreover, the economy would be stimulated as those working past age 65 continue to use their full purchasing power, while adding billions to the GNP through their skills and expertise.

A few years ago, the ratio of workers to social security beneficiaries was 4 to 1; today the ratio is 3.2 to 1; by 2030 the ratio will approach 2 to 1. The elimination of mandatory retirement would help alleviate this lopsided ratio and help provide a more sound retirement system. Ideally, those persons we now force into idleness should be permitted to continue in the work force, if they wish to do so, paying social security taxes and contributing to retirement plans, rather than being forced to join the retirement ranks collecting cash benefits.

Mr. President, it should be noted too that mandatory retirement causes increased expense to Government income-maintenance programs such as social security, as well as to social service programs, while causing loss of skills and experience from the work force, thus injuring the national economy. The Department of Labor has indicated that forcing skilled workers to resign reduces our gross national product by an estimated $10 billion. And, as I indicated, mandatory retirement also accelerates the likelihood that a proportionately smaller labor force will be supporting a larger retiree group by 1999.

ISSUE IS FREEDOM TO CHOOSE

Mr. President, the issue before us today is this: Should American workers have the freedom to decide whether or not they will continue to work past the age of 65?

There is nothing in this bill which requires individuals to work beyond 65—indeed the trend in recent years indicates that more and more Americans are choosing to retire early. But the opportunity to work past 65 should be provided for those who want to stay on the job, who are capable of continuing productive work and who need to work to support inadequate retirement benefits or who need to work for their health and well-being. I believe that to provide otherwise is short-sighted, unjust, and contrary to the principle of the Age Discrimination in Employment Act of 1967 (ADEA) that individuals be considered for employment on the basis of merit and ability, not age. For this reason, I support the legislation before us today to raise the upper age limit of coverage under the ADEA from 65 to 70, with the hope that this is a first step toward the eventual elimination of all mandatory retirement requirements.

Mr. President, I want particularly to thank Susanne Martinez and Fran Butler for their outstanding work on this bill, especially on the amendment I offered earlier today.

I urge my colleagues to support the Senate bill; imperfect as it is, it is a long stride forward.

Mr. DOMENICI. Mr. President, I would like to join with the distinguished floor managers in urging the Senate to act favorably on H.R. 5383, the 1977 amendments to the Age Discrimination in Employment Act. Approval of this measure will be an especially happy occasion for me. On January 28, 1977, I introduced S. 481, the first Senate bill in the 95th Congress which was designed to extend the protection of the Age Discrimination in Employment Act to persons over 65 years of age. On May 12, I wrote to the distinguished chairman of the Labor Subcommittee (Mr. WILLIAMS) and the Ranking Minority Member (Mr. JAVITS) urging them to give prompt and favorable action to legislation that would eliminate unreasonable age discrimination. I was pleased when they promptly responded by scheduling 2 days of hearings in late July.

Mr. President, I ask unanimous consent that the text of my May 12 letter be printed in the RECORD at this point in my remarks.

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

MAY 12, 1977.

Hon. JACOB K. JAVITS,
Ranking Member, Subcommittee on Labor, Room 4230, Dirksen Building, Washington, D.C.

DEAR JACK: As the Ranking Minority Member of the Special Committee on Aging, I have become increasingly concerned about the implementation of the Age Discrimination in Employment Act of 1967.

My first concern centers around reports that the Labor Department is simply not vigorously enforcing the present statute. The burdens of general inflation, the rapidly rising cost of energy, and the steady rise in health costs have fallen heavily upon the low and middle income elderly, most of whom live on fixed incomes. To meet these economic pressures, many older persons have found it necessary to continue working. Unfortunately many of them have not received meaningful assistance from the ADEA.

My second concern is closely related to the first. The current law prohibits discrimination against older workers between the ages of 40 and 65. An employer confronted by two potential employees, one aged 64 and the other 66, would actually be violating the ADEA if he hired the older individual. Thus we have, in effect, legislated discrimination against older workers over 65.

I would also note that the inability to have reasonable access to the job market is an especially heavy burden on women who did not start work until after their children were grown or after they had been widowed or divorced. Such employment discrimination limits the work life of these women thus preventing them from building up sufficient pension and/or Social Security benefits.

On January 28th, I introduced legislation (S. 481) which would make ADEA apply to all workers over the age of 40. I believe that this reform would ease the burden on Social Security and other Federal and State programs of income maintenance. It would also help those older persons who wish to work to better provide for their own housing, food, medical services, etc. I would urge you, as the Ranking Member of the Labor Subcommittee to schedule hearings on this important bill at the earliest possible date. Clearly the time has come for us to eliminate this form of unreasonable age discrimination from our economic system.

With warmest regards and best wishes, I am

Sincerely,

PETE V. DOMENICI.

Mr. DOMENICI. During my testimony before the Labor Subcommittee I urged the committee to completely remove the upper age limit so that the ADEA could protect all workers over the age of 40. The committee has chosen to raise the upper age limitation from 65 to 70. Although this is less than I had hoped, I believe it is a significant step forward and I support it. In connection with this matter, I was pleased with the committee's decision to mandate a study of the effects of raising the age limitation from 65 to 70 and the feasibility of raising it still higher in the future. I think that this is a constructive approach that will give the Congress the data we need to make future decisions regarding mandatory retirement.

Mr. President, I would like to briefly list the major reasons why I am urging the Senate to approve H.R. 5383.

First. The way the current law reads, we have actually institutionalized discrimination against workers over the age of 65. An employer with two potential employees—one aged 66 and one aged 63—would actually be in violation of the law if he hired the older individual.

Second. To further complicate the matter, a number of recent court decisions have narrowed the coverage of the existing act to such a point that it might well be rendered moot.

Third. The majority of retirees do not have private pensions to supplement

their social security benefits—and the earnings limitation makes it difficult for them to significantly increase their retirement income.

Fourth. If the low birth rate continues, there will be a steady increase in job opportunities for older workers. Thus there is a clear need for more flexible retirement system, in both the public and private sectors of our economy, to meet our future manpower needs.

Fifth. Greater freedom of choice in determining an individual's exit from the labor force could ease the financial pressures on the hard pressed social security trust funds as well as medicare, medicaid, food stamps, and other public assistance programs.

Sixth. Mandatory retirement is, for many people, a cruel, capricious, and arbitrary form of age discrimination that can no longer be justified or defended.

Seventh. An arbitrary chronological age is a poor indicator of a person's ability to perform a job.

Eighth. Involuntary retirement can adversely affect the psychological, emotional, and physcal well-being of older persons—a point substantiated by the American Medical Association's Committee on Aging.

Ninth. Mandatory retirement works to the disadvantage of those women who did not enter the work force until their children were grown or after they were widowed or divorced. They often find it difficult if not impossible to accumulate adequate pension and social security benefits.

Tenth. When a person is forced to retire he or she may find that age discrimination makes it extremely difficult for them to find another job.

Eleventh. Mandatory retirement deprives our Nation of the skills, talents and experience of thousands of productive Americans each day.

Twelfth. Involuntary retirement increases the cost of numerous governmental programs, and adds to the drain on the various Social Security trust funds.

Thirteenth. In 1974 a Harris poll indicated that 40 percent of our 20 million retirees would prefer to be working. Thus we have denied these 8 million individuals the freedom of choice to which they are entitled.

Fourteenth. Compulsory retirement is not applied equally to all segments of our economy. Many of the professions, the self-employed, and so forth are free from this type of discrimination. Thus mandatory retirement weighs most heavily upon low- and middle-income individuals.

Mr. President, when Senator FONG first introduced in the 93d Congress an age discrimination bill designed to raise the upper age limitation, he was putting forth an idea whose time had not yet come. Recent economic, social, and demographic changes have revolutionized our perception of mandatory retirement and it is now possible and desirable to enact this legislation.

H.R. 5383 will reassure older Americans that our society needs them and wants them to remain as vigorous, contributing, functioning members of their community. On an individual basis, it would preserve or restore to older workers a sense of self worth and dispel the feeling that his or her life no longer has purpose or meaning.

Mr. President, in closing let me note that medical and nutritional advances throughout the 20th century have enabled Americans to live longer and healthier lives. Our task today is to improve the quality of life for our 22 million senior citizens—a task we can begin to achieve by the prompt enactment of H.R. 5383.

Mr. BELLMON. Mr. President, I support H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977. The purpose of this legislation is to insure that older individuals who desire to work will not be denied employment opportunities solely on the basis of age. This objective would be achieved by raising the current upper age limit of 65 years of age to 70 years of age.

Mr. President, as Governor of the State of Oklahoma, I was successful in initiating the first compulsory retirement system in the State. I believed then and I believe now in mandatory systems as being beneficial in freeing up jobs for young persons waiting to join the work force and in hastening the retirement of workers who desire to leave the work force. While I am still concerned with the present unemployment situation among the young, it is interesting to note that recent estimates by the Department of Labor indicate that if mandatory retirement had not been required for all workers under 70 years of age in 1976, the male labor force would have increased by only one-tenth to two-tenths of a percent. For the female labor force, the figure would have been one-tenth of a percent. This represents an increase in the labor force of approximately 200,000 per year. In my view, this is a relatively small increase in the labor force.

Mr. President, I think it should be emphasized that H.R. 5383 allows maximum freedom of choice for employees to decide when to retire. Now that scientific research indicates that chronological age alone is a poor indicator of ability to perform a job, I believe it is time to allow workers that right to continue the self-sufficient fulfillment that many workers realize from productive employment.

Mr. President, I commend the work on this bill by the Senate Human Resources Committee. The committee has also adopted several exemptions to the 70-year mandatory retirement age. These exemptions include compulsory retirement of highly compensated employees at age 65 or above if they will receive an employer-provided annual retirement benefit of at least $20,000, exclusive of social security. This amendment also includes a provision for the Secretary of Labor to adjust the $20,000 figure to reflect increases or decreases in the cost of living. I support this amendment.

Another amendment included in the Senate version of H.R. 5383 is the exemption for certain employees of educational institutions. This provision allows colleges and universities to maintain compulsory retirement policies for faculty, age 65 or above, who are serving under a contract of unlimited tenure This same provision has also been included permitting compulsory retirement of teachers in public schools at age 65. An argument for this amendment was best made, I believe, in a letter received from President Samuel E. Curl, of Phillips University in Oklahoma, who suggests that if mandatory retirement of faculty members is prohibited until age 70, there will be even fewer opportunities for well-trained, vibrant, young faculty members to secure teaching and research positions in U.S. colleges and universities. President Curl continues by pointing out that academic institutions across the country, already experiencing substantial budgetary problems due to inflation and in some cases declining enrollment would incur an additional financial obligation for services which, in many cases, yield questionable academic returns, should the 70 age limit be permitted in this profession.

Mr. President, I urge the Senate to favorably consider H.R. 5383 as reported by the Human Resources Committee. I believe it is time we give American workers greater freedom in determining whether to retire or continue working. In my judgment, there is great potential in many men and women over age 65 and retirement should be an individual consideration.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

AUGUST 31, 1977.

Hon. HENRY BELLMON,
Dirksen Building,
Washington, D.C.

DEAR SENATOR BELLMON: I am writing to you with regard to H.R. 5383, concerning age discrimination in employment. Although H.R. 5383 was reported by the House Committee on Education and Labor on July 14 by a unanimous 33–0 vote, it has some serious implications for the financial and academic health of our colleges and universities.

If mandatory retirement of faculty members is prohibited until age 70, there will be even fewer opportunities for well-trained, vibrant, young faculty members to secure teaching and research positions in U.S. colleges and universities. Furthermore, entry into faculty and administrative positions by women and minorities would be slowed considerably. Academic institutions across the country, already experiencing substantial budgetary problems due to inflation, and in some cases, declining enrollment, would incur an additional financial obligation for services which in many cases, yield questionable academic returns. Although there are numerous exceptional cases, our students would, in general, be the ultimate losers. In summary, American higher education would suffer both financially and academically by passage of H.R. 5383. At the present, there is a strong presumption of retirement at age 65, with no great stigma attached to being "terminated" at that time.

I would greatly appreciate your voting against passage of H.R. 5383 and your influence in that regard. I will be grateful for what you can do at any time to insure that control of American colleges and universities remains in the hands of the trustees and administration of those institutions. Thank you very much.

Sincerely,

SAMUEL E. CURL, *President.*

Mr. THURMOND. Mr. President, under the current Age Discrimination in Employment Act, it is unlawful for an employer to "... fail or refuse to hire, discharge, or otherwise discriminate against any individual with respect to his compensation, terms, conditions or privileges of employment because of age." Coverage extends to members of the civilian labor force between the age of 40 and 64.

H.R. 5383 would change the age limit from the 65th to the 70th birthday. A number of groups have complained about the added costs which will be required to adjust employee work and health benefit programs and pension benefit accruals. In light of these concerns, the committee has made a number of changes in the bill as introduced, and I believe has answered many of their concerns.

Ideally, we should abolish mandatory retirement altogether, with a phase-in to allow for any necessary adjustments in pension, health, or other benefit plans. The option for voluntary retirement at age 65 should be retained, and social security recipients should not be penalized if they decide to work after age 65.

I strongly believe that as long as an individual wants to continue working and is able to do a good job, he should not be forced to retire. Age alone is a poor indicator of ability to perform on the job. Improved health techniques, longer life expectancy, the desire of people to maintain previous gains in the standard of living, and the detrimental effect on society and the individual of enforced idleness, make mandatory retirement a practice of questionable value.

Mr. President, I strongly support this legislation and urge my colleagues to do likewise.

Mr. KENNEDY. Mr. President, there is perhaps no more alienating an experience than being put out to pasture. It is a profound exile to be told that you are not wanted for work anymore even though you still want to work and are capable of working.

It is also a frightening experience to feel the need to maintain an income and to be told that you will not be allowed to do so.

Older workers bear the stigma that, as a class, they are less productive. In most fields of endeavor this is not the case, yet the irrationality leads to the shame and pain of unnecessary forced retirement. What we seek to do in this bill is to mitigate the pain of arbitrary forced retirement.

The bill has two main features. First, it protects workers against being terminated or being refused employment on the basis of age, from the time that they are 40 until the time that they are 70. This raises the protection another 5 years above that offered under the current law—from 65 to 70.

Second, the bill clarifies the congressional intention behind the exception to the act which allows lesser benefits to be given to older workers in pension, retirement, and insurance plans. The purpose of this provision was to ease the way for employment of older workers by allowing some differentiation in the fringe benefits that they would get. But a couple of courts have interpreted the provision to allow for the discharge of workers even if they would otherwise fall under the act's protection, so long as they were covered by a pension plan. We now make clear that the differentiation is allowed for purposes of fringe benefits alone and not for purposes of allowing an earlier retirement age.

Mr. President, I look forward to speedy action on this bill. Its counterpart measure has already been passed by the House.

Most workers who reach their mid-60's want to retire. We have helped make retirement a more pleasing prospect for older people as we've come to realize that our obligation to them entails both increasing their income and providing them with a variety of services. In this area, I have proposed legislation, which has become law, which provides nutritional insurance for older Americans. I was one of the sponsors of the Older Americans Act, which first clarified the need for a comprehensive approach to the needs of the elderly. There is much more which has to be done, but we should be pleased at the pledges to the elderly which we have made so far.

But it still must be acknowledged that the disposable income of retirees is much less than that of active workers—the average direct income of the worker decreases to less than half when he retires. In addition, of course, there are some people who want to continue to work—there is a good feeling which comes from a job well done.

For both of these reasons, we should protect people when an employer has no good economic reason to fire them or refuse to hire them. And that is what this bill does.

Mr. President, I am reminded of Daniel Webster's comment on the importance of work in this society:

> Employment gives health, sobriety and morals. Constant employment and well paid labor produce, in a country like ours, general prosperity, content, and cheerfulness.

Today we can take another step to insure that anyone who is imbued with that feeling will not be tossed aside merely because he was born too soon.

MANDATORY RETIREMENT

Mr. CLARK. Mr. President, I fully support the principles embodied in H.R. 5383, the Age Discrimination in Employment Act Amendments of 1977.

The bill has three major components: First, the upper age limit of the antiage discrimination law would be raised from 65 to 70.

Second, mandatory retirement before age 70 would be expressly prohibited.

Third, the Secretary of Labor would be authorized to conduct a study to determine the feasibility of abolishing mandatory retirement completely.

This legislation, which has already been overwhelmingly approved by the House of Representatives, will go a long way toward providing older workers with the protection they need against job discrimination on account of age.

However, as reported from the Senate Human Resources Committee, the bill exempts from its raised mandatory retirement age teachers, professors, and employees with substantial pension benefits. I consider this an inequity. I think the same retirement age should apply to all persons. I therefore have joined as a cosponsor of the Cranston-Church amendment to H.R. 5383, which would strike these exemptions from the bill.

Mr. President, I have long sought to end mandatory retirement. It constitutes the cruelest form of age discrimination, and it deprives this country of the resources of a vast number of senior citizens who wish to continue working, but cannot.

As the proportion of older Americans in the population grows larger, mandatory retirement practices will become an increasingly burdensome problem for millions of Americans, in fact, by the end of the century, we can expect the population to include 30 million persons over the age of 65.

An excellent study conducted for the National Council on the Aging, entitled "The Myth and Reality of Aging in America", concluded that one-third of the senior citizens would like to return to the work force—and an even larger number say they did not choose to retire in the first place. The desires of these older Americans will never be met until we end mandatory retirement once and for all.

While I would have preferred lifting the mandatory retirement age completely, this bill represents an important first step toward that ultimate objective.

Residents of my home State of Iowa have a large stake in this legislation, since Iowa has the third highest percentage of senior citizens among all States.

During field hearings held last year in the State by the Senate Special Committee on Aging, on the subject of "The Nation's Rural Elderly", I frequently heard from Iowans who objected to current mandatory retirement policies.

It should be stressed that this legislation would not force older people to postpone retirement. It would merely say to older Americans that if they are capable of continuing to work, and desire to do so, they will not be forced to retire until age 70.

This is a far fairer system than the one currently in effect. I want to urge its adoption by the Senate.

Mr. DOLE. Mr. President, most persons who have studied H.R. 5383, the bill amending the Age Discrimination in Employment Act, realize that if our employment situation was what we would like it to be, there would be no controversy over this issue.

Ideally, there would be an abundant number of jobs, the unemployment rate would be low enough as to be inconsequential, and there would be no reason for a mandatory retirement age. Unfortunately, no one needs to be reminded that our economic outlook is not this healthy.

BLEAK ECONOMIC PICTURE

We have to admit to a high unemployment rate. We have to recognize that a large number of youth and minority members are unemployed. We have to admit the possibility that if the mandatory retirement age is raised, employment and promotion opportunities all

across the board might be affected. Therefore, the real decision is whether we should allow older citizens to work 5 more years, or whether we should attempt to open as many work opportunities as possible for younger workers.

I have chosen to support the Age Discrimination Act as reported by the Human Resources Committee. In my opinion, this represents an acceptable compromise between the two choices outlined above.

HARDSHIPS ON RETIRED PERSONS

Every day, something in the news, a letter in my mail, or an encounter through another median reminds me that our less-than-thriving economy hits older Americans especially hard. Many of them live on a small, fixed income, and find it almost impossible to stretch their funds enough to compensate for the effects of inflation. Quite possibly, these persons would be better off had they been allowed to work up until age 70.

Not only would there be a paycheck coming in for more years, but there would be a larger contribution into a retirement plan. If raising the retirement age from 65 to 70 can improve the quality of life for these persons, then I heartily support this bill.

CONTINUING AGE DISCRIMINATION

Because age is such an arbitrary guideline, and because it reflects nothing about job performance, I regret that we find it necessary to refer to it at all. I am pleased to note that this bill directs the Department of Labor to study the possibility of removing the age limitation completely. Just raising the retirement age from 65 to 70 hardly eliminates discrimination. As I mentioned earlier, I look forward to the time when our economy will permit us to lift all restrictions.

The controversial aspects center on whether or not employers may require tenured college professors, and executives with retirement benefits of at least $20,000 to retire at age 65. With an eye toward the disturbing unemployment figures, I support these exceptions.

PROFESSORS

Tenured college professors often keep younger professors from being hired, or from progressing within the department. As long as an older professor holds a position, a research or teaching assignment, and a salary twice that of his younger colleagues, the academic community will see limited growth.

This could have severe effects on the American educational system. The provision allows mandatory retirement at age 65. At the same time, mandatory retirement is not required, so those older professors who are still exceptional may be able to continue teaching.

Testimony reflects that as the number of college-age students decreases, universities will be forced to cut back on teaching staff. It will be the untenured person that is forced out first, who is likely to be a female or a minority. However, if tenured professors are retired, this opens up new tenures to younger teachers.

EXECUTIVES

Similarly, older executives with a retirement pension of $20,000, excluding social security, are also appropriate candidates for retirement at age 65. It is unlikely that they would face financial hardships after they retire, and as long as their top-level positions are tied up, opportunities for promotion are limited for lower level employees. Once promotion occurs, it usually has a ripple effect down through the ranks. I think this should be encouraged, and therefore support excluding certain executives from coverage under this bill.

SUMMARY

I am pleased that the Senate agreed to these exceptions to H.R. 5383, and that for most employees, the mandatory retirement age will now be 70. I am hopeful that the House conferees will agree to these provisions, and trust that our action today is a step toward eliminating age discrimination.

Mr. WILLIAMS. Mr. President, I have no further requests for time.

Mr. JAVITS. I have no further requests, and I know of no further amendments.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment, as amended.

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

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 committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. Does the Senator from New Jersey yield back the remainder of his time?

Mr. WILLIAMS. I yield to the Senator from West Virginia.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending bill, before proceeding to the next bill, which is the GI bill amendments, I believe, the Senate proceed to the consideration of the conference report on foreign assistance appropriations, with a time limitation thereon of not to exceed 1 hour—this has been cleared with the other side of the aisle—the time to be equally divided between and controlled by the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 5383.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is, Shall the bill pass? 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 South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 567 Leg.]

YEAS—88

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

NAYS—7

Bartlett	Hayakawa	Wallop
Curtis	McClure	
Griffin	Stevenson	

NOT VOTING—5

Abourezk	Mathias	McGovern
Humphrey	McClellan	

So the bill (H.R. 5383), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of

the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 5383.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). Without objection, it is so ordered.

The Senate will please come to order. The Chair is unable to hear the statements of the Members.

Mr. JAVITS. Mr. President, I just want to express my appreciation at working again with Senator WILLIAMS to pass a very important bill for millions of our older citizens in this country. I want also to congratulate Mike Forscey who today and Steven Paradise of Senator WILLIAMS' staff and to thank them, and Don Zimmerman and Peter Turza of my staff and to thank them and those they represent for their fine service.

Mr. WILLIAMS. I want to join the Senator from New York in expressing my appreciation to Don Zimmerman and Peter Turza of his staff and to Steven Paradise, Michael Forscey, who is celebrating a birthday today, and to Charles Edwards of the Human Resources Committee staff for the fine work they have done on this legislation.

I also want to mention the dedication and support which has been provided by Harriett Bramble, Joan Wilson, Denny Medlin, Martha Woodman, Mildred Dunmore, and Maureen Dallard of the Labor Subcommittee staff. Without their willingness to work long hours day after day and often on weekends the subcommittees' work on this bill simply could not have been completed.

Mr. PERCY. Will the Senator yield?

Mr. JAVITS. Yes, I yield.

Mr. PERCY. I want to say that I have never voted on a bill which I have more reservations and questions about than this bill. It has come up sooner than most of us expected and at a time when most of us are heavily preoccupied with other urgent official business. I do not know fully what the consequences of this legislation are going to be. And I think a lot of my colleagues feel exactly as I do.

It is hard to vote against this bill, because I am deeply concerned about the rights and needs of older workers. On the other hand, I have serious reservations, because I wonder whether we really know all of the ramifications of what we are doing today.

Mr. JAVITS. Mr. President, we have taken the precautions, and every Senator should know that, of deferring the effective date for a full year. We are entirely openminded. Our feet are not rooted in concrete at all. Otherwise, we would not have done that. That is most unusual. That was at the request of the President.

I can assure the Senator, as one Senator and as the ranking member of this committee, that I shall regard any thought, idea, or suggestion he has to make with the greatest seriousness, notwithstanding passage of the bill.

Mr. PERCY. I express great appreciation for your assurances. The year's deferment was one reason why many of us felt that we could vote for the bill, even with serious reservations, because we do have a full year before its effective date to study the matter further. I think that openmindedness on the part of the committee will enable us to work together to see if the consequences are not what we expect.

I characterize my affirmative vote for this bill as a reluctant vote, because I am not convinced that many important questions have not been satisfactorily answered. These questions include: What would be the displacement effect on younger workers; what would be the effect on minority and women workers, workers who already suffer from the rigidity of seniority systems; and would there be an adverse effect on productivity due to the potential loss of efficiency of workers between the ages of 65 and 70? Will it cause individuals to inadequately financially prepare for retirement hoping that they can work until an age that subsequently is deemed unrealistic?

It is possible that definitive answers to these and other crucial questions are now nonexistent. The best knowledge of the Department of Labor, academia, business, organized labor, and other interest groups does not consist of hard facts, but of conjecture. We have no reliable statistics on the effect of this bill on pension plans or retirement benefits. We have no reliable statistics on the number of younger workers who may be denied entry into the job market, because an older worker decided to work until age 70. The available statistics and projections do not clearly indicate whether or not the trend toward early retirement will continue. In short, our actions today are based upon our best guess as to the probable impact of this bill rather than on clear and convincing evidence as to its impact.

However, mandatory retirement is not solely an economic issue. Indeed, it is primarily a people issue, and, in the absence of clear and convincing arguments to the contrary, it is consideration of the people aspect of this issue upon which I based my vote on this bill. Many of us have strongly advocated equal employment opportunities for all citizens, and we would be derelict if we did not somehow indicate our concerns in this regard for older workers.

We have our work cut out for us however in this next year before the law becomes effective. The exclusions already provided for in this bill may not prove to be adequate.

Mr. WILLIAMS. Mr. President, I move that the Senate insist on its amendments to H.R. 5383 and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. MATSUNAGA) appointed Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. KENNEDY, Mr. JAVITS, Mr. SCHWEIKER, Mr. STAFFORD, and Mr. CHAFEE conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize my senior colleague?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Will my colleague yield to me?

Mr. RANDOLPH. Yes, I yield to my distinguished colleague.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to compliment the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from New York (Mr. JAVITS) upon the passage by the Senate of the Age Discrimination in Employment Act. The concern of both of these Senators for the problems faced by older Americans is well-known and respected. One such problem is the growing alienation from society of our older citizens, who so often tend to be shunted aside and prohibited from making a worthwhile contribution to their fellow citizens.

Thankfully, the injustice of this situation is now being recognized, and Senators WILLIAMS and JAVITS are in the forefront in formulating a remedy. The passage of the Age Discrimination in Employment Act represents a large step in the formulation of that remedy. And our senior citizens owe both of these men a debt of gratitude for their labors.

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate today, during the hours of 1:45 p.m. and 2:45 p.m., to continue its investigation of labor union insurance. This has been cleared on the other side.

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

Mr. ROBERT C. BYRD. If my colleague will yield further.

Mr. RANDOLPH. Yes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate revert to the previous schedule and proceed at this time with Calendar Order No. 433, the veterans bill; and then, upon the disposition of that measure, go to the foreign assistance conference report, with the same time limitation on that conference report.

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

Mr. RANDOLPH. I should like to ask the Senator from New Jersey (Mr. WILLIAMS) whether this bill retroactively covers a forced retirement at, say, age 60 or 62 prior to the effective date of this bill where the individual so retired is eligible for, and actually receives, a pension under a pension plan which has been qualified with the Internal Revenue Service?

Mr. WILLIAMS. The bill is not retroactive. The question of mandatory retirements prior to the effective date of this bill will be determined by the courts' interpretation of existing law.

Mr. RANDOLPH. I thank the Senator for this explanation.

Mr. President, it is my desire to commend and congratulate the managers of the bill which has just been passed by a very overwhelming majority.

I say that Chairman WILLIAMS and the ranking minority member of the committee, Senator JAVITS, have certainly been very careful as they have proceeded in an effort at clarification and to indicate that our action today is not locked in legislative concrete.

There is an opportunity here, as has been stated by the assurance of Senator JAVITS to Senator PERCY, and I am sure that would be a statement that could be affirmed by the chairman of our committee (Mr. WILLIAMS), that we have moved forward in this legislation, because we felt it is appropriate; it is timely; and it is needed.

We are, in a sense, plowing some new ground in the Senate from the standpoint of providing opportunity to the elderly of our Nation. This measure concerns a vital segment of the American people. The older worker contributes in every facet of commerce—in businesses and professions of the United States.

I think the bill, on nearly all counts, is positive in nature.

Mr. WALLOP. Will the Senator yield?

Mr. WILLIAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. Is the Senator from West Virginia yielding?

Mr. RANDOLPH. I yield.

Mr. WILLIAMS. Mr. President, I just want a moment to express my gratitude for the very generous remarks of the Senator from West Virginia in regard to me.

I say once again that here is a major matter that has come before us in the Senate that has had the attention and the effort throughout of our good friend, the most distinguished Senator from West Virginia (Mr. RANDOLPH).

He has been so constructive and helpful through the entire process which brought to a vote this matter which is so important, particularly to the elderly in our country.

Mr. WALLOP. Mr. President, I believe the Senator from West Virginia had yielded to me.

Mr. RANDOLPH. Yes.

The ACTING PRESIDENT pro tempore. If the Senator will wait.

Mr. WALLOP. Mr. President, I say to my distinguished colleague from West Virginia that I do not disagree with the route and the course prescribed by the legislation previously passed by such an overwhelming margin. But I suggest we may be well locked into legislative concrete, because to go back on such a thing now would be a very cruel allusion cast upon the condition and hopes and dreams of the elderly people of America.

If there is any validity in the earlier remarks of those who expressed their reservations that we may not know how far we have gone, then I would only express the wish that we had not gone so far so quickly without adequate hearings. If the committee itself was really aware that there was reason to put this off for a hearing, I wish, indeed, they had put it off for a hearing and held hearings and then perhaps proceeded without the risk of hurting the feelings and hopes and aspirations of the elderly people in America.

I have no quarrel with where it has gone, but I have a worry it may be locked in concrete and has not done what we thought we had done.

GI BILL IMPROVEMENT ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 457, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 457) to amend section 1662(a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES VOCATIONAL REHABILITATION

SEC. 101. The table contained in section 1504(b) of title 38, United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19".

VETERANS' EDUCATIONAL ASSISTANCE

SEC. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$288";

(2) amending the table contained in paragraph (1) of section 1682(a) of title 38, United States Code, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$311	$370	$422	$26
Three-quarter-time	233	277	317	19
Half-time	156	185	211	13
Cooperative	251	294	334	19";

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$311";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$251	$294	$334	$19
Three-quarter-time	188	221	251	15
Half-time	126	147	167	10";

(5) striking out in section 1692(b) "$65" aid "$780" and inserting in lieu thereof "$69" and "$828", respectively; and

(6) striking out in section 1696(b) "$292" and inserting in lieu thereof "$311".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

SEC. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732(b) "$235" and inserting in lieu thereof "$251"; and

(2) striking out in section 1742(a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$311", "$98", "$98", and "$10.40", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

SEC. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1786(a)(2) "$292" and inserting in lieu thereof "$311";

(2) amending the table contained in paragraph (1) of section 1787(b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$226	$254	$277	$12
Second 6 months	169	197	221	12
Third 6 months	113	141	164	12
Fourth and any succeeding 6-month periods	56	84	108	12";

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$311".

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

ACCELERATED PAYMENT

SEC. 201. (a) Chapter 34 of title 38, United States Code, is amended by inserting after section 1682 the following new section:

"§ 1682A. Accelerated payment of educational assistance allowances

"(a) The Administrator shall, in accordance with the provisions of this section and section 1798(f) of this title and regulations which the Administrator shall prescribe under such sections, accelerate the payment of educational assistance allowances (hereinafter in this section referred to as 'accelerated payment') to an eligible veteran who

makes application and is eligible therefor. An accelerated payment shall be made by increasing the amount of the educational assistance allowance otherwise payable to such veteran for any school term and proportionally reducing the educational entitlement of such veteran under section 1661 of this title.

"(b) An eligible veteran who makes application for accelerated payment shall be eligible for such payment only upon the satisfactory completion of the school term for which such accelerated payment is to be made and only if—

"(1) such veteran was enrolled as a full-time student during such school term;

"(2) such veteran was entitled to an educational assistance allowance under section 1661 during such school terms;

"(3) such veteran has received a loan from the Veterans' Administration for such school term pursuant to section 1798(f) of this title;

"(4) the tuition and fees of the educational institution in which such veteran was enrolled are in excess of $1,000 for such school term;

"(5) such application was filed with the Administrator within 30 days after the beginning of the school term for which such accelerated payment is to be made;

"(6) the educational institution in which such veteran was enrolled has certified to the Administrator that such veteran satisfactorily completed such school term; and

"(7) the educational institution in which such veteran was enrolled has certified for such school term that less than 35 per centum of the total number of students enrolled in such institution were students receiving educational assistance benefits from the Veterans' Administration under this chapter or chapter 31, 35, or 36 of this title.

"(c)(1) An eligible veteran enrolled in an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have in excess of the number of months necessary to complete a program of education leading to a standard undergraduate college degree, if such veteran has not successfully completed such a program, or

"(B) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete the veteran's program of education, if such veteran has successfully completed a program of education leading to a standard undergraduate college degree.

"(2) An eligible veteran enrolled in an educational institution which is not an institution of higher learning shall, if otherwise eligible under this section, be entitled to an accelerated payment for—

"(A) the number of months equal to the number of months of entitlement such veteran may have remaining in excess of the number of months necessary to complete such program of education, or

"(B) nine months, whichever period is the lesser.

"(d)(1) In no event may the amount of accelerated payment for any school term exceed (A) an amount equal to the educational assistance allowance to which such veteran was otherwise entitled under section 1682 of this title for such school term, or (B) the amount by which the expenses of tuition and fees are in excess of $1,000 for such school term, whichever is the lesser.

"(2) In no event may the number of months of entitlement accelerated by a veteran for any school term exceed one-half the total number of months of entitlement the veteran may accelerate under this section unless such veteran can reasonably be expected to complete the program of education being pursued during the school term for which accelerated payment is to be made.

"(e) As used in this section, the term 'school term' means—

"(1) in the case of an institution of higher learning operating on a quarter system, three such consecutive quarters;

"(2) in the case of an institution of higher learning operating on a semester system, two such consecutive semesters; or

"(3) in the case of an educational institution not an institution of higher learning, or, in the case of an institution of higher learning not operating on a quarter or semester system, any time division approved by the Administrator of a program of education within which segments of the programs are completed."

(b) Chapter 35 of title 38, United States Code, is amended by inserting after section 1737 the following new section:

"§ 1738. Accelerated payment of educational assistance allowances

"An eligible person shall be entitled to an accelerated payment of educational assistance allowances pursuant to the provisions of section 1682A of this title.".

(c)(1) The table of sections at the beginning of chapter 34 of such title is amended by inserting

"1682A. Accelerated payment of educational assistance allowances."

below

"1682. Computation of educational assistance allowances.".

(2) The table of sections at the beginning of chapter 35 of such title is amended by inserting

"1738. Accelerated payment of educational assistance allowances."

below

"1737. Education loans.".

(d) The Administrator of Veterans' Affairs shall, not later than sixty days after the date of enactment of this Act, notify each appropriate educational institution that accelerated payments (as provided for in subsection (a) of this section) are available for certain students enrolled at such institutions, specifying the full conditions and procedures governing such payments.

(e) Notwithstanding the provisions of section 1682A or section 1738 of title 38, United States Code, as added by subsections (a) and (b) of this section, eligible veterans and eligible persons entitled thereunder shall for a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978, be entitled to accelerated payment of educational assistance allowances upon application therefor, but the amounts of such accelerated payment which may be paid for any such semester or quarters, the number of months by which such veteran's or person's entitlement shall be reduced, and any quantifiable eligibility criteria shall be appropriately prorated by the Administrator of Veterans' Affairs.

EDUCATION LOAN ELIGIBILITY IN CONNECTION WITH ACCELERATED PAYMENT

SEC. 202. Section 1798 of title 38, United States Code, is amended by—

(1) inserting in subsection (e)(3) a comma and "separately for loans made under subsection (a) and subsection (f) of this section" after "institutions"; and

(2) inserting at the end thereof the following new subsection:

"(f)(1) Notwithstanding the requirements of paragraphs (1) and (2) of subsection (c) of this section, each eligible veteran (for purposes of this subsection 'eligible veteran' includes 'eligible person' as defined in section 1701(a)(1) of this title) entitled to a loan under the provisions of subsections (a) and (b) of this section who, pursuant to section 1682A of this title, has applied and will be eligible for an accelerated payment under such section upon the satisfactory completion of the school term for which such payment is to be made is entitled to a loan under this subsection.

"(2) At the time of application for such loan in connection with such accelerated payment, the eligible veteran shall assign to the benefit of the Veterans' Administration the amount of the accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied.

"(3) Unless the Administrator finds there are mitigating circumstances, an eligible veteran who fails to complete satisfactorily any school term for which a loan has been received under this subsection is not eligible for receipt of any accelerated payment under such section 1682A until such time as such eligible veteran has repaid in full the principal amount of and interest due on such loan.

"(4) Notwithstanding the provisions of subsection (b)(3) of this section, an eligible veteran entitled to a loan under this subsection shall be entitled to a total loan amount equal to the amount of accelerated payment for which such eligible veteran is entitled for the school term for which such veteran has applied for such payment.".

DELIMITING PERIOD EXTENSION

SEC. 203. Section 1662 of title 38, United States Code, is amended by striking out the period at the end of subsection (a) and inserting in lieu thereof a semicolon and "except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability or impairment which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education.

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

CITATION OF AUTHORITY

SEC. 301. Section 210(c)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.".

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

SEC. 302. Chapter 34 of title 38 United States Code, is amended by—

(1) amending section 1663 by—

(A) striking out the first sentence and inserting in lieu thereof "The Administrator shall make available to any eligible veteran, upon such veteran's request, comprehensive counseling services, including but not limited to, vocational and educational counseling and testing."; and

(B) inserting at the end thereof the following new sentence: "The Administrator shall carry out an effective outreach program to acquaint all eligible veterans with

the availability and advantages of such counseling."; and

(2) striking out in section 1698(b) "and periodically thereafter submits progress reports with respect to the implementation of such plan," after "report),".

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

SEC. 303. Section 1774 of title 38, United States Code, is amended by—

(1) amending subsection (b) to read as follows:

"(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in acccordance with the following formula:

"Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$660.
Over $5,000 but not exceeding $10,000	$1,188.
Over $10,000 but not exceeding $35,000	$1,188 for the first $10,000 plus $1,100 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000	$7,189.
Over $40,000 but not exceeding $75,000	$7,189 for the first $40,000 plus $952 for each addition $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000	$14,256.
Over $80,000	$14,256 for the first $80,000 plus $831 for each additional $5,000 or fraction thereof.";

and

(2) inserting at the end thereof the following new subsection:

"(c) Each State and local agency with which the Administrator contracts or enters into an agreement under subsection (a) of this section shall report to the Administrator on September 30, 1978, and annually thereafter on the activities in the preceding twelve months carried out under such contract or agreement, summarizing services performed and the determinations made in conjunction with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 and in supervising such institutions.".

CORRESPONDENCE-RESIDENCE COURSES, REPORTING FEES, INSTITUTIONAL ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENT

SEC. 304. Chapter 36 of title 38, United States Code, is amended by—

(1) amending section 1780 by—

(A) inserting at the end of subsection (a) (5) and as a part thereof the following new sentence: "Notwithstanding the provisions of this clause, the Administrator may, in accordance with such regulations as the Administrator shall prescribe, approve a combination correspondence-residence course not meeting the 6-month requirement of this clause where the Administrator finds, based upon evidence submitted by the educational institution, that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment of the course) and the total charge made for the course.";

(B) striking out "and" at the end of clause (B) of paragraph (3) of subsection (d), striking out the period at end of clause (C) of such paragraph and inserting in lieu thereof a semicolon and "and", and inserting at the end of such paragraph the following new clause:

"(D) in clear and simple language, the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance."; and

(C) inserting at the end of paragraph (6) of subsection (d) the following new sentence: "The Administrator shall include with the advance payment a notice informing the veteran in clear and simple language of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance.";

(2) amending section 1784(b) by—

(A) striking out "$5" and "$6" in the second sentence and inserting in lieu thereof "$10" and "$15", respectively;

(B) inserting after the second sentence the following new sentence: "Each of the amounts reporting fees prescribed in the preceding sentence shall be increased by $5 for each veteran or eligible person enrolled in a program of education as a full-time student under this chapter or chapter 34 or 35 of this title, who satisfactorily completes a school term (as defined in section 1682A of this title) during the calendar year for which such reporting fee has been paid."; and

(C) inserting at the end thereof the following new sentence: "No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Administrator against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 1785 of this title.";

(3) amending section 1785 by—

(A) inserting in the first sentence a comma and "except as otherwise provided in section 1784(b) of this title," after "recovered"; and

(B) inserting at the end thereof the following new sentence: "Nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree."; and

(4) amending section 1788(a) by—

(A) inserting in clause (1) "and not more than 5 hours of supervised study" after "two and one-half hours of rest periods";

(B) striking out in clause (1) "27" and inserting in lieu thereof "22";

(C) inserting in clause (2) "and not more than 5 hours of supervised study" after "net of instruction" the first time it appears; and

(D) striking out in clause (2) "22" and inserting in lieu thereof "18".

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION ADMINISTRATIVE PROCEDURES, AND ADVISORY COUNCIL

SEC. 305. (a) (1) 1789 of title 38, United States Code, is amended by—

(A) inserting "(A)" in clause (2) of subsection (b) after "years," and striking out the semicolon at the end of such clause and inserting in lieu thereof a comma and "or (B) if the Administrator determines in the case of a course with a vocational objective that the institution offering such course has demonstrated its effectiveness in achieving the successful completion of courses and the employment of persons who completed courses offered by such institution in the occupational category for which the course was designed to provide training, and, after consultation with Secretary of Labor, that there is a clear need to train persons for employment in such occupational category in order to meet urgent national priorities;"; and

(B) adding at the end of subsection (c) the following new sentence: "The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.".

(2) Section 1673(d) of title 38, United States Code, is amended by—

(A) inserting in the second sentence a comma and "pursuant to regulations which the Administrator shall prescribe," after "determines"; and

(B) inserting at the end thereof the following new sentences: "The provisions of this subsection shall not apply to any course offered by an educational institution (1) where the number of veterans and persons receiving assistance under this chapter and chapters 31, 32, 35, and 36 of this title who are enrolled in such institutions equals 35 per centum or less of the total student enrollment at such institution (computed separately for the main campus and each branch or extension), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons is in excess of 85 per centum of the total student enrollment in such course, and (2) where the course is a residential course located outside the United States.".

(3) The Administrator of Veterans' Affairs shall, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, conduct a study to examine the need for computing, under section 1673(d) of title 38, United States Code, the percentage of those students enrolled in courses at educational institutions who are in receipt of grants from any Federal department or agency, and the problems of such institutions in making such latter computations, and shall, not later than August 1, 1978, submit a report to the Congress indicating whether such computations are needed and prescribing in detail an adequate system for making such computations. Until the expiration of six months after the date of submission of such report, the Administrator shall not apply the provisions contained in section 1673(d) of title 38, United States Code, requiring educational institutions in determining compliance with such subsection to compute the numbers of students in receipt of Federal grants other than from the Veterans' Administration.

(b) (1) The Administrator of Veterans' Affairs, in consultation with the Commissioner of Education, Department of Health, Education, and Welfare, the Comptroller General of the United States the Council on Postsecondary Accreditation, State approving agencies, and other appropriate bodies, officials, and persons, shall conduct a study into specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code. In recognition of the importance of assuring that Federal assistance is made available to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective under such chapters, such study shall also investigate the need for legislative or administrative action in regard to sections 1674 and 1724 of title 38, United States Code, as amended by sections

206 and 307, respectively, of Public Law 94–502, and the regulations prescribed thereunder. The report of such study, together with such specific recommendations for administrative or legislative action as the Administrator deems appropriate, shall be submitted to the President and to the Congress not later than August 1, 1978.

(2) The Administrator shall transfer from funds appropriated for the readjustment benefits account of the Veterans' Administration such sums as are necessary, but not in excess of $500,000, for the purpose of carrying out paragraph (1) of this subsection.

(3)(A) During the period required to make the study required by paragraph (1) of this subsection, the Administrator shall suspend implementation of the amendments to sections 1674 and 1724 of title 38, United States Code, made by sections 206 and 307, respectively, of Public Law 94–502, in the case of any accredited educational institution which submits to the Administrator its course catalog of bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly such policies and regulations.

(B) The Administrator shall, in appropriate instances, bring to the attention of the Council on Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted under subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting and licensing body.

(c)(1) Where an educational institution—

(A) has in its possession veterans' or eligible persons' benefits checks made payable to a veteran or eligible person and mailed to such educational institution for a course offered (i) under the provisions of subchapter VI of chapter 34 of title 38, United States Code, or (ii) outside the United States under the provisions of section 1676 of title 38, United States Code, and which course was commenced by such veteran or eligible person prior to December 1, 1976, and completed not later than June 30, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check,

the Administrator may, where the Administrator finds there is undue hardship on such educational institution, provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(2) Where an accredited correspondence school—

(A) has in its possession veterans' or eligible persons' benefit checks made payable to a veteran or eligible person and mailed to such school for lessons completed by the veteran or eligible person under section 1786 of this title and serviced by the school prior to January 1, 1977; and

(B) holds a power of attorney executed by the veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such benefit check,

the Administrator may, where the Administrator finds that (i) there is undue hardship on such educational institution and (ii) the courses were taken by veterans or eligible persons residing in the continental United States provide such relief as the Administrator determines equitable pursuant to regulations which the Administrator shall prescribe.

(d) Section 1792 of title 38, United States Code, is amended by—

(1) inserting in the last sentence "on a regular basis" after "shall"; and

(2) striking out in the last sentence "from time to time" and inserting in lieu thereof "(which shall meet at least semiannually)".

TERMINATION OF ASSISTANCE REQUIREMENTS

SEC. 306. Section 1790(b) of title 38, United States Code, is amended by—

(1) inserting "(1)" after "(b)", and inserting at the end thereof the following new paragraph:

"(2) Any action by the Administrator to suspend or terminate assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon clear evidence in the possession of the Administrator that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator suspends or terminates any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such suspension or termination action and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.".

VOCATIONAL REHABILITATION STUDY

SEC. 307. The Administrator of Veterans' Affairs, in consultation with the Commissioner of Rehabilitation Services, Department of Health, Education, and Welfare, shall conduct a study in regard to the provisions of chapter 31 of title 38, United States Code. The report of such study shall include, but not be limited to, (1) the Administrator's recommendations for legislative or administrative changes in such chapter, (2) the Administrator's recommendations with regard to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement assistance, and (3) the Administrator's recommendations for utilizing the veterans education programs provided by chapters 32, 34, 35, and 36 of this title to meet the needs of disabled veterans eligible for assistance under chapter 31 and such other chapters. Such report shall also include a description and analysis of the scope and quality of vocational rehabilitation assistance provided under chapter 31 in comparison with vocational rehabilitation services provided under the Rehabilitation Act of 1973, as amended (Public Law 93–112). The report of such study shall be submitted to the President and the Congress not later than March 1, 1978.

VETERANS READJUSTMENT APPOINTMENTS REPORT

SEC. 308. Section 2014(b) of title 38, United States Code, is amended by inserting at the end thereof the following new sentence: "The Chairman of the Civil Service Commission shall submit to the President and the Congress, not later than six months after the date of enactment of the GI Bill Improvement Act of 1977, a report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in this subsection.".

TECHNICAL AMENDMENTS

SEC. 309. (a) Chapter 1 of title 38, United States Code, is amended by striking out in section 101(29) "such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress" and inserting in lieu thereof "May 7, 1975".

(b) Chapter 41 of title 38, United States Code, is amended by striking out in section 2007(c) "2001" and inserting in lieu thereof "2004".

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

SEC. 310. Notwithstanding any other provision of law, (1) the Administrator of Veterans' Affairs is authorized to administer the conduct, pursuant to an interagency agreement or a delegation of authority, of the programs carried out under the provisions of section 420 of the Higher Education Act of 1965, as amended; (2) the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, is authorized to enter into such interagency agreement or to delegate to the Administrator his or her functions, powers, and duties under such section; and (3) pursuant to any such agreement or delegation of authority, funds appropriated to such Department or the Office of Education in such Department for the purpose of carrying out such section will be transferred from the Department to the Veterans' Administration for use for the purposes for which such funds are authorized and appropriated. Any such agreement or delegation of authority shall provide for all appropriate technical and support assistance to be provided by the Commissioner to the Administrator for the purposes of facilitating the effective conduct of the programs under such section in institutions of higher learning.

HOUSING SOLAR ENERGY AND WEATHERIZATION

SEC. 311. (a) Section 1810 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the amount of guaranty entitlement available to a veteran under this section shall be increased by $2,000, less such entitlement as may have been used previously under this subsection, but only if such additional entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure. As used in this subsection, the terms 'solar heating', 'solar heating and cooling', and 'combined solar heating and cooling' shall be defined as defined in clauses (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502) and shall, in addition, include a passive system based on conductive, convective, or radiant energy transfer; the term 'passive system' includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator; and the term 'residential energy conservation measure' means—

"(1) caulking and weatherstripping of all exterior doors and windows;

"(2) furnace efficiency modifications limited to—

"(A) replacement burners, boilers, or furnaces which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(B) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(C) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(3) clock thermostats;
"(4) ceiling, attic, wall, and floor insulation;
"(5) water heater insulation;
"(6) storm windows and doors; and
"(7) such other measures as the Administrator may by regulation identify for purposes of this subsection.".

(b) Section 1811(d)(2) of such title is amended by inserting at the end thereof the following new subparagraph:

"(C) Notwithstanding any other provision of law, the amount of direct loan which an eligible veteran may obtain under this section shall be increased by $3,800, reduced by the amount of direct loan which may have been used previously under this subparagraph, but only if such entitlement is used solely to improve a dwelling or farm residence which is to be or is owned and occupied by the veteran as the veteran's home by either installation of solar heating, solar heating and cooling, or combined solar heating and cooling, or application of a residential energy conservation measure, as those terms are defined in section 1810(d) of this title.".

TITLE IV—EFFECTIVE DATES

SEC. 401. The provisions of this Act shall become effective on the first day of the first month beginning 60 days after the date of enactment, except that the provisions of title I and section 304(2) (A) and (B) shall be effective retroactively to October 1, 1977, the provisions of sections 201 and 202 shall become effective on January 1, 1978, the provisions of section 203 shall be effective retroactively to May 31, 1976, and the provisions of sections 301, 302(2), 304(3), 304(2)(C), 304(3), 305(a)(2), 305(a)(3), 305(b), 305(c), 305(d), 306, 307, 308, 309, and 310 shall be effective upon enactment.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the chairman of the Veterans' Affairs Committee and the ranking minority member or their designee, with 1 hour on any amendment and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Tony Mazzaschi be granted privilege of the floor during consideration of this measure.

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

Mr. KENNEDY. Mr. President, I have the same request, that Peter Parham of my staff be granted privilege of the floor.

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

Mr. CRANSTON. Mr. President, S. 457, as unanimously reported, the GI Bill Improvement Act of 1977, is intended to expand and improve the GI bill educational assistance program and make additional help available under the veterans housing program to those veterans interested in modifying or buying homes with weatherization or solar energy improvements.

The committee bill provides a 6.6-percent cost-of-living increase in the amounts of GI bill educational assistance allowances. In addition—in accordance with my promise that the committee would examine the problems some veterans have had in obtaining an education under the GI bill—the committee bill would establish a new program of accelerated educational assistance payments, thus making it possible for certain veterans and eligible persons either attending or desirous of attending higher cost programs of education to receive a greater amount of monthly GI bill educational assistance by utilizing portions of their 45 months total entitlement. Further, S. 457 proposes a number of changes in provisions generally affecting the administration of the GI bill program, and makes amendments to expand assistance under the veterans housing program, consistent with administration weatherization and solar energy proposals and the National Energy Conservation Policy Act passed by the Senate on September 13.

Mr. President, educational assistance has been provided to those who have served their country during World War II, The Korean conflict, and the post-Korean-conflict/Vietnam-era. Benefits provided under the GI bill assistance program have aided millions of veterans in their efforts to readjust to civilian life after service in the Nation's Armed Forces.

Under the current GI bill, approximately 6,750,000 veterans and nearly 254,000 survivors and dependents have been assisted in obtaining an education or training they might not otherwise have been able to afford. I think my colleagues will agree with me that the GI bill program—a program devised by this Nation to assist those who have served it so well—has served and continues to serve well our veterans and all of our Nation.

The GI Bill Improvement Act of 1977 attempts to make the GI bill program better able to assist eligible veterans and other eligible persons. Title I of the measure increases by 6.6 percent the amounts of GI bill educational assistance allowances. After careful consideration, the committee determined that it is important to assure that the benefits provided under the program are not diluted by the continuing increase in the cost of living. Thus, the benefit increases provided by S. 457 correspond to the estimated increase in the cost of living from October 1, 1976—the date of the last benefit increase—through September 30, 1977.

In title two of the measure, the committee, after examining the need for providing additional amounts of benefits to certain veterans, has unanimously approved the adoption of a new accelerated benefits program. For those veterans living in States where low-cost public education is not generally available, the GI bill uniform payment formula often provides less actual assistance in meeting the costs of education than it does for other veterans who live in States which have devoted considerable tax dollars to developing accessible low-cost public education. Although the disparity in State participation rates—and there are substantial variations in participation rates among States—is in large part a function of State and local support of post-secondary education, the committee believes that an accelerated program designed to provide additional GI bill assistance is needed in order to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desiring to enroll in a high-cost program of education.

The committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in title II of the committee bill. Under the accelerated program provided in title II all veterans would continue to be treated similarly by the Federal Government; that is, each veteran's service earns an entitlement of up to 45 months of GI bill educational assistance benefits. The accelerated program merely changes, in certain instances, the general rule that the benefits have to be used one month at a time.

I stress, Mr. President, that the committee found it essential that assistance be provided to these veterans enrolled in high-cost programs of education in a way that would be consistent with the principle of the Federal Government providing equal benefits for equal service to the Nation. Consequently, and in accordance with the levels of spending adopted by the second concurrent resolution on the budget for veterans benefits and services, the committee has fashioned its program to assist those veterans most in need; those veteran-students who qualify on the basis of need and who are bearing a heavy financial burden in obtaining an education. The committee expects that this new GI bill program will assist more veterans, particularly unemployed and underemployed veterans, in availing themselves of educational opportunities.

Title III of the committee bill generally would amend a number of administrative provisions of the GI bill program. Many of my colleagues, I am certain, have received communications from constituents concerning the anti-abuse amendments made by Public Law 94–502. I believe—and I know my colleagues will agree—that it is important to assure that Federal moneys are expended only for those veteran-students seriously pursuing an education. The antiabuse provisions of Public Law 94–502 were designed to promote that goal.

In some instances, however, Mr. President, implementation has resulted in inequities which compelled the committee to review carefully the GI bill administrative provisions and the 1976 amendments to them. The committee has attempted in the committee bill to address almost all concerns expressed to us by the many organizations and individuals who appeared at hearings, submitted testimony, and forwarded correspondence. We think we have produced a fair accommodation to the various considerations and concerns expressed in a way that is generally acceptable to most parties and to the administration. The amendments made by the committee are designated to improve the process by which educational institutions or courses offered by such institutions are and continue to be approved for purposes of GI

bill payments to enrolled veterans. Important provisions of title III would—

Increase by $5 and $9—from $5 and $6 to $10 and $15—the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions.

Specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

Authorize the Administrator to waive the 2-year rule in those instances involving branch campuses or extensions of institutions of higher learning where the Administrator determines—pursuant to prescribed regulations—that the waiver would be in the interest of the eligible veteran and the Federal Government.

Exempt any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment—with main campus and extensions computed separately—from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in a particular course exceeds 85 percent of the total course enrollment, the Administrator can still apply the "85–15" rule and require computation for the particular course. The committee has elected to require main campuses and branch campuses to compute their respective enrollments separately because of the many problems—outlined at pages 91–93 of the committee report—arising out of off-campus degree programs.

Make inapplicable, until the expiration of 6 months after the date of the filing of a report in regard to certain provisions of the "85–15" rule, the provisions contained in the "85–15" rule requiring the inclusion of the number of students in receipt of other Federal grants, principally basic and supplementary educational opportunity grants under the Higher Education Act of 1965, as amended, when determining compliance by educational institutions with the "85–15" rule.

Mandate the Administrator to conduct a major study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI bill; and require that such study include the need for legislative and administrative action in regard to certain relevant provisions—including the "seat-time" requirement—of title 38 and regulations prescribed thereunder.

Suspend, until the submission of the report in regard to the study described above, the implementation of the satisfactory progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the disclosure provisions regarding satisfactory progress and other standards prescribed in section 1776(b) (6) and (7) of title 38.

Provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502—relating to negotiability of GI bill assistance checks under powers of attorney—the institution has incurred an undue hardship.

Mr. President, an additional provision included as part of title III of the committee bill would entitle eligible veterans to an additional $2,000 of home loan guaranty—and $3,800 in direct loans—to install in their homes solar heating, or combined solar heating and cooling, or to improve their homes with residential energy conservation measures.

As evidenced by my authorship of the Solar Heating and Cooling Demonstration Act of 1974, and of title IV–A, weatherization assistance for low-income persons, of the Energy Conservation in Existing Buildings Act of 1976, I have long been committed to finding ways to use solar energy and to promote energy conservation. Thus, in accordance with the President's overall energy program, the committee bill would expand the VA home loan program to make specific provisions for energy conservation improvements and solar heating and cooling installation. I emphasize that the provision in the committee bill marks the beginning of the committee's efforts in this field—not the culmination. These provisions are generally in accord with comparable amendments regarding FHA loans made by the National Energy Conservation Policy Act, as passed by the Senate on September 13 and have the support of the administration.

Since the enactment of the Solar Heating and Cooling Demonstration Act of 1974, solar energy has come a long way. Only a few years ago solar energy was viewed by many as an "exotic" energy source which might be available for practical applications 10 or 20 years in the future. Today we can point to study after study confirming that solar energy—particularly for home space heating and hot water—is now an economically competitive alternative to fossil fuels.

Because the fuel for solar energy systems is free, the installation of solar equipment will pay for itself over a period of a few years by offsetting the rising cost of home utility bills. But the initial capital investment could be a deterrent. Therefore, the most effective incentive to encourage rapid utilization of solar energy in the home is to assist the homeowner in defraying the initial capital costs of energy conserving improvements and solar energy installation. That is the purpose of the amendment in title III.

Mr. President, the total fiscal year 1978 cost of the committee bill is $828,000,000, which is fully within the function 700 ceiling as adopted in the second concurrent budget resolution for fiscal year 1978.

Mr. President, in conclusion, the GI Bill Improvement Act of 1977 represents the bipartisan efforts of the Committee on Veterans' Affairs in order to make this excellent program even better. I wish to thank all my colleagues on the committee for their continuing interest in and support for this program and the veterans it is designed to serve and for their contributions to the pending measure. I particularly want to highlight the efforts of the vice chairman of the Subcommittee on Health and Readjustment of the Committee on Veterans' Affairs, the Senator from New Hampshire (Mr. DURKIN), who has worked long and hard to improve the GI bill program. Also, major assistance was provided by our full committee ranking minority member, my good friend from Vermont (Mr. STAFFORD), and our able subcommittee ranking minority member, the Senator from South Carolina (Mr. THURMOND).

Mr. President, I want to thank Guy McMichael, General Counsel of the Veterans' Administration, and Grady Malone and Bob Dysland of the General Counsel's Office for their aid in the preparation of the GI bill Improvement Act of 1977. In addition, Andy Thornton and June Schaeffer of the Education and Rehabilitation Service of the VA have provided invaluable assistance. Finally, I wish to thank members of the committee staff, including Jack Wickes, Jon Steinberg, Erica Baum, Ed Scott, Garner Shriver, Gary Crawford, Harold Carter, James MacRae, Walter Klingner, Janice Orr, Helen Woo, Terri Childress, Ingrid Post, Ann Garman, and Mikki Day, and Legislative Counsel Hugh Evans, all of whom have been of so very much assistance.

Before closing, Mr. President, I note that the committee report (No. 95–468) on page 48 contains a mistake with respect to the fiscal year 1978 cost estimate. The total cost of title III of the bill for fiscal year 1978 should be $23 million, not $22 million, and the total cost for the bill as reported should thus be one million higher—$828 million rather than $827 million.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point appropriate excerpts from the committee report on S. 457 as reported.

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

SUMMARY OF S. 457 AS REPORTED

Basic Purpose

S. 457, the GI Bill Improvement Act of 1977, as reported (hereinafter referred to as "the Committee bill") is intended to expand and improve the GI Bill Educational Assistance Program (hereinafter referred to as "the GI bill"), and make the Veterans' Housing Program more accessible to those veterans interested in improving or buying homes improved through weatherization or solar energy measures.

As ordered reported, the Committee bill increases by 6.6 percent the amount of educational assistance provided veterans and eligible persons enrolled in training under chapters 31, 34, 35, and 36 of title 38, United States Code. An accelerated benefits program providing certain veterans a greater opportunity to utilize the GI bill program by providing eligibility for additional assistance is established. Finally, some administrative provisions of the GI bill program are amended to make that program better able to respond to the needs of enrolled veterans, educational institutions, and those administering the program at the Federal, State, and local levels.

Summary of Provisions

The Committee bill contains four titles: GI bill rate increases, accelerated payment and delimiting period extension, other education and training amendments, and effective dates.

Title I: GI Bill Rate Increases.—This title amends title 38, United States Code, to increase by 6.6 percent the amounts of education assistance allowance provided under chapters 31, 34, 35, and 36 of that title—the current estimate of the increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase (Public Law 94–502), and October 1, 1977, the effective date of the increase provided by this title.

Title II: Accelerated Payment and Delimiting Date Extension.—This title includes substantive amendments to chapters 34 and 35 of title 38 which would:

1. Establish a program of accelerated educational assistance payments thus making it possible for certain veterans and eligible persons attending a higher cost program of education to receive a greater amount of monthly GI bill educational assistance.

2. Establish an education loan program to be used in conjunction with the accelerated benefit program.

3. Extend the period of time a veteran has to utilize his or her GI bill benefits when the veteran has a mental or physical disability or impairment, not the result of his or her own misconduct, which the Administrators finds prevented the veteran from initiating or completing a course of study.

Title III: Other Education and Training Amendments.—This title includes provisions generally affecting the administration of the GI bill program which would:

(1) Require the Administrator, in the promulgation or issuance of any rule, regulation, guideline, or other published interpretation of title 38, or any amendment thereto, to provide a citation or citations to the particular section or sections of statutory law or other legal authority upon which it is based.

(2) Amend section 1663 of title 38 to provide eligible veterans with more extensive VA educational counseling services and require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling.

(3) Eliminate the requirement that the Department of Defense file with the Congress progress reports with respect to the implementation of the Pre-discharge Education Program (PREP).

(4) Increase by 10 percent the amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment.

(5) Require State approving agencies to report annually to the Administrator on their specific activities, approvals, and disapprovals during the preceding year.

(6) Authorize the approval by the Administrator of a combined correspondence-residence course not meeting the requirement that the correspondence portion normally take at least 6 months to complete if the Administrator finds—based on evidence submitted by the school—that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment) and the total charge for such course.

(7) Require the Administrator to include, as part of the veteran's application form for advance pay, a notice to the veteran, in clear and simple language, of the period of time between the date of advance payment and the scheduled date of the first monthly benefit payment for which the veteran is applying.

(8) Required the Administrator to include with the advance payment a notice to the veteran, in clear and simple language, of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance to which the veteran would be entitled.

(9) Increase by $5 and $9 (from $5 and $6 to $10 and $15) the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions.

(10) Require the payment of $5 to educational institutions for each full-time veteran or eligible person enrolled therein who satisfactorily completes the school term.

(11) Prohibit the Administrator from attempting to collect any administratively determined institutional liability for overpayments under section 1785 of title 38, United States Code, by offsetting the amount of reporting fees to which an institution may be entitled under section 1784(b).

(12) Specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, United States Code, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(13) Reduce the number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits—where classroom and theoretical instruction predominates, the required instructional hours are reduced from 22 to 18 and where classroom and theoretical instruction does not predominate, from 27 to 22 hours.

(14) Limit to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock hours provisions (30 and 25, respectively for theoretical and nontheoretical instruction).

(15) Exempt courses with vocational objectives from the application of the 2-year rule in those instances where the Administrator determines (a) that the institution offering such courses has been in existence for 2 years or more and has demonstrated its effectiveness in achieving the completion of its courses by students and the employment of persons who completed courses within the institution in an occupation for which such persons were trained, and (b) after consultation with the Secretary of Labor, that there is clear need to train persons for employment in such vocational objective in terms of national priorities.

(16) Authorize the Administrator to waive the 2-year rule in those instances involving branch campuses or extension of institutions of higher learning where the Administrator determines—pursuant to prescribed regulations—that the waiver would be in the interest of the eligible veteran and the Federal Government.

(17) Exempt any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment (with main campus and extensions computed separately) from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in particular courses exceeds 85 percent of the total course enrollment, the Administrator can require computation for the particular course and enforce the "85–15" rule.

(18) Make the "85–15" rule inapplicable to overseas residential courses.

(19) Require the Administrator, in consultation with the Commissioner of Education, to conduct a study and submit to the Congress, by August 1, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agencies and the problems of such institutions including such a computation of those students in receipt of grants from any Federal department or agency other than the Veterans' Administration.

(20) Make inapplicable, until the expiration of 6 months after the date of the filing of such report, the provisions contained in the "85–15" rule requiring the inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the "85–15" rule.

(21) Mandate the Administrator, in consultation with the Commissioner of Education (HEW), the Council on Postsecondary Accreditation (COPA), State approving agencies, and other appropriate bodies, persons, and officials to conduct a study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI bill; require that such study include the need for legislative and administrative action in regard to certain relevant provisions—including the "seat-time" requirement—of title 38, and regulations prescribed thereunder; and require that the report of such study be submitted to the President and Congress by August 1, 1978.

(22) Suspend, during the period of time required to make the study described above, the implementation of the satisfactory progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the provisions of section 1776(b) (6) and (7) of title 38.

(23) Require the Administrator, in appropriate instances, to bring to the attention of COPA—or other appropriate accrediting or licensing bodies—any course catalogs or bulletins submitted to the Administrator which the Administrator believes may not be in compliance with the standards of the accrediting or licensing body.

(24) Require the Administrator to transfer from funds appropriated for the readjustment benefits account such sums as are necessary (but not more than $500,000) for the conduct of the study on improving the process for approving institutions for GI bill purposes.

(25) Provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502 (relating to negotiability of GI bill assistance checks subject to powers-of-attorney), the institution has incurred an undue hardship.

(26) Require the Education Advisory Council—established by section 1792 of title 38—to meet at least semiannually; and require the Administrator to consult with the Council on a regular basis.

(27) Provide that any action to terminate GI bill assistance must be based upon clear evidence in the possession of the Administrator that the veteran is not, or was not, eligible for such assistance; require the Administrator to give the veteran concurrent written notice whenever the Administrator suspends or terminates such assistance; and require the Administrator to give written notice to the veteran that he is entitled to a statement of the reasons for such termination or suspension and an opportunity to be heard.

(28) Direct the Administrator, in consultation with the HEW Commissioner of Rehabilitation Services, to conduct a study and to submit a report to the President and Congress, due March 1, 1978, in regard to chapter 31 of title 38, including the Administrator's recommendations for administrative or legislative changes in the Veterans Vocational Rehabilitation Program.

(29) Require the Chairman of the Civil Service Commission to submit to the President and the Congress, not later than 6 months after enactment. a report on the need for continuation after June 30, 1978, of the authority for veterans readjustment appointments.

(30) Make technical amendments to section 101(29) and section 2007(c) of title 38, United States Code.

(31) Authorize the Administrator of Veterans' Affairs to conduct, pursuant to either an interagency agreement with HEW or a delegation of authority by that Department (including a fund transfer), the programs carried out under section 420 of the Higher Education Act of 1965 as amended—the Veterans Cost of Instruction (VCI) program.

(32) Entitle eligible veterans to an additional $2,000 of home loan guarantee (and $3,800 in direct loans) to install in their homes, solar heating, solar heating and cooling, or combined solar heating and cooling or to improve their homes with residential energy conservation measures.

Title IV: Effective Dates.—Generally establishes the effective date of the Act as the first day of the month beginning 60 days after the date of enactment. However, the effective date of the allowance and reporting fee increases is to October 1, 1977; of the accelerated provision (sections 201 and 202) is January 1, 1978; and of section 203, in regard to extension of delimiting period for certain veterans who were prevented from initiating or completing a program of education as a result of a mental or physical disability or impairment not the result of such veteran's own willful misconduct, is retroactive to May 31, 1976; and those sections relating to studies, technical amendments and administrative matters are generally effective upon enactment.

BACKGROUND

In 1944, Public Law 78–346, the Servicemen's Readjustment Act, created a major educational and vocational assistance program, a program that has come to be known as the GI bill. For the last 33 years, this program had aided millions of veterans in their readjustment to civilian life. Since the inception of this program, three GI bills have assisted almost 17 million veterans and other eligible persons—reaching about 8 percent of the Nation's population over that time. The new chapter 32 program, enacted by Public Law 94–502 in 1976, is the fourth such GI bill.

The first program, often referred to as the World War II GI bill, provided assistance to approximately 7.8 million veterans (and certain survivors and dependents) who served during the period September 16, 1940, through July 25, 1947. The second program (Public Law 82–550), enacted on July 16, 1952, and often referred to as the Korean conflict GI bill, provided assistance to approximately 2.4 million veterans (and survivors and dependents) who served during the period June 27, 1950, through January 31, 1955. The third program (Public Law 89–358), enacted on March 3, 1966, and often referred to as the post-Korean-conflict GI bill and Vietnam-era GI bill, provides assistance to those who served during the period February 1, 1955, through December 31, 1976.

The post-Korean conflict and Vietnam-era GI bill was amended in 1967 (Public Law 90–77), 1970 (Public Law 91–219), 1972 (Public Law 92–540), 1974 (Public Law 93–508), and 1976 (Public Law 94–502) and, to date, has assisted 6.75 million veterans and nearly 254,000 survivors and dependents in obtaining education or training they might not otherwise have been able to afford. Veteran-students in receipt of educational assistance allowances may attend approved courses at colleges, universities, business and technical schools, vocational schools, and in some cases, pursue training at the high school level and below. Assistance is also provided for on-job or apprenticeship training, farm cooperative training, flight training, and correspondence courses.

To date, total expenditures on behalf of veterans enrolled in training under the three GI bill programs exceed $40 billion. For fiscal year 1977, the cost of GI bill educational assistance is estimated at approximately $4.3 billion—is more than twice the amount of the next largest fiscal year 1977 Federal expenditure for postsecondary educational assistance, $1.9 billion for Basic Educational Opportunity Grants (BEOGs) administered by the Office of Education. Today, the GI bill is the largest single Federal program providing postsecondary educational assistance. The program has assisted and continues to provide assistance in obtaining an education to most of those who have served their country.

During fiscal year 1976, nearly 3 million veterans, service personnel, and dependents received training under the GI bill—exceeding by 5.2 percent the peak GI bill enrollment of the previous year. More veterans than ever before participated in college level training. The following table depicts the number of individuals who have received training, generally, and college-level training, in particular, between 1967 and 1976.

The importance of the GI bill in assisting veterans in obtaining an education which otherwise they might not have obtained is revealed in a recent General Accounting Office study [GAO Report No. B–114859: *Veterans' Responses to GAO Questionnaires on the Operation and Effect of VA Educational Assistance Programs Under 38 U.S.C. 1651 et seq.*, August 11, 1976]. The GAO found that in the absence of GI bill benefits, more than half and, in some cases, more than two-thirds of the current veteran-students polled stated that they would not otherwise have entered training. Overall, 54 percent of the veteran-students polled by GAO indicated that they would not have undertaken training were it not for the availability of GI bill benefits.

TABLE 2.—*Impact of the GI bill on decisions to enter training*

[In percent]

Type of training taken	(1) Yes	(1) No
Apprentice	84	16
Other on job	78	22
Graduate	61	39
High school	58	42
Nondegree	57	43
Undergraduate	47	53
Vocational/technical	37	63
Flight	30	70
Correspondence	27	73
Farm cooperative	17	83
All respondents	46	54

[1] Would have entered training without benefits.

GAO also found that the number of individuals who premise their decision as to whether they should enter training upon the availability of VA educational benefits has increased since the current program commenced in 1966. The following table shows the number of individuals, by year, between 1967 and 1973, who would and would not have sought training if GI bill benefits had not been available.

TABLE 3.—*Impact of the GI bill on decision to enter training by year of enrollment*

[In percent]

Year	(1) Yes	(1) No
1967	56	44
1968	53	47
1969	62	38
1970	53	47
1971	49	51
1972	44	56
1973	44	56

[1] Would have entered training without benefits.

NOTE.—Table does not include any data on farm cooperative training.

Of the 6,903,146 post-Korean conflict and Vietnam-era veterans who have participated in GI bill training through November of 1976, 57 percent have been enrolled in college-level courses; 35 percent pursued postsecondary education not leading to a standard college degree; 7.5 percent participated in on-job training; and 0.6 percent were enrolled in farm cooperative training. The following tables show the number of veterans and dependents enrolled in a program of education under the GI bill by the type of program.

TABLE 4.—POST-KOREAN VETERANS AND SERVICE PERSONNEL TRAINING PROGRAMS—INDIVIDUALS TRAINED

Training programs	Trained during fiscal year 1976					Ever trained through June 30, 1976, total
		Resident school trainees				
	Total	Graduate	Undergraduate	Non-degree	Correspondence trainees	
Total all types of training	2,821,514					6,521,973
COLLEGE LEVEL						
Total	1,925,436	198,420	1,692,425	32,794	1,797	3,654,034
Academic degrees—field not specified—total	1,316,284	106,978	1,209,240		66	2,205,211
Associate in arts	389,096		389,088		7	629,827
Associate in science	59,589		59,589			92,140
Associate degree, nec	329,206		329,196		10	474,678
Bachelor of arts	123,581		123,570		11	225,299
Bachelor of science	77,455		77,451		4	145,467
Bachelor's degree, nec	230,376		230,346		30	416,522
Master of arts	29,825	29,825				57,118
Master of science	11,916	11,916				28,493
Master's degree, nec	53,665	53,663			2	106,744
Doctor of philosophy	9,560	9,559			1	26,002
Doctor's degree, nec	1,891	1,890			1	4,656
Post doctoral, nec	125	125				265
Business and commerce	191,040	27,019	163,995		26	437,060
Education	40,157	20,474	19,681		2	133,030
Engineering	24,981	2,656	22,319		6	83,084
English and journalism	2,698	634	2,061		3	11,372
Fine and applied arts	11,081	1,255	9,803		23	32,094
Foreign languages	612	247	365			3,087
Law	13,048	10,672	2,376			41,239
Liberal arts (major not specified)	26,875	560	26,313		2	62,644
Life sciences—total	33,238	14,504	18,733		1	104,135
Agricultural sciences	4,759	557	4,201		1	15,504
Biological sciences	5,821	1,201	4,620			17,194
Medical and health sciences	22,658	12,746	9,912			71,437
Mathematics and statistics	1,586	427	1,159			7,374
Physical sciences	4,143	1,202	2,938		3	15,257
Social sciences	22,363	7,351	15,007		5	78,244
Theology	5,117	1,799	3,308		10	13,946
Technical courses—total	192,557		158,612	32,794	1,151	353,612
Business and commerce	51,985		47,592	4,104	289	88,411
Engineering and related	3,951		3,786	154	11	8,103
Medical and related	5,211		3,543	1,661	7	12,698
Other technician courses	131,410		103,691	26,875	844	244,400
All other academic fields	39,656	2,642	36,515		499	72,645

	Trained during fiscal year 1976					Ever trained through June 30, 1976, total
		Resident school trainees				
	Total other schools	Vocational or tech, post-high school	Other vocational or technical	High school	Correspondence trainees	
SCHOOLS OTHER THAN COLLEGE						
Total	750,037	64,310	248,752	136,638	300,337	2,393,440
Arts	22,740	4,387	9,097		9,256	115,078
Business	49,808	13,503	17,478		18,827	320,467
Services	35,937	4,129	16,698		15,110	134,958
Technical courses—total	45,193	8,988	14,233		21,972	205,660
Electronic	29,568	4,724	7,111		17,733	138,021
Engineering	4,772	915	1,557		2,300	32,172
Legal	1,309	399	266		644	8,912
Medical and related	3,762	1,630	1,996		136	10,858
Other technical, nec	5,782	1,320	3,303		1,159	15,697
Trade and industrial—total	361,029	29,888	109,569		221,572	1,063,760
Air-conditioning	36,048	3,793	12,101		20,154	133,760
Construction	18,816	1,943	10,054		6,819	45,568
Electrical and electronic	140,631	4,795	15,832		120,004	349,711
Mechanical	102,412	9,447	36,801		56,164	303,170
Metalwork	30,487	6,775	22,376		1,336	84,326
Other trade and industrial	32,635	3,135	12,405		17,095	147,225
Other institutional	192,759	3,415	32,106	136,638	13,600	421,510
Flight training	42,571		42,571			132,007

	Trained during fiscal year 1976			Ever trained through June 30, 1976, total
	Total job trainees	Apprentice	Other-on-job	
MAJOR OCCUPATIONAL OBJECTIVES—JOB TRAINING				
Total	146,041	71,007	75,034	474,499
Technical and managerial	19,641	1,262	18,379	59,787
Clerical and sales	5,347	437	4,910	14,509
Service occupations	17,571	2,031	15,540	59,213
Farming, fishery, forestry occupations	1,641	121	1,520	4,154
Trade and industrial—total	95,909	64,564	31,345	316,849
Processing occupations	4,053	2,408	1,645	12,682
Machine trades occupations	34,545	21,990	12,555	97,304
Benchwork occupations	6,173	3,233	2,940	18,010
Structural work occupations	51,138	36,933	14,205	188,853
Miscellaneous occupations	5,932	2,592	3,340	19,987

Note: NEC—not elsewhere classified.

TABLE 5.—SONS, DAUGHTERS, SPOUSES, AND WIDOWS/WIDOWERS TRAINING PROGRAM

	Trained during fiscal year 1976				Ever trained through June 30, 1976, total
	Total	Sons	Daughters	Spouses widows/widowers	
Total all types of training	99,751	39,081	41,578	19,092	314,436
COLLEGE LEVEL					
Total	87,511	35,010	37,956	14,545	254,796
Academic degrees, field not specified, total	63,849	25,495	27,786	10,568	140,944
Associate in arts	14,822	5,161	5,978	3,683	26,838
Associate in science	2,178	792	878	508	3,901
Associate degree, nec [1]	10,482	3,739	4,328	2,415	20,392
Bachelor of arts	9,489	4,037	4,463	989	19,811
Bachelor of science	5,253	2,509	2,297	447	10,534
Bachelor's degree, nec	19,206	8,501	8,928	1,777	52,620
Master of arts	722	213	283	226	1,959
Master of science	255	82	113	60	572
Master's degree, nec	1,276	406	480	390	3,739
Doctor of philosophy	143	46	34	63	426
Doctor's degree, nec	23	9	4	10	152
Business and commerce	4,861	2,226	1,768	867	21,987
Education	3,621	803	1,982	836	23,426
Engineering	1,099	1,007	89	3	6,438
English and journalism	284	91	152	41	2,418
Fine and applied arts	832	421	334	77	4,566
Foreign languages	70	21	35	14	541
Home economics	188	4	139	45	1,353
Law	384	254	96	34	2,034
Liberal arts (major not specified)	1,644	695	756	193	12,103
Life sciences, total	3,520	1,098	1,956	466	14,398
Agriculture sciences	302	224	68	10	1,509
Biological sciences	586	319	244	23	2,794
Medical and health sciences	2,632	555	1,644	433	10,095
Mathematics	96	55	38	3	992
Physical sciences	225	168	56	1	1,846
Social sciences	1,330	544	581	205	8,139
Theology	151	107	31	13	706
Technician courses, total	4,207	1,555	1,708	944	10,382
Business and commerce	1,142	206	538	398	2,291
Engineering and related	36	34	1	1	128
Medical and related	804	100	561	143	2,501
Other technical courses	2,225	1,215	608	402	5,462
All other academic fields	1,150	466	449	235	2,523
SCHOOLS OTHER THAN COLLEGE LEVEL					
Total	11,778	3,694	3,590	4,944	58,780
Arts	652	296	181	175	2,827
Business	2,564	300	1,324	940	17,868
Services	2,938	268	1,389	1,281	16,129

Footnote at end of table.

TABLE 5.—SONS, DAUGHTERS, SPOUSES, AND WIDOWS/WIDOWERS TRAINING PROGRAM—Continued

	Trained during fiscal year 1976				Ever trained through June 30, 1976, total
	Total	Sons	Daughters	Spouses widows/ widowers	
SCHOOLS OTHER THAN COLLEGE LEVEL—Continued					
Technical courses, total	852	385	344	123	3,390
Electronic	215	203	8	4	1,024
Engineering	54	50	2	2	276
Medical and related	348	45	231	72	1,402
Other technical, nec	235	87	103	45	688
Trades and industrial, total	3,063	2,276	216	571	15,544
Construction	200	190	3	7	634
Dressmaking	576	122	114	340	4,606
Electrical and electronic	339	306	10	23	2,122
Mechanical	956	923	11	22	4,757
Metalwork	467	438	9	20	1,697
Other trade and industrial	525	297	69	159	1,728
Other institutional	1,709	169	136	1,404	3,022
ON JOB TRAINING					
Total	462	377	32	53	860
Technical and managerial	83	47	11	25	153
Clerical and sales	20	6	6	8	38
Service occupations	42	29	5	8	99
Trade and industrial occupations	305	286	9	10	543
Miscellaneous occupations	12	9	1	2	27

[1] Not elsewhere classified.

To date, Vietnam-era veterans have participated in the VA educational assistance programs at a rate of 64.3 percent. (When persons who last trained while on active duty are excluded the rate at the beginning of August was 55.6 percent.) By comparison, the participation rate among post-Korean conflict veterans was 59.1 percent. Both of these rates of participation are significantly higher than the final participation rates for the World War II GI bill (50.5 percent) and the Korean conflict GI bill (43.4 percent). Under the current GI bill, Vietnam-era veterans pursued higher education in a college or university at a participation rate of 35 percent—more than twice that of the World War II veterans' rate of 14.4 percent. Similarly, the rate of participation in college-level training of Vietnam-era GI bill veterans (35 percent) also exceeds that of Korean conflict GI bill veterans (22 percent).

TABLE 6.—3 GI BILLS, COMPARISON OF PARTICIPATION RATES *

	World War II June 1944–July 1956	Korean conflict September 1952–January 1965	Total post-Korean conflict and Vietnam era, June 1966–December 1989	Post-Korean June 1966–November 1976	Vietnam era June 1966–November 1976
Veteran population	15,440,000	5,509,000	19,746,000	11,414,000	8,332,000
Total trained	7,800,000	2,391,000	12,104,511	[1] 6,749,091	[1] 5,355,420
Percent	50.5	43.4	61.3	59.1	64.3
School trainees	5,710,000	2,073,000	11,127,591	6,219,694	4,907,897
Percent	37.0	37.6	56.4	54.5	58.9
College	(2,230,000)	(1,213,000)	(6,903,146)	(3,820,201)	(3,082,945)
Percent	(14.4)	(22.0)	35.0	(33.5)	(37.0)
Other schools	(3,480,000)	(860,000)	(4,224,445)	(2,399,493)	(1,824,952)
Percent	(22.5)	(15.6)	21.4	(21.0)	(21.9)
On-job trainees	1,400,000	223,000	902,308	482,523	419,785
Percent	9.1	4.0	4.6	4.2	5.0
Farm trainees	690,000	95,000	74,612	46,874	27,738
Percent	4.5	1.7	0.38	0.4	0.3
Cost [in billions]	$14.5	$4.5		$21.7	

[1] Includes 760,757 service personnel.

The Committe observes, however, that use of participation rates as the sole measure of program success can be deceiving, inasmuch as a veteran is considered to have participated whenever such veteran uses at least one month of entitlement. Thus, regardless of whether a veteran has used one month of entitlement or the full 45 months, such veteran is considered a participant for purposes of determining the GI Bill participation rate. In this regard, the Committee urges the VA to develop the necessary GI Bill data to enable the Committee to determine the extent to which veterans are participating in the program. Section 304(2)(B) of the Committee bill, pertaining to the increased payment of $5 in reporting fees to certain educational institutions for each veteran or eligible person enrolled in a program of education therein who satisfactorily completes a school term, should provide the VA with critical information to begin developing the necessary data which this Committee has been urging the VA to conduct for many years.

The committee notes that significant increases in the utilization of the GI bill correlates significantly with increases in the benefit rates. The relationship between educational allowances and the participation rate of veterans in each fiscal year between 1966 and 1977 is demonstrated in the following chart. (Not reproduced.)

It should be observed that with each increase in educational assistance rates, participation increased sharply—most notably following GI bill rate increases in 1970, 1972, and 1974. (There is insufficient data at the present time to gauge the effect of the 1976 amendments.) During the fall of 1971, when veterans had the full benefit of the 34.6 percent benefit increase provided for by Public Law 91–219; during the fall of 1973, when veterans had the benefit of the increase provided for by Public Law 91–219; during the fall of 1973, when veterans had the benefit of the increases provided by Public Law 92–540; and during the fall of 1975, when veterans had the benefit of the increases provided by Public Law 93–508 enrollment of veterans in educational programs increased by 33 percent, 14 percent, and 17.7 percent, respectively, over the previous year's enrollment.

Justification for Increasing GI Bill Educational Assistance Benefits

Title I of the Committee bill provides a 6.6-percent increase in the amounts of GI bill educational assistance allowances. The following table compares the benefit levels for the various allowances provided for by current law with the benefit levels which would be effective on October 1, 1977, under the Committee bill.

TABLE 8.—VOCATIONAL REHABILITATION (CH. 31, SEC. 1504(b))

	Existing law				S. 457 GI Bill Improvement Act of 1977			
	No dependents	1 dependent	2 dependents	Each additional dependent	No dependents	1 dependent	2 dependents	Each additional dependent
Institutional:								
Full-time	$226	$280	$329	$22	$241	$298	$351	$26
Three-quarter	170	210	247	18	181	224	263	19
Half-time	113	140	165	12	120	149	176	13
On-farm, OJT or apprenticeship; Full-time	197	238	275	18	210	254	293	19

TABLE 8.—INSTITUTIONAL AND COOPERATIVE TRAINING (COLLEGE TRAINING) (CH. 34, SEC. 1682(a))—Continued

Full-time	$292	$347	$396	$24	$311	$370	$422	$26
Three-quarter	219	260	297	18	233	277	317	19
Half-time	146	174	198	12	155	185	211	13
Cooperative	235	276	313	18	250	294	334	19

FARM COOPERATIVE TRAINING (CH. 34, SEC. 1682(c))

Farm cooperatives:								
Full-time	$235	$276	$313	$18	$251	$294	$334	$19
Three-quarter	176	207	235	14	188	221	251	15
Half-time	118	138	157	9	126	147	167	10

APPRENTICESHIP OR OTHER ON-JOB TRAINING (CH. 36, SEC. 1787)

Periods of training	Present law				S. 457			
	No dependents	1 dependent	2 dependents	Additional for each dependent above 2	No dependents	1 dependent	2 dependents	Additional for each dependent above 2
1st 6 mo	$212	$238	$260	$11	$226	$254	$277	$12
2d 6 mo	159	185	207	11	169	197	221	12
3d 6 mo	106	132	154	11	113	141	164	12
4th and any succeeding 6-mo periods	53	79	101	11	56	84	108	12

Other provisions (Ch. 34)

	Present law	S. 457
Flight training	$270	[1] $288
Active duty and less than half-time	292	[1] 311
Correspondence courses	292	[2] 311
Special supplementary assistance	[3] 65	[4] 69
Predischarge education program	292	311
Loan	[5] 292	[5] 311

Other provisions—War orphans, widows, and wives educational assistance (Ch. 35)

	Present law	S. 457
Full-time	$292	$311
Three-quarter-time	219	233
Half-time	146	156
Institutional-business courses	235	251
Special restorative training	292	311

[1] 90 percent established charges, with 1 month charged to entitlement for each $286 cost.

[2] Established charge for tuition and fees, but not to exceed full-time rate of $310 per month.

[3] Per month, maximum of $780.

[4] Per month, maximum of $828.

[5] Per month, maximum of $1,500.

A chronology of educational assistance allowances since the beginning of the current GI bill program (in 1966)—including the rate increase provided by the Committee bill—are shown in the following table:

TABLE 9.—CHRONOLOGY OF ACTUAL AND PROPOSED EDUCATIONAL ASSISTANCE RATES UNDER POST-KOREAN CONFLICT AND VIETNAM-ERA VETERANS' GI BILL PROGRAM

Law and type of course	Single veteran	Veteran and 1 dependent	Veteran and 2 dependents	Additional dependents
Public Law 89–358, June 1, 1966: Full-time institutional	$100	$125	$150	.....
Public Law 90–77, October 1967:				
Full-time institutional	130	155	175	$10
Full-time cooperative farm	105	125	145	7
Full-time on job	80	90	100	.....
Public Law 91–219, Feb. 1, 1970:				
Full-time institutional	175	205	230	13
Full-time cooperative farm	141	165	190	10
Full-time on job	108	120	133	.....
Public Law 92–540, Oct. 1, 1972:				
Full-time institutional	220	261	298	18
Full-time cooperative farm	177	208	236	14
Full-time on job	160	179	196	8
Public Law 93–508, Dec. 3, 1974, retroactive to Sept. 1, 1974:				
Full-time institutional	270	321	366	22
Full-time cooperative farm	217	255	289	17
Full-time on job	189	212	232	9
Public Law 94–502, Oct. 1, 1976:				
Full-time institutional	292	347	396	24
Full-time cooperative farm	235	276	313	18
Full-time on job	212	238	260	11
S. 457, Oct. 1, 1977:				
Full-time institutional	311	370	422	26
Full-time cooperative farm	251	294	334	19
Full-time on job	226	254	277	12

Congress must be constantly aware of changes in the economy that can dilute the effect of benefit programs such as the GI bill program. Congress established the GI bill in 1966 in order that: (1) Service in the Armed Forces be more attractive, (2) eligible veterans and their dependents might benefit from attaining a higher educational level than they might otherwise have been able to afford, (3) individuals whose lives and careers have been disrupted by their active duty in service might receive vocational and educational readjustment assistance, and (4) individuals who served their country honorably might attain the vocational or educational objectives they would have otherwise fulfilled had they not served in the military. Since the inception of the current GI bill in 1966, Congress has intended that the educational assistance allowance cover, in part, the costs incurred by the veteran-student for tuition, fees, books, supplies, subsistence, and other associated costs.

In recent years, inflation has taken its toll on the amount of GI bill educational assistance. In 1970, Congress increased benefits by approximately 35 percent (Public Law 91–219); in 1972, by 26 percent (Public Law 92–540); in 1974, by 23 percent (Public Law 93–508); and in 1976, by 8 percent (Public Law 94–502), for an aggregate increase of 92 percent in the last 7 years.

Yet, even the benefit increases provided by past amendments have not assured that benefit levels kept pace with the rate of inflation from year to year. For example, in 1976, Congress increased GI bill educational assistance allowances by 8 percent. However, as revealed in the following table, the increase in the cost of living (as measured by the Consumer Price Index (CPI)) between September 1, 1974—the effective date of the increases provided by Public Law 93–508—and October 1, 1976—the effective date of the increases provided by Public Law 94–502—was 14.08 percent.

TABLE 10.—U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX[1]

	1974	1975	1976	1977
January	139.7	156.1	166.7	175.3
February	141.5	157.2	167.1	177.1
March	143.1	157.8	167.5	178.2
April	144.0	158.6	168.2	179.6
May	145.6	159.3	169.2	180.6
June	147.1	160.6	170.1	181.8
July	148.3	162.3	171.1	182.6
August	150.2	162.8	171.9	.....
September	151.9	163.6	172.6	.....
October	153.2	164.6	173.3	.....
November	154.3	165.6	173.8	.....
December	155.4	166.3	174.3	.....

[1] To calculate percentage changes in the CPI, first find the difference in absolute index points, divide that difference by the previous index standing and then multiply by 100. For example: In September 1974, the index stood at 151.9. In October 1976, it stood at 713.3. The difference is 21.4. Dividing 21.4 by 151.9 and multiplying by 100 equals 14.08 percent.

Overall, between January of 1970 and July of 1977, the CPI increased approximately 61.2 percent. Since October 1, 1976—the effective date of the 8-percent increase provided by Public Law 94–502—the CPI has risen 5.79 percent (through July 1977). When the Committee bill was ordered reported in July, the Congressional Budget Office estimated that the increase in the cost-of-living between October 1, 1977, and October 1, 1978, will be 6.6 percent.

On the basis of the increases in the CPI over the last 2 years, alone, the Committee believes that the proposed 6.6-percent increase in GI Bill benefits is justified. Although national attention has been focused on the unprecedented rates of inflation during the last several years (as reflected by increases in the Consumer Price Index), higher education has been plagued with high inflation for over a decade. The following table demonstrates the increased cost of obtaining a higher education:

TABLE 11.—*Annual percentage increases in price index for higher education and for the Consumer Price Index*

Fiscal year	Higher Education Price Index: Halstead instruction*	Higher Education Price Index: Consumer Price Index
1963–64	(100.00)	(100.00)
1964–65	4.30	1.50
1965–66	4.99	2.37
1966–67	5.21	2.79
1967–68	5.99	3.56
1968–69	6.80	4.79
1969–70	6.90	5.70
1970–71	6.39	5.06
1971–72	5.53	3.81
1972–73	5.11	4.79
1973–74	6.99	8.64
1974–75	8.64	10.52

*Halstead Instruction Index, also known as the Higher Education Price Index (HEPI); measure the costs to institutions of higher learning and the rate of inflation for those costs. The composite figures represent the average costs to an institution—both private and public—for faculty salaries, noninstruction/administrative salaries, energy consumption, and general consumer goods and services (plant and physical construction, maintenance, purchase of paper, equipment, etc.).

Note: Each percentage value indicates a percentage increase in the index for the preceding year. The base year was fiscal year 1963–64, as indicated by the numeral "100" in parentheses for that year.

Source: Lyle H. Lanier and Charles J. Andersen, "A Study of the Financial Condition of Colleges and Universities: 1972–75." American Council of Education, Washington, D.C., October 1975, condensed from table 16, p. 47.

Beginning in 1970–71, the College Scholarship Service (CSS) of the College Entrance Examination Board has conducted a survey of the costs borne by students in pursuing college level studies. In January of 1977, the CSS reported that, over the last 6 years, the median cost per year at a public, 4-year college has increased from $1,973 to $2,790, or by 41.4 percent. Similarly, at private universities, students' costs have gone from $3,231 to $4,568, also showing an increase of 41.4 percent. Perhaps the most important single factor in this overall 41.4-percent increase is the increase in the amount of tuition and educational fees. Between 1970–71 and 1977–78, public, 4-year institutions experienced a 57.2-percent increase in the amount of tuition and fees. Private, 4-year schools showed a 63.2-percent increase in the amount of tuition and fees, while private 2-year schools increased 58.4 percent. Most dramatic, however, is the increase in the amount of tuition and fees at public, 2-year schools—over 131 percent. The following table demonstrates the inordinate increases in tuition and educational fees between 1970–71 and 1977–78, as well as tuition and fee increases between 1975–76, and 1977–78.

TABLE 12.—INCREASE IN MEAN TUITION AND FEES BY INSTITUTIONAL TYPE AND CONTROL

Type of institution	Increase from 1975–76 to 1976–77: Mean	Increase from 1975–76 to 1976–77: Percentage	Increase from 1976–77 to 1977–78: Mean	Increase from 1976–77 to 1977–78: Percentage	Increase from 1970–71 to 1977–78: Mean	Increase from 1970–71 to 1977–78: Percentage
Public 2-yr	$86.00	29	$2	0.5	$221.00	131.6
Private 2-yr	88.00	5	72	4.1	668.00	58.4
Public 4-yr	43.00	7	0	-------	226.00	57.2
Private 4-yr	89.00	4	147	6.3	959.00	63.2
Proprietary	181.00	11	87	4.8	-------	-------
Total average	97.40	11.2	77	3.9	518.50	77.6

The average cost of attending college in 1977–78 will increase by nearly 4 percent. This increase is the smallest reported in the last 5 years. By contrast, average college costs for the 1976–77 academic year rose by 11.2 percent over the previous year. The 4-percent jump in 1977–78 tuition and fees will bring yearly student expenses up to an average of $3,005 for residents at public, 4-year schools and to $4,905 for residents at private, 4-year schools.

TABLE 13.—THE INCREASE IN COLLEGE COSTS SINCE 1971

	Resident students: 1971–72	1972–73	1973–74	1974–75	1975–76	1976–77	1977–78	Commuter students: 1971–72	1972–73	1973–74	1974–75	1975–76	1976–77	1977–78
Public institutions:														
2-yr	(1)	(1)	$2,024	$2,153	$2,411	$2,588	$2,707	$1,526	$1,635	$1,665	$1,922	$2,058	$2,223	$2,314
Tuition and fees	(1)	(1)	251	287	301	387	389	185	200	251	287	301	387	389
Room and board	(1)	(1)	1,032	1,086	1,213	1,305	1,375	566	615	681	778	791	813	864
Other expenses	(1)	(1)	741	780	897	897	944	775	820	733	857	966	1,023	1,061
4-yr	$1,875	$1,985	2,242	2,400	2,679	2,890	3,005	1,659	1,760	1,775	2,085	2,266	2,448	2,486
Tuition and fees	439	465	498	541	578	621	621	439	465	498	541	578	621	621
Room and board	890	945	1,042	1,116	1,272	1,371	1,450	494	545	625	704	716	793	780
Other expenses	546	575	702	743	829	898	934	726	750	652	890	972	1,034	1,085
Private institutions:														
2-yr	2,484	2,540	3,194	3,617	3,690	4,009	4,113	1,993	2,090	2,583	3,287	3,421	3,595	3,680
Tuition and fees	1,192	1,210	1,389	1,578	1,652	1,740	1,812	1,192	1,210	1,389	1,578	1,652	1,740	1,812
Room and board	877	910	1,159	1,303	1,239	1,410	1,422	382	395	647	917	850	902	874
Other expenses	415	420	646	736	799	859	879	419	485	547	792	919	953	994
4-yr	3,171	3,280	3,693	4,039	4,391	4,663	4,905	2,599	2,745	3,162	3,638	3,950	4,141	4,331
Tuition and fees	1,652	1,725	1,942	2,080	2,240	2,329	2,476	1,652	1,725	1,942	2,080	2,240	2,329	2,476
Room and board	1,007	1,035	1,159	1,207	1,302	1,429	1,483	469	525	721	786	778	840	842
Other expenses	512	520	592	752	849	905	946	478	495	499	807	932	972	1,013
Proprietary institutions	(1)	(1)	(1)	3,817	3,822	4,271	4,395	(1)	(1)	(1)	3,414	3,382	3,726	3,914
Tuition and fees	(1)	(1)	(1)	1,651	1,627	1,808	1,895	(1)	(1)	(1)	1,651	1,627	1,808	1,855
Room and board	(1)	(1)	(1)	1,387	1,363	1,507	1,568	(1)	(1)	(1)	946	863	899	963
Other expenses	(1)	(1)	(1)	779	832	956	932	(1)	(1)	(1)	817	892	1,019	1,056

[1] Insufficient data.

Source: College Scholarship Service.

The Committee observes that increases in the amounts of GI bill allowances since 1970 have been primarily motivated by the Committee's desire to increase the veteran's education purchasing power. In this regard, the Committee, in its 1972 report to accompany S. 2161 (S. Rept. No. 92–988 at page 34), provisions of which were ultimately enacted into law is Public Law 92–540, stressed that the increase in benefits were designed to "achieve parity with veteran entitlement under the World War II GI bill." Again in 1974, the Committee emphasized the importance of increasing the amount of available benefits to provide "educational opportunities for today's veterans [equal] to those available to veterans following World War II."

Despite these increases, the veteran's education purchasing power has remained relatively static since 1970 as a result of the continued rise in the cost of living as measured by the CPI. The Committee has increased benefits almost 67 percent since 1970 (from $175 to $292). However, the increase in the CPI from 1970 through August 1977—Public Law 91–219, increasing monthly allowances from $130 to $175, became effective February 1, 1970—has been close to 60 percent As a result, the real purchasing power of these allowances over the 1970 level—which the Committee has previously found inadequate—has not been increased to the extent the Committee believes necessary. Thus, the Committee believes that a further cost-of-living increase is warranted.

Although the Committee has not included in the Committee bill a provision amending present section 1685 of title 38 (Veteran-student services) to increase the amount of work-study allowance provided by that section, recent Congressional action increasing the minimum wage (from $2.30 to $2.65 per hour, effective January 1, 1978, in H.R. 3744 as passed by the House) has underscored the

need for an increase in the amount of this allowance. In this regard, the Committee notes that the $2.50 per-hour allowance ($625 for 250 hours of service) provided under the work-study program has not been increased since the program was established by section 203 of Public Law 92-540, the Vietnam Era Veterans' Readjustment Assistance Act of 1972.

It is the Committee's intention to offer, when the full Senate considers S. 457, an amendment to provide that the amount of the hourly work-study allowance—and consequently the amount of the maximum allowance provided for 250 hours of service—shall be tied to increases in the amount of the Federal-required minimum hourly wage. Thus, the amount of the section 1685 work-study allowance would be no less than the minimum wage, and when such wage is increased, the work-study allowance would correspondingly be increased, if the amendment intended to be proposed is enacted.

Need for Accelerated Payment of Educational Assistance Allowances

In addition to determining that there was a need for increasing the amounts of educational assistance allowances (by 6.6 percent), the Committee, after carefully examining the need for providing additional amounts of benefits to certain veterans, has unanimously approved a new accelerated benefits program. For those veterans living in States where low-cost public education is not generally available, the GI bill uniform payment formula provides less assistance in meeting the cost of education than it does for other veterans who live in States which have devoted considerable tax dollars to developing accessible low-cost public education.

The committee notes that precedent for an accelerated benefits program is found in the World War II GI bill program. Under that program, a veteran's full school costs—including tuition, fees, books, and supplies—were paid by the Veterans' Administration up to a maximum of $500 a school year. If the veteran's school-year course costs exceeded $500, then, such veteran could accelerate entitlement to the extent the costs exceeded $500. One day of entitlement was charged against such veteran for each $2.10 paid under the accelerated program.

The rate of GI bill participation by Vietnam-era veterans varies considerably from State-to-State as shown by the following table:

TABLE 14.—PARTICIPATION RATE FOR VIETNAM-ERA VETERANS BY STATE AND TYPE OF TRAINING, CUMULATIVE THROUGH NOVEMBER 1976

		Trainees					
			Percent of veteran population				
	Veteran population (thousands)	Total trainees	Total	College	Other residence schools [1]	On-job training	Correspondence
Grand total	8,332	4,594,663	55.1	33.8	9.1	5.0	7.2
United States, State total	8,238	4,566,855	55.4	34.0	9.1	5.1	7.3
Alabama	117	81,751	69.9	39.7	19.7	5.9	4.6
Alaska	15	7,688	51.3	29.9	11.1	4.8	5.5
Arizona	89	66,681	74.9	55.3	7.4	5.5	6.7
Arkansas	71	40,560	57.1	26.4	18.6	6.5	5.6
California	944	659,626	69.9	53.9	7.6	3.7	4.8
Colorado	116	77,270	66.6	43.6	9.9	4.4	8.8
Connecticut	123	53,300	43.3	24.3	5.5	7.4	6.2
Delaware	25	13,819	55.3	33.2	6.8	4.2	11.1
District of Columbia	24	[2] 41,547	NA	NA	NA	NA	NA
Florida	308	182,318	59.2	36.2	11.6	4.7	6.7
Georgia	200	115,163	57.6	27.2	19.6	5.4	5.3
Hawaii	33	27,184	82.4	53.5	12.1	10.0	6.9
Idaho	30	17,249	57.5	36.6	5.0	5.4	10.5
Illinois	407	200,425	49.2	30.4	6.4	4.7	7.7
Indiana	215	92,760	43.1	20.0	7.0	5.1	11.0
Iowa	106	51,960	49.0	24.1	10.4	4.4	10.2
Kansas	87	48,643	55.9	34.4	10.0	4.1	7.5
Kentucky	113	60,054	53.1	30.2	9.5	4.0	9.5
Louisiana	122	71,365	58.5	28.8	14.7	8.3	6.7
Maine	40	22,752	56.9	29.7	10.6	9.5	7.1
Maryland	181	83,298	46.0	28.8	6.6	4.4	6.2
Massachusetts	240	104,146	43.4	29.9	5.8	3.4	4.2
Michigan	345	183,432	53.2	32.6	6.5	4.4	9.7
Minnesota	175	89,038	50.9	23.9	13.2	7.1	6.7
Mississippi	60	35,226	58.7	32.6	12.9	7.0	6.2
Missouri	191	106,959	56.0	32.2	10.4	4.9	8.4
Montana	30	17,226	57.4	31.7	9.9	9.0	6.9
Nebraska	58	34,701	59.8	32.9	10.5	9.2	7.3
Nevada	27	14,745	54.6	33.9	10.0	3.5	7.2
New Hampshire	37	17,341	46.9	28.9	4.4	7.0	6.5
New Jersey	273	106,517	39.0	22.1	6.1	4.2	6.6
New Mexico	39	30,173	77.4	45.4	16.7	5.3	9.9
New York	590	302,845	51.3	31.5	7.0	6.1	6.7
North Carolina	184	124,035	67.4	39.7	14.5	8.1	5.2
North Dakota	18	16,691	92.7	48.3	19.5	14.6	10.3
Ohio	424	189,249	44.6	24.2	6.6	4.3	9.5
Oklahoma	118	68,589	58.1	37.4	11.9	3.7	5.2
Oregon	109	57,551	52.8	37.1	5.5	5.1	5.1
Pennsylvania	460	199,726	43.4	20.0	7.6	5.4	10.4
Rhode Island	42	22,847	54.4	37.0	7.3	5.4	4.7
South Carolina	104	69,997	67.3	36.2	18.6	7.0	5.5
South Dakota	19	15,908	83.7	48.5	15.1	9.2	10.9
Tennessee	155	92,546	59.7	32.6	13.4	5.3	8.4
Texas	472	268,757	56.9	38.7	8.5	3.3	6.5
Utah	51	27,544	54.0	38.7	3.3	3.5	8.4
Vermont	20	7,151	35.8	17.0	3.6	8.4	6.7
Virginia	199	106,629	53.6	33.4	6.5	5.6	8.1
Washington	188	113,888	60.6	39.8	9.3	4.4	7.1
West Virginia	59	33,445	56.7	28.9	9.5	8.8	9.4
Wisconsin	171	86,377	50.5	26.2	7.7	5.7	10.9
Wyoming	14	8,163	58.3	36.8	5.1	7.5	8.9
Puerto Rico	45	17,868	39.7	26.3	11.5	.9	.9
All other [3]	49	9,940	20.3	4.9	13.6	.8	1.0

[1] The other residence schools percentage is derived by subtracting the correspondence percentage from the other schools percentage. This percentage will be slightly understated due to the small number of college level training contained in correspondence (about 1 percent).

[2] The number of trainees from the District of Columbia is overstated. See text sec. III.K.1a.(2)

[3] Includes persons training in U.S. possessions and territories and in other countries.

As indicated in the above, the rates of participation range from a low of 35 percent (in Vermont) to a high of 92.7 percent (in North Dakota). Differences in participation rates however are not unique to the current GI bill as evidenced by the following table:

TABLE 15.—THREE GI BILLS—EDUCATION AND TRAINING, STATE PARTICIPATION BY PERIOD OF SERVICE

[In thousands]

	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
State	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]
Grand total	15,440	7,800	50.5	5,509	2,391	43.4	3,077	1,396	45.4	8,533	4,745	55.6
United States, State total	15,315	7,757	50.6	5,456	2,345	43.0	3,041	1,383	45.5	8,436	4,717	55.9
Alabama	253	171	67.6	86	61	70.9	45	27	59.4	120	85	70.5
Alaska		6	NA	7	2	28.0	6	2	32.4	16	8	50.8
Arizona	74	40	54.1	46	17	37.0	31	21	67.5	92	69	75.3
Arkansas	156	104	66.7	36	23	63.9	25	12	47.1	73	42	57.5
California	1,187	581	48.9	651	245	37.6	334	208	62.3	966	683	70.7
Colorado	147	87	59.2	61	30	49.2	40	23	57.0	118	81	68.3
Connecticut	224	89	39.7	89	30	33.7	47	17	35.9	125	55	43.6
Delaware	34	15	44.1	14	4	28.6	10	4	40.7	25	14	57.2
District of Columbia	107	99	92.5	29	35	NA	11	10		24	47	
Florida	289	171	59.2	175	71	40.6	109	51	46.5	318	189	59.5
Georgia	290	191	65.9	100	66	66.0	70	30	42.3	204	119	58.4
Hawaii	(4)	19	NA	15	8	53.3	12	5	44.9	34	29	85.3
Idaho	57	33	57.9	17	8	47.1	11	6	50.8	31	18	57.4
Illinois	936	444	47.4	306	120	39.2	158	61	38.4	416	206	49.4
Indiana	400	162	40.5	141	51	36.2	79	29	37.0	220	95	43.2
Iowa	228	111	48.7	75	33	44.0	41	17	41.8	108	53	49.2
Kansas	188	88	46.8	60	23	38.3	32	13	40.4	89	50	56.4
Kentucky	245	115	46.9	73	34	46.6	43	17	39.4	116	62	53.8
Louisiana	238	156	65.5	80	47	58.8	46	22	46.9	125	74	58.8
Maine	82	39	47.6	26	8	30.8	15	7	46.0	41	24	57.5
Maryland	242	123	50.8	110	30	27.3	65	26	39.4	185	86	46.4
Massachusetts	522	247	47.3	168	75	44.6	89	41	45.9	245	107	43.7
Michigan	681	276	40.5	229	79	34.5	129	57	44.2	353	188	53.2

TABLE 15.—THREE GI BILLS—EDUCATION AND TRAINING, STATE PARTICIPATION BY PERIOD OF SERVICE—Continued

[In thousands]

State	World War II			Korean conflict			Peacetime post-Korean conflict			Vietnam era		
	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent)	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]	Veteran population [1]	Total trained [2]	Participation rates (percent) [3]
Minnesota	300	144	48.0	104	53	51.0	61	28	45.3	179	91	50.9
Mississippi	175	119	72.1	40	28	70.0	23	9	40.2	61	36	59.8
Missouri	388	228	58.8	128	63	49.2	71	31	43.9	196	110	56.1
Montana	57	30	52.6	19	8	42.1	12	5	40.4	29	18	61.5
Nebraska	122	66	54.1	40	23	57.5	22	11	47.9	60	36	59.9
Nevada	17	8	47.1	14	2	14.3	11	5	49.4	27	16	57.5
New Hampshire	57	23	40.4	20	6	30.0	14	6	43.6	37	18	48.7
New Jersey	559	211	37.7	203	55	27.1	110	37	34.0	280	109	39.0
New Mexico	71	37	52.1	30	14	46.7	15	9	57.6	40	31	77.9
New York	1,609	790	49.1	495	202	40.8	237	101	42.6	603	310	51.5
North Carolina	344	198	57.6	109	62	56.9	68	31	46.0	190	129	67.8
North Dakota	46	23	50.0	14	10	71.4	8	4	52.5	18	17	96.2
Ohio	855	384	44.9	297	96	32.3	157	57	36.5	434	195	44.8
Oklahoma	221	135	61.1	67	41	61.2	40	19	46.7	121	71	58.5
Oregon	168	77	45.8	54	21	38.9	37	18	49.0	112	59	52.9
Pennsylvania	1,180	588	49.8	334	144	43.1	173	65	37.6	472	204	43.3
Rhode Island	96	33	34.4	27	12	44.4	15	10	63.5	43	23	54.3
South Carolina	164	102	62.2	55	31	54.3	36	17	47.8	107	73	67.9
South Dakota	59	27	45.8	18	12	66.7	9	6	70.1	19	17	87.4
Tennessee	298	203	68.1	94	52	55.3	57	26	45.3	159	95	60.0
Texas	783	453	57.9	273	140	51.3	168	77	45.5	484	279	57.6
Utah	74	46	62.2	30	20	66.7	17	11	62.4	53	28	53.3
Vermont	32	16	50.0	12	4	33.3	8	2	25.1	20	7	36.6
Virginia	301	118	39.2	120	35	29.2	70	23	33.3	205	111	54.1
Washington	233	111	47.6	95	40	42.1	63	31	48.5	193	119	61.9
West Virginia	195	73	37.4	46	22	47.8	22	10	43.4	61	35	56.9
Wisconsin	313	132	42.2	113	43	38.1	64	29	45.6	175	88	50.5
Wyoming	28	15	53.6	11	3	27.3	5	2	44.2	14	8	60.3
Outside United States, total	125	43	34.4	53	45	84.9	36	13	35.1	97	28	29.2

[1] Estimates of veteran participation are based upon net separations from the Armed Forces and therefore includes some persons not eligible for training under the GI bills.

[2] Estimates of State distribution of trainees are based upon location of training facility for World War II and Korean conflict veterans and on State of residence at time of original application for post-Korean and Vietnam-era veterans. Trainee counts for World War II and Korean conflict are as of end of program while those for later service periods are as of April 1977.

[3] Based on unrounded data.

[4] Less than 500.

Note: Column totals may not add due to rounding.

An analysis of the comparative charts and rates of participation shows the following: The rate of participation by Vietnam-era veterans in the current GI bill exceeds World War II rates in 33 of 48 States (Alaska and Hawaii are not included). In some States—for example, Louisiana, Georgia, Arkansas, Utah and Tennessee—the decline in participation can be explained by the State's extremely high participation rate attained under the World War II bill (65.5, 65.9, 66.7, 62.2, and 68.1, respectively). Yet, with the exception of Utah, in each of those States, the participation rate among Vietnam-era veterans exceeded that of the national average at the end of April 1977 (55.6—this rate does not include training by active duty service personnel when such persons are included, the participation rate at the end of April 1976, was 64.9 percent).

Some States show demonstrably increased rates of participation between the World War II program and the current Vietnam-era GI bill. For example, the increase from the World War II bill to the Vietnam-era program in the rate of participation was as follows for the following States: Arizona, 21.2 percent; California, 21.8 percent; Delaware, 13.1 percent; Michigan, 12.7 percent; Rhode Island, 19.9 percent; West Virginia, 19.5 percent; North Dakota, 46.2 percent; and South Dakota, 41.6 percent. This compares with an increase in the rate of participation of 5.1 percentage points for the current program over the World War II program (55.6 and 50.5, respectively).

In some States participation rates have not changed to any large extent. For example, in the State of Alabama the participation rate increased by 2.9 percent; in Illinois, 2.0 percent; in Indiana, 2.7 percent; in Iowa, 0.5 percent; in Minnesota, 2.9 percent; in New York, 2.4 percent; and in New Jersey, 1.3 percent. In the States of Ohio and Texas, the participation rate has declined 0.1 percent and 0.3 percent, respectively.

Thus, there have been disparities in the participation rates among States under both the World War II and the Vietnam-era programs. In addition, there are variations in State participation rates between the World War II bill and the current bill for which there is no easy explanation.

Nevertheless, it seems likely that the varying Vietnam-era GI bill participation rates among States is, to some extent, a function of the amount of resources which individual States and local communities have committed to the development of adequate, accessible, low-cost postsecondary education programs. The differences in the amounts of money appropriated by individual States for purposes of post-secondary education varies widely as indicated by the following table:

ABLE 16.—APPROPRIATIONS OF STATE TAX FUNDS FOR OPERATING EXPENSES OF HIGHER EDUCATION FOR FISCAL YEARS 1965-66, 1973-74 AND 1975-76 WITH PERCENTAGE GAINS OVER MOST RECENT 2 AND 10 YRS

[Dollar amounts in thousands]

States	Year 1965-66	Year 1973-74	Year 1975-76	2-yr gain (percent)	10-yr gain (percent)
(1)	(2)	(3)	(4)	(5)	(6)
Alabama	$40,327	$151,836	[1] $213,750	41	430
Alaska	6,108	23,359	52,864	126	767
Arizona	35,459	135,998	162,157	20	359
Arkansas	28,722	73,411	103,202	41	259
California	413,103	1,156,254	1,541,528	33	273
Colorado	44,073	140,315	184,313	31	318
Connecticut	31,060	119,918	136,623	14	340
Delaware	7,390	33,573	41,966	25	468
Florida	95,476	346,056	410,552	19	330
Georgia	50,859	218,660	240,490	10	373
Hawaii	17,006	57,295	83,255	41	390
Idaho	15,450	40,566	61,558	52	297
Illinois	204,403	550,804	642,942	17	215
Indiana	90,105	233,379	295,297	27	226
Iowa	61,284	144,476	195,320	35	219
Kansas	48,598	108,927	153,078	41	215
Kentucky	49,507	148,214	185,619	25	275
Louisiana	73,318	158,855	198,996	25	171
Maine	12,771	39,828	44,392	11	248
Maryland	48,275	172,826	207,451	20	330
Massachusetts	32,022	176,707	[1] 200,000	13	525
Michigan	176,380	464,029	556,806	20	215
Minnesota	65,211	187,552	250,815	34	285
Mississippi	25,931	112,868	149,363	32	476
Missouri	62,168	180,719	213,774	18	244
Montana	14,749	36,792	45,649	24	209
Nebraska	21,894	68,000	100,082	47	357
Nevada	7,114	26,632	37,719	42	430
New Hampshire	7,335	17,403	22,453	29	206
New Jersey	50,826	257,703	267,699	4	427
New Mexico	21,649	54,502	74,226	35	243
New York	283,722	983,941	1,256,593	28	343
North Carolina	75,323	287,115	368,754	28	383
North Dakota	13,989	31,730	48,865	54	249
Ohio	85,045	345,759	451,566	31	431
Oklahoma	41,867	96,038	127,656	33	205
Oregon	49,252	123,476	159,328	29	224
Pennsylvania	102,611	500,684	622,636	24	507
Rhode Island	12,868	42,439	47,801	13	271
South Carolina	21,403	145,402	213,040	47	895
South Dakota	15,987	25,977	35,667	37	123
Tennessee	41,106	147,253	171,473	16	317
Texas	165,624	509,130	830,320	63	401
Utah	24,891	66,373	87,848	32	253
Vermont	6,395	18,453	20,138	9	215
Virginia	40,830	206,458	277,198	34	579
Washington	94,979	252,224	310,131	23	227
West Virginia	32,294	81,796	103,125	26	219
Wisconsin	78,451	304,546	334,322	10	326
Wyoming	8,771	23,532	33,821	44	286
Total	3,055,021	9,830,328	12,575,141		
Weighted average percentages of gain				28	311

[1] Estimated, in advance of actual appropriations.

Many local cities, towns, and counties also appropriate money for purposes of postsecondary education. The relationship between the amount of tuition paid by a student in a public institution and the amount of State and local expenditures is shown by the following table:

(Not reproduced.)

Some correlations between State expenditures on higher education and Vietnam-era veteran GI bill participation rates may be deduced by examining State higher education appropriations in comparison to the size of the State Vietnam-era veteran population. For example, the State of New Jersey, which for fiscal year 1975–76 appropriated $267,699,000 for higher education, has a Vietnam-era veteran population of approximately 273,000 veterans. The State of Minnesota, on the other hand, with a Vietnam-era veteran population of 175,000—almost 100,000 fewer Vietnam-era veterans than in New Jersey, for fiscal years 1975–76 made postsecondary education appropriations of $250,815,000—approximately the same amount as did New Jersey. The participation rate for the State of Minnesota is 50.9 percent or 30.5 percent greater than the participation rate for the State of New Jersey (39 percent). Pennsylvania, another State with a relatively low Vietnam-era GI bill participation rate (43.3 percent) and with a population of approximately 460,000 of those veterans, appropriated approximately $623 million for fiscal year 1975–76 postsecondary education expenditures; Texas, with a similar number of these veterans (472,000) appropriated over $880 million for the same fiscal year for purposes of postsecondary education—over one-third greater than the amount appropriated by the State of Pennsylvania. The rate of participation for the State of Texas is 57.6 percent or 33 percent greater than the participation rate for the State of Pennsylvania.

There are also large variations in the general willingness of States to make expenditures on postsecondary education, as is revealed by the following chart which shows the relationship between the amount of State and personal income and expenditures for higher education:

(Not reproduced.)

It is likely that State participation rates are affected by the availability of accessible low-cost educational institutions. Recently, the Carnegie Foundation for the Advancement of Teaching, in a report entitled "The States and Higher Education: the Proud Past and a Vital Future (1976)", indicated that the number of educational institutions open at low or no tuition to all high school graduates with necessary skill requirements was insufficient. The report concluded:

We believe the possibility of such deficits should be particularly examined in all large metropolitan areas and in the following States as a whole:

	Percent
Delaware	57.2
Idaho	57.4
Indiana	43.2
Iowa	49.2
Kentucky	53.8
Maine	57.5
Maryland	46.4
Massachusetts	43.7
Minnesota	50.9
Mississippi	59.8
Nevada	57.5
New Hampshire	48.7
New Jersey	39.0
New Mexico	77.9
New York (SUNY)	51.5
North Dakota	96.2
Ohio	44.8
Oregon	52.9
Pennsylvania	43.3
Rhode Island	54.3
South Carolina	67.9
South Dakota	87.4
Utah	53.3
Vermont	36.6
West Virginia	56.9
Wisconsin	50.5

(Vietnam-era GI bill participation rates added by Committee to this Carnegie report table.)

In light of the above discussion, although the disparity in State participation rates is, in large part, a function of State and local support for postsecondary education, the Committee believes that an accelerated program designed to provide additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desirous of enrolling in a high-cost program of education. After due consideration, the Committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in title II (sections 201 and 202) of the committee bill. Under an accelerated program, all veterans would continue to be treated similarly by the Federal Government; that is, each veteran as a result of his service is entitled to a maximum of 45 months of educational assistance entitlement at the same rate. The accelerated program merely changes, in certain instances, the general rule that the benefit have to be used 1 month at a time.

The Committee believes that it is important, consistent with this principle of the Federal Government providing equal benefits for equal service to the Nation, to assist those veterans enrolled in high-cost programs of education—that is, those programs where the established charges for tuition and fees exceed $1,000 per school term. The Committee is cognizant that programs designed to assist those veterans enrolled in "medium cost" institutions would necessitate the expenditure of far more dollars than are currently available to the Committee under the Second Concurrent Resolution on the budget for fiscal year 1978. In addition, it must be questioned whether it would be wise to expend Federal dollars at the expense of other veteran programs on those veteran-students not required to expend large sums of money for purposes of education. Subject to these caveats, then, the Committee believes that the top priority should be the expenditure of Federal dollars to assist those veterans-students bearing a heavier burden of expenditures in obtaining an education.

The committee expects that as a result of enactment of the accelerated benefit program more veterans, particularly unemployed and underemployed veterans, should be better able to take advantage of the GI bill program.

The Committee in structuring the accelerated payment program has sought to assure its proper utilization. In order to assure that only those veterans and eligible persons seriously pursuing an education receive the benefits of the accelerated program, the Committee requires that benefits be paid to a veteran or eligible person only upon the certification by the educational institution that the veteran has satisfactorily completed the school term. To mitigate any financial difficulties caused by this delay in the payment until the end of the term, the Committee has established a special loan program for which the veteran must qualify. The veteran would be able to receive his money in the form of a loan "out front"—at the time when the veteran usually needs the assistance most. The failure of the veteran to complete satisfactorily the term will cause a default in the loan for which the veteran will be liable. In addition, the Committee has extended the benefits of the program only to those veterans who qualify on the basis of need as outlined in present section 1798 for the GI bill education loan program.

To assure the avoidance of institutional abuse, a veteran or eligible person would be eligible for receipt of the accelerated educational assistance allowance only if he is enrolled in an educational institution which has certified, pursuant to the "85–15" rule (section 1673(d)), that such institution had an enrollment during the previous school term of veterans equal to 35 percent or less of the total school enrollment. This provision should avoid institutions attempting to reap the benefits of the program by increasing their tuition or fees and enrolling veterans. Institutions must also meet the requirement in present law that veterans be subject to the same charge for tuition and fees as other similarly situated non-veterans.

Vocational Rehabilitation

Throughout the Nation's history, special concern has been shown for compensating those who have incurred injury by virtue of service in the country's Armed Forces. Federal assistance to those injured has been, in part, based upon the national purpose that everything possible should be done to help the disabled veteran readjust to civilian life.

Congress originally intended that an injured veteran should be assured that he would be "maintained competently during his life." However, as time passed, and medical technology improved, methods of medical treatment increased the number of disabled veterans. In response, Congress established programs that recognized the disabled veteran's need for vocational rehabilitation in addition to compensation in order to require the skills necessary to compete in the labor market.

Totally or partially disabled veterans of wars prior to World War I received assistance for hospitalization and recompense. During World War I, however, legislation was enacted to provide vocational rehabilitation for veterans having service-connected disabilities. The War Risk Insurance Act of 1917 (Public Law 65–90) included as part of its benefit package for disabled veterans provisions in regard to vocational rehabilitation. However, the Act did not detail the methods whereby such vocational rehabilitation might be accomplished.

To remedy this problem, the Vocational Rehabilitation Act (Public Law 65–178) was enacted in 1918. That public law detailed a disabled veterans vocational rehabilitation program. To be eligible for vocational rehabilitation under the program, the veteran had to demonstrate he was unable to carry on gainful employment or to re-enter the occupation he left. If the disabled veteran qualified for the program, he received monthly compensation equal to the amount of his monthly pay. In addition, the veteran was compensated for expenses he incurred as a result of participation in the program. Following training, and as part of the program, placement into suitable or gainful employment was provided. Furthermore, because the responsibility for finding suitable employment for rehabilitated veterans was placed upon the Government, the Government attempted to follow the veterans in their employment and assist them in meeting the difficulties of the new position. The vocational rehabilitation program for World War I disabled veterans provided by Public Law 65–178 terminated in 1928. During the program, approximately 675,000 applications for rehabilitation were received of which approximately half were rated as eligible for actual rehabilitation training.

Beginning with the War Risk Insurance Act of 1917, and until 1962, vocational rehabilitation programs for veterans with service-connected disabilities have been initiated subsequent to any major military involvement and terminated at the conclusion of the war. For example, on December 12, 1941—5 days after the Japanese attack on Pearl Harbor—President Roosevelt requested

the joint efforts of several Federal agencies, including the Veterans' Administration, in studying the problems of rehabilitating disabled veterans.

Congress, partially as a result of the experiences under the World War I vocational rehabilitation program, in 1943, ultimately enacted Public Law 78–16. This measure included provisions providing for vocational rehabilitation for any person who was otherwise eligible and who served in the active military or naval forces on or after December 7, 1941, and prior to the termination of hostilities in World War II. Public Law 78–16 provided for the rehabilitation of disabled veterans who had a disability incurred in or aggravated by military service. The purpose of the enacted legislation was to restore employ ability lost by virtue of a handicap due to service-incurred disability. The Act also gave the Administrator of Veterans' Affairs the power and duty to cooperate with and employ the facilities of other governmental and State employment agencies for the purpose of placing disabled veterans in gainful employment. Approximately, 550,000 disabled veterans from World War II benefited for the program before the program terminated.

Upon entry into the Korean war, President Harry Truman recommended the renewal of the vocational rehabilitation benefits granted by Public Law 78–16. Congress responded to this recommendation with the enactment in 1950 of Public Law 81–894. This Act as amended in 1951 by Public Law 82–110 provided vocational rehabilitation benefits for veterans who incurred service-connected disabilities and needed to overcome the handicap of a disability incurred or aggravated by such service. However, the disability had to be a direct result of armed conflict or incurred by the serviceperson either while engaged in extra-hazardous service or while the United States was engaged in war. Public Law 81–894 did not extend eligibility to those servicepersons who incurred their disabilities during the specified period for the vocational rehabilitation program if their injury only afforded them entitlement to the peacetime rates of compensation. The vocational rehabilitation program authorized under Public Law 81–894 was temporary and training had to be completed by participating veterans on or before August 20, 1963.

Historically, then, vocational rehabilitation legislation was enacted to address the prospective needs of service-connected disabled veterans when the Nation was faced with an existing or potential major military conflict. It was not until 1962, with the enactment of Public Law 87–815, that the vocational rehabilitation program was made permanent. Prior to the passage of that law, vocational rehabilitation benefits were granted veterans of World War II and the Korean conflict if they had a service-connected disability rated as 10 per centum or more disabling and were in need of vocational rehabilitation. With the enactment of Public Law 87–815, a veteran whose disability was incurred other than during World War II or the Korean conflict in order to receive vocational rehabilitation benefits was required to have been rated for purposes of compensation as 30 percent or more disabled or, if rated less than 30 percent, was required to have a pronounced employment handicap.

Public Law 87–815 and in 1962 Public Law 89–139 in 1965 liberalized, for purposes of determining eligibility, the required periods of service which a disabled veteran must have completed in order to be eligible for participation in the vocational rehabilitation program.

In 1968, Congress enacted Public Law 90–631, the Veterans Educational Assistance Act, which specified what educational assistance was available and detailed the relationship, for purposes of determining the character and duration of training, between vocational rehabilitation provided a veteran with a service-connected disability and other training programs provided generally.

It was not until 1972, with the enactment of the Vietnam Era Veterans' Readjustment Assistance Act, Public Law 92–540, that Congress expanded the scope of available vocational rehabilitation to any significant extent. For example, where feasible, those veterans pursuing a program of vocational rehabilitation training under chapter 31 were allowed to perform veteran-student services pursuant to section 1685 of title 38, United States Code.

At the end of November 1976, there were a total of 20,340 veterans in vocational training under chapter 31—a 32.5-percent increase over the 15,354 veterans enrolled at the end of November 1975. Of those enrolled in training in November 1976, 14,595 were attending colleges and universities, 2,748 were in vocational or technical schools, 551 were in on-job training, and 129 in institutional on-farm training, as demonstrated in the following table:

TABLE 19.—CH. 31—VOCATIONAL REHABILITATION PERSONS IN TRAINING AND EVER TRAINED

	In training			
	All laws	Vietnam era	Other	Vietnam era ever trained
Ch. 31 (total)	20,340	19,259	1,081	81,257
College (total)	14,595	14,034	561	51,357
Graduate level	1,225	1,182	43	1,933
Junior college	4,088	3,871	217	14,622
Other undergraduate	9,282	8,981	301	34,802
Other schools (total)	3,130	2,925	205	21,407
Vocational/technical	2,748	2,584	164	19,795
Elementary/secondary	189	172	17	1,154
Other	193	169	24	458
Institutional onfarm	129	120	9	374
On job training	551	539	12	3,678
Unknown	1,935	1,641	294	4,441

From June 1943, through November 1976, a total of more than 800,000 disabled veterans had trained under the VA vocational rehabilitation program. Of those, more than 81,000 have been Vietnam-era veterans.

Public Law 93–502, enacted in 1974, increased the amount of subsistence allowable provided disabled veterans participating in the vocational rehabilitation program under chapter 31. In addition to increasing the amount of benefits provided under chapter 31, Public Law 93–508, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, liberalized eligibility requirements extending the right to participate in the vocational rehabilitation program to certain disabled veterans who heretofore had been denied—those veterans with a service-connected disability rated at less than 30 percent. This measure made the eligibility requirement between the current program comparable to the programs provided to veterans of World War II and the Korean conflict. Public Law 93–508 also clarified and liberalized the circumstances under which disabled veterans training under the vocational rehabilitation provisions may obtain individualized tutorial assistance.

In 1976, Congress enacted Public Law 94–502, the Veterans Education and Employment Assistance Act of 1976, which included a substantive provision expanding the Nation's commitment to service-connected disabled veterans enrolled in the chapter 31 program. Section 103 of that act provided that chapter 31 trainees may be trained in the facilities of any Federal agency. Under section 103 of that law, the Administrator was given the authority to arrange for such unpaid training or work experience in a participating Federal agency as the Administrator determines necessary to accomplish vocational rehabilitation.

In regard to further improvements in the vocational rehabilitation program, in 1974, in the Committee report to accompany S. 2784 (S. Rept. No. 93–907, page 52), the Committee stressed that the vocational rehabilitation chapter (chapter 31), and the regulations implementing such chapter, had many inconsistencies. At the time, the Committee strongly recommended that the Veterans' Administration thoroughly review chapter 31 for possible legislative and administrative changes, particularly in light of Public Law 93–112, the Rehabilitation Act of 1973. That measure substantially restructured and redefined concepts regarding handicapped individuals generally and employment and services opportunities for them. Again, in 1976, the Committee stressed in its report to accompany S. 969, the Veterans Education and Employment Assistance Act of 1976 (S. Rept. No. 94–1243, page 43), that there were many inconsistencies and much outdated terminology in chapter 31 and the regulations promulgated thereunder, and urged the Veterans' Administration to conduct a thorough review of the vocational rehabilitation program for possible legislative and administrative changes, especially in connection with the Rehabilitation Act of 1973. The Committee also noted that it expected the Administrator, in the conduct of its study, to confer with the Commissioner of the Rehabilitation Services Administration in the Department of Health, Education, and Welfare.

However, to date, the Committee has yet to receive any recommendations from the Veterans' Administration. Thus, the Committee bill requires the Administrator, after consultation with the Commissioner of Rehabilitation Services in the Department of Health, Education, and Welfare, to submit to the President and the Congress a report on or before March 1, 1978. Such report shall include—but not be limited to—the Administrator's recommendations for legislative or administrative changes in chapter 31, recommendations for the need for services of vocational rehabilitation specialists to provide chapter 31 trainees with appropriate job development and job placement services, recommendations for utilizing the veterans education programs provided for by chapters 32, 34, 35, and 36 to meet the needs of disabled veterans eligible for chapter 31 training, and a description and analysis of the scope and quality of the chapter 31 program in comparison to the vocational rehabilitation provided under the Rehabilitation Act of 1973, as amended.

* * * * *

Further intensive discussion of the provisions of the Committee bill appears under the Section-by-Section Analysis and Discussion, *infra*.

COST ESTIMATE

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Congress), the committee, based on information supplied by the Congressional Budget Office, estimates that the 5-year cost resulting from the enactment of the committee bill would be $827 million in fiscal year 1978; $921 million in fiscal year 1979; $725 million in fiscal year 1980; $532 million in fiscal year 1981; and $382 million in fiscal year 1982.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE REVISED

SEPTEMBER 21, 1977.

1. Bill number: S. 457.

2. Bill title: GI Bill Improvement Act of 1977.

3. Bill status: As reported by the Senate Committee on Veterans' Affairs, July 22, 1977.

4. Bill purpose:

Title I—To provide rate increases to those using readjustment benefits.

Title II—To make available accelerated entitlement to certain persons receiving readjustment benefits and to extend the delimiting period for individuals who were not able to train during their ordinary entitlement period because of a disability.

Title III—Other minor amendments covering education, training and VA home loans to veterans.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1978	1979	1980	1981	1982
Title I:					
Sec. 101	15.0	14.0	12.0	11.0	9.0
Secs. 102 and 104	468.0	450.0	357.0	256.0	176.0
Sec. 103	27.0	26.0	24.0	23.0	21.0
Total title I	510.0	490.0	393.0	290.0	206.0
Title II:					
Secs. 201 and 202	295.0	410.0	312.0	223.0	159.0
Sec. 203	(1)	(1)	(1)	(1)	(1)
Total title II	295.0	410.0	312.0	223.0	159.00
Title III:					
Sec. 301	(1)	(1)	(1)	(1)	(1)
Sec. 302	6.7	5.9	5.2	4.5	3.8
Sec. 303	.2	.3	.3	.3	.3
Sec. 304	7.9	7.0	6.1	5.2	4.4
Sec. 305	(1)	(1)	(1)	(1)	(1)
Sec. 306	(1)	(1)	(1)	(1)	(1)
Sec. 307	(1)	(1)	(1)	(1)	(1)
Sec. 308	(1)	(1)	(1)	(1)	(1)
Sec. 309	(1)	(1)	(1)	(1)	(1)
Sec. 310	(1)	(1)	(1)	(1)	(1)
Sec. 311	8.0	8.1	8.3	8.5	8.7
Total title III	23.0	21.0	20.0	19.0	17.0
Total title IV					
Total all titles	828.0	921.0	725.0	532.0	382.0

1 Nominal cost.

These costs fall in budget function 700.

6. Basis for estimate: The additions to costs under all three titles decrease as the years go by because there will be continuously fewer veterans eligible to take training under the GI bill. Because the current GI bill is limited only to those entering the armed services prior to January 1, 1977, and because the armed services are at a reduced strength compared to what they were during the Vietnam war, the number passing the 10-year training period is and will be much greater than the number becoming eligible to train.

Title I: This provision provides for a 6.6 percent rate increase starting October 1, 1977. Rate increases act in two ways to increase the cost of training: (1) They raise the average cost per trainee and (2) they draw additional veterans into training who would not have trained otherwise. Roughly half of the estimated increase in the costs of this provision is attributable to each of these two ways. While there is no question that increased benefit rates raise average cost, the "suction effects" of GI bill increases require a bit more explanation. Using historical data over the tenure of the current GI bill (starting in fiscal year 1967), a CBO study has found a highly significant positive relationship between the level of benefits and number of trainees. The model developed as a result of this study projects that in fiscal year 1978, the proposed rate increase would result in 110,000 additional trainees and raise average cost $150 per trainee per year (from $1964 to $2114 in fiscal year 1978).

The table below shows the estimated additional number of trainees in each fiscal year as a result of the rate increase in addition to the estimated number of trainees without the rate increase.

[By fiscal years]

	1978	1979	1980	1981	1982
Number trained without the rate increase 1	1,850,000	1,550,000	1,160,000	820,000	590,000
Additional number trained with the rate increase	110,000	120,000	100,000	75,000	50,000

1 Preliminary estimates; excludes all chapter 32 trainees.

It should be noted that total costs are not simply average cost times number of trainees because other adjustments must be made.

Title II: Starting January 1, 1978, this provision would grant accelerated entitlement to veterans taking GI bill training if they meet certain conditions. These conditions would include the requirement that the veteran take out a means tested student loan for the amount of entitlement accelerated. Upon successful completion of the school term, the loan would be paid back by the accelerated payment. The accelerated payment can neither exceed the payment made otherwise to the veteran for the school term nor the amount by which tuition and fees exceed $1,000 per school year. The latter criterion would mean a greater payment only to those in high cost institutions. In fiscal year 1978 the amount accelerated is to be prorated for the partial school year remaining in 1977–1978. This provision would have three effects: (1) It would enable some veterans to enter training who would not have otherwise entered training because high tuition payments at accessible schools could not be financed, (2) It would enable those who would have trained even without accelerated entitlement to afford more expensive training if they so desire, and (3) It would provide some financial relief to veterans training in high cost institutions.

CBO estimates that accelerated entitlement under title II of S. 457 would result in an increase in average cost of $130 per complete year ($87 for fiscal year 1978 to account for the fact that the provision is not effective for the whole year). The estimated additional numbers of trainees resulting from accelerated entitlement during fiscal years 1978–1982 are shown in the table below:

Fiscal year:

1978	63,000
1979	98,000
1980	75,000
1981	54,000
1982	38,000

The extension of the GI bill entitlement period beyond 10 years for those who could not train because of a disability would have only a nominal cost. This part of the provision would be effective retroactive to May 31, 1976.

Title III. This set of miscellaneous adjustments in veterans benefits effective as of October 1, 1977 represents only a small addition to cost when compared with the two major provisions. These adjustments include an increase in the reporting fees paid by the VA to institutions for reporting the enrollment, interruption and termination of trainees, an increase in the maximum amount of loans available to veterans buying or improving homes with solar energy devices or added insulation and an increase in the reimbursement of administrative expenses for state approving agencies which deal with institutions training veterans under the GI bill.

7. Estimate comparison: None.

8. Previous CBO estimate: This estimate replaces the cost estimate of August 11, 1977.

9. Estimate prepared by: Al Peden (225–7766).

10. Estimate approved by:

G. G. NUCKOLS,
(For JAMES L. BLUM,
Assistant Director for Budget Analysis).

* * * * *

SECTION-BY-SECTION ANALYSIS AND DISCUSSION OF S. 457 AS REPORTED

Section 1

Provides that this Act may be cited as the "GI Bill Improvement Act of 1977".

TITLE I—GI BILL RATE INCREASES

Title I of the Committee bill amends title 38, United States Code, to provide increases of 6.6 percent in the amount of educational assistance provided under chapters 31, 34, 35, and 36 of title 38, United States Code—the most recent estimate of the percentage increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase, and effective date of the increase provided by the Act.

VOCATIONAL REHABILITATION

Section 101

Amends section 1504(b) of chapter 31 to increase by 6.6 percent the monthly subsistence allowance payable to disabled veterans in training under that chapter which authorizes vocational rehabilitation training to assist disabled veterans in overcoming the handicapping effects of their disabilities and to prepare them for obtaining and holding productive employment. In addition to the monthly subsistence allowance paid by the Veterans' Administration, disabled veterans enrolled in training under chapter 31 are provided with full tuition, books, and supplies. At the end of March 1977, 20,200 disabled veterans were enrolled in the chapter 31 vocational rehabilitation program, of which 15,400 were enrolled in college. Under the Committee bill, the amount of monthly subsistence for a veteran with no dependents would be increased from $226 to $241; with one dependent, from $280 to $298; and with two dependents, from $329 to $351. The Veterans' Administration estimates that the rate increase of 6.6 percent provided by the Act will cause increased fiscal year 1978 chapter 31 expenditures of approximately $4.5 million.

VETERANS' EDUCATIONAL ASSISTANCE

Section 102

Amends chapter 34 of title 38, United States Code, to increase by 6.6 percent the amount of educational assistance allowances provided under that chapter.

Clause (1) of section 102 amends section 1677(b) of chapter 34 to increase by 6.6 percent the amount of monthly educational asistance allowance to which a veteran enrolled in a flight training course is entitled. Under the flight training program, the Administrator pays to the veteran an educational assistance allowance computed at the

rate of 90 percent of the tuition and fees established for the course. The amount of the veteran's educational entitlement is proportionally reduced by the amount paid by the VA—90 percent of the established charge—divided by the amount of monthly educational assistance to which the veteran is entitled. At the end of November 1976, 18,282 veterans were enrolled in a program of flight training under the GI bill. Under this section, the amount of monthly assistance would be increased from $270 to $288 a month.

Clause (2) of section 102 amends section 1682(a) of chapter 34 to increase by 6.6 percent the amounts of monthly educational assistance allowances payable to veterans training under the chapter 34 educational assistance program. The full-time institutional rate for a veteran with no dependents would be increased from $292 to $311 a month; the rate for a veteran with one dependent would be increased from $347 to $370, and the rate for a veteran with two dependents would be increased from $396 to $422. For each additional dependent the amount of monthly assistance would be increased from $24 to $26. Three-quarter and half-time rates are also adjusted upward by 6.6 percent.

At the end of November 1976, 1,223,662 veterans were enrolled in a program of education under chapter 34, a decline of 33 percent from the number of chapter 34 veteran enrollees at the end of November 1975 (1,825,631). Of those veterans enrolled at the end of November 1976, a total of 855,707 were enrolled in college; 125,498 in other residence schools; 64,851 in on-job training; 156,326 in correspondence schools; and 21,280 in flight training. Of those veterans enrolled in college, 53.9 percent were enrolled in a junior or 2-year program of education. From November 1975 through November 1976, 594,256 veterans participated in the GI program for the first time.

Clause (3) of section 102 amends section 1682(b) of chapter 34 to increase by 6.6 percent the amount of maximum allowance payable to a service person in pursuit of a program of education. Section 1682(b) of title 38 provides that the educational assistance allowance of a veteran who is on active duty or training on less than a half-time basis shall be computed at the rate of the established charges for tuition or $311 (increased from $292) per month for a full-time course—whichever charge is less. At the end of November 1976, approximately 75,000 service persons were enrolled in training under the chapter 34 program.

Clause (4) of section 102 amends section 1682(c)(2) of chapter 34 to increase by 6.6 percent the amount of the monthly educational assistance allowance payable to veterans pursuing a farm cooperative program. At the end of November 1976, 21,628 veterans in receipt of GI bill educational assistance allowances were enrolled in a farm cooperative program. This total represents an increase of approximately 2.6 percent in the number of these trainees from November 1975 to November 1976. The full-time farm cooperative program rate for a veteran with no dependents would be increased from $235 to $251 a month; the rate for a veteran with one dependent, from $276 to $294 a month; and the rate for a veteran with two dependents, from $313 to $334 a month. The monthly farm cooperative educational assistance allowance would be increased by $19 for each dependent in excess of two. Three-quarter time and half-time farm-cooperative assistance rates would be proportionately increased.

Clause (5) of section 102 amends section 1692(b) of chapter 34 to increase by 6.6 percent the amount of the tutorial assistance allowance the Administrator pays on behalf of a veteran with a deficiency in a subject required or indispensable to the satisfactory pursuit of the veteran's or eligible person's approved program of education. During fiscal year 1976, a total of 45,366 veterans and other eligible persons received tutorial assistance. The maximum amount of monthly tutorial assistance would be increased from $65 to $69, and the maximum amount of annual tutorial assistance would thus be increased from $780 to $828 (or 12 months × $69 per month maximum payments).

Clause (6) of section 102 amends section 1696(b) of chapter 34 to increase by 6.6 percent the maximum amount of the monthly educational assistance allowance payable for a full-time course under the Predischarge Education Program (PREP), from $292 to $311 per month.

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Section 103

Amends chapter 35 of title 38 to increase by 6.6 percent the amount of monthly educational assistance allowances provided under chapter 35 (Survivors' and Dependents' Educational Assistance). Chapter 35 provides educational benefits to the spouse and children of a veteran with a permanent and total service-connected disability, and the surviving spouse and children of a veteran who died as a result of service-connected causes. Those entitled to the chapter 35 educational assistance allowances are known as "eligible persons" and are defined in section 1701(a)(1).

At the end of November 1976, 66,297 eligible persons were enrolled in GI bill training under chapter 35. Of that total, 11,669 were spouses and widowers and 54,628 were sons and daughters. Of the 66,297 enrolled in training, the vast majority (60,573) were enrolled in college.

Clause (1) of section 103 amends section 1732(b) of chapter 35 to increase by 6.6 percent the amount of monthly educational assistance allowance paid in behalf of an eligible person pursuing a full-time educational program consisting of institutional courses and alternate phases of training in a business or industrial establishment. The maximum monthly allowance under this provision would be increased from $235 to $251 per month.

Clause (2) of section 103 amends section 1742(a) of chapter 35 to increase by 6.6 percent the amount of the special restorative training allowance—from $292 to $311 per month. These benefits are payable to the parent or guardian of the child in need of such training. Further, if the tuition and fees applicable for any such course are more than $98 (presently $92) per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed that monthly figure, if the parent or guardian elects to have the entitlement reduced by 1 day for each $10.40 (presently $9.76) that the special training allowance paid exceeds the basic monthly allowance. At the end of November 1976, only 28 eligible persons were enrolled in special restorative training under chapter 35.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

Section 104

Amends chapter 36 of title 38 to increase by 6.6 percent the amount of monthly educational assistance allowances provided for veterans, and eligible persons enrolled in correspondence courses and on-job and apprenticeship training courses under chapter 36. In addition, this section increases by 6.6 percent the amount of educational assistance benefits used to determine the maximum amount of education loans for veterans and eligible persons provided for by section 1798 of chapter 36.

Clause (1) of section 104 amends section 1786(a)(2) of chapter 36 to increase by 6.6 percent the amount of educational assistance allowance payable for pursuit of a program by correspondence. The amount of an enrolled veteran's or eligible person's educational assistance entitlement would be reduced by 1 month for each $311 (presently $292) paid to the eligible veteran or eligible person for the course. The amount paid for the course is 90 percent of the institution's established charge. At the end of November 1976, 156,326 were enrolled in a program of education by correspondence. Of this number, 45,040 were active-duty military personnel.

Clause (2) of section 104 amends section 1787(b)(1) of chapter 36 to increase by 6.6 percent the amount of monthly educational assistance allowance payable to a veteran or eligible person pursuing a full-time program of apprenticeship or other on-job training. At the end of November 1976, 64,851 veterans were enrolled in an on-job or apprenticeship program under the GI bill. For a veteran or an eligible person with no dependents, the monthly assistance allowance would be increased from $212 to $226 per month for the first 6 months; from $159 to $169 for the second 6 months; from $106 to $113 for the third 6 months; and from $53 to $56 for the fourth and any succeeding 6-month period. Rates for veterans or eligible persons with dependents would also be increased by 6.6 percent.

Clause (3) of section 104 amends section 1798(b)(3) of chapter 36 to increase by 6.6 percent the aggregate amount any veteran may borrow under the veterans loan program (with the exception of the new subsection (f) loan established by section 202 of the Committee bill). The aggregate amount of the loan for which a veteran or eligible person is entitled is computed by multiplying the number of months of entitlement which a veteran has remaining, times the monthly maximum educational assistance allowance—increased by the Committee bill from $292 to $311 a month, but in no event may the loan exceed $1,500 for any one academic year.

The Congressional Budget Office estimated that enactment of title I would cost approximately $510 million in fiscal year 1978, $490 million in fiscal year 1979, $393 million in fiscal year 1980, $290 million in fiscal year 1981, and $206 million in fiscal year 1982.

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

Title II of the Committee bill amends title 38, United States Code, to provide for an accelerated program for the payment of additional educational assistance allowance—by virtue of accelerating a veterans' entitlement—for veterans enrolled in high-cost programs of education, and an extension of the delimiting date for a veteran who, as a result of a physical or mental disability or impairment—not the result of the veteran's own misconduct—was unable to initiate or complete a program of education in the normal 10-year period.

ACCELERATED PAYMENT

Section 201

Amends chapter 34 of title 38 to add a new section 1682A. A veteran—which, as used in this section, includes eligible persons as that term is defined by present section 1701(a)(1)—enrolled as a full-time student in a program of education with tuition and fees of greater than $1,000 for any school term—defined (except during the 1977–78 school year as discussed in section 201(e) of the Committee bill, *infra*) for institutions of higher learning (IHL) operating on a semester or quarter system as two consecutive semesters or three consecutive quarters, respectively, and for non-IHLs or for IHLs not operating on a quarter or semester system, as

any approved time divisions of a program of education within which segments of the program are completed—would be eligible to accelerate his or her GI bill benefits to the extent that the veteran has months of entitlement remaining in excess of the number of months needed to complete his course of study. Those accelerated benefits paid would proportionately reduce the educational entitlement of such veteran under present section 1661.

Generally, subject to other limitations, if the veteran does not have a standard undergraduate degree and is enrolled in an IHL, then he or she may only accelerate the number of months of entitlement (as determined pursuant to section 1661) which he has remaining in excess of the number of months needed to obtain such a degree. A veteran enrolled in a non-IHL may accelerate the number of months remaining in excess of the number of months needed to complete the program, or 9 months, whichever is the lesser. Unless a veteran could normally be expected to complete the program of education during the school term, he or she would be eligible in any one school term to accelerate no more than one-half of the maximum number of months he or she is entitled to accelerate. For example, a veteran with 45 months of entitlement starting his or her freshman year in an IHL would be eligible to accelerate a maximum of 9 months—or 45 months less than 36 months needed to complete his or her program of education. This provision limits the number of months such veteran could accelerate during any one school term to 4½ months—or one-half the maximum number of months he or she was eligible to accelerate. In order for the veteran to be eligible to accelerate his or her benefits, the educational institution in which the veteran is enrolled must certify that 35 percent or less of the total number of students enrolled in such institutions were students receiving education assistance from the Veterans' Administration. This requirement corresponds with the 35 percent or less certification which many educational institutions now make under the 85–15 rule (section 1673(d), appendix H of DVB Circular 20–76–84) and codified in section 1673(d) by section 305(a)(2)(B) of the Committee bill.

The accelerated program will operate as follows: A veteran must apply for an accelerated payment within 4 weeks after the date of the beginning of the school term for which the accelerated payment is sought. At the time of application, the veteran must also apply and subsequently be found eligible for a VA education loan under the new section 1798(f). When the eligible veteran has satisfactorily completed the school term for which the accelerated payments are to be made—as certified to the Administrator by the institution in which the veteran is enrolled—payment will be made of the amount of accelerated benefits to which the veteran is entitled.

The amount of educational assistance allowance which the veteran may accelerate is limited to the amount by which the tuition and fees of the institution in which the veteran is enrolled exceed $1,000 for the school term. In no event would the veteran in any school term be entitled to receive greater than twice the amount of educational assistance allowance to which he or she would normally be entitled during that term.

In connection with the accelerated educational assistance allowance program, an eligible veteran would be entitled to a loan under a special direct-loan provision established by section 202 of the Committee bill to be codified in section 1798(f) of title 38. The veteran can qualify for the accelerated payment only upon the certification by the educational institution in which such veteran is enrolled, that, he or she has satisfactorily completed the school term for which the benefits are to be paid. Thus, the veteran does not qualify for any accelerated assistance until the end of the school term. To mitigate the effect of this delayed payment, the accelerated assistance loan program provides for the loan payment to be made to eligible veterans at the beginning of the school year—at the time when the veteran most needs the additional educational assistance. Under this provision, a veteran who is otherwise eligible and who meets the general veteran education loan needs test, as provided for in present section 1798, will be entitled to borrow up to the amount of the accelerated benefit to which the veteran is entitled without regard to the $1,500 loan maximum under present section 1798. Under section 1798(f), the veteran would not have to meet the general section 1798 education loan requirement of having exhausted other loan sources. In addition, that provision of present section 1798, in regard to eligibility based on enrollment in a vocational objective course requiring at least 6 months completion time, would not be applicable.

In order for the veteran to be entitled to accelerate his or her educational assistance allowance, such veteran must have received a loan from the VA pursuant to new subsection (f) of section 1798. The Committee expects that the veteran's application for accelerated benefits would also be used by the VA as an application for the section 1798(f) loan, and an affirmative decision upon entitlement to a 1798(f) loan would satisfy the section 1682(A)(b)(3) requirement that the veteran is entitled to a 1798(f) loan.

At the time of application for the loan, the section 1798(f) veteran must assign his or her accelerated benefits to the VA. Upon the certification by the education institution in which the veteran is enrolled of the veteran's satisfactory completion of the school term for which the benefits are to be accelerated, the veteran's obligation for the 1798(f) loan would terminate—the accelerated benefits, in a "paper transaction", would be used to repay the principal of the loan. No interest would accrue on the loan under the normal operation of this program because, under the provisions of the VA educational loan program, no interest is charged to the veteran-borrower until 9 months after such veteran ceases to be at least a half-time student. However, if a veteran fails to be certified by the educational institution in which enrolled as having completed satisfactorily the school term for which the section 1798(f) loan has been made, the veteran will not be eligible to participate in the acceleration program again until the amount of principal and interest for which the veteran is liable has been repaid in full. (Of course, the VA could also offset the amount of liability against any VA benefit subsequently payable to the defaulting veteran.)

This accelerated assistance program and the special education loan program would be effective on January 1, 1978. For the time period between January 1, 1978, and August 1, 1978, the veteran would be eligible for participation in the program if enrolled for one semester or two consecutive quarters or if enrolled in an institution not on a quarter or semester system, for a time division or segment approved by th eAdministrator. The benefits of the program and $1,000 tuition and fees expense requirement would be appropriately prorated.

Subsection (a) of section 201 amends chapter 34 by establishing a new section 1682A entitled "Accelerated Payment of Educational Assistance Allowance", as follows:

New section 1682A: Subsection (a). Mandates the Administrator, in accordance with the provisions of new section 1682A and of section 1798(f)—the new loan subsection created under this title—to accelerate the payment of educational assistance allowance to an eligible veteran. (Under section 1682A, an eligible veteran also includes an eligible person as that term is defined by section 1701(a)(1) of chapter 35 of title 38.) The eligible veteran must make application for the accelerated benefits and must be found by the Administrator to be eligible therefor. The amount of entitlement for which an eligible veteran is eligible under section 1661 of title 38—a maximum of 45 months—is proportionately reduced by the number of months of accelerated benefits (computed by the amount of accelerated payment divided by the amount of monthly allowance to which the veteran is otherwise entitled) which the eligible veteran receives.

Subsection (b). Restricts the entitlement to the accelerated assistance program to those eligible veterans who have satisfactorily completed the school term for which such accelerated payment is to be made. To be eligible for the receipt of accelerated assistance payments for any school term, the veteran must be: (1) Enrolled as a full-time student; (2) entitled under section 1661 to an educational assistance allowance; (3) eligible for and receiving an education loan under the new section 1798(f); and (4) paying institutional tuition and fees in excess of $1,000. In addition the veteran must have filed or applied for accelerated assistance within 4 weeks after the beginning of the school term for which the benefits are sought. Further, the educational institution in which the veteran is enrolled has satisfactorily completed the school term for which the accelerated payment is sought, and that 35 percent or less of the total number of students enrolled during the school term for which the accelerated payment is to be paid were not VA GI bill educational assistance allowance recipients.

Paragraph (1) of subsection (c). Limits the number of months of entitlement that the eligible veteran may accelerate. Generally, those veterans enrolled in institutions of higher learning—IHLs—who have not successfully completed a baccalaureate degree can accelerate only the number of months in excess of the number of months necessary to complete a program of education leading to a standard undergraduate college degree. Thus, a veteran who has not used any of his or her 45 months of entitlement and who is starting as a freshman in an undergraduate or baccalaureate program would be eligible to accelerate 9 of his or her 45 months of entitlement, or the number of months in excess of the number of months he or she would generally need to complete the baccalaureate degree—36 months. If the veteran is enrolled in an institution of higher learning and has completed successfully a baccalaureate degree, he or she would be eligible to accelerate the number of months in excess of the number of months needed to complete his or her program of education. Thus a veteran who has not used any of his or her 45 months of entitlement, who has a bachelor's degree, and who is enrolled in a 3-year educational program, would be eligible to accelerate up to 18 months of benefits (45 minus 27) subject, of course, to the other limitations contained in new sections 1682A and 1798(f).

Paragraph (2) of subsection (c). Provides that an eligible veteran enrolled in an educational institution other than an institution of higher learning (both of these terms are defined in present section 1652) would be eligible to accelerate either the number of months remaining in excess of the number of months needed to complete the veteran's program of education or 9 months, whichever period of time is the lesser.

Paragraph (1) of subsection (d). Limits the amount—and the number of months—of accelerated entitlement that the veteran may accelerate in any one school term. The amount of accelerated educational assistance allowance cannot exceed the amount to which the veteran would otherwise be entitled for the school term under chapter 34 or the amount by which the expenses, tui-

tion, and fees for the school term exceed $1,000, whichever is the lesser.

Paragraph (2) of subsection (d). Limits the number of months which the veteran may accelerate in any one school term to one-half the total number of months the veteran is eligible to accelerate unless such veteran may reasonably be expected to complete the program being pursued during the school term. Thus, a veteran with 45 months of entitlement beginning his or her first year of a 4-year course of study could conceivably exhaust his or her accelerated benefits in the first 2 years of his or her program—4½ months in his or her first year and 4½ months in his or her second year. Of course, the veteran may elect to spread the amount of his or her accelerated benefits over the 4 year program period. If the veteran can reasonably be expected to complete his or her program during the school term for which the benefits are to be paid, there is no limitation *under this paragraph* on the number of months he or she may accelerate—he or she is, of course, subject to the other limitations included in section 1682A and section 1978(f).

Subsection (e). Defines "school term" for purposes of the accelerated assistance program. For those institutions of higher learning operating on a quarter system, a school term is defined as three consecutive such quarters; for an institution of higher learning operating on a semester system, a school term is defined as two such consecutive semesters; and, in the case of an educational institution not an institution of higher learning, or in the case of an institution of higher learning not operating on a quarter or semester system, a school term is defined as any approved (by the Administrator) time division of a program of education within which segments of the program are completed.

Subchapter (b) of section 201 amends chapter 35 of title 38 by adding a new section 1738 entitled "Accelerated Payment of Educational Assistance Allowances". This new section, included as part of chapter 35—Survivors' and Dependents' Educational Assistance—makes specific the entitlement of an eligible person—as that term is defined in present section 1701 to an accelerated payment of educational assistance allowance pursuant to the provisions of the new sections 1682A and 1798(f) as added by sections 201 and 202 of the Committee bill.

Subsection (c) of section 201 amends the table of sections at the beginning of chapters 34 and 35 of title 38 to reflect the addition of the new sections 1682A and 1738.

Section (d) of section 201 requires the Administrator to notify each appropriate educational institution that accelerated payments are available for certain students enrolled at such institutions. The Administrator is required to inform these educational institutions of the full conditions and procedures governing the payment of accelerated educational assistance allowances. The Administrator would be required to do this within 60 days after the date of enactment. This "outreach" provision is particularly important in order that all veterans who may be eligible for participation in the accelerated educational assistance program might become aware of such entitlement. Without an active outreach effort on the part of the Administrator, it is possible that many veterans would not discover the availability of the benefits of the program to mitigate the costs of obtaining an education. The Committee expects the Administrator to undertake a vigorous outreach effort in regard to these new benefits not only with regard to involved educational institutions but also with regard to those veterans who may benefit from such a program.

Subsection (e) of section 201 provides that, notwithstanding the general provisions of section 1682A or section 1738 (new sections establishing the accelerated educational assistance program), eligible veterans shall be entitled upon application therefor to accelerate their entitlement for a semester or two consecutive quarters beginning after January 1, 1978, and ending prior to August 1, 1978. This provision is necessary because of the effective date of January 1, 1978, a date which falls in the middle of many institutions' academic years. Otherwise, the effective date of January 1—in conjunction with the definition of school term for IHL's—would effectively limit the program eligibility for most veteran-students until the 1978–1979 school year commences in September 1978. The Committee, however, believes that the eligibility for this program should begin on January 1, 1978. The amounts of the accelerated payment which may be paid for any such semester or quarter, and the number of months by which such veteran's or person's entitlement would thereby be reduced, would be appropriately prorated by the Administrator of Veterans' Affairs. In addition, the eligibility or entitlement to accelerated benefits—for example, the $1,000 tuition and fees limitation—would be appropriately prorated also.

EDUCATION LOAN ELIGIBILITY IN CONNECTION WITH ACCELERATED PAYMENT

Section 202

Amends section 1798 (Eligibility for loans; amount and conditions of loans; interest rates on loans) of subchapter III (Education loans to eligible veterans and eligible persons) of chapter 36 of title 38, United States Code, by adding a new subsection (f) and by amending the provision describing the report presently required by subsection (e) of section 1798. In order for a veteran to be eligible for receipt of an accelerated educational assistance allowance under section 1682A, he or she must be entitled to and receive a loan under section 1798(f).

Clause (1) of section 202 amends section 1798(e)(3), relating to the requirement that the Administrator submit annual reports on default experiences and rates at educational institutions, to require separate reporting of the default experience under the education loan program established by new subsection (f) of section 1798. Currently, the Administrator is required to file annually with the Committees on Veterans' Affairs of the Senate and the House of Representatives a separate report specifying the default experience and the default rate at each educational institution where a veteran in receipt of a section 1798 educational loan is enrolled, along with a comparison of the collective default experience and the default rate at all such institutions. The last such report was submitted on December 13, 1976 (Committee Print No. 64, 94th Congress). This provision would amend this reporting requirement to require the Administrator to include in this annual report a separate section in regard to the loan program provided for under section 1798(f). The required separate section will contain the same information in regard to the section 1798(f) new loan provision as is presently included in regard to the current education loan program.

The inclusion in the annual report of this information will assist the Committee in examining the operation of the program. In testimony before the Committee, the Veterans of Foreign Wars voiced no objection to the accelerated program provided "the pending legislation be amended to grant the Administrator of Veterans' Affairs authority to discontinue loans based upon accelerated payment at any time when, in his opinion, the default rate on such loans and monetary values exceed the limits, good business practice would dictate." The additional reporting requirement in the Committee bill is responsive to this recommendation. The authority to discontinue loans was not granted to the Administrator, however, because the Committee believes that such a decision should be made by the Congress. The mandated data collection will assist the Committee in determining when and if the default rate on the loans "exceed the limits of good business practice."

Clause (2) of section 202 amends section 1798 of chapter 36 to add a new subsection (f) creating an entitlement to an accelerated benefit loan for each eligible veteran.

New subsection (f) of section 1798: Paragraph (1). Provides that each eligible veteran—as used in this subsection the term "eligible veteran" includes eligible person—who is otherwise entitled to a loan under the provisions of subsections (a) and (b) of section 1798 and who has applied for and will be eligible for an accelerated payment of benefits under new section 1682A (as added by section 201 of the Committee bill), upon the satisfactory completion of the school term for which such payment is to be made, is entitled to an accelerated benefit loan under this new subsection (f) of section 1798. Under present subsection (a) of section 1798, each eligible veteran is entitled to a loan if such veteran meets the conditions prescribed by section 1798.

Under present subsection (b)(1) of section 1798, the amount of the loan to which an eligible veteran or eligible person is entitled is limited to the amount of money equal to the amount needed by the veteran or person to pursue a program of education at the institution in which the veteran is enrolled. Subsection (b)(2) further provides that the amount needed by a veteran or person to pursue a program of education at an institution shall be determined by subtracting the total amount of financial resources available to the veteran that could reasonsonably be expected to be expended by such veteran for educational purposes, from the actual cost of attendance (as defined in subparagraph (C)) at the institution in which the veteran is enrolled (for purposes of section 1798(f) and section 1682A, an academic year is equivalent to school term as that term is defined under new section 1682A). Subsection (b)(2) further defines (in subparagraph (B)) the term "total amount of financial resources" of any veteran or person for any year as follows: (i) The annual adjusted effective income of the veteran or person less Federal income tax paid or payable by such veteran or person with respect to such income; (ii) the amount of cash assets of the veteran or person; (iii) the amount of financial assistance received by the veteran or person under the provisions of title IV of the Higher Education Act of 1965, as amended; (iv) the amount of educational assistance received by the veteran or person under this title other than under this subchapter; and (v) financial assistance received by the veteran or person under any scholarship or grant program other than these specified in clauses (iii) and (iv) above.

Subsection (b)(2)(C) of section 1708 defines the term "actual cost of attendance" as: "subject to such regulations as the Administrator may provide, the actual per student charges for tuition, fees, room and board (or expenses related to reasonable commuting), books, and allowance for such other expenses as the Administrator determines by regulations to be reasonably related to attendance at the institution at which the veteran or person in enrolled." Thus, a veteran would be eligible for the section 1798 (f) loan—and, as a result, the section 1682 accelerated educational assistance allowance—only if he or she qualifies under subsection (b) on the basis of need.

The new subsection (f) accelerated benefit loan program, however, does not require the veteran to comply with the general requirement, under subsection (c)(2), that an eligible veteran is entitled to a section 1798 loan only if the veteran has sought and is unable to obtain a loan in the full amount needed under a student loan program pursuant to the provisions of title IV of the Higher Education Act of 1965, as amended. In addition the provision of (c)(1) in regard to the noneligibility of a veteran enrolled in a vocational objective course of 6 months duration or less is not applicable.

In order to be eligible for a loan under subsection (f), the veteran would have to apply, and be eligible for, an accelerated payment under section 1682A. The Committee would expect that the application form for the accelerated payment under section 1682A (to be filed within 4 weeks after the beginning of the school term for which the veteran is seeking accelerated payments) would include the necessary data for the Administrator to determine whether the veteran would be eligible for the section 1798 (f) loan. A determination of eligibility for the loan will in turn result in the entitlement of the veteran to the appropriate amount of accelerated payment and consequently the appropriate amount of accelerated payment and consequently the appropriate amount of section 1798(f) loan. Thus, the decision as to whether the veteran is eligible for both the loan and the accelerated payment can and should be made by requiring the veteran to complete one set of VA forms at the time the veteran applies for the accelerated payment.

Paragraph (2) of new subsection (f). Requires the veteran to assign to the benefit of the VA the amount of accelerated payment for which the veteran is entitled for the school term for which the veteran has applied. The amount of the loan will equal the amount of the accelerated payment to which the veteran is entitled. As a result of this provision, upon the satisfactory completion of the school term for which the accelerated benefits are to be paid, the amount of the loan which the veteran has received pursuant to this subsection shall no longer constitute a liability against such veteran. Rather, at the time that the educational institution has certified the veteran's satisfactory completion of the school term for which the benefits are to be paid, the assignment of benefits will cause a "paper transaction" within the VA, thereby eliminating or removing the veteran's obligation for repayment of the loan.

Paragraph (3) of new subsection (f). Provides that an eligible veteran who fails to complete satisfactorily any school term for which a loan has been received under that subsection shall not be eligible for the receipt of any accelerated payment under section 1682A until such time as the veteran has repaid in full the principal amount of and interest due on the loan. If the Administrator finds, however, that there are mitigating circumstances which prevented the veteran from satisfactorily completing the school term, this provision will not apply.

Generally, the veteran would have fulfilled his liability for the principal amount of and interest due on a loan—interest on a present section 1798 loan will not accrue until 9 months after the date on which the veteran-student ceases to be at least a half-time student—by the satisfactory completion of the school term for which the accelerated benefits are to be paid. Thus, this provision would only become activated when an eligible veteran fails to complete the program satisfactorily. As noted earlier, under this paragraph, the Administrator is granted authority to waive the requirements of this provision if he finds the presence of mitigating circumstances. The Committee expects the VA to enforce this loan provision and, indeed, the entire accelerated payments program in a manner which assures that abuse is minimized to the greatest extent possible. However, the Committee also expects that the mitigating circumstances provision—a provision which should be interpreted by the VA with the needs of the individual veteran in mind—will be implemented with compassion and understanding in regard to the difficulties and problems often encountered by various veterans who are attempting to pursue an education.

Paragraph (4) of new subsection (f). Specifies that the veteran shall be entitled to a loan equal to the amount of accelerated payment for the school term for which the veteran has applied and is entitled. Thus, neither the limitation of a maximum loan amount of $1,500, provided for in subsection (b)(3) of section 1798, nor the provision, contained in the same subsection stipulating that the veteran may not exceed $292 (increased to $311 by section 104(3) of the Committee bill) multiplied by the number of months such veteran or person is entitled to receive educational assistance allowance, is applicable.

The Congressional Budget Office estimates that enactment of sections 201 and 202 will result in increased fiscal year 1978 expenditures of $295 million; in 1979, $410 million; in 1980, $312 million; in 1981, $223 million; and in 1982, $159 million.

DELIMITING PERIOD EXTENSION

Section 203

Amends section 1662 of chapter 34 by providing an exception to the normal 10-year delimiting period during which eligible veterans can use their educational assistance benefits. This section provides that an eligible veteran who is prevented from initiating or completing the veteran's chosen program of education within the normal 10-year delimiting period because of a physical or mental disability or impairment which was not the result of such veteran's own willful misconduct shall, upon application, be granted an extension of the delimiting period for such length of time as the Administrator determines from the evidence that the veteran was prevented from initiating or completing the chosen program of education. This provision was unanimously passed by the Senate as part of S. 969 in the 94th Congress (ultimately enacted as Public Law 94–502) but was not passed by the House.

The current GI bill program 10-year delimiting period assumes that the veteran was in a position to use his GI bill benefits. If during that period of time, the veteran was prevented, as a result of a physical or mental disability or impairment (whether or not service-connected) from using his or her GI bill entit'ement, then the period of time which the Administrator determines that the veteran was prevented from using his or her benefits as a result of the injury or impairment should not be counted in the computation of the veteran's 10-year delimiting period.

In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38. In this connection, see 38 CFR, part III, paragraphs 3.1(n) and 3.301, and VA Manual M21–1, section 1404.

In a related measure, H.R. 5027, the "Veterans Health Care Amendments Act of 1977", which the committee reported on August 3, 1977 and the Senate passed on September 9, 1977, provision is made for the establishment of a new program of readjustment professional counseling. The purpose of that provision (section 301 of H.R. 5027) "is to make fully available—and to encourage and facilitate the use of—the resources of the VA's health care system to those returning veterans who feel the need for professional or professionally supervised counseling to help them in their readjustment to civilian life." (S. Rept. No. 95–390, at p. 41.) The term "readjustment problem" was construed by the committee to be a low-grade motivational or behavioral impairment which interferes with a veteran's normal interpersonal relationships, job or educational performance, or overall ability to cope reasonably effectively with his or her daily life problems. A readjustment problem does not usually amount to a definable psychiatric illness or mental health problem requiring extended professional services but could become one in the absence of early detection and counseling and followup care where necessary.

Although the Committee believes that in some instances a readjustment problem may reflect a diagnosable mental disability or impairment of sufficient severity to warrant the conclusion that it could have prevented the veteran from pursuing an education, it is not the Committee's intention, if H.R. 5027 is enacted, that all veterans who seek readjustment counseling or receive such services automatically be granted a delimiting date extension. Rather, in each case—and regardless whether H.R. 5027 as passed by the Senate is enacted and whether the individual veteran was or has not sought counseling—it must be determined, prior to the granting of such an extension, that a diagnosable disability or impairment existed during the veteran's period of educational assistance eligibility and was the cause of the veteran's inability to begin or complete his or her educational program.

The Veterans' Administration in its official report on Amendment No. 448 wrote that "we would favor a limited extension of the delimiting date as provided for in the bill for those veterans who were truly prevented from initiating or completing their programs of education because of mental or physical disability"

The Congressional Budget Office estimates that enactment of this provision would result in a nominal first-year and 5-year cost.

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

Title III includes amendments affecting (a) the administration of the GI bill educational assistance program and (b) expanding the veterans home loan program to make specific provisions for the installation of solar heating and cooling and for application of residential energy conservation measures.

CITATION OF AUTHORITY

Section 301

Amends section 210(c)(1) of title 38, United States Code, to require the Administrator to include immediately following each substantive provision in the promulgation or issuance of any rule, regulation, guideline or other published interpretation under title 38, or any amendment thereto, a citation or citations to the particular section or sections of statutory law or other legal authority upon which the provision is based. This provision is similar to that presently required of the Office of Education by the General Education Provisions Act, as codified in section 1232 of title 20, United States Code. This citation requirement does not apply solely to issuances in regard to educational matters, but rather is applicable to any and all VA issuances published pursuant to the authority granted the Administrator under title 38.

The Administrator is required to include applicable citations immediately following each and every substantive provision of any issuance in order to facilitate evaluation, examination, and research relating to VA matters. The Committee has received a number of complaints concerning the difficulties encountered by interested parties in researching VA regulations. Generally, these criticisms allege that the examination of appli-

cable VA regulations, guidelines, and bulletins is an extremely difficult and tedious chore—not only for lawyers involved in cases concerning the Veterans' Administration but also for school personnel responsible for assuring that their educational institution remains in compliance with the administrative provisions of the GI bill program. The need for ascertaining and assuring compliance has been underscored by the VA's recent effort to impose liability for overpayments on various institutions under section 1785 of title 38. In this regard, although not included as part of this legislation, the Committee urges, and indeed, expects, the Veterans' Administration to compile all current pertinent educational regulations, bulletins, circulars, and other such issuances into one resource document and, if possible, publish such compilation in order that those who are responsible for complying with the law and regulations—for example, educational institutions—might have an opportunity to understand more clearly their duties and obligations under the GI educational assistance program.

Although the Committee considered making the provision in regard to citation of authority requirement retroactive to all issuances published by the Veterans' Administration within the past several years, the committee was persuaded that such a blanket retroactive imposition would place too great a burden on the VA at this time. However, the Committee expects that every rule, regulation, guideline, bulletin, or other published interpretation or order, which amends a current VA issuance or publication, either in whole or in part, will include a citation for each substantive provision of the rule, regulation, guideline, or other published interpretation or order which is being amended.

COUNSELING SERVICES AND PRE-DISCHARGE EDUCATION PROGRAM REPORT ELIMINATION

Section 302

Amends chapter 34 of title 38, United States Code, to provide eligible veterans with more extensive Veterans' Administration educational counseling, and to eliminate the present requirement that the Department of Defense file with Congress progress reports with respect to the implementation of the Predischarge Education Program (PREP) (subchapter VI of chapter 34).

Clause (1)(A) of section 302 amends section 1663, relating to VA educational and vocational counseling services, to require the Administrator to make available to any eligible veteran, upon such veteran's request, comprehensive counseling services including, but not limited to, vocational and educational counseling and testing, and to require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of this kind of counseling.

Currently, counseling services are offered through 70 Veterans' Administration locations and in about 170 college, university, community, and private counseling centers under contract with the VA. The counseling currently provided by the VA is voluntary (upon the veteran's request)—and would continue to be provided on that basis under the committee bill. Counseling services have not been widely used by veterans enrolled in training under the current GI bill educational assistance program. For example, in fiscal year 1976, only 48,815 veterans were counseled of the 2,535,432 veterans who were enrolled in training—a percentage of veterans counseled of only 1.9 percent.

In 1974, the Educational Testing Service (ETS) of Princeton, N.J. (Committee Print No. 18, 93d Congress), found, pursuant to a statutorily mandated study (section 413 of Public Law 92-540), that only 2.9 percent of educationally disadvantaged veterans—those presumably most in need of the services which could be provided by a VA counselor—had, in fact, received VA counseling. ETS also found that the percentage of post-Korean conflict veteran-students who had been counseled through the end of fiscal year 1973 compared unfavorably with the percentage of veteran-students counseled under both the Korean conflict and World War II GI bill programs. Under the World War II program, 12.95 percent of all veteran-students were counseled; under the Korean conflict program, the rate was 10.23 percent; and under the post-Korean conflict/Vietnam-era program, only 3.83 percent of all veteran-students have been counseled. The ETS study concluded: "It appears that the effort to counsel veterans has declined over the three periods [referring to the three different GI bills]."

This "decline in efforts to counsel" found by ETS is difficult to understand in light of the success of the World War II counseling effort. The Bradley Commission (the Commission on Veteran's Pensions established by Executive Order No. 10588 of January 14, 1955, and chaired by Gen. Omar Bradley) cited the results of a study conducted in regard to that program that concluded that "veterans receiving advisement were twice as likely to continue their training or education." The Bradley Commission concluded that ". . . this study indicates that if counseling service were provided to all veterans prior to entering training, waste of money would be prevented. . . . While it is not possible to estimate the savings to taxpayers due to this aspect of the program, it is reasonable to state that thousands of veterans were saved from failure and wasted years of effort."

The Committee expects that those veterans who request VA educational and vocational counseling will, in fact, receive thorough and competent guidance and counseling which will enable them to make the best use of their education and training benefits. In this regard, the Committee stresses that it is vital that each veteran who seeks vocational and educational counseling be informed of those programs and services which could be of assistance in the pursuit of his or her educational or vocational objective. Under this section, VA counselors would also be expected to make appropriate referrals with respect to other problems such as those of a readjustment or a health nature.

To assist the veteran in arriving at a wise decision in regard to his educational or vocational goals or to aid the veteran in overcoming his personal readjustment programs, comprehensive counseling must integrate the many available Federal and local government programs into a coherent and understandable pattern according to the needs of individual veterans. For example, a counselor should be able to assist those veterans who seek part-time work or who are in need of supplemental income by guiding the veteran to the VA work-study program or the local Comprehensive Employment and Training Act (CETA) prime sponsor. Prime sponsors under CETA are specifically authorized to create split jobs for veterans who are going to school. The split-job approach permits the prime sponsor to split one job between two school-going veterans—the two split the job to correspond with the hours of their schooling. This concept has been underutilized, and the failure to apprise veterans of this opportunity is a contributing factor to this underutilization.

Clause (1)(B) of section 302 further amends section 1663 to require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling. The Commission emphasizes the importance of the Administrator carrying out an effective outreach program. Often those most in need of the advantages which counseling offers, are those least aware of the availability of the VA counseling services, and the benefits thereof. Often those most in need of counseling assistance are those veterans generally unaware of available Government benefits, programs, and services.

In the past, the VA's outreach efforts in regard to the counseling services provided under the current GI bill have been less than effective. On August 11, 1976, the General Accounting Office (GAO) reported to the Committee (Committee Print No. 50, 94th Congress) that responses to their educational questionnaires revealed that "one of the main reasons for the low counseling activity [especially in comparison to previous GI bill counseling programs] was that many veterans were not aware that the VA offers counseling services. Of the 5,491 veterans responding, 2,244 or about 41 percent, said that they were not aware that the VA offered counseling services. Of the 2,244 veterans, 1,549 or about 70 percent, said they would have requested VA guidance if they had 'been aware of it'."

These GAO findings were verified by their further finding that overall 20 percent of the respondents (to their questionnaire) said that the training they took under the GI bill was of little or no use with regard to their training objective or career plan. When these responses are evaluated in light of the Bradley Commission's findings on the desirability of providing counseling services to interested veterans who are entering training, the Committee believes that the need for an effective outreach program and an effective counseling program are indeed compelling.

Clause (2) of section 302 amends section 1698(b) to eliminate the requirement that the Department of Defense submit progress reports to the Committees on Veterans' Affairs with respect to the implementation of the PREP program. Amendments included as part of Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976, generally terminated, effective October 30, 1976, the enrollment of veterans in the PREP program. However, the Act continued PREP eligibility for those veterans who have participated in the chapter 32 Post-Vietnam Era Educational Readjustment Assistance Program, and are in the last 6 months of their enlistment. At the present time, the length of enlistment in the Armed Forces is generally of 3 years duration or greater. There have been no new enrollees in the PREP program since the end of October 1976, and it is likely that there will be no new enrollments in the PREP program for at least the next 2 years. If, at that time, the Committee decides that reports should be filed by the Department of Defense in regard to the implementation and operation of the PREP program, the Committee would then so request. However, at this time, in light of the current PREP program status, the Committee believes the annual PREP implementation report is no longer necessary.

STATE APPROVING AGENCY REIMBURSEMENT AND REPORT

Section 303

Amends section 1774 of title 38, United States Code, to increase by 10 percent the amount of allowance provided for reimbursing State approving agencies for administrative expenses incurred in the process of approving educational institutions for purposes of GI bill enrollment, and requires each State approving agency to report annually to the Administrator on their specific activities, approvals, or disapprovals during the preceding year in regard to the GI bill enrollment approval process.

Clause (1) of section 303 amends subsection (b) of section 1774 to increase by 10 percent the amounts of administrative expense allowances paid to States approving agencies in reimbursement for costs incurred in rendering necessary services in ascertain-

ing the qualifications of educational institutions to furnish courses of education to eligible veterans or persons under chapters 32, 34, 35, and 36, supervising such educational institutions in so furnishing, and providing, upon the request of the Administrator, any other services in connection with chapters 34 and 35. In 1968, Congress mandated the Veterans' Administration, according to the formula established in section 1774 to share the administrative expenses borne by State approving agencies in carrying out their responsibilities under title 38. The section 1774 administrative expense reimbursements supplement payments already made to State approving agencies by the Administrator for necessary expenses, salary, and travel. These payments are made pursuant to contracts entered into between the Veterans' Administration and the respective State or local agency.

The increase of 10 percent in the amount of the section 1774 reimbursement provided by the Committee bill exceeds by two-thirds the amount of increase that would have been provided were the increase solely a cost-of-living increase. Increases in the amount of reimbursement provided under section 1774 have generally not been related to the cost-of-living—as evidenced by the 100-percent increase in allowances provided for in 1974 by Public Law 92–540. However, under clause (2) of this section, discussed below, section 1774 is amended further to require a report by State approving agencies in regard to their activities pursuant to their title 38 responsibilities. Thus, the increase in the amount of administrative reimbursement—above and beyond a simple cost-of-living increase—should suffice to cover any additional administrative expenses incurred by State approving agencies in complying with the new reporting requirements.

Clause (2) of section 303 adds a new subsection (c) to section 1774 to require each State and local agency with which the Administrator has contracted or entered into an agreement pursuant to present subsection (a) of section 1774, to submit to the Administrator a report on the activities of that State or local agency in carrying out such contract or agreement. The report, due on September 30, 1978, and annually thereafter, is required to include a summary of the services performed by the State approving agency pursuant to subsection (a) and the determinations made in conjunction with ascertaining the qualifications of educational institutions in connection with chapters 32, 34, 35, and 36 and in the supervision of such institutions. Currently, under such subsection, the involved State and local agencies are required to furnish, upon the request of the Administrator, other services in connection with chapters 32, 34, 35, and 36 of title 38, United States Code.

The Committee believes that it is important that the VA have current information in regard to participating educational institutions in order to administer the educational assistance program efficiently and effectively. In the past, the VA has been criticized for not knowing what State approving agencies are doing. In September 1973, the Education Testing Service (ETS) of Princeton, N.J., in the "Final Report on Educational Assistance to Veterans: A Comparative Study of Three GI Bills (at pages 272, 279)", conducted pursuant to section 413 of Public Law 92–540, reported:

"[T]he VA, prohibited from exerting any control over the approving agencies, has done very little to even compile information that would allow an accurate assessment of the performance of the State approving agencies. . . . [T]here is little evidence to suggest that the VA can determine what the State approving agencies are doing, or that the VA can be assured of the quality of education. . . ."

The Committee has no reason to believe that this situation has improved since that report.

The Committee believes that the requirement of the submission of reports by the State approving agencies to the Administrator will assist the Congress, the Veterans' Administration, and the State approving agencies in fulfilling their responsibilities for the efficient and effective operation of the educational assistance programs.

CORRESPONDENCE-RESIDENCE COURSES, REPORTING FEES, INSTITUTION ATTENDANCE REQUIREMENTS, AND VOCATIONAL COURSE MEASUREMENT

Section 304

Amends chapter 36 (Administration of Educational Benefits) of title 38 of the United States Code to make changes in a number of administrative provisions of the educational assistance program.

Clause (1)(A) of section 304 amends clause (5) of section 1780(a) (Payment of educational assistance or subsistence allowances), relating to the prohibition of the payment of educational benefits for a correspondence portion of a combined correspondence-residence course where the normal period of time required to complete such portion is less than 6 months, to authorize the Administrator to approve a combination correspondence-residence course not meeting the 6-month requirement, if the Administrator finds—based on evidence submitted by the school—that there is a reasonable relationship between the charge for each segment of the course (including the costs to the institution providing each segment) and the total course charge.

Section 505 of Public Law 94–502 amended section 1780(a)(5) prohibiting payment of VA benefits for a program of education by correspondence (or the correspondence portion of a combined correspondence-residence course) in any case where the normal completion time of the course (or such portion) was less than 6 months. This provision was adopted by Congress to assist in curbing a growing abuse by some educational institutions in the operation of correspondence courses and combined correspondence-residence courses.

Currently, the VA pays to the veteran 90 percent of the cost of a correspondence course. The maximum cost of the course is limited only by the number of months of entitlement which the veteran may have and by the statutory restriction that veteran-students in receipt of GI bill educational assistance may not be charged a fee greater than that charged to non-GI bill recipients. Thus, to reduce and prevent abuse in the GI bill program and to help assure that the expenditures made for a course are commensurate with the education which that course provides, Public Law 94–502 limited VA payments for correspondence courses to only those courses in which the normal period of time required to complete the course was of at least 6 months in duration. This limitation is also applicable to combined correspondence-residence courses. The 6-month period adopted by Congress is consistent with the provisions of the VA educational loan program under section 1798(c)(1) (where VA education loans are limited to those veterans enrolled in vocational objective courses where the course is of at least 6 months' duration) and is consistent with the long-standing requirement by the Office of Education for determining eligibility for participation in the guaranteed student loan program.

Section 505 of Public Law 94–502 has, in fact, greatly reduced the amount of perceived abuse in the area of correspondence and combined correspondence-residence courses. At the same time, however, it has also reduced the number of such courses available to an aspiring veteran-student and, as a result, in some instances, substantially reduced the choice of vocational objectives available to a veteran seeking training under the GI bill. The VA testified before the Committee on June 24, 1977, that "out of almost 300 schools that were offering correspondence courses under the GI bill when that law [section 505 of Public Law 94–502] was passed, there are only 84 that had been able to comply with the 6-month rule."

In addition, section 505 had the effect of eliminating, for all practical purposes, most combined correspondence-residence truck driving and heavy equipment operating courses. In this regard, the VA reported to the Committee that in the entire nation only two combination correspondence-residence training courses with a vocational objective of truck driver or heavy equipment operator met the 6-month requirement of section 1780(a)(5). It is generally conceded that, prior to enactment of Public Law 94–502, many correspondence-residence truck driving schools had "front-loaded" the cost of the entire training course upon the correspondence portion of the course (where the VA would pay 90 percent of the cost of the course), and, as such, were charging a large amount for the correspondence portion of the course—which, in many instances was of questionable value and easily and quickly completed.

The provision in the Committee bill provides the Administrator with the authority to approve a combination correspondence residence course not meeting the 6-month rule, if the Administrator finds that there is a reasonable relationship between the charge for each segment of the course. By providing this flexibility, the Committee believes that those schools offering heavy equipment operator or truck driver training courses will have the opportunity to be approved for GI bill trainees by submitting the necessary evidence concerning the allocation of their charges (and the appropriate costs to the school). Although the Committee understands that many schools may still not be able to comply with the 6-month requirement even as amended by this provision, it believes that the provision for fair charges for course content and material contained in this amendment is necessary to assure the appropriate expenditures of GI bill moneys. In addition, the Committee believes that this provision will allow for the exercise of reasonable discretion while at the same time continuing the statutory bar against "front-loading"—a practice of which the Committee continues to disapprove.

Clause (1)(B) of section 304 adds a new clause (D) to section 1780(d)(3), relating to the payment of an advance payment, to require the Administrator to include in the application form required to be submitted by a veteran in order to be eligible for the receipt of an advance payment, clear and simple language in regard to the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance which the veteran will receive. An advance payment of the initial educational assistance provided for in present section 1780(d) is the payment at the time of registration to an eligible veteran or person of an amount equal to an amount equivalent to the educational assistance allowance for which the veteran would be eligible for the month of enrollment, or fraction thereof, in which the veteran will commence the pursuit of the program plus the amount of the allowance for the succeeding month. This payment, provided for by Public Law 92–540, was based upon a finding by Congress that eligible veterans and eligible persons may need additional funds at the beginning of the school term to meet the expenses of books, travel, deposits, and pay-

ments for living quarters, the initial installment of tuition, and other special expenses usually concentrated at the beginning of the school term.

Public Law 94–502 changed the date of payment of GI bill benefits from the beginning of the month for which the veteran is entitled to receive benefits to the end of the month (from "pre-pay" to "post-pay"). As originally enacted in 1966, the current GI bill provided for the payment of benefits at the end of the month for which the veteran was entitled to receive such. However, when Public Law 92–540 added advance pay, the pay format was changed to "pre-pay".

Because of a rapid increase in the amount of GI bill overpayments—in fiscal year 1976 overpayments totaled approximately $833 million—partially as a result of the pre-pay provision, Congress, in Public Law 94–502, terminated prepayment in favor of post-payment and also amended the advance-pay provisions to require the veteran to make a specific request for the advance payment. As a result of the change in pay format from pre-pay to post-pay, a difference of 30 additional days will occur between the date the advance payment is made and the date of payment of the first monthly educational assistance check to which the veteran is entitled. In testimony before the Committee in June, the Veterans' Administration witness gave this example of the expected delays: "For example, if the school starts on September, 10 and he [the veteran] gets an advanced paycheck on September 10, the check will be for September and October. Then his November check will not be due until December 1st, so he will not have money from the VA under the GI bill from September 10 until December 1."

Although the VA has assured the Committee that that agency has undertaken efforts to publicize the length of this delay, the Committee believes it important that such notice in regard to the additional 30-day delay between payments be included in the advance pay application form, in order to assure that every opportunity has been taken by the VA to inform all concerned veterans of the length of time involved. A veteran, if informed, would then have the necessary information upon which to make a reasonable decision as to whether to participate in the advance pay program and then, if the veteran should decide affirmatively to participate, to know of the need for carefully managing his or her funds during the period of time between checks. The Committee emphasizes that this notice should be in plain and simple language and should be easily identifiable to the applying veteran.

Clause (1)(C) of section 304 further amends section 1780 to require the Administrator to include, with the advance payment, a notice informing the veteran—in clear and simple language—of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of educational assistance allowance which the veteran will be eligible to receive. The inclusion of such language on a notice accompanying the advance payment check delivered to the veteran at the time of registration will, once again, provide the opportunity to put the veteran on notice that he should budget his funds carefully during the lengthy period of time between the advance paycheck and his first monthly educational assistance allowance check. Although, generally, at the time the veteran receives his advance benefit check, it would be too late for such veteran to decide against accepting the advance payment, it will not be too late for him to budget his available resources carefully during the period between that payment and the first monthly payment of his GI bill check.

Clause (2)(A) of section 304 amends section 1784(b), relating to payment of reporting fees, to increase by $5 and (with respect to advance payments) $9 the amount of reporting fees paid by the VA to educational institutions furnishing education or training under chapter 32, 34, 35, or 36 of title 38, as well as to provide an additional $5 annual payment to institutions for each full-time veteran or eligible person enrolled in such institution who satisfactorily completes the school term for which the reporting fees are paid.

The payment of reporting fees is intended to reimburse educational institutions for reports or certificates required by law or regulation to be submitted to the Administrator. Currently, section 1784 mandates the payment of $5 for each eligible veteran or eligible person enrolled in such institution pursuant to chapter 34, 35, or 36 whose educational assistance check is mailed in care of the institution for temporary custody and delivery to the veteran at the time of registration; that is an advance payment pursuant to section 1780(d)(5).

In 1966, when the current GI bill was enacted into law, no provision was made to reimburse institutions for certifications or reports required to be submitted to the VA in regard to veterans' enrollment. In 1967, however, Public Law 90–77 authorized payment of a $3 reporting fee for each eligible veteran or dependent enrolled in the institution in lieu of any other compensation or reimbursement. In 1972, this reporting fee was amended by section 315 of Public Law 92–540—when Congress provided for advance payment—to increase by an additional dollar, the amount paid to each educational institution for each enrolled veteran when the institution assumed responsibility for receiving and distributing such veterans' advance payment checks as provided for in section 1780.

In 1975, 8 years after the $3 reporting fee had been implemented, the Committee heard from numerous schools that the amount of the reporting fees was inadequate to cover the involved expenses and that the fees should be increased. The General Accounting Office, in its March 1976 report, "Educational Assistance Overpayments, A Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts," recommended that the fees be re-evaluated to determine their adequacy in light of rising school operating costs. In addition, GAO suggested that an increase in reporting fees may serve as an incentive for timely reporting of changes in the veteran's enrollment status. The VA, in its July 1976 comments on the GAO report, also noted that the inadequacy of the reporting fees made it difficult for some schools to comply with the administrative and reporting functions mandated by law and pertinent VA regulations. As a result of these findings and recommendations, Congress increased the basic reporting fee from $3 and $4 to $5 and $6, respectively. This increase became effective with enactment of Public Law 94–502 in October of 1976. In fiscal year 1976, reporting fees paid to schools totaled $6.4 million; the estimated fiscal year 1977 cost is $7.05 million.

Since the time of enactment of Public Law 94–502, the Committee has continued to receive comments from schools concerning the inadequacy of the current $5 and $6 reporting fees. Recently, the National Association of Veterans Program Administrators (NAVPA) conducted an independent survey of the costs incurred by schools in complying with VA reporting requirements and the adequacy of the $5 and $6 reporting fees. Submitted in February of 1977, the NAVPA study reported that the average cost to the institution far exceeded the amount of reimbursement provided under section 1784.

During hearings held by the Subcommittee on Health and Readjustment in June 1977, a Veterans' Administration witness testified that during this last school year—apparently since the increase in reporting fees provided by Public Law 94–502—there had been a great improvement in the timeliness and accuracy of schools' reports to the VA: "Within the last year I think we have seen a very great improvement in the reporting processes from the schools and the reporting time from the schools. I think the schools are doing a much better job than they were a year ago."

The Committee is particularly concerned with timely and correct reporting to the VA by the educational institutions. The 1976 GAO report cited the failure of educational institutions to inform the VA of the changes in the students' enrollment status as a primary cause of GI bill overpayments; in fiscal year 1976, GI bill overpayments amounted to approximately $833 million. Clearly, the schools play an integral role in the VA's efforts in preventing and reducing overpayments. The Committee believes that the increases provided for in the amounts of reporting fees—as long as these fees are in lieu of other compensation or reimbursement—will assist the educational institutions in complying with the reporting and certifying requirements in the timely and effective manner required by law.

The Committee bill provides for a $9 increase in the amount of reporting fees paid to an educational institution for each veteran in receipt of an advance payment. Public law 94–502 modified both the certification and the advance payment procedures. Section 1780(d) outlines the procedures to be followed by educational institutions in issuing advance payments of educational assistance as follows: An advance payment may not be made to any eligible veteran or dependent unless the veteran or dependent requests such payment and the Administrator finds that the educational institution at which the individual is enrolled has agreed to, and can satisfactorily carry out certain provisions; the educational institution is prepared to receive the veteran's advance payment check, take temporary custody of the check, and, during registration, insure that the check is delivered to the proper veteran-student; the institution does not make delivery of the check to the veteran more than 30 days before the program of education begins; when and if the school has delivered the advance payment check to the veteran-student, it submits to the Administrator a certification of delivery; and, in the event that the institution is unable to deliver the check to the veteran-student within 30 days after the program of study has begun, it bears the responsibility of returning the advance payment check to the Administrator in a timely fashion. It is clear that the educational institution has an important role in the advance pay program. This role requires the school to undertake additional burdens in regard to each veteran well in excess of the normal certification duties required.

Educational institutions would continue, under the Committee bill, to be able to elect whether to participate in the advance payment process. Generally, however, it is to the veteran-student's benefit if educational institutions are willing to participate in the process. By increasing the reporting fee paid to schools—from $6 to $15—for handling veterans' advance payment checks, the Committee bill would provide to educational institutions additional reimbursement for the extra effort required of those institutions participating in the advance payment program.

The Committee notes that these reporting fees, even if increased by $5 and $9 as proposed, may not in all instances cover all of the expenses incurred by educational institutions in complying with the reporting and certifying requirements. However, the Committee believes that the veteran-student services program—the work-study program—

provided for under present section 1685, can be used by schools to mitigate the difference between the amount of reporting fees paid by the VA and the costs incurred by the institution. Section 1685(a)(2) provides that a work-study allowance will be paid to veteran-students in return for their agreement to perform services, during or between periods of enrollment, including the "preparation and processing of necessary papers and other documents at educational institutions. . . ." In fiscal year 1976, veteran-students receiving work-study allowances devoted nearly 5 million hours—at a cost of $10.5 million—many of which were devoted to the preparation and processing of such papers at educational institutions. Between July 1976 and June 1977 (the transition quarter and the first three quarters of fiscal year 1977) veteran work-study recipients again spent over 5 million hours—at a cost of $12.7 million—many of which were devoted to the preparation and processing of educational institutions' VA required reports.

Public Law 93-508 removed the limitations on the maximum number of work-study students or hours that could be used for this and other purposes specified in section 1685(a). Section 1685(c) provides that the Administrator shall determine the number of veterans whose services can be effectively utilized. Accordingly, institutions who need additional assistance in completing certifications or other VA required surveys and reports should apply for such assistance during the Administrator's annual survey as mandated by section 1685(c).

Clause (2)(B) of section 304 further amends section 1784(b) to provide an additional payment of $5 to an educational institution for each full-time veteran or eligible person enrolled in a program of education at such institution who satisfactorily completes the school term during the calendar year for which reporting fees are being paid. A school term as defined by section 201 of the Committee bill—and codified in present section 1682A—is equal to three consecutive quarters for institutions of higher learning (IHL) on a quarter system or two consecutive semesters for IHLs on the semester system. For those IHLs not operating on a quarter or semester system and for non-IHLs, a school term is any time division approved by the Administrator within which segments of the program are completed. In order to receive this additional $5 per full-time veteran enrollee, the school must certify that each such veteran satisfactorily completed the school term.

The Committee believes that there is a correlation between the schools' willingness and ability to make the accurate and timely reports required by law on the enrollment and progress of veteran-students and the resources available to the schools for making such reports. The vast majority of schools are currently complying with the law and pertinent regulations by forwarding to the VA in a timely fashion the required information in regard to the status of veterans in their educational program. The extra $5 provided under this section will assist these schools in continuing to meet their statutory obligations.

It has come to the Committee's attention, however, that the VA does not have a sufficient amount of reliable information on veterans' completion rates. The Committee believes that it is as important for the VA and the Committee to know that veteran-students are satisfactorily completing the school term for which they are enrolled, as it is to know that their enrollment status has changed for some reason.

The Committee believes that payment to the educational institutions of the $5 additional fee upon certification by the institution that the veteran has satisfactorily completed the school term, will enhance the Congress' and VA's efforts in determining the extent to which the educational assistance program is working as intended and providing meaningful education and training assistance.

Clause (2)(C) of section 304 further amends section 1784(b) to prohibit the Administrator from offsetting the liability of an educational institution for any overpayment for which such institution may have been administratively determined to be liable under present section 1785 (overpayments to eligible persons or veterans) against the award of reporting fees which such institution is entitled to receive under present section 1784.

Section 1785 specifies that whenever the Administrator finds that an overpayment has been made to an eligible veteran as the result of the willful failure of an educational institution to report to the Veterans' Administration, as required, excessive absences, discontinuance, or interruption of a course by such veteran or the false certification by an educational institution, then the amount of such overpayment shall constitute a liability against such institution. The overpayment may then be recovered in the same manner as any other debt owed to the United States.

On March 19, 1976, the General Accounting Office (GAO), in a report entitled "Educational Assistance Overpayments, A Billion Dollar Problem—A Look at the Causes, Solutions, and Collection Efforts (MWD-76-109)", reported that the VA has "infrequently exercised" its authority under section 1785 to assess the amount of an overpayment against an educational institution that was negligent in reporting a change in an eligible person's educational status. The GAO further reported that the VA had brought only 43 overpayment cases against schools nationwide during fiscal year 1974, and only 49 cases in fiscal year 1975.

At the June 24, 1977, hearing before the Subcommittee on Health and Readjustment of this Committee, the Veterans' Administration witness testified that "through April 1977 we have identified and have pending 38,164 cases where we think there is potential school liability amounting to an excess of $32 million." Through August 1977, however, despite this large amount of possible potential school liability, only $89,291.85 has been collected from educational institutions by the Veterans' Administration since December 1975—the time when the VA began collecting school liability data. The total amount collected during the last 7 months of fiscal year 1976 was $33,232.09; and the amount collected for fiscal year 1977 through August was $56,059.76.

In the collection of overpayments from individual veterans, Veterans' Administration regional offices are generally required to check manually between and among benefit programs—such as the educational assistance, compensation, and pension programs—to offset against a recipient's other program benefits, the amount of overpayments for which such veteran is liable. In fact, the General Accounting Office recommended to the Veterans' Administration, as part of its March 19, 1976, report, that the VA determine "the feasibility of establishing an automatic cross-checking system for matching persons receiving compensation or pension benefits with their educational overpayment account so that collections can be accomplished by offset."

Although it is the Committee's understanding that there have been no instances to date where the Veterans' Administration has in fact attempted to offset, against the reporting fees due an institution under present section 1784, the amount of overpayment liability administratively determined under section 1785, the Committee is aware that the VA's General Counsel's office has ruled that "there is no statutory bar against offsetting reporting fees due an institution against its liability for an overpayment. Accordingly, we are of the opinion that the Veterans' Administration may properly offset any reporting fees due and payable to an institution against an outstanding overpayment resulting from a school's liability" (Unpublished General Counsel's Opinion, November 15, 1975).

The Committee believes that such an offset attempt would be unwise. In short, such an attempt would be self-defeating. Although offsetting these section 1784 payments by the amount of administratively established overpayments would be in accordance with the recommendations made by the General Accounting Office, such a practice could easily result in the failure—due to the lack of available funds—of the involved educational institutions providing the timely assistance needed by the VA to reduce overpayments, surely a "Catch 22" result. Thus, the Committee believes that the specific prohibition in section 1784 against collection of overpayments in this manner will assure the continued payment of the amounts of reporting fees to which educational institutions are entitled and the concomitant fulfillment by these institutions of their obligation to provide the VA with timely and accurate information on changes in veterans' enrollment status. In this way, the Committee seeks to assure continued cooperation on the part of educational institutions with the VA in reducing the amounts and numbers of overpayments.

Clause (3) of section 304 amends section 1785, relating to the liability of institutions for overpayments, to include a specific reference to the new prohibition against offsetting reporting fees and to make clear that neither section 1785, nor any other provision of title 38, shall be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

Although the Veterans' Administration does not specifically require the maintenance of daily attendance records by institutions of higher learning in courses leading to a standard college degree, many institutions believe that they can avoid liability for overpayment under section 1785 only by keeping such records—a recordkeeping requirement that runs contrary to current practices in most institutions of higher learning. Generally, these institutions have been responsible to the VA for reporting the last day of attendance of any veteran who terminates enrollment or changes status. In this regard, on February 12, 1976, the VA issued Information Bulletin DVB IB 22-76-3 as a clarification of the last date of attendance determination. That bulletin stipulated that "the VA will accept as satisfactory the last date of pursuit reported by any duly accredited institution which has filed a statement of the institution's policy on determination of academic progress toward graduation requirements, and a statement that the institution has informed students that they are required to report to the institution immediately upon withdrawal or dropping of courses." The VA assured institutions of higher learning that compliance with the described steps would "enable institutions to establish the official withdrawal or drop date required to be reported to the VA promptly, and provide a good-faith basis for establishing a definitive date of last attendance within the month of occurrence or immediately thereafter." The VA, however, qualifies this assurance by stipulating: "This will not relieve a school of responsibility if a student fails to officially withdraw and continues to receive benefits for pursuit. If it [the school] does not take attendance, it may use any of the following methods of determining last date of pursuit:

(1) last activity date reflected in instructors' records;

(2) last papers submitted;
(3) last examination completed; or
(4) students' reasonable statement of last date of attendance."

The VA closes this clarification by noting: "The VA will be checking whatever records are available to determine last date of pursuit when it makes a compliance survey."

The Committee believes that the VA's "clarification" served only to cloud the issue further, and that the inclusion of specific language within the present section 1785 overpayment liability section will make more readily apparent the intent of Congress that institutions of higher learning are not required to maintain daily attendance records in courses leading to a standard college degree. Liability cannot be imposed under section 1785 upon any institution of higher learning for an overpayment resulting solely from such institution's practice of not taking and maintaining such daily attendance records in any course leading to a standard college degree.

Clause (4) of section 304 amends section 1788(a), relating to the number of clock hours which an accredited institutional, trade, or technical course must offer for veterans enrolled in such course to be eligible for full-time benefits under the GI bill educational assistance program, to reduce the number of hours required from 27 to 22 in any course approved under section 1775 where classroom or theoretical instruction does *not* predominate, and from 22 to 18 hours in any course approved under section 1775 where theoretical or classroom instruction does predominate; and to provide that, for a nonaccredited course, not more than 5 hours of supervised study may be counted toward the number of required clock hours which such course must provide in order for it to qualify as a full-time course.

Clause (4)(A) of section 304 amends section 1788(a)(1) by limiting, to 5 hours a week, the number of supervised study hours which may be counted towards computing the number of hours required (30) to determine full-time pursuit in the case of a nonaccredited shop-oriented (classroom or theory does not predominate) course. In the case of such a nonaccredited shop course, the veteran or eligible person, in order to qualify as a full-time student under the GI bill, would have to be in attendance for 30 hours per week, with no more than 5 hours of supervised study and 2½ hours of rest periods recognized towards the 30-hour total—a total of 22½ hours of class time. Under current law, nondegree granting courses not approved under section 1775 are considered full-time courses when a minimum of 30 hours per week of attendance is required, with no more than 2½ hours of rest period per week allowed and no limitation on the number of supervised study hours excluded. As a result of the 30-hour attendance requirement—with no limitation on the number of excluded hours—many nonaccredited, nondegree granting educational institutions, in order to assure that veterans enrolled in a course will qualify for full-time veterans' benefits, have required a number of hours, varying from school to school, of supervised study which such veterans are required to attend. Other students not in receipt of GI bill benefits are not so required. Generally, supervised study is essentially a "study hall" in which students do assigned homework while an instructor remains available to answer any questions. In order to assure that the veterans are, in fact, receiving the maximum amount of training possible, the Committee bill would reduce to five, the number of hours of supervised study that could be counted by nonaccredited courses for the purpose of determining eligibility for full-time veterans' benefits.

Clause (4)(B) of section 304 further amends section 1788(a)(1) to reduce from 27 hours per week to 22 hours per week the number of clock hours a veteran must attend in order to qualify for full-time GI bill benefits when enrolled in an accredited institutional, trade, or technical course offered on a clock-hour basis, not leading to a standard college degree which involves shop practice (classroom or theory does not predominate) as an integral part of such course.

The reduction in clock hours from 27 to 22 provided for under this amendment is applicable only to those courses which have been accredited and approved by a nationally recognized accrediting agency or association. The courses involved must have been approved pursuant to present section 1775 (Approval of Accredited Courses). Under that section, a State approving agency may approve the courses offered by an educational institution within its jurisdiction when such courses have been accredited and approved by a nationally recognized accrediting agency or association. In order for the State approving agency to know which courses are approved, the Commissioner of Education is required to publish a list of nationally recognized accrediting agencies and associations which the Commissioner has determined are reliable authority as to the quality of training offered by the educational institution. The State approving agency may, upon concurrence with the Commissioner's finding, utilize the specific accreditation granted by such associations or agencies for the approval of those courses.

During the 94th Congress, section 509 of S. 969, the Veterans' Education and Employment Assistance Act of 1976 (ultimately enacted as Public Law 94–502), as passed by the Senate, provided for a reduction in the number of clock hours of attendance required for payment of full-time benefits in the case of an accredited institutional, trade, or technical course. That measure would have reduced the number of hours required in the case of primarily shop practice courses (where classroom or theory does not predominate) from 30 (the number then required) to 22; and in the case of courses involving primarily theoretical and classroom instruction, the number of hours was reduced from 25 (the number then required) to 18 hours. In both instances, the Committee bill requires the same number of attendance hours which would have been required by section 509 of S. 969. In addition, S. 969 specifically provided for the exclusion of supervised study periods in computing the number of hours required for full-time measurement of accredited courses.

The House, however, amended S. 969 to set the clock-hour attendance requirements at 27 hours and 22 hours (rather than 22 and 18, respectively) but retained the supervised study exclusion as it had passed the Senate. The result, which seems at best anomalous, was that some accredited schools were required to provide more classroom instruction under the revised provision than was required prior to the amendment of the law. Such a result was certainly contrary to the original intent of the Senate in approving section 509 as part of S. 969.

In the report accompanying S. 969 (S. Rept. No. 94–1243, page 127), the Committee stated that it

"believes that a reduction in the minimum number of clock hours is warranted and can be accomplished without a reduction in the quality of the course or lessened attainment of vocational objective by its graduates. . . . [T]he Committee, in permitting a reduction in clock hours, expressly excludes supervised study in computing the required number of hours. This new measure is limited to schools accredited by nationally recognized accrediting agencies and approved pursuant to section 1775. The Committee has been assured by representatives of those applicable accrediting bodies that such clock-hour reduction will not result in the diminution of the quality of courses offered. Accordingly, the Committee expressly intends that such accrediting bodies take appropriate measures so that this does not occur. Any evidence to the contrary will result in prompt Committee reevaluation of the amendments made by the section."

The Committee has once again been assured by the representatives of the applicable accrediting bodies that the clock-hour reduction will not result in a reduction in the quality of courses offered. Once again, the Committee emphasizes that it intends to oversee with care this reduction in clock hours in order to assure that such reduction does not result in a reduction of the quality of courses offered to the enrolled veterans. Thus, the Committee believes, consistent with the intent underlying Senate passage of section 509 of S. 969 during the 94th Congress, that the reduction in hours is warranted and needed.

Clause (4)(C) of section 304 amends section 1788(a)(2) to limit, to 5, the number of supervised study hours which may be counted toward computing full-time pursuit in the case of a nonaccredited institutional trade or technical course where theoretical or classroom instruction predominates. Under section 1788(a)(2), a nonaccredited institutional course offered on a clock-hour basis not leading to a standard college degree, in which theoretical or classroom instruction predominates, shall be considered a full-time course when a minimum of 25 hours per week net of instruction (which may include customary rest intervals not to exceed 10 minutes between hours of instruction) is required. Under this provision, an enrolled veteran would have to be in attendance for 25 hours, with no more than 5 hours of supervised study and the 10-minute break between classes allowed—a total of 20 hours of classroom time. Although accredited courses are currently required to exclude supervised study from the computation of attendance hours in determining whether a veteran is, in fact, a full-time student under title 38, nonaccredited courses presently are not. The Committee bill would rectify this inconsistency.

Clause (4)(D) of section 304 further amends section 1788(a)(2) by reducing from 22 hours to 18 hours the number of hours per week of instruction required in a course offered on a clock-hour basis not leading to a standard college degree in which theoretical or classroom instruction predominates. Currently, in order for such a course to be considered a full-time course for purposes of the GI bill educational assistance program, a veteran must be in attendance for at least 22 hours, excluding supervised study. The reduction in the number of required clock hours provided under this clause is applicable only to those courses approved pursuant to section 1775—that is, accredited courses. As indicated in the discussion of subclause (B) of clause (4) of this section, *supra*, the Committee intends to monitor closely the implementation by accredited institutions of this reduced clock-hour requirement in order to assure that the reduction does not result in a reduction in course quality. Again, the Committee believes that the reduction in clock hours being provided under this provision carries out the intent of the Senate in passing section 509 of S. 969, the Veterans' Education and Employment Assistance Act of 1976.

OPERATION PERIOD WAIVER, EDUCATIONAL INSTITUTION ADMINISTRATIVE PROCEDURES, AND ADVISORY COUNCIL

Section 305

Amends title 38 of the United States Code to change the "2-year period of operation rule" (section 1789), to amend the "85–15 percent rule" (section 1673(d)) to provide authority for suspending, in certain instances, the rules in regard to unsatisfactory progress (sections 1674 and 1724), to extend relief to certain institutions holding benefit

checks under powers of attorney executed prior to December 1, 1976, but unable to be cashed by virtue of section 701 of Public Law 94–502; and to require the Administrator to meet regularly with the educational advisory committee, mandated by present section 1792.

Clause (A) of paragraph (1) of subsection (a) section 305 amends section 1789(b)(2), relating to the period of time an educational institution must be in operation before it can be approved for enrollment of veterans in receipt of GI bill educational assistance, to exempt a vocational objective course from the application of the 2-year rule if the Administrator determines that the institution offering such course has been in existence for 2 years or more and has demonstrated its effectiveness in achieving both the completion of its courses by its students and the employment in occupations for which the vocational training was provided of those students who have completed such courses. In order to exempt a vocational objective course from the application of the 2-year rule, the Administrator must also find, after consultation with the Secretary of Labor, that there is a clear need to train persons for employment in the vocational objective—in terms of national priorities—for which the waiver of the 2-year rule is sought.

Currently, under section 1789, the Administrator, subject to limited exceptions, is prohibited from approving the enrollment of any eligible veteran or eligible person in any course offered by an educational institution when such course has been in operation for less than 2 years. Examples of those exceptions include: A course pursued in a public or other tax-supported educational institution; a course offered by an educational institution which has been in operation for more than 2 years, if the course is similar in character to the instruction previously given by the institution; a course which has changed locations but was previously offered by an institution for a period of more than 2 years without change in ownership; and certain courses offered by an educational institution under contract with the Department of Defense.

Legislation requiring the expiration of a prior period of operation for a specified period of time before a course could be approved for the enrollment of veterans, originated in the closing years of the World War II GI bill. Public Law 81–266 contained provisions prohibiting GI bill payments to veterans training in institutions which had been in operation for less than 1 year. As implemented by regulation, the Veterans' Administration treated any new branch campus, other than those established "in close proximity to the original school that was not necessary to handle the overflow of students in the parent institution," as a new school. Later in the 81st Congress, however, legislation was enacted specifically exempting from the 1-year requirement any public or tax-supported school. The Veterans' Administration expressed reservations at the time about such exception, noting that "the very purpose of the general requirement that the school must have been in operation for at least 1 year, is to insure that it shall have proven its worth for a reasonable period of time, so that the interests of the veteran will be protected and Federal funds would not be expended wastefully. If the purpose is to be carried out effectively, the requirement must be as nearly uniform as possible." Subsequently, the Korean conflict GI bill (Public Law 82–550) provided that a course must have been in operation for at least 2 years before veteran enrollment could be approved, but retained the exception in regard to public or tax-supported schools.

The Committee believes that, generally, the 2-year rule assures that courses are not developed solely to take advantage of available Federal dollars in the form of GI bill educational assistance. However, in regard to vocational objective courses, it is possible that such a general prohibition may result in the preclusion of GI bill benefits for a course which could provide much needed training in a new subject area. For example, a vocational objective course offering training in the area of weatherization or solar heating and cooling technology could be a valuable course for a veteran seeking employment in the growing field of energy conservation. However, in most instances, unless a school has a course similar in nature, such weatherization course would have to be in operation for at least 2 years prior to the approval by the Administrator of the enrollment of a veteran under the GI bill.

Although the Committee believes that the 2-year rule generally serves a valuable function in reducing abuse, the Committee also is concerned that in some instances a general preclusion may not be in the interest of eligible veterans, especially when one considers the continued high unemployment rate among Vietnam-era veterans (at the end of August 1977, the overall unemployment rate for male Vietnam-era veterans, aged 20 through 34 years, was 7.8 percent). Thus, the Committee is providing the Administrator with the necessary authority to exercise his discretion in regard to certain vocational objective courses at schools of demonstrated effectiveness in fields of training meeting clear national needs. By doing so, the Committee believes that the Administrator will have greater flexibility to assist unemployed and underemployed veterans in obtaining training under the GI bill in those vocational objectives offering employment opportunities.

In order for this exemption to be applicable to a specific vocational objective course, the institution offering such course must have been in operation for a period of time equal to or greater than 2 years. In addition, such institution must demonstrate to the satisfaction of the Administrator that it has been effective in achieving both the successful completion of offered courses by enrolled students and the employment of course completers in the occupational category for which the course was designed to train them. Currently, under section 1673, the Administrator is prohibited from approving the enrollment of an eligible veteran in any course with a vocational objective, unless the eligible veteran or the institution offering such course submits justification showing that at least one-half of the persons who have completed such course over the preceding 2-year period, and who were available for employment, have been employed in the occupational category for which the course was designed to provide training. The law excludes from the computation those who trained under the GI bill while on active military duty status.

The provision for exemption from the 2-year rule provided by the Committee bill includes language similar to the 50-percent-placement requirements found in present section 1673(a)(2). It is not the intent of the Committee to suggest that compliance with section 1673(a)(2) necessarily means that the Administrator must find that there is compliance with the exemption provision of section 1789(b)(2)(B) as added by the Committee bill. The Committee believes that the section 1673(a)(2) compliance decision should be considered by the Administrator in making his determination of eligibility for the 2-year exemption, but that the placement and completion determinations required under this new provision should be made independently of that compliance determination. The Committee emphasizes in regard to the course completion requirement that, if many of the veterans and other students who have enrolled in the institution do not ultimately complete their course of study, the Administrator should not provide a 2-year exemption for a course which is likely to produce similar numbers of noncompleters.

A second criterion for determination of eligibility for the new section 1789 exemption is that the Administrator must find, after consultation with the Secretary of Labor, that there is a clear need to meet urgent national priorities to train persons for employment in the particular occupational category. Again, the example which readily comes to mind is that of training individuals for positions of weatherization experts or solar energy technologists. There is little doubt that quality training in this field could prove valuable in the future as various Government programs in regard to weatherization are enacted—such as the loan guaranty of $2,000 for solar energy and weatherization purposes provided in section 311 by the Committee bill.

The Committee expects the Administrator to exercise great caution in implementing this amendment to assure that exemptions in the 2-year rule are granted only in instances where the school has a record of proven ability to assure course completion and to place its students in relevant employment and where there is a clear national need for trained personnel in the occupational category for which the exemption is sought.

Clause (B) of paragraph (1) of subsection (a) of section 305 further amends section 1789(c) to authorize the Administrator to waive the 2-year rule for branch campuses and extensions if the Administrator determines, pursuant to prescribed regulations, that the waiver would be in the interest of the eligible veteran or the Federal Government.

Section 509(b) of Public Law 94–502, enacted into law October 15, 1976, amended section 1789 to extend the 2-year rule to courses offered by certain branches and extensions of institutions of higher learning.

Those courses specifically made subject to the 2-year rule included any course offered by a branch or extension of a public or other tax-supported institution, where the branch or extension of such institution is located outside the area of the taxing jurisdiction providing support to such institution and any course offered by a branch or extension of a proprietary nonprofit educational institution, where the branch or extension is located beyond the normal commuting distance of the main institution. An exception to the general operation of the 2-year provision was authorized for those courses offered by an educational institution under contract with the Department of Defense, given on or immediately adjacent to a military base, available only to active-duty military personnel and their dependents and approved by the State approving agency of the State in which the base is located.

This extension of the 2-year rule was aimed at the problems described in the Committee's report to accompany S. 969 (S. Rept. No. 94–1243), of the "dramatic rise in the number of recruiting, consulting, and other specific service-type contracts that schools are entering into with profitmaking organizations." In addition, the Committee expressed concern with the increase in veteran enrollments in schools establishing multi-branch campuses.

At the June 24, 1977, hearings before the Subcommittee on Health and Readjustment, a Veterans' Administration witness reported:

"Our Administrative experience has indicated that in many branch locations or extensions, the parent school loses some degree of control over what is going on at the branch. In addition, we are aware that some of these branches or extensions have been established to serve veteran-students almost exclusively and are operating out of inadequate facilities. It is our belief, that as a general rule the quality of education offered by such branches and extensions cannot be properly evaluated without a period of ex-

perience, 2 years being a reasonable span for such experience . . ."

Indeed, this Committee and those responsible for the administration of the educational assistance allowances under the GI bill are not alone in this concern over the growing problem of control of off-campus degree programs. In October 1976, the Council on Postsecondary Accreditation (COPA) launched a major attack on "questionable off-campus degree programs sponsored by accredited colleges and universities".

The Policy Statement on Off-Campus Degree Programs, issued in October 1976 by COPA, the national umbrella organization for nongovernmental accreditation, stated:

"[T]here is increasing evidence that at least a handful of colleges and universities apparently have established off-campus degree programs that are not equivalent academically to similar programs on campus, and further that they have allowed these off-campus programs to operate without adequate supervision from the sponsoring institution."

COPA's policy statement identified the following as major problems:

"Institutions with little or no experience in running off-campus degree programs have plunged into such operations.

"In response to demands, institutions have sponsored programs off campus for which they have no counterparts on campus.

"Institutions in some instances have formalized a differential standard of quality by labeling credits earned off-campus as being not acceptable on campus.

"Institutions have offered off-campus programs that require little or no involvement or oversight by on-campus faculty. In some instances, responsibility for the operationally separate units has been contracted out.

"Institutions have established satellite operations far removed from the parent campus, often crossing state and even regional boundaries.

"Off-campus offerings have ranged from large, relatively permanent educational units to short-term ventures consisting of one course, one faculty member hired locally, and a handful of students."

A recent article printed in the Chronicle of Higher Education on June 20, 1977, entitled "Educational Brokers: Threat to Academic Standards?" quoted the President of the California State University at Hayward, Ellis McCune as follows: "Some institutions are operating contractual programs that do not conform to accrediting commission standards." Mr. McCune then listed a number of criticisms which had been leveled at off-campus programs operated by contractors, including the following: Programs operate without involving the institution's own faculty; contract programs have no relation to other programs offered by the institution; grading standards are too liberal; excessive credit is given for life experience; student recruitment is uncontrolled; and tuition fees are paid directly to the contractor instead of to the institution.

The Committee understands that unfortunately the efforts to overcome some of these difficulties are not making speedy progress. For example, a recent issue of the Chronicle of Higher Education reported that the Western Association of Schools and Colleges (a regional accrediting body) was seeking to prohibit all such contracts by the fall of 1977. Subsequently, however, that association retracted its advisory statement and will, through a special Task Force, merely review an undetermined number of existing contracts and all new contracts.

Although COPA's efforts to correct these problems reveal that many within the industry responsible for program quality are at least as concerned with this problem as is Congress and the Veterans' Administration, it is probable that their efforts will not bring sufficient results—at least within the next few years—to justify, as has been urged by some, the general repealer of the current general 2-year rule provision as it relates to branch campuses and extensions of approved institutions of higher learning. Thus, the Committee believes that there continues to be a need for requiring certain branches and extensions of institutions of higher learning to comply with the current 2-year rule as codified in section 1789(c) of title 38.

However, it is apparent to the Committee that the continued administration of section 1789(c) insofar as branches and extensions of institutions of higher learning are concerned, without some provision for equitable relief in the form of authority for the Administrator to suspend or waive the 2-year requirement in certain instances, would be an error. As pointed out in the June 9, 1977, document prepared by the American Council on Education, a major shortcoming of the current 2-year law is that it "makes no provision for the VA to waive the 2-year rule, even though there are circumstances where it clearly operates to deny veterans a valuable educational program." In a letter, dated June 7, 1977, the American Association of Collegiate Registrars and Admission Officers criticized the current law, writing that "there presently is no opportunity for any waiver of the 2-year rule." The Committee agrees with the criticisms voiced by these two organizations in this regard. Thus, the Committee bill amends section 1789(c) to provide the Administrator with the authority to waive, pursuant to published regulatory criteria, the provisions of section 1789(c) when such waiver is found to be in the interest of the eligible veteran and the Federal Government.

The waiver language is similar to that in section 1673(d) for the 85–15 rule. Thus, with the experience of providing for waivers under that section, the Veterans' Administration should have little difficulty implementing this provision. Indeed, the Veterans' Administration, in its July 21, 1977, comments on Amendment No. 448, reported "[T]here may be situations involving applications of the expanded rule where some type of discretionary waiver authority might be beneficial. Because there is no waiver provision in current law with regard to the 2-year rule, we would have no objection to enactment of language which is similar to that previously granted with respect to the so-called 85–15 rule, currently set forth in section 1673(d) of title 38."

The Committee believes that the new waiver authority provided in this subsection should be exercised with care. The Administrator should establish a number of factors to be given consideration in determining whether a waiver should be granted. In this regard, the recent statement issued by the Council of Graduate Schools concerning nonresidential graduate degree programs should provide some guidance to the Administrator in determining when the 2-year rule should be waived for branches and extensions as being in the interest of the veteran and the Federal Government. The questions which that Council believes should be considered in evaluating the quality of a nonresidential graduate degree program include: (1) Has the institution providing the course, received authorization from the appropriate State agency and from the regional accrediting association involved? (2) has the institution providing the course demonstrated to State agencies and accrediting bodies that the purpose of the course "is consonant with the express and accredited purposes of the institution" and that there is "a genuine unmet need" for it? (3) has the institution demonstrated that the course is "essentially equivalent in quality to comparable courses offered on the home campus"? (4) has the institution shown that the course offered provides "full and easy access to faculty, library, and other resources of the appropriate academic units on the home campus"?

The Committee also believes that the Administrator should give special consideration to the existing statutory differences between the applicability of the 2-year rule to courses offered in extension and branch campuses at public as opposed to private schools. Under present section 1789(c), the 2-year rule is not applied to a proprietary institution of higher learning either profit or nonprofit—if the branch or extension—is within normal commuting distance of such institution. However, for a public or other tax-supported institution, the 2-year rule is not applied if the branch or extension is within the taxing jurisdiction providing support to such institution. In some instances, this distinction between private and public educational institutions can result in very real and inequitable disparities. In this regard, the Administrator may want to give consideration to the recommendations of the State approving agency exercising jurisdiction over and approving the main campus of a proprietary school, with respect to a possible exception for any branch campus or extension that is within the jurisdiction of such State approving agency.

The Committee is also especially concerned with oversea residential programs. The Committee believes that the Administrator should give special consideration to the need of these oversea programs, in accordance with the needs of the Department of Defense, to change course locations and provide different courses. The Committee urges the Administrator to consider carefully, prior to any denial of an application for a waiver of the 2-year rule for an oversea residential program, the valuable contribution provided by these programs in extending to members of the military, their dependents, civilian military personnel, and, indeed, all oversea personnel, the opportunity to enhance and develop their education.

In addition, the Committee urges the Administrator to consider with care the availability of other programs of education available to the veteran. For example, during hearings the Committee received testimony that some branches and extensions are opened in areas where, prior to the opening of that branch campus or extension, there were little, if any, other residential programs of education available. In those instances, the Committee stresses that the Administrator should carefully evaluate the needs of veterans in that locale and the needs of the Federal Government in providing educational opportunities to those who otherwise might not have the opportunity to use GI bill educational assistance allowance.

Paragraph (2) of subsection (a) of section 305 amends section 1673(d) of title 38 to make changes in the 85–15 rule.

Clause (A) of paragraph (2) of subsection (a) of section 305 amends section 1673(d) of title 38, United States Code, to make specific the requirement that the Administrator prescribes regulations governing the exercise of his 85–15 waiver authority.

Clause (B) of paragraph (2) of subsection (a) of section 305 further amends section 1673(d) of title 38, United States Code, to exempt any institution with an enrollment of veterans in receipt of educational assistance allowance under title 38 which comprises 35 percent or less of the total enrollment (main campus and extensions computed separately) from the requirements of separate course-by-course computation of the 85–15 rule. However, where the Administrator has reason to believe that a particular course has an enrollment of greater than 85 percent veterans, the Administrator may require computation for that particular course and enforce the rule. In addition, overseas residential courses are exempted from the 85–15 rule.

Currently, under section 1673(d), the Administrator is prohibited from approving the enrollment of any eligible veteran not al-

ready enrolled in any course—other than a PREP course (provided under subchapter VI of chapter 34), a farm cooperative training course, or certain courses offered by educational institutions under contract with the Department of Defense—for any period during which the Administrator finds that more than 85 percent of the students enrolled in such course have all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans' Administration under this title, or by grants from any Federal agency. The Administrator is currently authorized to waive the requirements of the 85–15 rule, in whole or in part, if the Administrator determines it to be in the interest of the eligible veteran and the Federal Government.

As finally implemented by the Veterans' Administration in Appendix H to DVB Circular 20–76–84, VA station directors were authorized to waive the 85–15 computation for institutions certifying that 35 percent or less of their enrollment was in receipt of Veterans' Administration educational assistance (main campuses and branches compute separately). The Veterans' Administration currently limits this waiver, however, by providing that the 85–15 rule will apply in the instance of any course where the percentage of VA-supported veterans enrolled exceeds 85 percent. Station directors are further responsible for taking "forceful action" to identify specific courses of study which may exceed 85 percent VA-supported enrollment, even if such courses are offered by schools having 35 percent or fewer veterans in the total school population. As a result of this "blanket waiver" to any school qualifying with the above criteria on a semester-by-semester basis, the VA witness testified in hearings held on June 24 that "at least 95 percent of the schools in the United States will be able to fall in this category which will mean that they will not have to make an individual computation."

The Committee believes that the rationale for original adoption of the 85–15 rule and its extension to institutions of higher learning by Public Law 94–502 remains valid—that is, "if an institution of higher learning cannot attract sufficient nonveteran and nonsubsidized students to its program, it presents a great potential for abuse of our GI educational programs." The Committee also believes it important that situations in which substantial abuse can occur be limited. It is important in the operation of any Federal benefits program especially in one as generous as the GI bill, that some control be exercised by the Federal Government in order to assure the expenditures of Federal funds are made only in the interest of the eligible persons and the Federal Government. In this regard, the Committee notes with interest a recent article by George Nolfi, entitled "Comparative Policy and Program Analyses of Alternative Proposals for Federal Programs of Educational Entitlement", published as one of a series of National Institute of Education papers in "Education and Work". In an interesting essay concerning the need for careful and systematic analysis of specific proposals in regard to educational entitlement, Mr. Nolfi made the following comments:

"In the current recurrent education system in America, accountability is built-in due to the fact that individual purchasers of service will stop purchasing those services if the services do not meet their needs, since they are spending their own funds. This is true whether the purchasers are individuals, or, as in many cases, employers. However, when public subsidy enters the picture, the problem of accountability becomes more subtle and more complex. An individual spending his or her educational entitlement feels less directly, and in less personal terms, the fact that value purchase may be less than expected. Hence, if public funds are to be invested wisely in recurrent educational entitlement, then entitlement designs must be carefully evaluated in terms of the accountability they provide." (at page 114.)

The Committee, however, believes that, in educational institutions where 35 percent or less of the total enrollment are veterans in receipt of educational assistance allowance under title 38, the imposition of the requirement of computation on a course-by-course basis can result in burdensome and costly recordkeeping requirements with little tangible demonstration that accountability has been assured or abuse has been curbed. The Committee has thus acted to codify in law this current regulatory waiver, thus eliminating the Veterans' Administration discretion in this regard. The Committee points out, however, an important distinction between the current DVB Circular implementing section 1673(d) and the amendment being made by the Committee bill. Under the bill, there is no need for an educational institution to certify that no course has an enrollment of greater than 85 percent veterans. As a result of the current regulatory requirement, many educational institutions find themselves in a "Catch 22" position, where, as a result of having fewer than 35 percent enrollment of veterans, such institutions are supposedly exempt from the obligation of making course-by-course computations. At the same time, however, these institutions are required to certify that no course—for which they have been waived from making a computation, had an enrollment of greater than 85 percent veterans. The Committee bill does not require such institutions to ceritfy that no course has greater than 85 percent enrollment of veterans. Rather, if an institution is waived from having to make the computations as a result of having an enrollment of veterans totaling 35 percent or less of total enrollment, then such institution will not be required to make such computations, unless the Administrator has reason to believe that a specific course has greater than 85 percent enrollment of assisted veterans.

The Committee has included this authority for the Administrator to require a specific enrollment to be computed where he has reason to believe the enrollment of veterans exceeds 85 percent of total course enrollment because it believes that there are instances where certain schools with an overall enrollment of 35 percent or less have created courses applicable only to veterans attending school under the GI bill. In this regard, it expects the Administrator to use the granted authority with care. The Committee emphasizes that the Administrator must have reason to believe that the enrollment in the specific course for which he will apply the provisions of section 1673(d), exceeds the 85 percent veteran enrollment. If the Committee finds overbroad or groundless application of this provision, it will reevaluate the need to provide the Administrator with such authority.

Section 1673(d) is further amended to exclude from the requirement of any 85–15 computation those courses which are residential courses and located outside the United States.

Currently under section 1676, pertaining to the pursuit by an eligible veteran of a program of education located outside the United States, an eligible veteran may pursue a program of education not located in a State only at an approved institution of higher learning. The Administrator may deny or discontinue the GI bill educational assistance of any veteran enrolled in an approved foreign educational institution if the Administrator finds that such enrollment is "not in the best interest of the veteran or the Government."

The Committee believes that such discretion to discontinue or deny benefits for veterans enrolled in foreign educational institutions is sufficient to assure that programs in which such veterans are enrolled are operated in a manner which conforms with the intent of the GI bill program. The Committee expects, however, that the Administrator will examine carefully the approved oversea programs of education. In many instances, especially when active duty service persons are involved, there is little choice as to the program or course of education available to the prospective student. Because of this, the Committee believes it important that the VA undertake to scrutinize oversea programs to assure that each program meets minimum standards of educational quality.

Paragraph (3) of subsection (a) of section 305 requires the Administrator, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, to conduct a study examining the need for educational institutions, in computing the 85–15 ratio pursuant to section 1673(d), to compute those students enrolled who are in receipt of grants from any Federal department or agency other than the VA. In addition, the required study shall also consider the problems encountered by educational institutions in making such computations. The report of the study, to be submitted to Congress no later than August 1, 1978, shall stipulate whether the VA, in assuring that educational assistance allowances are being paid under title 38 in the manner intended by the Congress, needs such computations. The report shall also prescribe—in detail—an adequate system for the educational institutions to use in making the required computations. Until the expiration of 6 months from the date of the submission of the required report, the Administrator is prohibited from applying the provisions of present section 1673(d) insofar as the computation by affected educational institutions of the numbers of students in receipt of Federal grants—other than from the Veterans' Administration—is concerned.

Section 1673(d), as amended by section 205(4) of Public Law 94–502, requires the inclusion in the 85–15 computation of those students in receipt of direct Federal grants—Federal benefits which do not have to be repaid by the recipients. The section 205(4) inclusion in the 85–15 requirement of recipients of all such Federal assistance programs was mandated by Congress as a result of the finding that such was consistent with the general intent and rationale of section 1673(d)—that is, the requirement of a minimum number of students not wholly or partially subsidized by the Federal Government as a means of assuring quality by following the free market mechanism.

As implemented by the VA in appendix H to DVB circular 20–76–84, the requirement of inclusion of certain Federal grants was waived under the limited 85–15 rule waiver authority provided the Administrator. In regard to students in receipt of Federal grants, appendix H waived from the required computation the inclusion of all graduate students and all forms of Federal assistance, other than Basic Educational Opportunity Grants (BEOGs) and Supplementary Educational Opportunity Grants (SEOGs). Examples of those Federal educational assistance programs not included in the computation of the 85–15 rule include the benefits administered by the Social Security Administration, Federal grants supporting specific programs (such as law enforcement (LEEP), Safe Cities Act grants, nursing, and government employees training support), and tuition paid by an armed service to active-duty personnel.

Generally, the inclusion of recipients of non-VA Federal grants in the 85–15 computation affects only those institutions with an enrollment of veterans in receipt of GI bill

educational assistance allowance of greater than 35 percent of the total student body enrollment. Clause (A) of paragraph (2) of this section provides that an educational institution with an enrollment of veterans in receipt of GI bill educational assistance allowance equal to 35 percent or less of the total student enrollment of such institution need not make the section 1673(d) 85–15 computations. Of course, as discussed earlier, if the Administrator has cause to believe that a specific course has an enrollment in excess of 85 percent, then the Administrator may require the computation to be made by the educational institution in that specific course. Thus, generally, those institutions granted waivers from the requirements of the 85–15 rule as a result of the equal to or less than 35 percent GI bill educational assistance enrollment waiver, need not—at any time—make the required computation insofar as Federal grants are concerned. Hence, the Federal grant computation is generally applicable only to those educational institutions with an enrollment of veterans greater than 35 percent of the total student body (branches and main campus computed separately).

Currently, BEOGs and SEOGs are the only form of Federal educational assistance—other than that provided by the Veterans' Administration—not specifically waived from the 85–15 determination as required by section 1673(d). Inclusion of students in receipt of such assistance in the required determination was initially suspended by the Administrator through June 30, 1977, and subsequently extended through June 30, 1978. As a result, at the present time, no educational institution is required to include in its computations those students in receipt of non-VA educational assistance. The Veterans' Administration, in testimony before the Committee, reported that the reason the VA suspended for an additional year the provision that BEOG and SEOG recipients be included in the 85–15 requirement was that educational institutions and associations had reported that in their current recordkeeping systems, institutions do not identify by curriculum (or course of study) the enrollment of those students in receipt of BEOGs and SEOGs. Therefore, it would be very difficult—if not impossible—for them to make course-by-course computations.

The BEOG program, originally authorized by Public Law 92–318, amending the Higher Education Act of 1965 to add a section 131 provides students enrolled on at least a half-time basis with educational assistance based on need. The student must be in good standing at the educational institution in which enrolled. The grant program provides eligible students with a "floor" of financial aid to help defray the costs of pursuing a postsecondary education.

The maximum amount of the grant will be $1,800 for academic year 1978–79, less an expected family contribution. The amount of the BEOG cannot exceed one-half the cost of attending the postsecondary educational institution in which the student is enrolled. During fiscal year 1977, $1,903,900,000 was appropriated for the Basic Educational Opportunity Grant program. During fiscal year 1976, approximately 931,000 students were in receipt of BEOGs; during 1977, an estimated 1,975,000 recipients, and during fiscal year 1978, an estimated 2,241,000 students will receive assistance. During school year 1976–77, of BEOG recipients approximately 42.1 percent were members of a minority group. Almost 81 percent of BEOG recipients were enrolled in public educational institutions; 46 percent in attendance at public 2-year institutions; and 15.2 percent at public universities.

The SEOG program (added as section 131 to the Higher Education Act of 1965 by Public Law 92–318) provides, through participating institutions of higher learning, supplemental grants to assist qualified students who, for lack of financial means, would be unable to pursue an education. Funds for SEOGs are initially apportioned among the States in the same ratio as the States' full-time and full-time equivalent enrollment bears to the total national full-time and full-time equivalent enrollment. The awards are then continued in accordance with regulations published by the Commissioner of Education. The maximum student award is $1,500 per year, or one-half of the sum of the total amount of student financial aid provided to such student by the institution—whichever is lesser. During fiscal year 1977, $250,093,000 was appropriated for the SEOG program. During fiscal year 1976, 445,000 students were in receipt of SEOGs; during 1977, approximately 479,226 students and during fiscal year 1978, an estimated 462,000 students will receive grants under this program. During school year 1976–77, recipients of SEOGs were primarily enrolled in public institutions—64.4 percent; 20.5 percent were enrolled in public 2-year institutions; and 27.6 percent were enrolled in public 4-year institutions. Thirty-nine percent of SEOG recipients were members of a minority group.

In hearings held by the Health and Readjustment Subcommittee in June 1977, and in communications received by various members of the Subcommittee in the form of constituent letters and telegrams, the Committee has been apprised by numerous groups, organizations, and individuals of what is considered to be the deleterious effects of the required inclusion of Federal grants in the 85–15 computation. These criticisms have been leveled despite the permanent waiver by the Veterans' Administration of the Federal grant requirement for all such programs other than BEOGs and SEOGs, and the temporary waiver by that agency of the requirement of including in the required computation these two Federal grant programs. For example, American Association of State Colleges and Universities, on June 24, 1977, presented written testimony opposing the continued inclusion in the computation of BEOGs and SEOGs as follows:

"* * * [C]ounting BEOG and SEOG (and *all other* Federal grant programs are included in the law, though they been [sic] temporarily waived by the VA) requires far more paperwork and staff-time, since no college keeps a record of BEOG and SEOG enrollment by course. It also further discriminates against veterans, since there is no limit on the percentage of BEOG–SEOG students who can enroll in any course, but an 85 percent limit on veterans. While the VA may theoretically continue this waiver beyond July 1, [the VA's initial temporary waiver was until June 30, 1977—it has since been extended to June 30, 1978] we believe it would be far better to amend the law and return to the previous situation."

In regard to the requirement that records be kept on BEOGS and SEOGs, the American Council on Education reported:

"To establish such records by course of study in order to compute the percentage for the VA would be immensely costly and time-consuming, and serve no educational purpose: institutions have no reason to keep financial aid records by academic departments . . . . Further, the inclusion of other forms of federal assistance in 85 percent count is directly counter to the expressed intent of Congress in establishing those programs: that all students in financial need be encouraged to obtain a postsecondary education."

During the hearings before the Health and Readjustment Subcommittee in June, the Veterans' Administration, in response to questions concerning whether it would be disadvantageous to the VA's abuse-curbing efforts to strike from the 85–15 rule the current requirement of computation of Federal grant programs by legislation rather than through regulation, responded that the question was one that Congress "might want to look into".

The Committee believes it important that the continued need for the inclusion in the 85–15 determination of those students in receipt of Federal grants—other than from the VA—be fully reevaluated. Pursuant to this belief, the Committee bill mandates the conduct of a study by the Veterans' Administration, in conjunction with the Commissioner of Education of the Department of Health, Education, and Welfare, in regard to the need for inclusion and the procedures for compliance. The Committee appreciates the Veterans' Administration's need for assuring that veterans' educational programs are operated in a manner intended. However, in light of the large number of BEOG and SEOG recipients who are members of minority groups (42 percent and 39 percent, respectively) and the fact that BEOGs and SEOGs are paid purely on the basis of need, the Committee believes that it is possible that the implementation of the rule during the period of time the study is being conducted may cause difficulty in terms of burdensome paperwork requirements to those educational institutions serving minority group members and disadvantaged students, and, consequently, cause the greatest harm to those institutions serving veterans who are members of minority groups and those who are disadvantaged academically. For this reason, the Committee bill suspends until 6 months after the submission of the study, the inclusion of Federal grant recipients in the required determinations.

The Committee also believes, in view of the on-going statutory requirement of the inclusion of Federal grant recipients—despite the waiver provided by this section—that it is important that educational institutions receive guidance from the Veterans' Administration concerning an adequate system for making the necessary Federal grant computations. As quoted previously, representatives of educational institutions have charged that such a recordkeeping requirement would impose upon educational institutions, burdensome and costly recordkeeping and reporting requirements. Inasmuch as the Committee wishes to avoid imposing burdensome recordkeeping requirements, and as a result of the Committee's finding that most institutions currently are not keeping records of BEOG and SEOG recipients by course of study (curriculum), the Committee believes it necessary that the Veterans' Administration, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, prescribe or recommend adequate systems for making such computations. In making these recommendations, the Committee expects the VA to seek technical assistance and advice from representatives of educational institutions and that any recommendations made will be taken fully into account and be explained in terms of the administrative capabilities of covered institutions. It may well be that the required study will find that the failure to keep records in regard to Federal grant recipients may impair the ability of the Federal Government to administer the VA, BEOG, and SEOG programs in the manner in which intended. If such is the case, the Committee would expect that the Administrator's recommendations, prescribing in detail an adequate system for making such computation, would reflect that finding. The Committee will examine carefully the report of the study and its recommendations, and expects to take appropriate action thereon.

Paragraph (1) of subsection (b) of section 305 requires the Administrator, in consultation with the Commissioner of Education of the Department of Health, Education, and Welfare, the Comptroller General of the United States, the Council on Postsecondary

Accreditation (COPA), State approving agencies (SAA), and other appropriate bodies, officials, and persons to conduct a study into the specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are, and continue to be, approved for purposes of chapters 32, 34, 35, and 36 of title 38, United States Code. Such study in recognition of the importance of assuring that Federal assistance is made available only to those eligible veterans and persons seriously pursuing and making satisfactory progress toward an educational or vocational objective, shall also investigate the need for legislative or administrative action in regard to sections 1674 and 1724 as amended by sections 206 and 307 of Public Law 94–502, and the regulations prescribed thereunder. The Administrator is required to submit to the President and to the Congress, not later than August 1, 1978, the report of such study with such specific recommendations for administrative or legislative action as the Administrator deems appropriate.

Currently under section 1772, the responsibility for approving postsecondary educational institutions and courses at such institutions is—with limited exceptions—the function of State approving agencies (SAAs). Under section 1774, the Administrator is authorized to enter into contracts or agreements with State and local agencies to pay such agencies for reasonable and necessary expenses, salary, and travel incurred by employees of such agencies in rendering necessary services in regard to ascertaining the qualification of educational institutions for furnishing courses of education for eligible persons or veterans under chapters 34, 35, and 36 of title 38.

Under section 1775, a State approving agency may approve the courses offered by an educational institution when such course has been accredited and approved by a nationally recognized accrediting agency or association. In this regard, the Commissioner of Education of the Department of Health, Education, and Welfare is required to publish a list of nationally recognized agencies and associations which the Commissioner determines to be reliable authority as to the quality of training offered by the educational institutions. The respective State approving agencies may, upon concurrence with the Commissioner's finding, accept the accreditation of such private accrediting body as approval of the courses specifically accredited and approved by such accrediting association or agency.

However, as a precondition to approval under section 1775, the SAAs are required to find that the involved educational institution keeps adequate records showing the progress of each enrolled eligible person or veteran. Further, such records must, at a minimum—except for attendance—comply with the requirements set forth in section 1776(c)(7); that is, that adequate records as prescribed by the SAA be maintained by educational institutions to show progress or grades and that the institution has in force satisfactory standards relating to progress and conduct. In this regard, the SAA is required to find that such educational institution maintains a written record of the previous education or training of the person or veteran.

In making application for approval to the appropriate SAA, the educational institution is also required to transmit copies of such institution's bulletin or catalog, certified as true and correct in content by an authorized representative of the school. Such catalog or bulletin must specifically state the institution's progress requirements for graduation and must include, at a minimum, information in regard to the institution's policy and regulations relative to standards of progress—policies such as the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, probationary periods, if any, allowed by the institution, and conditions for reentrance for those students dismissed for unsatisfactory progress. In addition, the catalog or bulletin must also include a statement as to the institution's policies and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct.

These requirements—imposed by sections 1776 (b) (6) and (7) and 1776(c)(7) of title 38 result from the enactment of section 504 of Public Law 94–502. That amendment was, in part, motivated by this Committee's finding that increased VA compliance surveys of institutions of higher learning had "revealed many instances where schools did not maintain accurate, current, or complete records of the academic progress of veterans enrolled therein. "... [M]any schools have such vague or virtually nonexistent standards of progress that it is difficult if not impossible, to determine at what point in time educational benefits should be discontinued." (S. Rept. No. 94—1243, page 118.)

Those educational institutions which have not been approved by a State approving agency pursuant to section 1775—in practice, this generally includes only nonaccredited courses and institutions—may be approved by the SAA pursuant to section 1776. A written application for approval of the involved course is required to be made by the educational institution to the SAA in whose jurisdiction responsibility for the course falls. Section 1776 requires such application be accompanied by two copies of the current catalog or bulletin certified as true and correct in content and policy by an authorized owner or official of the involved educational institution. Such catalog or bulletin must include specific items of data detailed in subsection (b) of section 1776. Further, the appropriate SAA may approve the application of such institution if the SAA finds, upon investigation, that the institution has met the criteria outlined by subsection (c) of section 1776.

Currently, there are at least three different systems in operation used by Federal administrators to be able to identify those educational institutions worthy of being eligible for Federal programs such as the GI Bill—State licensing, State approvals, and accreditation. Generally, such Federal payments are made by the involved Federal agency only upon the findings by State agencies or licensing bodies that the quality of the educational institution in which the student is enrolled meets the State's educational standards or, in the case of the VA, meets the respective State's standards and is in conformance with the VA's minimum standards or, if reliance is placed upon an accrediting body, that the involved institution is accredited.

The problem of assuring quality in education is an age-old problem—one that existed prior to the infusion of Federal moneys into postsecondary education and grants to students in attendance at postsecondary institutions. Although the problems of lack of educational quality are not caused solely by the flow of Federal dollars into the system, the payment of billions of Federal dollars to educational institutions or to students enrolled in such institutions certainly creates situations ripe for abuse.

Presently, as outlined previously, the Veterans' Administration, in the administration of its education program, relies upon SAAs for assuring the quality of courses of education in which veterans are approved for enrollment. Although discretion is granted by section 1775 as to whether SAAs shall accept the accreditation of an institution as being equivalent to approval for VA benefits, for all practical purposes, the accreditation of an educational institution by a nationally approved accrediting agency has been equivalent to the approval of the institution and its courses, and, consequently, an approval of the enrollment of veterans for receipt of GI Bill assistance. "The approval system operates loosely within the context of private accreditation." (The Final Report on Education Assistance to Veterans: A Comparative Study of Three GI Bills, Educational Testing Service, September 20, 1973, page 281.)

Past Federal attempts at quality assurance when Federal education benefits are involved appear to have been reliant upon the intertwined relationship of State approvals, State licensing, and private accreditation. In this regard, the National Advisory Council on Education Professions Development in the Office of Education, HEW, in April 1975 found that there is currently a strong tradition of State and local control of education. That report states:

"[Such tradition] puts into question any massive Federal effort to introduce and enforce standards of honesty and quality. Further, there is a continuing preference for educational pluralism, for diversity in higher education, for choices in postsecondary education; this makes it extremely difficult for any agency—Federal, state, local, or voluntary association — to establish standards, much less to enforce them."

When the expenditures of Federal dollars are involved, the Committee strongly believes that:

"when the Federal Government disperses funds to support educational institutions, programs and students [and the Veterans' Administration's GI bill educational assistance program is the Federal Government's largest postsecondary educational assistance program], it must assume responsibility for the way those funds affect the educational consumer as well as educational and program objectives." (Principle Number III, of the Subcommittee on Educational Consumer Protection of the Federal Inter-Agency Committee on Education, Toward a Federal Strategy for Protection of the Consumer of Education, July 1975.)

There can be little doubt that currently, in administering the GI bill, the VA has been regulating increasingly in an area which has traditionally been generally reserved to States and private accrediting bodies.

In testimony before the Subcommittee on Health and Readjustment, some educators asserted that the Veterans' Administration—rather than impose its own requirements to reduce abuse—should rely upon the established mechanism for education approval—the private nationally recognized accrediting associations. However, the Committee believes that reliance upon standards established by accrediting bodies as the sole determinant of GI bill enrollment approval would not completely vindicate the VA's responsibility for the appropriate payment of GI bill assistance. The ability of the private accrediting bodies to assure quality in postsecondary education has been questioned, and the private accrediting bodies have been criticized. For example, the National Advisory Council on Education and Professions Development in April of 1975 reported:

"Accreditation, even when performed by an association recognized by the U.S. Commissioner [of Education], is not necessarily an indicator of quality. . . . [A]ccrediting bodies now seek to determine whether each school is making satisfactory progress toward its goals. More than one critic has ridiculed this procedure by a reductio ad absurdum: this should mean that a diploma mill which openly states that its goals are to make money and to satisfy customers with educational pretensions, should be accredited if it successfully progresses towards its goal."

Others have criticized the States and the accrediting bodies. The National Advisory Council on Education Professions Development, in Gatekeepers in Education: A Report on Institutional Licensing, April 1975, at pages 1, 7, found:

". . . that every American school in the United States exists by permission of the state. . . . It also follows that existing abuses are the responsibilities of the States, sometimes attributable to nonexisting and obsolete laws, sometimes to weak laws, sometimes to weak administration, and sometimes to mere neglect. Further, the State responsibilities have been undermined by the private, voluntary accrediting bodies which (in all innocence) pursue their own purposes and have been used increasingly as indicators of quality and competence by State and Federal officials alike when their original purpose was not to be so used."

Thus, the Committee has reason to doubt the efficacy of sole reliance upon the accreditation by nationally recognized accrediting bodies as the only determinant of veteran-student eligibility for GI bill entitlement—as an alternative to the present methods for assuring quality.

However, sole reliance upon the current VA/SAA enforcement mechanism structure seems subject to criticism also. For example, "The Final Report on Education Assistance to Veterans: A Comparative Study of Three GI Bills" by the Educational Testing Service (September 20, 1973 at pages 283, 285) found that:

". . . State approving agencies range widely in their enforcement powers, diligence, and capability. The result is a lack of control and also a lack of knowledge, of evaluation, of data, of assurance that veterans are getting fair value for their time and money. . . . In short, there remains more than a suspicion that the State approving agencies are not an effective means of insuring the quality of educational performance that is necessary to protect the veteran."

Against this background, Congress last year, as part of Public Law 94–502, amended provisions of title 38 to make more stringent those requirements concerning approval of individual educational institutions for purposes of enrollment of eligible veterans—requirements above and beyond what may have been required by the appropriate SAA or accrediting body. The committee appreciates and understands the objections by representatives of the educational community concerning separate VA standards for enrolled veterans. To the extent these standards vary from other Federal program requirements, increased institutional paperwork and other such requirements inevitably result. To the extent that the VA directives differ from standards required by private accrediting bodies, the involved educational institutions become subject to new standards of academic performance.

However, the Committee continues to believe that the VA has now and will continue to have a statutory responsibility to assure the appropriate payment of GI bill educational assistance. On the other hand the Committee appreciates that the problem of educational abuse—and the abuse of Federal funds—is far more extensive than the Veterans' Administration educational assistance allowance program and the money expended thereon. Problems with quality assurance are not unique to the VA.

When the Committee amended the administrative provisions of the VA education program as part of Public Law 94–502 (changes designed by the Committee to curb abuse in the GI bill program and eliminate, to the extent possible, education overpayments), it took care to emphasize "that it does not undertake to assess the merits of changing educational practices with respect to enrollment policies, nonpunitive grading, attendance requirements, or liberalized withdrawal policies. But, when such policies are coupled with substantial Federal benefits, abuse, and contravention of Congressional intent can result (and unfortunately has resulted). . . . As such, the Committee would be derelict in its duty if it did not prescribe procedures designed to reduce actual or potential abuse and to insure that Federal tax dollars are spent in the manner intended by law." (S. Rept. 94–1243, page 49.)

Regardless of the efforts undertaken by Congress to assure the abuse-free operation of the GI bill program—that is, establishing the SAA framework and enacting abuse control provisions affecting individual institution policy—there is little doubt that the VA must also continue to rely upon traditional methods for assuring continuing educational quality, such as institutional integrity and private market enforcement through accrediting agencies. Although many involved in postsecondary education would agree that within the educational community abuses existed sufficient to give rise to the abuse curbs added by Public Law 94–502, many of these same educators and educational institutions would assert that, in order for any education provisions in regard to quality assurance to be successful, there must be general agreement among those who are to be regulated—educational institutions—as to the necessity of the provisions adopted to curb the abuse and, in general, as to their intent.

Thus, after reviewing the alternatives currently available—and nobody has seriously recommended sole reliance upon State licensing—the Committee mandates the conduct of a study by the Administrator in regard to the specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved for purposes of title 38. The Committee recognizes that mandating such study calls into question the advisability of the continued imposition of separate VA standards. The committee believes that the study must include examination of all three systems currently used by Federal administrators to identify institutions as being eligible for participation in Federal programs in order to find an effective and reasonable way of assuring accountability for the appropriate payment of educational assistance benefits.

The Committee expects that the required study will assess the present and potential roles of the various participants, to determine the strengths and weaknesses of present arrangements, and to recommend any changes deemed appropriate by the Administrator designed to achieve as effectively as possible the goal of assuring that Federal Government expenditures on behalf of veteran-students enrolled in training under the GI bill are not spent upon enrollments in "diploma mills", fradulent operations, or questionable educational enterprises and that the veteran-student is participating in a learning experience directed toward a worthwhile educational or vocational goal, in accord with generally accepted educational standards.

Satisfactory Progress

The study mandated by this subsection to be conducted and reported in regard to the approval process of postsecondary courses of education also requires the Administrator to investigate the need for legislative or administrative action in regard to the "satisfactory progress" requirement in present sections 1674 and 1724, as amended by sections 206 and 307 of Public Law 94–502—and the regulations prescribed thereunder. Although the Committee recognizes the extreme difficulty of attempting to "quantify" the concept of "serious pursuit", the Committee believes that the responsibility for assuring the appropriate expenditures of Federal moneys is of utmost importance. The Committee emphasizes that the GI bill is intended to be an educational assistance program—not an income-supplement program.

Sections 206 and 307 of Public Law 94–502 amended sections 1674 and 1724 of title 38, in regard to discontinuation of veterans' benefits for unsatisfactory progress. Section 307 amended chapter 35 in regard to the progress required of eligible persons. Thus, for the purposes of the Committee's discussion, comments concerning section 1674 (eligible veterans) are also pertinent to eligible persons under section 1724.

Prior to Public Law 94–502, section 1674 mandated the Administrator to "discontinue the educational assistance allowance of an eligible veteran, at any time the Administrator finds that according to the regularly prescribed standards and practices of the educational institution, his (the veteran's) conduct or progress is unsatisfactory." This provision was amended by Public Law 94–502 to provide that "progress will be considered unsatisfactory at any time the eligible veteran is not progressing at a rate that will permit such veteran to graduate within the approved length of the course based on the training time as certified by the Veterans' Administration, unless the Administrator finds that there are mitigating circumstances."

This amendment had the practical effect of terminating reliance upon the progress standards of individual educational institutions as the sole determinant of what constituted satisfactory progress for purposes of GI bill entitlement—of course, educational institutions remained subject in the promulgation and enforcement of such standards to what was acceptable to the appropriate State approving agencies, State licensing agencies, and private accrediting bodies. Public Law 94–502 changed this by allocating responsibility to the VA. In addition, to assuring satisfactory progress, the VA was given a standard by which to measure that program. The Administrator was mandated to find—unless he found the existence of mitigating circumstances—unsatisfactory progress in any instance where the veteran—even though in compliance with the regularly prescribed satisfactory progress requirements of the educational institution in which such veteran was enrolled and in which such veteran was approved for receipt of educational assistance allowance—was not progressing at a rate which would permit such veteran to graduate within the approved length of the course.

On December 17, 1976, the Veterans' Administration promulgated appendix O to DVB circular 20–76–84 implementing the "unsatisfactory progress" provisions of sections 1674 and 1724 as amended by sections 206 and 307 of Public Law 94–502. In general, appendix O broadened existing VA regulations in regard to satisfactory progress to comprehend the changes made by Public Law 94–502 by expanding "the concept of unsatisfactory progress to include those students not progressing at a rate that will permit graduation within the approved length of the course, based on the training time paid by the VA (Veterans' Administration)."

The Veterans' Administration in appendix O outlined the approved length of the course as follows: "the length of time required to complete a course depends upon the rate of pursuit. A student pursuing a bachelor's degree program at full-time and taking 15 credit hours per term can normally be expected to graduate in a 4–year period. However, a student taking 12 credit hours will normally require 5 years and a student taking six credit hours, 10 years." Appendix O then instructed institutions to determine the number of terms remaining at any point during a veteran-student's program in the following manner:

"(1) Determine the number of credit hours remaining for graduation by subtracting the hours completed (excluding hours for which nonpunitive grades are assigned) from the hours required.

"(2) Then divide this figure by the minimum number of full-time hours (12, 13 or 14 depending on the school) to determine

the number of terms remaining based on full-time enrollment.

"(3) The student must be able to graduate within that number of terms in order to complete the program in the approved length of time."

It is the educational institution's obligation to certify (with possible section 1785 overpayments liability for improper certification) to the Veterans' Administration, following the completion by the veteran-student of any given term—semester or quarter—that the student was able to graduate within the number of terms remaining. This certification requirement mandates a separate determination for each individual at the end of each quarter or semester (or any other applicable term for each veteran-student). If a veteran was required to extend his training beyond the approved length of the course to be able to meet the requirements for graduation in the absence of mitigating circumstances, progress was considered unsatisfactory. The VA instructed institutions that "this is true even though the student otherwise meets the regularly prescribed standards of the school, including maintaining the minimum passing grades or required GPA or average grades".

Appendix O further instructed educational institutions that "a determination as to whether an extension in the length of course would be required must be made by the school each time a course is not completed successfully". Institutions were instructed that for each veteran the institution was required to examine the following variables in each instance when a veteran failed to complete a course successfully:

"(1) The total credit hours needed to graduate, including the number to be repeated or otherwise made up; (2) the number of terms remaining based on the approved length of the course in the student's area of pursuit; and (3) the maximum credit hour load allowable per term based on school policy."

According to the American Council on Education, at page 8 of a June 9, 1977, report concerning the VA educational assistance program, the requirements of Appendix O "came as a surprise to institutions across the nation which had just completed an extensive effort to define satisfactory progress in response to regulations issued by the VA on August 12, 1975, requiring that schools file written standards of progress with their State approval agency (SAA) for approval. During academic year 1975–76, institutions and the whole educational community spent considerable time working on the VA's and SAA's to meet these requirements in a reasonable fashion."

The American Association of Collegiate Registrars and Admissions Officers in a June 7, 1977, letter to the Committee reported that the August 12, 1975, regulations had "created many problems in terms of institutional operation and close consultation took place between the education associations, institutions, State approval agencies and the VA to refine and interpret the regulations to make them workable in terms of reducing overpayment problems. After almost a year of cooperative consultation, standards were pretty well in place when the new legislation was enacted. The institutions, who had filed approved standards of progress, were suddenly faced with much more restrictive laws and regulations. The education associations and institutions feel that the 1975 standards of progress were never given an opportunity to work."

The American Council on Education in a June 9, 1977, report, at pages 8, 9, alleged that

"in this instance the higher education community and the SAA's acted in good faith to establish standards of progress which would apply for years to come, only to have the entire process superseded without evaluation by the VA, which sought instead to impose its own judgment of the value of various grades and how often course progress should be assessed. . . . Appendix 'O' calls for extensive calculations and report-filling by institutions. . . . The VA interprets 'at any time' to mean auditing satisfactory progress every quarter or semester, regardless of institutional policy and practice. This is excessive and impossible. Analysis of transcripts requires not only the computation of credit hours, but also the determination of which courses satisfy general educational requirements and which apply to variable major/minor requirements as well as the various grade-point requirements. This type of evaluation is usually done formally *once* during a student's course of study, a semester or two prior to graduation. In large colleges and universities, 6 to 8 months may be required to complete the 'graduation checks' for a class of graduates. The VA not only demands a calculation for every veteran every quarter —it does not accept the institution's standards for making the calculation."

After due consideration, the Committee finds that the current unsatisfactory progress requirements (the amendments made by sections 206 and 307) are in need of further close scrutiny and, as a result, mandates such examination by the Administrator.

The Committee believes that an important component in any approval process should be the extent to which an institution has a policy in regard to satisfactory progress and the extent to which the institution enforces such institutional policy.

In the 94th Congress, witnesses from the VA testified there had:

"[C]hanges in educational practices and philosophy have . . . contributed to the number of unauthorized payments of educational benefits. These include the open door enrollment, non-punitive grading, lax reporting of attendance and withdrawal of students." (Hearings, Veterans' Education and Employment Assistance Act of 1976, before the Subcommittee on Readjustment, Education, and Employment of the Veterans' Affairs, U.S. Senate, 94th Cong., 1st Sess., page 618.)

The VA indicated that such changes made it increasingly more difficult to assure appropriate expenditure of GI bill moneys. If these changes in educational philosophy are responsible for the inappropriate payment of educational assistance benefits—a payment capable of being remedied by the section 1674 (as amended by section 206) unsatisfactory progress requirement—then consideration should be given in the study as to the method whereby only those schools involved might be made subject to special unsatisfactory progress provisions.

In this regard, the mandated study and report thereof should address whether the standards adopted by the VA on August 12, 1975, are sufficient to assure appropriate payment of GI bill assistance and to what extent State approving agencies, the Council on Postsecondary Accreditation, and other appropriate accrediting bodies and State licensing bodies seek or are able to assure that veterans in receipt of GI bill assistance make satisfactory progress in those educational institutions in which enrolled. The study should also evaluate to what extent imposition by the Veterans' Administration of a separate veterans' standard of progress will affect the ability of educational institutions to certify accurately the progress of veteran-students towards the attainment of vocational or educational objectives, the extent to which such requirement will impose upon enrolled veterans a more rigorous progress requirement than that being required nonveteran enrollees, whether educational institutions in their catalogs or bulletins make specific their policy conceiving unsatisfactory progress, to what extent these same educational institutions comply with the standards established by title 38 for catalog or bulletin disclosure, and the need for legislation in regard to any changes recommended.

Of paramount interest to the Committee is the welfare and benefit of those veteran-students seriously pursuing a vocational or educational objective. The Committee believes that the educational assistance program exists for the benefit of those who served the country in time of need and to this extent all requirements—both in terms of accountability of the program and in terms of assuring that the program is used as intended—must take fully into account what is beneficial for those veteran-students seriously pursuing a vocational or educational objective.

"Seat Time"

During the past several months, the Committee has received numerous comments from those involved in degree-granting postsecondary education, voicing concern with the implementation by the VA, and the enforcement thereof, of DVB circular 20–76–16—Measurement for Payment Purposes VA Regulation 14272(d). That DVB circular noted that effective October 26, 1976, VA regulations were amended as follows: "In no case will a course be measured as full time when less than fourteen standard class sessions per week (or twelve standard class sessions if twelve credit hours is full time at the school) are required." VA Regulation 14200 (G) defines the term "standard class session" as "the amount of time a student is scheduled in the school's standard length term to spend in class per week for one quarter or one semester hour of credit. Normally but not necessarily, a standard class session is not less than one hour (or fifty-minute period) of academic instruction, two hours of laboratory training, or three hours workshop." Likewise, under the circular, part-time training requires a proportionate number of weekly standard class sessions.

Those individuals within the education community who oppose the Veterans' Administration's adoption of this course measurement for purpose of GI bill payment forcefully argue that the Veteran's Administration has no statutory authority under section 1788, to dictate what constitutes a standard class session or to what extent institutions may offer classes on other than a weekly basis. To date, the Committee is informed that approximately 27 educational institutions provide at least one course not in compliance with the VA's "seat time" requirements. Examples of institutions with courses not meeting the "seat time" provisions include the State University of New York at Buffalo, the University of California at Los Angeles, the University of New Hampshire, the University of Rochester, the University of Southern California, and the Wayne State University.

In light of the controversy surrounding this issue—already one institution, Wayne State University, has sought and been afforded injunctive relief in Federal District Court (*Wayne State University, et al.* v. *Max Cleland, Administrator, et al.*, USDC E.D. MICH., CA 77–0973.)—the Committee has required the study and report thereof mandated to be conducted under this paragraph to include comprehensive examination and evaluation of the need for and effectiveness of the "seat time" requirement.

The Committee notes that paragraph (3) (A) of section 305(b) of the committee bill provides for the suspension, in certain instances, of sections 206 and 307 (of Public Law 94–502—satisfactory progress requirements) while the mandated study is being conducted. Although the Committee has not made similar provision for the waiver of the "seat time" requirement, it may be appropriate for the Administrator to consider amending the VA's regulations to provide for individual waivers of the requirement in certain instances. Factors which would seem

relevant as to whether any such waiver should be granted would be: whether the quality of the involved course is affected by the manner in which the course is offered, whether the educational institution involved traditionally has given the courses on the clock-hour basis found by the Veterans' Administration to be in violation of 14272(D), and whether there is any evidence that the institution structured its clock-hour/credit requirements to make the course better able to attract veterans eligible for receipt of GI bill benefits.

The Committee expects the study and the report thereon to include a sufficient discussion and analysis of the "seat time" regulation to enable the Committee to determine whether or to what extent such requirement is in need of change.

Paragraph (2) of subsection (b) of section 305 requires the Administrator to transfer from funds appropriated for the readjustment benefit account (subfunction 702—readjustment benefits) such sums as are necessary, but not in excess of $500,000, for the purpose of carrying out the study mandated to be conducted by paragraph (1) of this subsection.

The Committee believes that the authorization for the transfer of funds from the readjustment benefits account will assure the availability of sufficient money for the Administrator to conduct the required study in the comprehensive manner expected by the Committee. The Committee emphasizes the vital role which this study could play in the development of future policy insofar as the administration of the GI bill educational assistance program is concerned.

Subparagraph (A) of paragraph (3) of subsection (b) of section 305 authorizes in certain instances the suspension by the Administrator of the VA's implementation (currently DVB circular 20–76–84, appendix O) of sections 206 and 307 of Public Law 94–502—amending sections 1674 and 1724 of title 38, respectively. Under this subparagraph, the Administrator is empowered to suspend the implementation of these amendments in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in clauses (6) and (7) of section 1776(b) are being enforced by such institution—unless the Administrator finds, pursuant to regulations which the Administrator shall prescribe, that such catalog or bulletin fails to state fully and clearly the policies and regulations of such institutions.

As outlined earlier, section 504(1) of Public Law 94–502 extended to accredited institutions approved pursuant to section 1775, the requirement that in making application for approval under title 38, such accredited institution must transmit to the appropriate State approving agency copies of the institution's catalogs or bulletins—certified as true and correct in content and policy by an authorized representative of the school. Further, the submitted catalog or bulletin must specifically state the institution's progress requirements for graduation and must include, at a minimum, the information required by sections 1776(b) (6) and (7).

Under the eligibility criteria outlined by the suspension provision in the Committee bill, an accredited educational institution, in order to be eligible for a suspension of the satisfactory progress requirements added by Public Law 94–502, must submit its course catalog or bulletin to the Administrator—in addition to the submission made to the respective State approving agencies as required by section 1775—and must certify to the Administrator that the policies described in the catalog or bulletin meeting the requirements of clauses (6) and (7) of section 1776 are being enforced—in addition to the submission to the appropriate State approving agency of the section 1775 certification to the effect that the catalog is true and correct in content and policy.

The Committee expects the Administrator to examine with care the catalogs and bulletins submitted by applying educational institutions. As part of his authority to deny suspension where he finds that the catalog or bulletin does not "state fully and clearly" the institution's policies and regulations on satisfactory progress, the Administrator is authorized to look behind the description in the certification to determine whether the policy described is actually the one implemented by the institution. If he finds that it is not—thereby raising a question of fraudulent completion of a Federal form—then he should withhold suspension since, in that event, the institution's policy has not, *ipso facto*, been stated "fully and clearly" in the certification.

The Committee has structured the satisfactory progress provision waiver requirements in this manner because it believes it is of paramount importance to assure that veteran-purchasers of educational products are provided the necessary information upon which to make rational choices as to which program of education to enter. "Without disclosure, students cannot inform themselves and neither can those who provide advice—high school counselors, veterans advisors, and staff of State employment services, for example. All of these persons need access to data which inform rather than obscure the truth." (George E. Arnstein, *Accreditation State Licensing, and Approvals: Why the System Isn't Working*, Phi Delta Kappa, February 1975).

In this regard, although the VA does not recognize, approve, or certify postsecondary education programs per se, the Committee notes that the Subcommittee on Education Consumer Protection of the Federal Interagency Committee on Education recommended that "all Federal agencies which recognize, approve, or certify postsecondary institutional educational programs should make protection of the educational consumer part of their criteria for recognition approval or certification." The new suspension prerequisites should thus assist the VA in making the protection of the veteran-consumer an important consideration.

Subparagraph (B) of paragraph (3) of subsection (b) of section 305 requires the Administrator, in appropriate instances, to bring to the attention of the Council of Postsecondary Accreditation and the appropriate accrediting and licensing bodies such catalogs, bulletins, and certifications submitted to the Administrator pursuant to subparagraph (A) of this paragraph which the Administrator believes may not be in compliance with the standards of such accrediting or licensing body.

In testimony received during hearings conducted on June 24 and 29 by the Subcommittee on Health and Readjustment and in communications received by various Committee members, it has been recommended to the Committee that the accreditation system should be relied upon by the Veterans' Administration to a greater extent than is presently done. Some, in fact, have urged that approval by a nationally recognized accreditation body should be sufficient—of itself—for the approval by the Veterans' Administration of an educational institution for the enrollment of eligible veterans in receipt of GI bill payments. Although the Committee does not agree with such recommendation, it believes that more could, and should, be done by the Veterans' Administration in the administration of the educational assistance allowance program to profit from present "market-place control devices"—such as the accrediting bodies approval process.

The Committee has also received many comments from individuals involved in the education process, to the effect that the VA has not communicated to the appropriate responsible individuals within the education community—such as accrediting body officials—information regarding those educational institutions which the VA had reason to believe were in violation of administrative provisions of the VA educational assistance program. These critics of the VA allege that, had the VA been working cooperatively with the appropriate responsible educational officials with regard to assuring the continued integrity of the educational process insofar as the GI bill program is concerned, it would not be necessary for the VA to impose upon educational institutions added "quality assurance" burdens.

The Committee understands generally that accrediting bodies were and are not established by their members to serve quasi-governmental roles—such as the enforcement of GI bill requirements—and recognized that accrediting bodies thus have responsibilities other than assuring the appropriate payment of GI bill moneys. However, the Committee believes that the VA could better utilize existing private enforcement mechanisms in the administration of the GI bill to the extent that the aims of the Veterans' Administration and the involved private accrediting body coincide. The Committee urges the Veterans' Administration, as part of its efforts in regard to the mandated study, to seek better relations with these bodies.

The Committee believes that by requiring the Administrator to forward to the appropriate accrediting bodies, those catalogs or bulletins which the Administrator believes are not in conformance with the standards of such accrediting body, the aims of the two recommendations discussed above will be accomplished; that is, the VA will expand its cooperation with private market enforcement groups by communicating to them the names of those institutions which the Administrator believes may not be in compliance with the standards of such accrediting organization.

The Committee expects the Administrator to use this section with discretion. Only the Administrator—or the Central Office of the Veterans' Administration—should forward to the involved accrediting body those catalogs or bulletins not believed in compliance with the standards of such body. A cover letter or analysis should accompany the submission of each catalog or bulletin explaining in each instance the reasons the Administrator believes that such catalog or bulletin is in violation of the body's standards.

Subsection (c) of section 305 provides for the granting of relief to certain educational institutions having in their possession valid GI bill educational benefit checks for which such educational institutions hold a valid power of attorney executed prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check.

Paragraph (1) of subsection (c) of section 305 authorizes the Administrator to provide such relief as the Administrator deems equitable—pursuant to regulations which the Administrator shall prescribe—to those educational institutions where the Administrator finds undue hardship on such educational institutions as a result of the enactment of section 701 of Public Law 94–502. In order to be eligible for such equitable relief, the educational institution seeking relief must meet the following criteria:

"(1) The educational institution must have in its possession a veteran's or eligible person's benefit check made payable to such veteran or eligible person and mailed to such institution.

"(2) The educational institution must hold a power of attorney executed by such veteran or eligible person prior to December 1, 1976, authorizing the educational institution to negotiate such benefit check.

"(3) The benefit check must have been mailed to such educational institution for a course offered pursuant to the predischarge education program (PREP) (subchapter VI of chapter 34 of title 38), or a course offered outside the United States.

"(4) The course, for which the benefit check was mailed to the eligible veteran or person, commenced prior to December 1, 1976, and was completed by such veteran or eligible person not later than June 30, 1977."

Paragraph (2) of subsection (c) of section 305 authorizes the Administrator to provide such relief as the Administrator deems equitable—pursuant to regulations which the Administrator shall prescribe—to those accredited correspondence schools where the Administrator finds undue hardship on accredited correspondence schools as a result of the enactment of section 701 of Public Law 94–502. In order to be eligible for such equitable relief the accredited correspondence school seeking relief must meet the following criteria:

"(1) The accredited correspondence school must have in its possession a veteran or eligible person's benefit check made payable to such veteran or eligible person and mailed to the school.

"(2) The accredited correspondence school must hold a power of attorney executed by such veteran or eligible person prior to December 1, 1976, authorizing the school to negotiate such check.

"(3) The benefit check was mailed to such school for lessons completed by the veteran or eligible person and serviced (that is, the lesson has been completed by the student, forwarded to the school, and the school has completed assessment thereof) by the school prior to January 1, 1977.

"(4) The course was taken by such veteran or eligible person while residing in the continental United States."

Section 701 of Public Law 94–502 amended section 3101 (regarding the nonassignability of VA benefits) to provide that where the payee of an educational assistance allowance has designated the address of an attorney in fact as the payee's address for the purposes of receiving his benefit check and has also executed a power of attorney giving such attorney in fact the authority to negotiate such benefit check, such agreement was deemed to be an assignment of the benefit and, as such, was prohibited. This section of Public Law 94–502, which became effective December 1, 1976, makes specific the invalidity of powers of attorney insofar as the negotiation of veterans' benefit checks is concerned. Notwithstanding the general preclusive purport of the nonassignability provisions of section 3101 prior to the enactment of Public Law 94–502, in 1972, the Veterans' Administration General Counsel had ruled that when the payee of a benefit check has designated the address of an attorney-in-fact as the payee's address, and also executed a power-of-attorney to negotiate the benefit check, such transaction was not generally prohibited. Unfortunately, the result of the General Counsel's interpretation resulted in attorney arrangements which the Committee found were detrimental to the interest of veterans and greatly added to administrative problems in the management of the educational assistance program.

As a result of the enactment of section 701, a number of educational institutions and accredited correspondence schools received educational assistance allowance checks made payable to veterans or eligible persons for courses commenced prior to December 1, 1976. These checks had been mailed to the educational institution or accredited correspondence school pursuant to a previously executed and valid power-of-attorney. These checks, generally payments for courses which had been either taken or were in the process of being taken by the veteran, either were received by the school prior to the December 1, 1976, date and not negotiated prior to that date, or were received by the school subsequent to that date and hence not negotiated under the 1976 amendment.

In many instances, such as those educational institutions which provided predischarge education program (PREP) training to servicemen, or provided training on or adjacent to military bases at which servicemen were stationed, the courses ended on or after December 1, 1976, and payments were made by the Veterans' Administration after that date. These schools as a result of reliance on the status of the law (and the interpretation by the VA General Counsel) prior to the enactment of Public Law 94–502 (October 15, 1976), have suffered in many instances hardships from the inability to negotiate these checks despite the existence of an agreement which, prior to the enactment of Public Law 94–502, had been interpreted as a valid legal arrangement.

The Committee notes that to date approximately seven educational institutions and accredited correspondence schools have sought relief in court from the provisions of section 3101 as amended by section 701 of Public Law 94–502 and in some instances relief has been granted. Many of these schools, in attempting to mitigate their damages, have experienced great difficulty in locating the servicemen for the purpose of having the individual endorse the benefit check. The same problem has been encountered by schools which have provided other types of oversea training and by certain accredited correspondence schools.

In the case of PREP, and oversea training courses, many of the schools involved are community colleges and well-known State institutions of higher learning. Examples of the educational institutions involved include the University of Maryland, Eastern Carolina University, and the College of Charleston. In some instances, the checks which schools have been unable to negotiate have totaled several hundred thousand dollars. For example, the University of Maryland is holding $196,000 in nonnegotiable benefit checks.

The Veterans' Administration, in response to a question regarding the need to provide the Administrator with sufficient authority to provide equitable relief to educational institutions in those instances where he found an undue hardship testified that "we recognize there is a problem. . . ." In the VA's report to the Committee on that provision of Amendment No. 448, intended to be proposed to S. 457, concerning such equitable authorization, the Veterans' Administration stated that

"the restriction on the use of the power of attorney came about because of the many abuses we found were occurring in connection with the utilizing of power of attorney by school officials, their agents or banks where they had authority to receive and cash beneficiaries' benefit checks. . . ." We believe the 1976 amendment concerning the use of powers of attorney was a necessary requirement to prevent further misuse of veterans' and dependents educational benefits. We recognize, however, that the retroactive effect of the amendment and the short time for implementation of new procedures have produced problems for some schools who cannot locate students to whom they have provided training. We believe the provision incorporateed in the pending measure represents a reasonsonable solution to the problem which has been encountered by these schools. We also believe, however, that any relief which might be granted should be closely monitored to assure, for example, that the power of attorney held by the school is a valid document."

The Committee expects that the Administrator will use his discretion to provide the equitable relief authorized under this subsection. The Administrator should keep in mind that many institutions—in good faith—relied upon the VA General Counsel's interpretation as to the validity of the involved arrangement. The Committee expects the Administrator to assure that the check for which negotiation is sought has, in fact, been subject to a valid power-of-attorney negotiated prior to December 1, 1976. The Committee believes that the Administrator should take all possible steps to inform all those educational institutions and accredited correspondence schools which may be eligible for the relief provided under this section, of the availability of relief and the procedures required to be followed.

Subsection (d) of section 305 amends section 1792, relating to the VA educational assistance committee, to require the Administrator to advise and consult with the Committee of a regular basis and meet—at a minimum—with such committee at least two times a year.

Currently, section 1792 requires the establishment by the Administrator of an advisory committee to be composed of persons who are eminent in their respective fields of education, labor, and management. In addition, the Administrator is required to include as part of the Committee, representatives of various types of institutions and establishments. The Administrator is further directed to include among the appointed veterans' representatives, representatives of World War II, the Korean conflict era, the post-Korean conflict era and the Vietnam-era. In addition, those govenmental positions included as *ex officio* members of the section 1972 advisory committee include the Commissioner of Education of the Department of Health, Education, and Welfare and the Administrator of the Manpower Administration (since changed to Employment and Training Administration) of the Department of Labor. The Administrator is required to advise and consult with the Committee with respect to the administration of chapters 31, 34, 35, and 36 of title 38—although currently he is not required to do so on a regular basis—and the advisory committee is authorized to make such reports and recommendations as it deems desirable.

This amendment is similar to section 510 of S. 969, the Veterans' Education and Employment Assistance Act of 1976, as it unanimously passed the Senate; that provision, however, was not passed by the House. The Committee believes that the regular use of the advisory committee could serve as an important link and conduit between the Veterans' Administration and those affected by its educational programs. Testimony received by the Subcommittee on Health and Readjustment in hearings and in many written submissions has alleged that often the Veterans' Administration fails to communicate on a regular or affirmative basis with representatives of the educational community insofar as the administration of the VA educational assistance program is concerned.

For example, a number of representatives from education associations testified in June 1977 that, despite numerous requests, the VA did not forward to them as a matter of course pertinent VA educational bulletins or circulars. The Committee has been assured since that time that interested educational associations have been included on the appropriate mailing lists.

Unfortunately, the advisory committee—established by Congress specifically to assist the Veterans' Administration in establishing channels of communication with these and other concerned individuals—has met sporadically. Apparently, little emphasis has been placed by the Veteran's Administration upon the helpful role that the Committee could play in the mutual exchange of infor-

mation and ideas. The Committee report accompanying the report on S. 969 in September 1976, noted that the advisory committee had not met since October 17, 1975.

Testimony by the Veterans' Administration in June 1977 indicated that it is the intent of the Administrator to use the section 1792 education advisory committee. Representatives of the VA reported that the Administrator was moving to fill several recent vacancies. However, the VA also reported that there had not yet been a meeting scheduled in 1977. The Committee expects this situation to change.

The Committee urges the Administrator to fill the vacancies on the Committee as quickly as possible and to utilize this Committee to the extent possible in assisting him in administering the GI Bill benefit program. The Committee also notes, as it did last year, that in the 10 years that the section 1792 committee has existed, it has yet to make any reports or recommendations to the Congress under the discretionary authority granted under section 1792; it has reported only in response to a specific mandate of law to do so.

The Committee urges the members of the advisory committee as a unit to undertake to submit to the Committees on Veterans' Affairs of the House and the Senate such recommendations as it deems appropriate.

TERMINATION OF ASSISTANCE REQUIREMENTS

Section 306

Amends section 1790(b) to prohibit the Administrator from suspending or terminating assistance provided to any eligible veteran or eligible person under chapter 31, 32, 34, 35, or 36 of title 38, unless the Administrator has in his possession clear evidence that the veteran or eligible person whose educational assistance allowance is to be suspended, is not or was not entitled to such assistance. The amendment goes on to provide that whenever the Administrator terminates such educational assistance, he shall concurrently provide the veteran whose assistance is being terminated with written notice of such suspension or termination action and notification that such person or veteran is entitled thereafter to a statement of the reasons for the action and an opportunity to be heard thereon.

Currently under section 1790, the Administrator may discontinue the educational assistance allowance of any eligible veteran or person if he finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of chapter 34, 35, or 36 of title 38, or if the Administrator finds the educational institution offering such program or courses violated any provision of such chapters, or fails to meet any of the requirements of such chapters.

The totality of due process rights due a veteran in receipt of GI bill educational assistance allowance prior to the termination of suspension of allowance is a question which the Committee is not prepared to address at this time. Currently there is a difference of opinion as to the legal definition of the involved benefits. Some would call benefits "gratuities". In that case, some suggest, the Veterans' Administration would have no duty to provide the involved veteran with certain due process protections prior to suspension or termination. Others would label the educational assistance allowance as property for purposes of the 14th Amendment and, as such, any termination or suspension by the Veterans' Administration of such benefits would require certain due process protections.

In this regard, the Committee notes results to date in two important law suits bearing on this issue: One involving Citrus College (in California) and the other, the University of Minnesota. In the Citrus College case (*Devine* v. *Miller*, USDC CD, CA 76–0592–IH; CA 77–1424 & 77–1430, U.S. Court of Appeals for the Ninth Circuit), the Veterans' Administration suspended or terminated the educational assistance allowance of all veterans in attendance at such school after an audit of the school showed extensive violation of title 38 requirements. The court held that veteran/plaintiffs were entitled to a hearing before their benefits were terminated. In addition, the court ordered the VA to give veterans 30 days prior notice of any suspension, reduction, or termination of education benefits. Currently, that case is being appealed by the Government.

In the Minnesota case (*Waterman* v. *Roudebush*, D. Minn., Fourth Division, CA 4–77–70), the judge issued a preliminary injunction enjoining the Veterans' Administration from terminating benefits being provided any veteran otherwise eligible for educational benefits who is reported to the Veterans' Administration for unsatisfactory academic progress. The VA could so suspend or terminate if it established procedures for pretermination notice and interview in accordance with standards outlined by the judge. This ruling, applicable to all persons attending colleges and universities in Minnesota and served by the St. Paul Regional Office of the Veterans' Administration, provided that within 30 days after the filing of this order—June 22, 1977—the Veterans' Administration shall provide in each instance where a recipient of veterans educational assistance is reported to the Veterans' Administration for failure to satisfy VA/SAA academic requirements the following:

"(A) Within 10 days of receipt of the report (by the Veterans' Administration) from the educational institution, the student shall be sent a notice informing him of the report and its contents, the date of its termination, and the proposed grounds for termination. The notice shall also outline the procedure by which the student may attempt to prevent [sic] evidence in his favor and have a pretermination interview.

"(B) Upon request, the student shall be given an appointment with the Veterans' Administration counselor within 30 days of the pretermination notice.

"(C) As part of the interview he shall be allowed to see the Veterans' Administration file upon which termination is based and shall be allowed to submit any evidence he can produce concerning his status or explanation for the institutional report.

"The court concluded 'that in the circumstances of the average student/veteran, termination of benefits without notice and an opportnuity to contest the grounds constitute irreparable harm to the recipient. No amount of money granted later, even retroactively, can compensate for the lost time, lost momentum, and possibly lost opportunity resulting from an erroneous termination.'"

Under the provision in the Committee bill, the Administrator will be required to provide concurrently to the veteran—at the same time that he notifies him or her of the suspension or termination in the amount of educational assistance allowance—written notice of the entitlement of such veteran or eligible person to a statement of the reasons for the action and an opportunity to be heard thereon.

In addition, the Administrator would be prohibited from suspending or terminating the educational assistance allowance of any eligible veteran under title 38, unless he has in his possession clear evidence that the specific veteran whose benefits are being terminated is not or was not entitled to such assistance. This provision should assure that in the future no instances occur—such as at Citrus College—where the Administrator terminates *en masse* the educational assistance of veteran/students as a result of the finding that the school has consistently violated statutory requirements.

The Committee believes that the amendments made by this section will afford necessary protection to GI Bill recipients. The Committee stresses that in order to terminate a veteran's benefits the Administrator must have in his possession clear evidence that the particular veteran is not or was not entitled to such assistance. The Committee believes that the person or veteran being suspended or terminated should have an opportunity to examine and review such clear evidence. In addition, the Committee believes, the veteran should have an opportunity to be heard in some appropriate manner as soon as possible in order that termination or suspension of his assistance might be avoided if the Administrator finds that such suspension or termination was in error.

The Committee expects that the written notice informing the veteran of his entitlement to a statement of the reason for the suspension or termination action and the right to a hearing thereon will be conspicuously written and in plain and simple language.

VOCATIONAL REHABILITATION STUDY

Section 307

Requires the Administrator, in consultation with the Commissioner of Rehabilitation Services in the Department of Health, Education, and Welfare, to conduct a study in regard to provisions of chapter 31 of title 38. Such report shall include—but not be limited to—(1) the Administrator's recommendations for legislative or administrative changes in the Vocational Rehabilitation program (chapter 31); (2) the Administrator's recommendations with respect to the need for the services of vocational rehabilitation specialists to provide chapter 31 trainees with the appropriate job development and job placement assistance; and (3) the Administrator's recommendations for using the veterans education programs provided by chapters 32, 34, 35, and 36 to meet the needs of disabled veterans for assistance under chapter 31 and such other chapters. In addition, the required report must include a description and analysis of the scope and quality of assistance of vocational rehabilitation provided by the VA to disabled veterans under chapter 31 in comparison with the vocational rehabilitation provided by the Department of Health, Education, and Welfare, under the Rehabilitation Act of 1973, as amended (Public Law 93–112). A report of the study is required to be submitted to the President and the Congress not later than March 1, 1978.

In the Committee's report to accompany the Vietnam Era Veterans' Readjustment Assistance Act of 1974, S. 2784 (ultimately enacted into law as Public Law 93–508), the Committee reported that in its review of the chapter 31 vocational rehabilitation program it had discovered many inconsistencies and much outdated terminology. In addition, the Committee noted that the regulations issued thereunder seemed of little assistance in further interpreting such chapter. In light of those findings, the Committee strongly recommended that the "Veterans' Administration thoroughly review chapter 31 for possible legislative and administrative changes particularly in light of recent legislative action taken by Congress in the Rehabilitation Act of 1973 (Public Law 93–112), which substantially restructures and redefines concepts regarding handicapped individuals, [and] the employment service opportunities for them. . . .

Following such a review [by the VA], the Committee would anticipate reenacting chapter 31 in order to clarify and update the language which is difficult to understand and often appears to be archaic.

In the 1976 report to accompany the Veterans' Education and Employment Assistance Act of 1976, S. 969 (ultimately enacted into law as Public Law 94–502), the Committee once again observed that a perusal of the chapter 31 vocational rehabilitation program had revealed many inconsistencies and much outdated terminology. Once again, as a result of these findings the Committee reported that it "intends and expects the Veterans' Administration will thoroughly review chapter 31 for possible legislative and administrative changes. . . ."

In hearings held before the Subcommittee on Health and Readjustment in June 1977, the Veterans' Administration in response to a query as to what steps had been taken by that agency in regard to the Committee's urgings in 1974 and 1976 on the need for a vocational rehabilitation review, responded "We are aware of that. We have assigned to our Counseling Rehabilitation Section or unit the responsibility for doing that. . . . We are initiating a study on that at the present time."

Although urged by this Committee, in at least two prior Committee reports, to commence a review of the chapter 31 vocational rehabilitation program, the Veterans' Administration has failed totally to respond in an expeditious fashion to address this area of serious concern. Although the Committee is somewhat encouraged by the VA's report that they had, at last, initiated a review of the veterans vocational rehabilitation program, the Committee believes that a mandated study is needed.

Generally, in mandating a major study of this kind, the Committee would provide for a longer period of time during which the study could be conducted and reported. However, in testimony before the Committee in June, the Veterans' Administration indicated that they planned on completing their own review of the chapter 31 program in October 1977. Thus, the Committee, by setting a March 1 deadline, is allowing the VA an additional 4 to 5 months to complete and report the required study.

In testimony before the Committee in June 1977, and in support of the adoption of this provision, Lawrence Roffee, Legislative Director for the Paralyzed Veterans of America, testified that

"PVA strongly believes that chapter 31 is woefully outdated and perhaps ineffective. . . . To our knowledge, the VA has not conducted the review this Committee has intended them to make. In our conversation with VA officials administering the program we have discerned no impetus to make any changes. We strongly urge this Committee to amend S. 457 by adding a section specifically directing the VA to carry out a comprehensive review of chapter 31."

One example of a difference between the vocational rehabilitation program provided by HEW under the Rehabilitation Act of 1973 and the VA's vocational rehabilitation program is that under the HEW Rehabilitation Act program, local counselors follow each handicapped client completely through the vocational rehabilitation process, including providing assistance with job development and job placement. On the other hand, the VA counselors follow their clients only through the completion of the vocational rehabilitation program and then rely to a large extent upon the State Employment Service to assist them in obtaining employment. The VA testified that this distinction is of

"Concern to us in that other rehabilitation acts define rehabilitation as taking the man to actual employment and in some cases, to following him for several months into employment to see that he is suitably employed. We feel this is one of the areas we need to look at in the review of chapter 31."

The Committee believes that an examination and evaluation of the chapter 31 program is long overdue. In the past, the Veterans' Administration has been disinterested in undertaking such a review and study. The Committee stresses that improvements in the quality of the chapter 31 Vocational Rehabilitation Program is a high priority. It is keenly interested in assuring that veterans under the chapter 31 program receive the best possible vocational rehabilitation assistance.

VETERANS READJUSTMENT APPOINTMENTS REPORT

Section 308

Amends section 2014(b) of title 38, United States Code, to require the Chairman of the Civil Service Commission to submit to the President and the Congress a report on the need for the continuation after June 30, 1978, of the authority for the Veterans' Readjustment Appointments. The report is required to be submitted no later than 6 months after the date of enactment of the reported bill.

Section 403 of Public Law 93–508, in order to further the policy of the United States to promote the maximum employment and job advancement opportunities within the Federal Government for qualified disabled veterans and veterans of the Vietnam era, generally codified the veterans readjustment appointment (VRA) originally established by Executive Order No. 11521 (March 26, 1970). Under that Executive order—and section 2014—certain Vietnam-era and disabled veterans who met established eligibility requirements were and are eligible for a VRA to any position in the competitive Civil Service at or below the GS–5 level (or its equivalent).

The VRA is an excepted appointment; that is, it is not subject to regular civil service requirements. After 2 years, if the veterans job performance has been satisfactory and if he has participated in the training or education program as agreed, his appointment can be converted to career or career-conditional.

In order to be eligible to receive a VRA, there are two basic requirements which Vietnam-era veterans and disabled veterans must meet under the section 2014(b) program, as follows: (1) The veteran must have had no more than 14 years of education at the time of appointment; and (2) the veteran must have been separated from the Armed Forces for no longer than 1 year at the time of appointment. Exceptions to this general 1-year requirement are for those veterans who have had a period of hospitalization or treatment immediately following separation from the Armed Forces and those veterans enrolled in a program of education on more than a half time basis—under the GI bill. In those instances, the 1-year eligibility period would begin to run from the date of release from hospitalization or treatment, or in the case of a veteran enrolled in training under the GI bill on greater than a half-time basis, 6 months additional time is provided from the time the veteran first ceases to be enrolled in such course on more than a half-time basis. In any event, the final date beyond which no veteran may be eligible for a VRA is statutorily set at June 30, 1978.

In light of the scheduled June 30, 1978, statutory authority termination date for the VRA program, the Committee believes it important to receive information and recommendations from the Civil Service Commission as to the advisability of renewing the authority for such program. The Committee notes that the Civil Service Commission recently reported to the Committee that between January 1976 and June 1976 approximately 7,000 veterans received VRA appointments; or approximately 17 percent of all Vietnam-era veterans appointed to the Federal Government during that period of time.

The Committee expects the Commission to examine closely the need for the continuation of such authority in light of the continued high unemployment rates among Vietnam-era and disabled veterans, the extent to which that program has assisted Vietnam-era and disabled veterans in readjusting and finding employment and the obligations of the Nation in hiring those who served it during time of war. The Committee expects that the Commission will examine and report whether changes are necessary to improve the VRA program—such as extension of the eligibility time period.

Other information which the Committee believes vital includes the extent to which veterans have been given career-conditional appointments after having finished or completed the 2-year service requirement, the extent to which minority veterans have used the GI Bill educational assistance as a result of the use of the VRA appointment, the extent to which disabled veterans and minority veterans have benefited from the program, whether termination of the authority would hinder the Federal Government's efforts in providing employment assistance to disabled and Vietnam-era veterans, and the role VRA appointments play in the Administration's overall efforts in meeting the Federal Government's obligations in resolving employment problems among disabled and Vietnam-era veterans.

TECHNICAL AMENDMENTS

Section 309

Makes technical amendments to title 38 of the United States Code.

Subsection (a) of section 309 amends section 101 (29) of chapter 1 of title 38 to strike the date of the end of the Vietnam-era currently in law as that date "determined by the Presidential proclamation or concurrent resolution of the Congress," and replace it with May 7, 1975, the date set as the end of the Vietnam-era as a result of Presidential proclamation (by President Ford in Executive Proclamation 4373).

Subsection (b) of section 309 amends section 2007(c) of chapter 41 of title 38 to correct the current section 2007(c) requirement concerning the annual report required to be filed by the Secretary of Labor to include those determinations made by the Secretary of Labor pursuant to section 2004 in regard to local veterans employment representatives (LVER). Currently, as codified, the Secretary is mistakenly required to report on "section 2001" determinations—an incorrect reference to chapter 41 definitions.

VETERANS COST-OF-INSTRUCTION TRANSFER AUTHORITY

Section 310

Authorizes the Administrator and the Commissioner of Education in the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, to enter into an interagency agreement or delegation of authority, functions, duties, and powers in order to transfer the Veterans Cost-of-Instruction (VCI) program (established by section 420 of the Higher Education, Act of 1965, as amended), from the Office of Education to the Veterans' Administration. The Administrator is authorized to administer the conduct of such program; and, pursuant to such agreement or delegation of authority, any funds appropriated for the purpose of carrying out the section 420 program would be transferred from the Department of Health, Education, and Welfare to the VA for use for the purposes for which such funds are authorized and appropriated. Further, the Commissioner of Education is mandated, pursuant to any such agreement or delegation of authority, to provide to the Administrator all appropriate technical and support assistance for the purposes of facilitating the effective conduct of the VCI program.

The VCI program was established by the Education Act Amendments of 1972—Public

Law 92-318. The program is designed to provide incentives and supporting funds for colleges and universities to recruit veterans and to establish special programs and services necessary to assist veterans—especially educationally disadvantaged veterans—in readjusting to an academic setting.

The authorization for the program was extended through fiscal year 1980 and certain improvements were made by the Education Amendments of 1976, Public Law 94-482. Included as part of those amendments is a provision directing the Commissioner of Education to coordinate the activities of the VCI program with complementary and supplementary programs carried out by the VA. Similarly, the VA is required to supply information, technical consultation, and assistance to the Office of Education in order to promote the maximum effectiveness of the VCI program.

Despite the enactment of this coordination provision into law a year ago, the Committee is still not satisfied that there has been, and is, adequate, effective coordination between the Office of Education and the VA. The committee believes that there is a continuing role for the functions of the VCI program in serving the education needs of veterans; however, it further believes that there is significant room for improvement in the current program.

Thus, if the Commissioner of Education (with the approval of the Secretary of HEW) and the Administrator of the VA agree, section 310 of the Act would provide the necessary legal authority for such a transfer. The Committee notes that the program was originally placed in the Office of Education in 1972 because at that time it was felt that the VA may not have been sufficiently sensitive to and committed to meeting the education needs of veterans. However, the Committee believes that at this time the best interests of the veterans may be served by placing the responsibility for the program in the VA—the agency primarily responsible for and committed to veterans.

The Committee stresses that the transfer of the VCI program would take place under the Committee bill only in the event that an interagency agreement so detailing such a transfer is entered into between the VA and HEW. The Committee stresses that the provision does not provide that employees of the VCI program at participating institutions would become employees of the VA. Nor does anything in this authorization alter in any way the substantive nature or purpose of the VCI program.

The Committee expects the Administrator to take the initiative to determine whether such a transfer would be in the best interest of those veterans who are or may be served by the program. The unemployment problems and readjustment difficulties encountered by Vietnam-era veterans are reminders that the Federal Government must be committed to resolving the problems of those who served in that long and divisive conflict.

The Committee emphasizes that its intent is to assure that the VCI program is attached to an agency or department which views the success of such program as a high priority.

HOUSING SOLAR ENERGY AND WEATHERIZATION

Section 311

Amends chapter 37 of title 38, United States Code, to provide housing loan guaranty and direct loan assistance to eligible veterans seeking to improve their homes by the installation of solar heating and/or cooling units or the application of residential energy conservation measures.

Subsection (a) of section 311 amends section 1810, relating to loan guarantees for purchase or construction of homes, by adding a new subsection (d), as follows:

New subsection (d): Increases by $2,000—less such entitlement which may have been used previously (and not restored under section 1817)—the amount of loan guaranty entitlement available to those veterans who improve their dwelling or farm residence by either the installation of solar heating, solar heating and cooling, combined solar heating and cooling, a passive solar system, or the application of a residential energy conservation measure.

The new subsection defines "a residential energy conservation measure" as caulking and weather-stripping of all exterior doors and windows; furnace efficiency modifications limited to replacement burners, boilers, or furnaces which devices are designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency, devices for modifying flue openings which will increase the efficiency of the heating system, and electrical or mechanical furnace ignition systems which replace standing gas pilot lights; clock thermostats; ceiling, attic, wall, and floor insulation; water heater insulation; storm windows and doors; and such other measures as the Administrator may by regulation identify for purposes of this provision. As used in this section, the definition of residential energy conservation measures is drawn from the definition of residential energy conservation in the Administration's National Energy Act as it passed the Senate on September 13, 1977, as section 202(13) of H.R. 5037 as amended (with the sole exception of the inclusion in the definition of "storm doors"; currently, the Energy Tax Act of 1977, H.R. 8444, as it passed the House of Representatives, includes storm doors as an "other energy-conserving component".) Although this comprehensive energy legislation is still pending before Congress and is still subject to revision, the Committee seeks, at the very least, to promote consistency in Federal energy programs by making the weatherization and winterization definitions—residential energy conservation measures—in the veterans' housing program comparable to the measures adopted for other Federal energy programs.

Solar heating, solar heating and cooling, and combined solar heating and cooling are defined as defined in paragraphs (1) and (2) of section 3 of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502). Therein those terms are defined as follows:

"The term 'solar heating,' with respect to any building, means the use of solar energy to meet such portion of the total heating needs of such building (including hot water), or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods), as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration; and the terms 'solar heating and cooling' and 'combined solar heating and cooling', with respect to any building, means the use of solar energy to provide both such portion of the total heating needs of such building (including hot water) and such portion of the total cooling needs of such building, or such portion of the needs of such building for hot water (where its remaining heating needs are met by other methods) and such portion of the total cooling needs of a building, as may be required under performance criteria prescribed by the Secretary of Housing and Urban Development utilizing the services of the Director of the National Bureau of Standards, and in consultation with the Director of the National Science Foundation, and the Administrator of the National Aeronautics and Space Administration, and such term includes cooling by means of nocturnal heat radiation, by evaporation, or by other methods of meeting peakload energy requirements at non-peakload times;"

The terms "solar heating," "solar heating and cooling" and "combined solar heating and cooling" also include a passive system based on conductive, convective, or radiant energy transfer; the term "passive system" includes, but is not limited to, window and skylight glazing, thermal floors, walls and roofs, movable insulation panels (in conjunction with glazing), portions of a residential structure which serve as solar furnaces so as to add heat to residences, double pane window insulation, or other components designed to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence as determined by the Administrator.

The Committee firmly believes that the amendments made by these two provisions will assist the VA in providing financial assistance to those veterans desiring to make weatherization or solar energy improvements. Currently, residential energy use accounts for approximately 20 percent of the total energy consumed in the United States each year. Of this amount, 70 percent goes toward heating and cooling our living space, and heating our water. Residential energy needs, taken together with commercial energy requirements, consume fully one-third of the Nation's energy budget.

In December of 1972, a panel of experts organized jointly by the National Science Foundation (NSF) and the National Aeronautical and Space Administration (NASA) issued a report assessing the potential of solar energy as a national energy resource. The panel concluded that from both a technical and economic standpoint, solar energy holds great promise for purposes of heating and cooling buildings. In general, the panel found that there were no technical barriers to using solar energy to help meet the energy needs of our nation. Although the cost of converting to solar energy is, at present, higher than the cost of conventional sources of energy, the rapid escalation of prices for these conventional fuels will soon make solar energy economically competitive. Based on these findings, the panel recommended that the Federal Government take the lead and establish a research and development program for the practical and widespread use of solar energy.

Subsequently, in September of 1974, Congress enacted Public Law 93-409, the Solar Heating and Cooling Demonstration Act, authored in the Senate by Senator Alan Cranston. This law authorized the appropriation of $60 million over 5 years to demonstrate the commercial feasibility of solar heating and cooling technology. The Department of Housing and Urban Development and NASA are jointly responsible for administering this program. This demonstration program has helped make solar heating and cooling systems more readily available on the commercial market.

The House Committee on Banking, Finance and Urban Affairs, in its July 11, 1977, report to accompany the National Weatherization Act (H.R. 7893), stated that oil and gas—which currently represent more than 75 percent of the energy consumed by the United States—account for less than 8 percent of our fuel reserves. It is estimated that at current production levels, we will exhaust our domestic reserves by the year 2020. However, it has been estimated that if solar heating and cooling systems were built into all new homes and lowrise commercial buildings between now and the year 2000, solar energy could meet 4.5 percent of our total energy needs. By the year 2020, solar energy could account for as much as 8 percent of our nation's energy consumption. These figures represent significant savings to our economy which is already straining to absorb inflated energy costs, and conservation

of critical, more scarce alternative sources of energy.

The residential energy conservation goals set forth by the President would require that 90 percent of all homes, approximately 46.4 million, be weatherized and that a minimum of 2.5 million homes be fitted with solar energy equipment in the next 8 years. As initially outlined in H.R. 6831, the Administration's proposed "National Energy Act", the strategy for weatherizing homes and converting homes to solar energy included tax credits, regulatory changes, and provisions for making the required financing available. The Committee believes that those housing programs—such as the VA home loan program—can play an integral role in this regard by providing for interested veterans a source of capital to make the necessary changes. The Committee believes that subsections (a) and (b) of section 311 are fully consistent with and help effectuate the Administration's purpose in this regard.

During fiscal year 1976, the VA approved a total of 324,968 veterans for guaranteed GI home loans, a guaranty total of approximately $9.9 billion. This total represented an increase in the number of veterans served of 12.8 percent over the 288,163 veterans assisted in fiscal year 1975. During the transition quarter, 80,744 guaranteed home loans were approved for $2.6 billion. To date in fiscal year 1977, 267,136 loans have been approved for $9.1 billion and estimates for fiscal year 1978 are 360,100 loans worth $12.5 billion. These totals include refinancing, condominium, and alteration and repair loans, as well as loans for the purchase of a single family dwelling. The righ rate of participation in the VA housing program has been spurred by a series of legislative changes since 1970 that expanded eligibility requirements. For example, the Veterans Housing Act of 1970 (Public Law 91–506) removed the delimiting date on eligibility for VA home loans and made loans available for mobile homes; and the Veterans Housing Act of 1974 (Public Law 93–569) made it possible for veterans who previously obtained a loan to regain entitlement if the veteran has disposed of the property and the loan has been repaid in full. Thus, loans guaranteeed for veterans using restored entitlement rose from 7,213 in fiscal years 1975 to 16,832 in fiscal year 1976, and to 20,204 in the first three quarters of fiscal year 1977. The amendment made by the Committee bill to the guaranty loan program should likewise contribute to a greater utilization of the VA program.

The rate of veteran participation in the VA home loan program is substantial and continues to increase. The Committee believes, therefore, that this program should be amended to provide an incentive to actual and prospective veteran homeowners for undertaking home (dwelling or farm residence) solar energy, weatherization, and energy conservation programs.

Subsection (b) of section 311 amends section 1811(d)(2), relating to direct loans, to increase by $3,800 the amount of direct loan—reduced by the amount of direct loan which may have been used previously (and not restored under section 1817 of this title)—for which a veteran in a "housing credit shortage area" is eligible provided that such additional amount of entitlement is used by such veteran solely to improve the veteran's dwelling or farm residence by either the installation of solar heating, solar heating and cooling, combined solar heating and cooling, a passive solar system, or the application of a residential energy conservation measure.

The growth in participation in the VA guaranty loan program has not been duplicated in the VA's direct loan program, however. The purpose of the direct loan program is to extend credit to veterans for the purchase, construction, repair and alteration of homes and farm houses in rural areas, small cities, and towns where private credit is not generally available for guaranteed loans. In such instances, the VA may designate the area as a "housing credit shortage area". The veteran may then apply directly to the VA for a loan. The terms of the direct loans are the same as the terms would be were the veteran receiving a guaranteed loan.

Approximately 2,400 out of 3,000 counties, cities, and political subdivisions—or about 80 percent of the geographic area of this country—qualify as "housing credit shortage areas". About 19.5 percent of our veteran population reside in these areas. It has been estimated that there are approximately 5.4 million veterans who, by virtue of their location and present economic status, could qualify for the direct loan program. However, only 327,874 direct loans in the amount of $3.3 billion have been approved since this program's inception in 1950 (Public Law 84–475). In fiscal year 1970, some 8,500 veterans were aided by direct loans valued at over $144 million. By contrast, in fiscal year 1975, only 2,782 direct home loans were made, totaling $54.1 million. The number has declined further since then. In the first three quarters of fiscal year 1977, only 1,972 loans valued at $45.4 million have been made.

The Committee believes that Congressional intent with respect to the implementation of the direct loan program has been thwarted by unnecessary red tape and long delays which discourage eligible veterans from applying. In light of our troubled economy and the difficulty experienced by many veterans in securing adequate housing, we urge that the program be made more flexible and that the VA encourage greater participation. By amending section 1811(d)(2), to increase direct loans by $3,800 for purposes of installing solar energy devices or applying a residential energy conservation measure, the Committee reaffirms its commitment to the direct loan program, as well as to energy conservation.

The Committee expects the VA to inform all veterans, as part of its normal outreach efforts, of the housing benefits available as a result of these amendments. The Committee plans to monitor closely the VA's implementation of these provisions in order to assure that the programs operate in the manner intended.

VA Energy Conservation Impact

The Committee believes that the Veterans' Administration should examine each program it administers in order to ascertain whether the implementing policies and regulations reflect the national goal of conserving energy. The Committee directs the agency to submit to the Committee by February 1, 1978, a report on this examination. In this regard, the Committee observes that the section 1780(a) provision for continuing the payment of allowances to eligible veterans and eligible persons enrolled in courses "during periods when the schools are temporarily closed under an established policy based upon an executive order of the President or due to an emergency situation" would appear an ideal area for review and development of policies fully consistent with the national goal of reducing energy consumption. Specifically, the Committee believes that the VA should continue payments to involved veterans and eligible persons during periods when a school is temporarily closed when the school has made a strong showing of a clear likelihood that such closing would avert an emergency due to shortages or would result in substantial reductions in the amount of energy consumed by the school while not adversely affecting the quality of the training provided.

TITLE IV—EFFECTIVE DATES

Title IV of the Committee bill provides, generally, that provisions of the GI Bill Improvement Act of 1977 shall become effective on the first day of the first month beginning 60 days after the date of enactment, except as follows: The provisions of title I, relating to cost-of-living increases in the amounts of educational assistance allowances, and subsections (A) and (B) of section 304(2), relating to increases in the amounts of reporting fees, would be effective retroactively to October 1, 1977. The provisions of sections 201 and 202, relating to the accelerated payment and special education loan eligibility in connection with the accelerated payment, would become effective on January 1, 1978. Section 203, relating to the extension of the delimiting period when a veteran was prevented from initiating or completing a program of education within such time period due to a physical or mental disability not the result of his or her own willful misconduct, would be effective retroactively to May 31, 1976. The provisions of the following sections would be effective upon enactment: 301, relating to citation of authority; 302(2), relating to the elimination of the PREP report; 304(2)(c), relating to daily attendance records; 304(3), relating to the maintenance of daily attendance records by institutions of higher learning for any course leading to a standard college degree; 305(a)(2), relating to the waiver of the 85–15 rule when the enrollment of veterans is equal to or less than the total campus enrollment of veterans and the waiver of the 85–15 rule for residential courses located outside the United States; 305(a)(3), relating to the report by the Administrator on the need for including in the 85–15 computation the number of those students in receipt of Federal grants and prescribing an adequate system for making such computations; 305(b), relating to the report by the Administrator in regard to specific methods of improving the process by which postsecondary educational institutions and courses at such institutions are and continue to be approved, the suspension in certain instances of the satisfactory progress provisions contained in sections 206 and 307 of Public Law 94–502, and other matters; 305(c), relating to the Administrator's authority to provide equitable relief to certain institutions affected by section 701 of Public Law 94–502; 305(d), relating to the requirement that the section 1792 Advisory Committee meet at least semi-annually; 306, relating to the requirement that the Administrator provide certain procedural protections to veterans whose educational benefits are to be suspended or terminated; 307, relating to the study on the chapter 31 vocational rehabilitation program; 308, relating to the study on veterans readjustment appointments; 309, relating to certain technical amendments; and 310, relating to the authority of the Department of Health, Education, and Welfare to transfer or delegate to the Veterans' Administration the functions, powers, and duties under the VCI program.

RECORD OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, announcement is made that the Members of the Committee on Veterans' Affairs, on July 22, 1977, unanimously voted in favor of a motion to report S. 457, as amended favorably to the Senate.

Prior to that vote a motion offered by Senator Thurmond to delete section 203 of S. 457, as amended, relating to the extension, in certain instances, of the delimiting period was agreed to by 5–4 vote as follows:

YEAS—5

Herman E. Talmadge.
Jennings Randolph.
Robert T. Stafford.
Strom Thurmond.
Clifford P. Hansen.

NAYS—4

Alan Cranston.
Richard (Dick) Stone.
John A. Durkin.
Spark M. Matsunaga.

Mr. CRANSTON. Mr. President, I wish to stress again that the Committee on Veterans' Affairs has, in a continuing bipartisan spirit of cooperation, reported S. 457 unanimously.

I think that the committee bill is good legislation with much needed improvements and is worthy of support of all our colleagues.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STAFFORD. Mr. President, I yield myself such time as I may consume.

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

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

Mr. STAFFORD. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Doug Racine, of Senator LEAHY's staff, be accorded the privilege of the floor throughout consideration of this bill.

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

Mr. BELLMON. Mr. President, I ask unanimous consent that Bob Boyd, of the Budget Committee staff, be accorded the privilege of the floor during consideration and votes on this bill.

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

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Ned Massee, of my staff, be accorded the privilege of the floor during debate and votes on this measure.

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

The Senator from Vermont.

Mr. STAFFORD. Mr. President; we of the Veterans' Affairs Committee bring to you an improved GI bill providing a program of educational assistance for veterans. This improved GI bill deserves the support of all Members of this body. All members of our committee joined in sponsoring and supporting the bill. By supporting this bill we not only will be of assistance to veterans, but we will be contributing to our investment in America.

One of the best programs we have had in Government has been the program for the education and rehabilitation of millions of veterans in their readjustment to civilian life. In the 33 years of what has been known as the GI bill, 2 GI bills have helped about 17 million veterans and other eligible persons.

The current GI bill was enacted March 3, 1966, and was established by Congress as shown in the act creating it "for the purpose of: First, enhancing and making more attractive service in the Armed Forces of the United States; and second, extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education; third, providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955; and fourth, aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country."

We continue to read and to hear that the GI bill is not providing adequate assistance to the Vietnam-era veteran and that the GI bill rates do not compare favorably with the assistance provided veterans of previous wars. This is not a valid criticism. I am not saying that the educational assistance provided to our veterans by a grateful nation is sufficient, but the United States has been providing a good program and the bill before us is to improve and make it better.

It should be pointed out that it has been the intent of Congress to meet in part the expense of tuition, fees, books, supplies, and subsistence. There are, of course, other education related costs, and there are also other sources available to Vietnam veterans not available to veterans of World War II. Some of these are educational assistance to veterans and other students through the Department of Health, Education, and Welfare with such programs as basic opportunity grants, supplemental educational opportunity grants, college work-study programs, the National Direct Student Loan program and the Guaranteed Student Loan Program, and others.

It should be pointed out that to date, total expenditures on behalf of veterans enrolled in training under the three GI bill programs amounts to more than $40 billion. For fiscal year 1977 the cost of GI bill educational assistance is estimated to be $4.3 billion.

During fiscal year 1976, almost 3 million veterans, service personnel, and dependents received training under the GI bill. Overall, 54 percent of the veteran students polled in a 1976 GAO study indicated they would not have undertaken training without the GI bill assistance. It is a matter of common knowledge that the program has assisted and continues to provide assistance in obtaining an education to most of those who have served their country. It is significant that Vietnam-era veterans have participated in the VA educational assistance program at a rate of over 64 percent, and this rate of participation is higher than for the World War II GI bill and the Korean conflict GI bill.

S. 457 proposes to increase the education and training rates for veterans and their dependents in the amount of approximately 6.6 percent for all education and training programs handled by the Veterans' Administration—the current estimate of the increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase, and October 1, 1977, the effective date of the increase provided in this bill.

S. 457 would increase from $292 per month to $311 per month the amount a veteran without dependents would receive in institutional training on a full-time basis. Benefits for a veteran with one dependent would be increased from $347 to $370 per month. The rate for a veteran with two dependents would be increased from $396 to $422 per month.

S. 457 would establish a program of accelerated educational assistance payments making it possible for certain veterans and eligible persons attending a higher cost program of education to receive a greater amount of monthly GI bill educational assistance.

The committee believes that an accelerated program designed to provide additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in or desirous of enrolling in a high-cost program of education. The committee determined that the most equitable method of providing such assistance is the accelerated benefit program. All veterans would continue to be treated similarly with the Federal Government providing equal benefits for equal service to the Nation. The committee anticipates that under an accelerated benefit program more veterans, particularly unemployed and underemployed veterans, should be better able to take advantage of the GI bill program.

In connection with the accelerated program, this bill would establish a special loan program whereby the veteran would be able to receive his money in the form of a loan "out front" at a time when the veteran usually needs the assistance most. In other words, the education loan program is to help eligible veterans participating in the accelerated benefits program in meeting their expenses pending the payment of the accelerated benefits.

The bill would extend the period of time a veteran has to utilize his or her GI bill benefits when the veteran has a mental or physical disability or impairment, not the result of his own misconduct, which the Administrator finds prevented the veteran from initiating or completing a course of study.

The bill seeks to deal with a number of complaints and criticisms from educators and educational institutions and others concerned with the education of veterans.

Title III of S. 457 contains the following education and training amendments:

First. Requires Administrator, in promulgation of any rule, regulation, guideline or any amendment thereto, to provide a citation to the particular section of statutory law upon which it is based; second, provides eligible veterans with more extensive VA educational counseling services, and requires the Administrator to carry out outreach programs to acquaint all eligible veterans with availability and advantages of such counseling; third, eliminates requirement that DOD file with Congress progress reports on the implementation of the predis-

charge education program (PREP); fourth, increases by 10 percent amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment; fifth, requires State approving agencies to report annually to Administrator on their activities, approvals and disapprovals during preceding year; sixth, authorizes approval by Administrator of a combined correspondence-residence course not meeting the requirement that the correspondence portion normally take at least 6 months to complete, if Administrator finds there is a reasonable relationship between the charge for each segment of the course and the total charge for the course; seventh, requires Administrator to include, as part of the veterans' application form for advance pay, a notice of the period of time between date of advance payment and the scheduled date of the first monthly benefit payment for which the veteran is applying; eighth, requires Administrator to include with the advance payment a notice to veteran, of the period of time between the date of the advance payment and the scheduled date of the first monthly payment of education assistance allowance for which the veteran is applying; ninth, increases the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the VA required reports on veterans and eligible persons enrolled in such institutions; tenth, requires payment of $5 to educational institutions for each full-time veteran or eligible person enrolled who satisfactorily completes the school term, eleventh, prohibits Administrator from attempting to collect any administratively determined institutional liability for overpayments, by offsetting the amount of reporting fees to which an institution may be entitled;

Twelfth, specifies that under no circumstances shall section 1785 of title 38, U.S. Code—pertaining to institutional liability for veteran overpayments—or any other provision of that title, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree; thirteenth, reduces number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits; fourteenth, limits to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock hours provisions; fifteenth, exempts course with vocational objectives from application of the 2-year rule where Administrator determines (a) that institution offering the courses has been in existence for 2 years or more and has demonstrated its effectiveness in achieving the completion of its courses by its students and the employment of persons who have been its students in jobs for which they were trained, and (b) after consultation with the Labor Secretary, that there is a clear need to train persons for employment in such vocational objective in terms of national priorities; sixteenth, authorizes Administrator to waive the 2-year rule in instances invloving branch campuses where Administrator determines that it would be in the interest of the eligible veteran and the Federal Government; seventeenth, exempts any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment from the requirement of course-by-course computation of the "85–15" rule, except that where the Administrator has cause to believe that the GI bill enrollment in particular courses exceeds 85 percent of the total course enrollment, he can require computation for the particular course and enforce the "85–15" rule—the so-called 85–15 rule, in section 1673(d) of title 38 provides that Administrator shall not approve enrollment of any eligible veterans, not already enrolled, in any course for any period during which he finds that more than 85 percent of the students are having all or part of their tuition paid by the educational institution, the VA, and/or by grants from any Federal agency, except that the Administrator may waive that requirement, if it is in the interest of the eligible veteran and the Federal Government; eighteenth, makes the "85–15" rule inapplicable to overseas residential courses; nineteenth, requires Administrator, in consultation with Education Commissioner, to conduct a study, and submit to Congress by August 1, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agencies and the problems of such institutions including such a computation of those students with Federal grants from agencies other than the VA;

Twentieth, makes inapplicable, until 6 months after the filing of the report, the provisions in the "85–15" rule requiring inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the "85–15" rule; twenty-first, mandates the Administrator, in consultation with other agencies, to study methods of improving the process by which education institutions and continue to be approved for the GI bill, and requires that the study include the need for legislative and administration action; twenty-second, suspends, during the study, implementation of satisfactory progress amendments for any accredited institutions submitting catalogs to the Administrator which are in compliance with the law; twenty-third, requires Administrator to bring to the attention of proper accrediting bodies any course catalogs or bulletins which he believes may not be in compliance with the standards of the accrediting or licensing body; twenty-fourth, requires Administrator to transfer from funds appropriated for the readjustment benefits account such sums as are necessary—but not more than $500,000—for the conduct of the study on improving the process for approving institutions for GI bill; twenty-fifth, provides Administrator with authority to provide relief to institutions suffering undue hardship; twenty-sixth, provides that any action to terminate GI bill assistance must be based upon clear evidence in the possession of the Administrator that the veteran was not eligible for assistance, require Administrator to give written notice of suspension or termination of assistance, and require Administrator to give written notice to veteran that he is entitled to a statement of the reasons for termination or suspension and an opportunity to be heard; twenty-seventh, directs Administrator to report to Congress by March 1, 1978, on recommendations for the veterans vocational rehabilitation program; and twenty-eighth, entitles eligible veterans to an additional $1,000 of home loan guarantee—and $1,900 in direct loans: to install in their homes solar heating and/or cooling, to improve their homes with residential energy conservation measures.

Mr. President, I submit that this GI bill is fair and equitable and will provide additional assistance to Vietnam veterans and their dependents. The Congressional Budget Office estimates that the 5-year cost resulting from the enactment of the committe bill would be $827 million in fiscal year 1978; $921 million in fiscal year 1979; $725 million in fiscal year 1980; $532 million in fiscal year 1981; and $383 million in fiscal year 1982.

Mr. President, before I yield to my colleagues, I express the satisfaction I have personally derived from working with the distinguished chairman of our committee, Senator ALAN CRANSTON of California, and my colleagues on both sides of the aisle, and my additional appreciation to members of the committee staff on both sides of the aisle who, in my opinion, have done an outstanding job of preparing the material and the legislation for the committee.

So I yield the floor saying that it has been a great pleasure to work with my distinguished friend from California, ALAN CRANSTON.

Mr. CRANSTON. First, Mr. President, I thank my colleague very much for his generous remarks and for his wonderful cooperation.

Mr. RANDOLPH. Mr. President, we are considering legislation which would revise and improve the GI bill which is the largest single Federal program providing postsecondary education.

S. 457, the GI Bill Improvements Act of 1977, was unanimously reported from the Veterans' Affairs Committee in July.

One of the main provisions for the measure would increase the amount of education assistance allowance available to the veteran by 6.6 percent. Since 1970 the GI bill benefits have been increased 92 percent. This sounds like a substantial amount but the increased benefits in the past 7 years have not assured that the increases would keep pace with the rate of inflation. The Congressional Budget Office estimates that the increase in the cost of living between October 1, 1977, and October 1, 1978, will be 6.6 percent.

It should be noted that with each increase in educational assistance rates, participation in the program has increased. To date, Vietnam era veterans have participated in the program at a rate of 64.3 percent.

In West Virginia the increased rates of participation between the World War II program and the current Vietnam era bill is 19.5 percent. The post Korean conflict and Vietnam era law was amended in 1967, 1970, 1972, 1974, and 1976 and to date has assisted 6.75 million veterans and nearly 254,000 survivors and dependents. Recognizing the need to assist those veterans bearing a heavier burden of expense in obtaining an education the committee unanimously supports the accelerated payment provision.

It is felt that we must help those veterans without access to low-cost educational institutions and those veterans enrolled in or wanting to enroll in a high cost program of education. Under this accelerated provision all veterans would continue to be treated fairly. Each veteran would continue to receive a maximum of 45 months of educational assistance. This provision will help those having tuition and fees costs exceeding $1,000 per school term.

I am aware that there are proposals that would help assist those attending medium-cost institutions. This would necessitate the expenditure of far more dollars than are currently available to the committee under the second concurrent resolution on the budget for fiscal 1978.

I commend Chairman ALAN CRANSTON and the ranking minority members, Senator STAFFORD and Senator THURMOND, and Senator DURKIN for their diligent dedication to furthering the benefits of the GI bill by their cooperation in the development of this measure. Our thanks also to the Veterans' Affairs staff members, Jonathan Steinberg and Jack Wickes.

UP AMENDMENT NO. 953

(Purpose: To provide for an increase in the amount of work-study allowance and to make a technical modification to insure that statutory language meets appropriations and budgetary requirements, to assure proper delivery of loans made in connection with accelerated benefits in accordance with section 1780(d) of title 38, and for other reasons.)

Mr. CRANSTON. I send to the desk for consideration an unprinted amendment which I propose on behalf of the committee.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposed unprinted amendment numbered 953, for himself, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, Mr. HANSEN, and Mr. STEVENS.

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

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

The amendment is as follows:

On page 6, between lines 16 and 17, insert the following:

VETERAN-STUDENT SERVICES

SEC. 105. Subsection (a) of section 1685 of title 38, United States Code, is amended by

(1) striking out in the second sentence "in the amount of $625" and inserting in lieu thereof "in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher,"; and

(2) striking out the third and fourth sentences and inserting in lieu thereof the following: "An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $250, whichever is the higher. A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement in return for the veteran-student's agreement to perform the number of hours of work specified in the agreement.".

On page 14, line 3, strike out "payment.'." and insert in lieu thereof "payment.", and between lines 2 and 3, insert the following:

"(5) Payment of a loan made under this subsection shall be drawn in favor of the eligible veteran and mailed promptly to the educational institution in which such veteran is enrolled. Such institution shall deliver such payment to the eligible veteran as soon as practicable after receipt thereof. Upon delivery of such payment to the eligible veteran, such educational institution shall promptly submit to the Administrator a certification, on such form as the Administrator shall prescribe, of such delivery, and such delivery shall be deemed to be an advance payment under section 1780(d)(5) of this title for purposes of section 1784(b) of this title.".

On page 22, line 1, strike out "institutions" and insert in lieu thereof "institution".

On page 24, line 3, strike out "to".

On page 24, line 4, strike out "The" and insert in lieu thereof "In accordance with applicable law and procedure, the", and strike out "transfer" and insert in lieu thereof "make available"; and on line 5, strike out "for the readjustment benefits account of" and insert in lieu thereof "to".

On page 22, lines 10 and 11, strike out "located outside the United States" and insert in lieu thereof "not located in a State"; on page 25, line 10, strike out "outside the United States" and insert in lieu thereof "at a location not in a State"; and on page 25, line 11, strike out "the continental United States" and insert in lieu thereof "a State".

On page 29, line 9, strike out "administer" and insert in lieu thereof "administer".

On page 32, line 23, strike out "304(3)" the first time it appears.

Mr. CRANSTON. This amendment would, first, add a new section 105 to S. 457, to amend section 1685 of title 38, United States Code, veteran-student services, to increase the amount of the work-study allowance provided by that section. The amendment would reflect the imminent changes expected in section 6(a) of the Fair Labor Standards Act of 1938 as a result of the conference report on H.R. 3744 approved this morning. It would provide that the amount of the hourly GI bill work-study allowance would be raised from $2.50 per hour to the amount now approved by both Houses of Congress in H.R. 3744—$2.65 an hour, effective January 1, 1978, and would be tied to future increases in the federally required minimum hourly wage. Thus, the amount of the section 1685 work-study allowance would be no less than the minimum wage, and when such wage is increased, the work-study allowance would be correspondingly increased. This is especially important since the minimum wage measures approved by the House and the Senate would increase the levels by increments over a period of time. As a result of the agreement reached in conference, the amount of hourly minimum wage will increase effective January 1, 1978, to $2.65 per hour; on January 1, 1979, to $2.90 per hour; on January 1, 1980, to $3.10 per hour; and on January 1, 1981, to $3.35 per hour.

Enactment of this provision would result in a fiscal year 1978 cost of approximately $800,000. Estimated fiscal year 1979 costs are $2 million; 1980, $2.5 million; 1981, $2.6 million; and 1982, $2 million.

Mr. President, the amendment would also make a clarifying change in the acceleration provisions in section 201 of the bill, on page 14, to provide that the loan payment for accelerated benefits will be mailed to the school in the same way as for advance payments under present law; and technical corrections in the bill, one, on page 24, to assure that the funding of the major VA study of the postsecondary course approval process is obtained in a way consistent with applicable budgetary and appropriations requirements; another, on pages 25 and 26, to correct a technical mistake in references to "United States"; and other changes to correct misprints.

I know of no opposition to the committee amendment, and I suggest we proceed to it at once.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. CRANSTON. Yes, I yield back my time on this side.

Mr. STAFFORD. I yield back the time on the minority side.

The ACTING PRESIDENT pro tempore. All time being yielded back, the question is on agreeing to amendment No. 953.

The amendment was agreed to.

AMENDMENT NO. 1433

(Purpose: To extend, in certain instances, the eligibility period—or delimiting period—for veterans enrolled in training under the GI bill.)

Mr. DURKIN. Mr. President, I call up my amendment No. 1433 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself and others, proposes an amendment numbered 1433.

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

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

The amendment is as follows:

On page 14, insert "(a)" after "SEC. 203.", and between lines 16 and 17, insert the following new subsection:

"(b) Section 1662 of title 38, United States Code, is amended by inserting '(1)' after '(a)' and inserting at the end of such section the following new paragraph:

"'(2)(A) Notwithstanding the provisions of paragraph (1), any veteran shall be permitted to use any of such veteran's unused educational entitlement under this chapter after the delimiting date otherwise applicable to such veteran, as provided in paragraph (1), if such veteran was pursuing an approved program of education at the time of the expiration of such veteran's eligibility and such veteran was—

"'(i) enrolled on a full-time basis, or

"'(ii) on a part-time basis if such veteran was (aa) employed in a public safety occupation, (bb) receiving educational benefits, a loan, or compensation under any program provided for in the Omnibus Crime Control and Safe Streets Act of 1968, and (cc) enrolled under this chapter on not less than a half-time basis in a program of education appropriately related to such veteran's public safety occupation.

"'(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under this paragraph—

"'(i) may continue to use any unused entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis (or on a part-time basis, but in no event less than a half-time basis, if such veteran was a part-time student at the time of expiration of such veteran's eligibility and was permitted to continue using such veteran's unused entitlement under the provisions of clause (ii) of subparagraph (A) of this paragraph) in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility until such entitlement is exhausted, until the expiration of two years, or until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1), whichever occurs first;

"'(ii) shall be entitled in the eleventh year of eligibility to an educational assistance allowance equal to one-half the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph; and

"'(iii) shall be entitled in the twelfth year of eligibility to an educational assistance equal to one-third the amount of educational assistance allowance authorized for an eligible veteran whose delimiting period has not expired or been extended by this paragraph.'.

"(b) Section 1712 is amended by redesignating subsection (f) as (g) and inserting after subsection (e) the following new subsection:

"'(f) Any eligible person shall be entitled to an additional period of eligibility beyond the maximum period provided for in this section pursuant to the same terms and conditions set forth with respect to an eligible veteran in section 1662(a)(2) except that the tenth year of eligibility for purposes of this subsection for such person shall be the last year of such person's period of eligibility and the eleventh and twelfth years shall be the first and second years, respectively, following such last year.'".

Mr. STAFFORD. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. DURKIN. I yield.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Jack Andrews, Mike Shorr, Shelley Edelman, and David Morse of Senator JAVITS' staff, and George Kuhn of Senator MOYNIHAN's staff have the privilege of the floor during the consideration of the pending business.

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

Mr. DURKIN. Mr. President, for many people of this Nation and throughout the world the war of Vietnam is but a memory of the past, relegated to its place in history. But for those young veterans who actually fought in battles in the jungles and marshes of Southeast Asia and returned home only to face the critics of the war, the tragedy of Vietnam remains a present reality. The latest labor statistics indicate that the unemployment rate for Vietnam era veterans, ages 20 to 24, is a staggering 18.1 percent, whereas the rate for nonveterans of the same age is 8.9 percent. We must not forget our debt to these veterans who were forced to fight an unpopular war in Indochina and again at home. Americans of every political persuasion, conservative, and liberal alike, agree that perhaps the deepest tragedy of the war remains our unfulfilled promise to the Vietnam era veteran.

Mr. President, this legislation and the amendment we now offer will go far to fulfilling the promise we have made to the Vietnam veterans. The GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation. On May 31, 1976, however, 483,000 veterans lost their GI education benefits while in the middle of education and training as a result of the expiration of their delimiting period. Of those, over 300,000 were full-time students, many of whom are now unable to complete their education. In order to allow these students to complete the educational programs that they have begun, I am proud to offer this amendment along with the distinguished chairman of the Senate Veteran's Affairs Committee, Senator CRANSTON, my distinguished colleagues on that committee, Senators STONE and MATSUNAGA, and my distinguished colleagues Senator EASTLAND, CANNON, MCINTYRE, CLARK, ALLEN, WILLIAMS, ABOUREZK, HATHAWAY, FORD, RIEGLE, INOUYE, HART, HUDDLESTON, and HASKELL which will extend the delimiting date in limited circumstances.

My amendment which passed the Senate in the 95th Congress and the legislation I introduced earlier this year, provided for a full 3-year extension of the delimiting period. Although I would prefer that provision, this amendment is drafted with an awareness of the budgetary and fiscal limitations under which our committee must operate. This body must be fully cognizant of these budgetary constraints, if the Veteran's Affairs Committee will be able to bring to the floor during this Congress, a meaningful pension reform bill which concerns all of us.

The amendment we are introducing, will extend the delimiting date for 2 years only for those veterans who were full-time students at the time their benefits expired, and who will continue in a full-time education program. Benefits will be provided at a rate of 50 percent in the first year of the extension and 33 percent in the second year. The only exception to the full-time requirement is where the veteran is employed in a public safety occupation and is a part-time student in an LEAA education program. We stress that this is not a blanket 2-year extension of the delimiting date, but rather is designed to allow those who were full-time students to finish their education, those who would otherwise be unable to do so as a result of the expiration of their benefits. This amendment is much more limited than the provision extending the delimiting date which passed the Senate, but died in the House, last session.

In 1966, 6 million post-Korean veterans who had been discharged between 1955 and 1966 were granted educational benefits retroactively. Originally, this post-Korean group had 8 years to use their benefits. But during most of those years, benefits were so ridiculously low that participation was nearly impossible for most veterans. In 1972, Congress increased benefits by 12 percent, and in 1974 again by 23 percent. Participation increased 12 and 23 percent respectively. But because so many years had been lost, because of inadequate benefits, the delimiting period was extended to 10 years for this group and for all future veterans.

A failure to extend the delimiting date for full-time students so as to allow the veteran to complete his or her educational program will defeat the very aim of the GI education bill as a readjustment device. There can be nothing more frustrating to a veteran who is working seriously in an educational program with the hope of return to the mainstream of American society than to lose his benefits and be unable to finish that training. A limited extension of the delimiting date will be good for the serious veteran full-time student, good for our depressed economy, good for the educational community, and good for the Government. A limited 2-year extension of the delimiting period for full-time students simply makes good on an initial investment of Government funds, and of the time and energies of serious veteran students.

This provision is supported by the National Association of Concerned Veterans, the American Council on Education, the American Association of State Colleges and Universities, the American Association of Community and Junior Colleges, and the National League of Cities.

I hope that all of my colleagues in this distinguished body will join us in an attempt to fulfill our promise to the Vietnam era veteran.

Mr. President, I ask unanimous consent that a table showing the 1976 participation rates be printed in the RECORD.

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

1976 PARTICIPATION RATES

State	Vietnam veteran participation rate: Rank	Vietnam veteran participation rate: Percent	Number of schools less than $500 [1]	State GI bill payments (fiscal years 1968–76)	Rank by amount of GI expenditures	Vietnam veteran population	State rank of Vietnam veteran population
North Dakota	1	83.1	4	$73,260,000	42	18,000	47
South Dakota	2	75.8	0	70,344,000	45	18,000	48
New Mexico	3	73.5	5	133,069,000	37	37,000	39
Arizona	4	72.9	8	331,725,000	23	81,000	31
Hawaii	5	71.8	8	143,048,000	36	32,000	41
California	6	66.9	69	3,173,570,000	1	891,000	1
Alabama	7	66.7	11	410,780,000	15	110,000	24
North Carolina	8	64.3	44	537,879,000	9	172,000	16
Colorado	9–10	64.2	3	384,883,000	17	107,000	25
South Carolina	9–10	64.2	10	290,811,000	26	97,000	29
Tennessee	11	57.8	12	400,236,000	16	145,000	20
Washington	12	57.0	24	479,665,000	12	177,000	15
Nebraska	13	56.7	6	146,468,000	35	55,000	35
Louisiana	14	56.6	6	307,021,000	26	115,000	22
Florida	15–16	56.5	31	825,071,000	5	284,000	8
Wyoming	15–16	56.5	8	31,136,000	49	13,000	50
Montana	17	56.2	3	70,647,000	44	28,000	43
Oklahoma	18	55.9	11	325,173,000	24	111,000	23
Georgia	19	55.4	30	508,434,000	10	188,000	12
Arkansas	20	55.3	10	176,842,000	32	66,000	32
Texas	21–23	54.7	60	1,235,637,000	2	441,000	3
Mississippi	21–23	54.7	8	150,990,000	34	57,000	33
Maine	21–23	54.7	7	91,919,000	40	37,000	38
Missouri	24–25	54.4	13	483,093,000	11	178,000	14
Idaho	24–25	54.4	6	71,746,000	43	29,000	42
Kansas	26	54.0	11	200,670,000	31	82,000	30
Utah	27	53.2	5	153,975,000	33	48,000	36
Rhode Island	28	52.6	1	115,185,000	39	40,000	37
Oregon	29	52.4	11	262,789,000	29	101,000	27
West Virginia	30	52.1	15	125,152,000	38	56,000	34
Michigan	31	51.9	17	762,480,000	7	325,000	7
Nevada	32	51.0	0	63,793,000	46	25,000	44
Minnesota	33	50.7	14	373,209,000	19	164,000	18
Kentucky	34	50.5	25	249,356,000	28	105,000	26
Wisconsin	35	50.1	14	362,710,000	20	160,000	19
Virginia	36–37	49.9	24	374,404,000	18	188,000	13
Delaware	36–37	49.9	4	53,711,000	47	24,000	45
New York	38	49.1	24	1,124,349,000	3	561,000	2
Illinois	39	48.1	22	900,584,000	4	385,000	6
Iowa	40	47.9	19	210,163,000	30	100,000	28
Alaska	41	47.3	6	31,385,000	48	14,000	49
Maryland	42	44.8	14	361,091,000	21	170,000	17
New Hampshire	43	43.6	6	73,427,000	41	35,000	40
Ohio	44	43.1	4	747,161,000	8	400,000	5
Pennsylvania	45	43.0	9	781,276,000	6	433,000	4
Connecticut	46	42.9	12	230,062,000	29	115,000	21
Indiana	47	42.0	1	350,087,000	22	202,000	11
Massachusetts	48	41.6	21	464,041,000	13	226,000	10
New Jersey	49	38.3	12	418,551,000	14	256,000	9
Vermont	50	34.6	0	26,647,000	50	19,000	49

[1] For 9-mo school year—approximately $750 for year-round tuition.

Mr. DURKIN. Mr. President, I would like to reiterate and add as cosponsors, to make sure that all the people are on, Senators CRANSTON, STONE, MATSUNAGA, EASTLAND, CANNON, MCINTYRE, CLARK, ALLEN, WILLIAMS, ABOUREZK, HATHAWAY, FORD, RIEGLE, INOUYE, HART, HUDDLESTON, and HASKELL.

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

Mr. DURKIN. I yield.

Mr. THURMOND. I will be glad to add my name to this amendment.

Mr. DURKIN. I would be happy to have the Senator from South Carolina as a cosponsor.

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

Mr. CRANSTON. Mr. President, I would like to speak just briefly in support of this amendment which I cosponsor. The amendment offered is the same as that which Senator DURKIN and I introduced, as part of amendment No. 448, earlier this year. When considered by the full committee, this amendment was deleted from the committee bill by a 5-to-4 vote.

I believe that many of the people who have had the most difficulty in adjusting to society after having served in the Armed Forces are those who did not get into the "system" early enough. This measure would provide to these individuals an additional opportunity for them to complete their education. To force many of these veterans to interrupt their education, because of the termination of the delimiting date would be unwise.

I believe strongly that moneys spent in order to assist these veterans in completing their programs of education will be a good investment and a wise expenditure.

In 1966, when the post-Korean conflict GI bill was first enacted, the amount of allowance provided—$100 a month—was less than the amount originally provided under the Korean conflict GI bill enacted into law in 1952. Many veterans discharged before 1970 found they just could not go to school under those circumstances and, as a result, they did not get started. It was not until 1970—4 years after the date of enactment—when benefit rates were increased by 35 percent—$175 per month—that the GI bill began to provide, to some extent, sufficient assistance to mitigate the expenses of obtaining an education.

In addition, it is likely that for many years many or most of these veterans—especially those discharged between 1955 and 1966—were unaware of their entitlement to benefits.

In 1976, veterans were granted an 8-year delimiting period. In 1974, this period was extended to 10 years—an additional 2 years. My colleagues will recall that in 1974, the GI bill allowances were substantially increased—from $220 a a month for a single veteran to $270 a month. As a result of this increase and the publicity surrounding the 2-year expansion in the delimiting period, many veterans became aware of their short remaining delimiting period and commenced their education.

Mr. President, I recognize that the GI bill is not meant as a lifelong benefit. However, in light of the attending circumstances, I believe quite strongly that it would be wise to enable those veterans who were and are enrolled in full-time training at the time their delimiting date passed or passes, to be given the opportunity to continue full-time study in order to complete their education. I believe such expenditures would be a sound investment.

Thus, for the reasons specified and others voiced by my colleagues, I urge adoption of this amendment. I wish to congratulate my colleague from New Hampshire (Mr. DURKIN) for his outstanding and steadfast efforts on behalf of those whose delimiting period has passed. He has been advocating and working to achieve a delimiting date ex-

tension since he first came to the Senate, and has been a truly worthy champion of this cause.

Mr. DURKIN. What amendment 1433 does is to extend the delimiting date for 2 years only for those veterans who are full-time students at the time their benefits expired, and who continue in a full-time education program.

Benefits will be provided at a rate of 50 percent in the first year of extension, and 33 percent in the second year. The only exception to the full-time requirement is where the veteran is employed in a public safety capacity and is a part-time student in the LEAA education program.

We stress this is not a blanket 2-year extension date but rather designed to help those who otherwise would be unable to fulfill their education as a result of the expiration of the benefits.

This amendment was adopted by the Senate last year. In fact, a more complete extension of the delimiting date was adopted by the Senate last year but, unfortunately, it died in the House in the last few minutes of the session.

I point out the amendment in the committee was narrowly set aside 5 to 4 in the committee, because of the desire, I think, on the part of some for more information. I think that information has been forthcoming. Mr. President, at this point I reserve the remainder of my time.

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

Mr. DURKIN. I am happy to yield.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the amendment offered by my good friend and colleague, the Senator from New Hampshire (Mr. DURKIN), to extend the delimiting period by 2 years for certain veterans. As a cosponsor of amendment No. 1433, I want to emphasize that this is a limited extension which is designed to meet the readjustment needs of those veterans who are and have been earnestly pursuing a full-time program of education. These are veterans who are being denied the opportunity to complete their education because of the expiration of their benefits under the GI bill educational assistance program.

This amendment—which I supported in committee and which was rejected by a vote of 5 to 4—is a reasonable extension of the delimiting period.

The amendment would extend the delimiting period by only 2 additional years. Benefits in the first year of extension would be restricted to 50 percent, and to 33 percent in the second year of extension. Moreover, the amendment is applicable only to veterans who were enrolled as full-time students in an approved education program at the time of the expiration of their delimiting date. The full-time status of these eligible veterans is indicative of their commitment to pursue a program of education and training which will facilitate a more successful transition to gainful employment and living in our peacetime society.

The purpose of veterans education and readjustment programs is to assist the veteran in making the transition from military to nonmilitary life, and to restore to the veteran the educational and training opportunities which were either lost or denied because of wartime service. There are those who contend that 10 years constitute an ample time for a veteran to make this transition from military to civilian life. I believe that for the Vietnam-era veteran, especially, the controversy surrounding that war created numerous and peculiar difficulties and hardships for them to initiate, maintain, and/or complete their program of education and training within the restrictive 10-year time frame.

Unlike our veterans of World War I, World War II, and the Korean conflict, our returning servicemen from the Vietnam combat were confronted with a highly depressed economy and a society prejudiced against them. Employers were reluctant to hire them. The August 1977 unemployment figure for Vietnam-era veterans between the ages of 20 through 34 was 7.8 percent. For those veterans between the ages of 20 through 24, the August unemployment rate was 14.4 percent as compared to 10.5 percent for nonveterans in the similar age group.

The need for a college education and training has never been more pronounced as during the period before and after the Vietnam era. Of the 6,902,146 post-Korean conflict and Vietnam-era veterans who have used their GI bill education benefits through November 1976, approximately 57 percent have taken college level courses. Thirty-five percent were engaged in postsecondary education not leading to a standard college degree.

With the rise in monthly education benefit levels approved by the Congress in 1970, 1972, and in 1974, participation rates of veterans utilizing their GI bill educational assistance allowances have also increased. To this date, Vietnam-era veterans have participated in VA educational assistance programs at a rate of 64.3 percent—greater than the participation rate of 59.1 percent among post-Korean conflict veterans, and greater than the final participation rate of 50.5 percent for World War II GI bill veterans and 43.4 percent for Korean conflict veterans.

It is notable that under the present GI bill, the college-level participation rate of Vietnam-era veterans of 35 percent is more than twice that of the World War II veterans' rate of 14.4 percent, and also exceeds the 22 percent participation rate of Korean conflict GI bill veterans.

Recent figures indicate that the number of veterans in training under the GI bill are declining. To some degree, the decline in participation rate is attributed to the inability of veterans to complete their education due to the expiration of their delimiting date and consequent loss of educational benefits.

By the end of November 1976, nationwide, approximately 1,149,177 veterans were in training under the GI bill, as compared to 1,739,495 veterans in November 1975. Between November 1975 and November 1976, in the State of Hawaii, there was an 18-percent decrease in the number of residents in training under the GI bill.

With the expiration of the delimiting date on May 31, 1976, an estimated 483,000 veterans who were enrolled in educational programs under the GI bill lost their entitlement to education benefits. In many instances these veterans, upon their discharge, were prevented from initiating or continuing their education programs. Justifiable reasons include conflicting work-study schedules, pressing family obligations, economic hardships, poor health, and the very special problems inherent in making the readjustment to civilian life.

Adoption of this amendment to provide a limited, 2-year extension of the delimiting period for veterans of full-time status as students in higher learning institutions will enable thousands of veterans to complete an education that is both valuable and vital to their future and to the future benefit of our country. It should be stressed that for every dollar spent for veterans education under the GI bill, the Federal Government has received from $3 to $6 in tax revenue paid by those veterans with better education and higher paying jobs.

I urge my Senate colleagues to vote "aye" on the Durkin-Matsunaga amendment.

Mr. DURKIN. Mr. President, I thank the Senator.

I yield to the Senator from Oklahoma. I saw him on his feet. In my prepared statement it covered the budget allocation. This falls well within the amount under category 700, falls within the budget, as I am sure the Senator from Oklahoma knows.

Mr. BELLMON. Mr. President, was I recognized on my own time?

Mr. STAFFORD. I would be happy to yield 15 minutes of the opposition's time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I would like to ask a question of the Senator from New Hampshire at a point later on. Before I do that, I would like to point out that during the time we were developing the 1978 fiscal year budget it became clear there was not enough money available to fund all the veterans' initiatives which had been proposed.

The second budget resolution has provided $19.9 billion of budget authority, and $20.2 billion in outlays. This is an increase of $800 million in budget authority and an increase of $1.1 billion in outlays over the President's budget. That is a very generous treatment of this function.

Within the congressional budget totals is room for—and I will list these programs: The continued funding of all existing veterans' programs; actual cost-of-living increases for all veterans' compensation, pensions, and GI bill program beneficiaries; hospital construction and medical care legislation; and new GI bill benefits and pension reform legislation.

Those are the four categories. Funding existing programs, cost-of-living increases, hospital construction, and the new GI bill benefits and pension reform legislation, but there is no mention of this program for changing the delimiting provisions.

The second budget resolution left room for $1.5 billion in budget authority and $1.4 billion in outlays for new entitlement legislation. It was assumed that these amounts would allow for cost-of-living increases for all veterans entitlement programs with a minimum of $0.5 billion for real program growth. To date, Senate-passed legislation totals $277 million in budget authority and $422 million in outlays, leaving $1,075 million in budget authority and outlays for new entitlements, including pension reform legislation this item was acknowledged to be of high-priority to the Veterans' Affairs Committee as indicated in its March 15 report and subsequent letters to the Budget Committee. The Congressional Budget Office now estimates the entitlement cost of S. 457 to be $820 million in budget authority and outlays for fiscal 1978, thus leaving $255 million available for pension reform or other new entitlement initiatives.

All I want to do is bring to the attention of my colleagues that any further amendments which increase GI bill benefits could substantially reduce the possibility of passing other major entitlement legislation measures such as pension reform, or could even exceed the budget allocation for the veterans' benefits and services function. The amendment by the distinguished Senator from New Hampshire (Mr. DURKIN) would restore the delimiting date provision that was in the original version of S. 457. If adopted, this amendment would cost $200 million, and use up virtually all the room left in this function except $55 million, which would be left for other entitlement legislation, unless offered as a substitute for the accelerated entitlement provision of the bill.

The question is that, because of the high priority placed on pension reform legislation by members of the Veterans' Committee, I wonder if they have worked out a pension reform provision that is going to be offered to the Senate, or whether they have made the decision to go for the delimiting provision such as Senator DURKIN's amendment provided for, and will not be bringing pension legislation to the Senate this year. There is room for one or the other, but not both.

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

Mr. BELLMON. I yield.

Mr. HEINZ. I ask unanimous consent that Mark Bisnow of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. BELLMON. Will the Senator from New Hampshire respond to the question, please?

Mr. DURKIN. Yes, I would be happy to.

First, I make a similar request for Craig Wolfson of Senator STONE's staff.

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

Mr. DURKIN. The Senator's figures are correct; there is $254 million left, and the CBO informs us that this proposal would cost $200 million, leaving the $54 million.

But the chairman of our Veterans' Committee, Senator CRANSTON, has asked that I allow him to reply on the pension question, so I defer to my chairman, the distinguished Senator from California.

Mr. BELLMON. Could we get the attention of the Senator from California on this question, then, The question is, if the Senator will allow me, will the committee attempt to obtain both pension reform legislation and the Durkin amendment in 1978, the point being that there is not money enough in the budget for both?

Mr. CRANSTON. Mr. President, first let me say that we did advise the Budget Committee, on which I serve, in a March 15, 1977, report, that we were quite apt to come out with delimiting legislation. Specifically, our report stated:

> Considerable support continues to be expressed in the committe and in Congress for legislation to extend the present 10-year delimiting period. It is likely that in this session of Congress the committee will favorably respond to requests to consider legislation which would extend this delimiting period.

So we did call attention at that time to that possibility.

With regard to pension reform, that the report stated:

> The Committee expects that legislation reforming the present pension program along the lines of the 94th Congress' S. 2635 will be passed . . . enactment would cost an estimated $500 million in fiscal year 1978, assuming a mid-fiscal-year effective date of April 1, 1978.

That estimate was based on the best information then available from the Congressional Budget Office.

But passage of the Durkin amendment—an improvement in the GI bill program which the committee clearly foresaw and highlighted—does not preclude enactment of pension reform.

My colleague from New Hampshire has worked hard to draft an extension of the delimiting period to assure that it would fall within the levels of funding established by the first and second concurrent resolutions on the budget. He has done that.

The committee specified in its first crosswalk that it would be allocating to the Health and Readjustment Subcommittee sufficient funds to allow Senate consideration of the delimiting date amendment. It has so specified in its second crosswalk, and in the amended second crosswalk filed today.

I would now like to explain where the committee stands with respect to pension reform.

A major priority of the Veterans' Affairs Committee in the 95th Congress has been, and will remain, the equitable restructuring of the need-based pension program. In Public Law 94–432, enacted in September 1976, the Congress declared that the present pension program—

First. Does not provide sufficient assistance to meet the needs of some eligible veterans and survivors;

Second. Has developed some inconsistencies, inequities, and anomalies which prevent it from operating in the most efficient and equitable manner; and

Third. Subjects many pensioners annually to reductions in their pensions.

Previously, in December 1975, the Senate had unanimously passed S. 2635, a comprehensive pension reform measure. However, the House did not act on this measure before the end of the 94th Congress, with the result that the inequities, inconsistencies, and anomalies of the present program persist. When I became chairman of the committee, I instructed staff to examine the previous pension-reform measure, S. 2635, and to draft an equitable restructuring measure based on the principles set forth in the committee report on S. 2635 (No. 94–532).

In carrying out its responsibility, the staff has adopted the central concept of S. 2635, but has altered the provisions of that bill in many substantive and technical respects. S. 2635, you may recall, was based on the concept of the guaranteed annual income. A basic annual income standard is set for an eligible veteran or surviving spouse reduced dollar-for-dollar by outside income. The income standard for a veteran without dependents in S. 2635 was $2,700 per annum, considerably above the maximum pension payable at that time. S. 2635 also equalized benefits between surviving spouses and veterans, and provided for substantially increased dependents' allowances. It reduced the number of income exclusions in current law and made other substantive changes consistent with the principles of a need-based income maintenance system. Finally, it provided for annual automatic cost-of-living increases, at the same percentages as that adopted for social security, for those pensioners electing the "reform pension" and for those choosing to remain under current law—or "old law."

While S. 2635 probably would have greatly improved the pension program, it was evident to committee staff that it was deficient in a number of ways, and they worked at length to assure that the new pension restructuring bill would operate in all respects in an equitable manner. Clearly, it was necessary to increase the income standards to take into account changes since 1975 in the Consumer Price Index and the poverty threshold. Rather than simply multiplying by the percentage increase, however, staff examined the relationships between various income standards—for example, the ratio between the income standard for a veteran alone and one who has one dependent. Staff also examined the

equalization of benefits between a veteran and surviving spouse and recommended certain modifications. The additional amount payable for additional dependents was also scrutinized, as well as the exclusions from income. The staff paid special attention to the difficulties caused by the lack of coordination between payments under social security and the veterans' pension program, which under current law may result in a pensioner who also has social security benefits failing to receive the full benefit of a cost-of-living increase in his or her social security benefits. The bill as drafted provides for annual cost-of-living adjustments in the new program, administered in such a way that such an effect cannot occur. In every respect, this bill is not only a great improvement over the present pension system but, in my estimation, far more equitable than was S. 2635.

This process required many months of staff time, and about eight drafts. The staff of the committee has consulted at every step with the staff of all members of the committee, and on numerous occasions with representatives of veterans organizations.

In the course of considering various provisions of the many drafts, staff requested informal cost estimates from CBO. Since April 1977, CBO has provided the committee with about eight such estimates on various proposals.

About 2 weeks ago, the bill, approaching final form, was circulated, with the most recent CBO cost estimate then available, to the members of the committee with requests to consider it for cosponsorship. Six members of the committee agreed to cosponsor. Shortly thereafter, on October 11, 1977, CBO informed the chief counsel of the committee that all previous estimates, upon which the committee staff had relied in preparing the final draft of the bill, contained serious errors and were inoperative, and that a corrected estimate was in process. The previous estimate of the cost of the final draft version was $207.1 million for the first full fiscal year and it showed declining costs over the next 3 fiscal years. The corrected estimate showed a fiscal year 1978 cost of $169.8 million, with $597.2 million for fiscal year 1979—about three times that of the previous estimate—and sharply increasing costs for the next 3 fiscal years up to $1.18 billion in fiscal year 1982.

So, rather plainly, we still are not certain of our ground, and are having to review the matter in the light of continuing CBO changes.

We have since—on October 17, 1977—received a second estimate from CBO correcting the estimate of October 11, and now showing a fiscal year 1982 cost of $663.3 million. As you can imagine, our faith in the reliability of the CBO estimates is quite shaken at the moment.

We have a lot of confusion in our calculations for reasons beyond our control, and I have requested, as a technical service from the administration, a cost estimate for purposes of comparison with the CBO estimate. This estimate will be prepared using both a short-term—5 years—computer model—similar to that used by CBO—and a long-range model developed by OMB and VA working together.

Regarding the Durkin amendment, there is sufficient room in the function 700 level to accommodate that amendment.

Mr. BELLMON. Does the Senator from California, based on the information he has given, expect that pension reform legislation will be reported to the Senate by January 1, 1978? I ask the question because, as I am sure the Senator realizes, unless legislation is reported by January 1, it would have to have the effective date of October 1 or later.

Mr. CRANSTON. It is not possible to do it before January 1 for the reasons I have indicated. We will aim to report it after May 15, and that means—under the Budget Act—that we will not have anything earlier than an October 1, 1978, effective date.

Mr. BELLMON. So the committee does not anticipate both the Durkin amendment and pension reform being in fiscal year 1978.

Mr. STAFFORD. Will the Senator yield briefly to me?

Mr. CRANSTON. I yield.

Mr. STAFFORD. I want to confirm my understanding of the situation as has been expressed by the distinguished chairman of the committee, and reiterate that the committee, and the committee staff in particular, has had a very difficult time in trying to get accurate figures, accurate projections, to develop equitable and responsible figures for any future pension reform the committee might wish to present.

Mr. BELLMON. Mr. President, let me point out that this situation, I believe, is typical of what has happened in the Senate in the past. We often go into programs without thoroughly understanding the costs, and we are appalled later on to see how much money we will spend. I would like to congratulate the chairman of the Veterans' Committee and the distinguished ranking member for getting the facts and for being candid in telling the Senate that the costs may have risen to higher figures than expected, and, on this basis, will want to review the program further.

Mr. CRANSTON. I thank my distinguished colleague on the Budget Committee for his very generous remarks.

Mr. BELLMON. Mr. President, however, certain facts regarding S. 457 are worth my summarizing.

First. S. 457, as reported, presents no major budget problems—that is, it fits within the existing budget resolution for fiscal year 1978.

Second. There is one major piece of veterans legislation which has not yet reached the floor of the Senate, and that legislation involves pension reform.

Third. On numerous previous occasions the Veterans' Committee, including in particular the committee's chairman, Senator CRANSTON, has urged the Budget Committee in setting fiscal year 1978 totals to be sure and leave room for pension reform, a very high priority item. Earlier this year the Veterans' Committee wrote a "Dear Colleague" letter as part of our debate on the first budget resolution, and that "Dear Colleague" letter listed as the first major area requiring additional funds the area of pension reform. Let me quote:

> The 94th Congress, in Public Law 94-432, found inadequacies and inequities in the veterans pension system. The Committee plans to proceed with a reform measure similar to that which passed the Senate last year (S. 2635) in order to provide a system under which pension reductions would not occur when Social Security cost-of-living increases are made, to improve assistance to the large number of veterans below the poverty line, and to elimintae inequities in the present structure before an expected wave of World War II veterans enters the program.

The Budget Committee and the Congress, in setting totals for the veterans function, took into account the expressed desires of the Veterans' Committee and left room for pension reform. Passage of S. 457, as reported, would still leave about $256 million in the budget, and that amount would accommodate the anticipated cost of pension reform.

Fourth. On the floor today there is to be proposed an amendment sponsored by Senator DURKIN which would extend the delimiting date to 12 years. This amendment was defeated inside the Veterans' Committee, and if adopted here on the floor, would add $200 million to the cost in fiscal year 1978. Technically, there is room for this amendment, but there is no room for anything else; namely, pension reform.

Fifth. There is only one possibility for accommodating the Durkin amendment and pension reform without breaking the fiscal year 1978 budget, and that involves juggling the effective date of pension reform, moving the costs to 1979 and thus hiding the true budget impact of this entitlement legislation. Such a gimmick clearly violates the spirit of the Budget Act and appears unnecessary. The Senate was told to give pension reform a high priority. We accommodated the desires of the Veterans' Committee and its chairman by leaving room for pension reform. Now, we run the risk of allowing gimmickry to damage fiscal responsibility in the cutyears.

During certain seasons, Senators seem surprised and frustrated by the limited ability to cut into budget totals because Federal spending involves entitlement programs put into law in some prior year. Well, here is a perfect example. Both delimiting and pension reform are entitlement programs. If we hide the true impact of these programs, we are merely adding to our 1979 frustrations.

Members of the Veterans' Committee and the Senate can certainly choose to spend the available funds in a different manner than previously expected. I am not opposed to that. I merely ask that if we choose extension of the delimiting period rather than pension reform, let us not try to have both programs by hid-

ing the true cost. Let us not play games with the budget cost—if a program is truly worthy, let us evaluate it in the light of its true cost.

It is only fair in view of the above facts to tell my colleagues that in my opinion, we are not voting for or against an extension of the delimiting period when we vote on the Durkin amendment, but rather we are voting for which of the two programs we would rather have—an extension of the delimiting period or pension reform? Budgeting is not done in a vacuum, it involves choices and on the Durkin amendment we face one of those choices. I will vote against the Durkin amendment and will urge my colleagues to do the same.

Mr. STAFFORD. I am happy to yield to the distinguished Senator from South Carolina, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, I wish to add my endorsement to this proposal and to explain my position on what has always been a difficult issue in the area of veterans legislation. On July 22, when the Veterans' Affairs Committee marked up S. 457, I opposed an additional extension of the current 10 year delimiting period. My reason for doing so was that I considered other initiatives in the area of veterans legislation, particularly pension reform, as occupying greater priority for the limited funds available to the committee. It has recently developed that cost estimates furnished by the Congressional Budget Office on the committee's pension reform proposal were inadequate to permit action by the committee in this important area this year. Because of this development, approximately $200 million, previously committed to pension reform, will now be available to meet the cost of the delimiting proposal now before the Senate.

There can be no question of the value that the GI bill has meant to our Nation. I am also aware of the mounting readjustment problems faced by the veterans of the Vietnam war who will be benefited greatly by this extension. However, I am committed to the proposition of according first priority to the greatest need. I still feel that pension reform remains among the greatest needs in the area of veterans legislation and regret that the committee was unable to move in this important area at this time.

I am confident, however, that the Nation will realize a meaningful return for the investment which this amendment proposes to make. The veterans of Vietnam have paid a great price. It is among our most solemn responsibilities to assure that everything that can be done, is done to assure their satisfactory readjustment into our society.

I urge that this deserving proposal receive the full support of my colleagues.

Mr. HART. Mr. President, I would like to commend the distinguished members of the Senate Veterans' Affairs Committee for their continued efforts to provide for the readjustment needs of Vietnam-era veterans.

I would also like to urge my colleagues to support an important amendment offered by the able chairman of this committee (Mr. CRANSTON) and the distinguished Senator from New Hampshire (Mr. DURKIN) which would extend for 2 years the delimiting period for veterans who are attending an educational institute full-time, but who have not completed their course of instruction within 10 years after separation from military service.

Under the Cranston-Durkin amendment, benefits paid during the first year of the extended period would be paid at 50 percent of the standard rate and 33 percent in the second year.

I believe this extension of GI bill educational benefits to veterans attending school full-time, who face a loss of earned educational benefits because of the current delimiting date, is a necessary action to assist many Vietnam-era veterans who could not otherwise afford to continue their education.

During the Vietnam war, the selective service laws placed an unfair burden on less fortunate members of our society. Over 50 percent of the draft age males in this country legally avoided military service during this conflict. Most of these young men spent the war years in the relative comfort of a college campus, while others of lesser affluence or opportunity were faced with the task of fighting an unpopular war.

Because so many young men were able to avoid military service, the Department of Defense lowered its minimal acceptance standards for military service by initiating its "Project 100,000" in 1966. Under this program, hundreds of thousands of educationally disadvantaged young men were thrust into military service. The casualty statistics of the Vietnam war demonstrate the cruel inequity of that policy. Draftees accounted for over 60 percent of the Army casualties during the conflict by 1969. Blacks accounted for over 20 percent of this number, despite the fact that they comprised only 12 percent of the Armed Forces population at the time.

For those who returned from Vietnam, many faced severe readjustment problems which included high unemployment, an unsympathetic society and inadequate educational opportunities. For those veterans who were educationally disadvantaged before entering the service, the readjustment to civilian life became an even more difficult problem.

Mr. President, this Nation has an obligation to insure that the veteran whose life was disrupted by the Vietnam war has an opportunity to receive vocational or college training to help compete on an equal footing with his or her peers. Clearly, we have not fulfilled our responsibilities in this regard. According to a Bureau of Labor Statistics unemployment report for the third quarter of this year, the Vietnam-era veteran is faced with a significantly higher rate of unemployment than the nonveteran. The September unemployment rate among Vietnam-era veterans aged 20 to 34 is 7.7 percent. For the recently discharged veteran aged 20 to 24, the unemployment rate is 20.1 percent. This compares with an unemployment rate of 9.1 percent for nonveterans in this age category. For young blacks recently discharged from the service, the unemployment rate has reached a startling 30.5 percent.

Mr. President, extending the delimiting period by 2 years at a reduced rate is the least we can do to provide those veterans pursuing an education an opportunity to complete their training. Only in this way will they be able to obtain meaningful employment and provide a secure future for themselves and their families.

Therefore, I urge my colleagues to support the Cranston-Durkin amendment.

Mr. DURKIN. I thank the chairman of the committee and the Senator from South Carolina. I am prepared to yield back the remainder of my time, if everyone else is.

Mr. STAFFORD. Mr. President, I have no other request for time on this amendment. I am prepared to yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I am prepared to yield back my time. I cannot say that the committee accepts the amendment though I will vote for the amendment. I think it is a very good amendment. I supported it in committee, and yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 954

(Purpose: To provide veterans' benefits to women pilots of World War II.)

Mr. GOLDWATER. 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 Arizona (Mr. GOLDWATER) proposes an unprinted amendment numbered 954.

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

The PRESIDING OFFICER. Without objection, it is ordered.

The amendment is as follows:

On page 32, between lines 13 and 14, insert a new title as follows:

"TITLE IV—WOMEN'S AIR FORCES SERVICE PILOTS

"SEC. 401. (a) Section 106 of title 388, United States Code, is amended by adding at the end thereof a new subsection as follows:

"'(f) Service as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II) shall be considered active duty for the purposes of all laws administered by the

Veterans' Administration. Any person who served as a Federal employee in the Women's Air Forces Service Pilots shall be deemed to have been discharged or released from active duty on the date her Federal employment as a pilot in such organization terminated, as determined by the Administrator after consultation with the Secretary of the Army.'.

"(b) No benefits shall be paid to any person for any period prior to the date of enactment of this title as a result of the amendment made by subsection (a)."

On page 32, line 14, strike out "Title IV" and insert in lieu thereof "Title V".

On page 32, line 15, strike out "SEC. 401" and insert in lieu thereof "SEC. 501".

On page 32, line 22, strike out "and".

On page 3, line 1, after "310" insert a comma and the following: "and the provisions of Title IV".

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

Mr. GOLDWATER. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Mr. Chester Finn, a member of the staff of the present occupant of the chair, Senator MOYNIHAN, be granted the privileges of the floor during the consideration of the pending legislation.

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

Mr. GOLDWATER. Mr. President, might I proceed for 5 minutes?

The PRESIDING OFFICER. The Senator from Arizona has 30 minutes.

Mr. GOLDWATER. Mr. President, this amendment passed last year. I do not believe it needs any lengthy explanation.

My amendment would bring the WASP's under the benefits of the VA.

These ladies, known as the WASP's, or the Women's Air Forces Service Pilots, have several champions in the Congress. Over 150 Members of the House have sponsored, cosponsored, or publicly announced their support of the WASP legislation. I am privileged to have introduced a similar bill in the other body which is cosponsored by 29 other Senators.

Mr. President, I believe these ladies have proven beyond any doubt that they are entitled to be called veterans.

Although they volunteered for service as civilian pilots with the Army Air Corps, they were for all practical purposes a part of the military service.

They were trained to be military officers. Their training from the start included no less than 66 hours in military instruction. This special training was extended to 137 hours in March of 1944.

Army regulations provided that the girls had to meet the same physical standards as male pilots. After graduation as flying cadets, they went to transition training with the Ferrying Command. According to Air Corps directives, they were given transition to progressive types of aircraft "under the same standards of individual experience and ability as applied to any other pilot."

All check rides were given by Air Corps officers, using the same service-pilot standards that applied to men.

As cadets, the women received about the same compensation as male students except for not receiving insurance benefits. After assignment to operational duties, women pilots received somewhat less than a second lieutenant flight officer did. The women had to pay for their own quarters and meals, and did not enjoy any right to advancement in pay depending upon their length of service.

As cadets, the WASP's were required to live in barracks on the training base. Regular inspections were made by the Air Corps. They were required to follow as closely as possible the same training schedules established for male flying cadets.

Women cadets were treated in illness by Air Corps flight surgeons. Dentists from an Army base hospital visited their training base regularly.

After graduation, uniforms were provided women pilots as in the case of all other flying personnel. They were required to wear this uniform by Air Corps regulations.

The WASP were comparable to military officers in many other respects. They were sworn in with the same oath of office as given male officers. They stood formal inspection. They could not leave base without a pass. And, they were on duty 24 hours a day by written military memorandum.

Unlike other civilians, women pilots were subject to military discipline. They were not given a court-martial, but Air Corps regulations established military procedures in cases involving discipline of WASP's.

These regulations provided that cases involving disciplinary action for infraction of a flying regulation, or involving the possible discharge of a WASP from the service, would be brought before a military board of three officers, whose recommendations would then be presented to the commanding officer of the military base for his final decision.

In addition to being subject to military discipline, women pilots served on flight safety boards convened to punish other military pilots.

As far as their service is concerned, women pilots performed every kind of flying operation possible with the Continental United States and Canada. They served with the Air Transport Command where they flew 77 types of airplanes, including the multi-engined B–26 and B–29 Super Fortress.

They were used to tow targets for ground troops and airplanes to shoot at. They were used in the weather wing. They did tracking and searchlight missions, simulated strafing, smoke-laying, radio control flying, basic and instrument instruction, and engineering test flying.

If there is any difference between their flying and that of male officers, it is that the ferrying done by women pilots was more dangerous. The official history of women pilots in the Air Transport Command states "that throughout their career the women ferry pilots, for a variety of reasons, concentrated on types of ferrying essentially more hazardous than done by their male colleagues."

The women pilots were asked to fly a preponderance of light, short-range aircraft, concentrating on pursuit planes, although when allowed to do so, they proved their abilities at handling heavier aircraft. In comparison, a large proportion of male pilots at all times were delivering long-range aircraft cross-country.

As the Ferry Command history explains:

> In good weather, any beginner can hold the stick in straight and level flight; the dangers lie in landings and take-offs, which are much more numerous for the light aircraft. The pilot of the little plane has no navigator to tell him where he is, no co-pilot to relieve him, and lacks many instrument aids. Unforecast bad weather which would hardly trouble a B–17 can be disastrous to an L–5.

Thus, the WASP specialized in the delivery of types of aircraft which were especially dangerous to operate. The sad truth is that 38 WASP's lost their lives serving their country.

In this context, I might compare a current Veterans' Administration television plug for its services.

This commercial has a cabbie discussing veterans benefits with a mechanic at a repair shop. The cabbie is telling the mechanic that you do not have to be in any war, but merely in the service for 6 months in the motor pool to get veterans benefits.

Now, here are women pilots who served in wartime at very dangerous work and who are not entitled to veterans benefits because of a technicality they could not prevent, the fact that they were women. In comparison, the VA is today touting the fact that a person is a veteran who did not serve in any war and did no more than ride around for 6 months in a safe job with the motor pool.

This discrimination does not make any sense to me, and I think we ought to give these girls the status they have earned in wartime.

Mr. President, I said the only reason these women were not commissioned as officers is that they were women. This is true.

You see, Air Corps headquarters wanted to militarize the WASP from the start, but repeatedly were told they lacked authority to do so.

For example, on January 11, 1944, the Deputy Chief of Air Staff asked for a study to be made "concerning the legality of commissioning women pilots directly into the Army."

The official answer concluded that women could not be commissioned as pilots because of one reason: They were women.

Congress had authorized the Army to make temporary appointments as officers "from among qualified persons," but the Air Corps was bound by a ruling made by the Comptroller General, who decided that the law "refers to and contemplates men exclusively" and could not be used "as authority for commissioning women as officers in the Army." The Comptroller General argued that it would be "revolutionary" to include women as "persons."

Now, there is reason enough for passing the bill before you. Women could be commissioned as typists, file clerks or nurses, but when they wanted to fly aircraft, women were not even considered to be "persons" in the eyes of the law.

This is the injustice we are now trying to correct.

Mr. President, in order to correct this gap in the law, the Air Corps and the War Department strongly pushed for enactment of legislation to commission women pilots. Air Corps historical studies report the plan for militarization "was continuously a live one until congressional disapproval killed it."

In fact, the Director for Women Pilots, Jacqueline Cochran, was assigned the specific duty of drawing up plans for militarization. Her knowledge that the WASP were destined for militarization can be attributed to the girls under her direction.

It is true, militarization would give the Air Corps greater control over the girls. But this is not the main reason it was sought. According to the official histories, military headquarters wanted to treat women the same as men.

The Air Transport Command history reads as follows:

> Once commissioned, continuity of service would be ensured; as they would be administered under the same procedures as male officers, duplication and differences would be eliminated; discipline would be tightened; in general, their status would be regularized. Women fliers did the same work as army officers. It was work involving real danger of death or serious injury. Military status would give them the advantages of military insurance, death benefits, hospitalization, pensions, and other aids the lack of which, in fact, constituted a form of discrimination against them. In 1942, the Ferrying Division was rapidly commissioning its male civilian pilots; it seemed only logical to do the same with the women.

These are the reasons for seeking militarization of women pilots. In the words of the military service, it was logical. And it would remove discrimination against women.

Mr. President, I urge that the Senate act favorably on the WASP legislation and thereby remedy a past injustice that has been left uncorrected all these years.

Mr. President, this involves the Women's Air Forces Service Pilots who were trained as pilots, receiving the same training as male pilots during World War II, and who were with the Ferrying Command or the Air Transport Command. It was my pleasure to have been an operations officer of a squadron to which these women were attached. When they were first organized, the efforts to obtain commissions for them by Gen. Hap Arnold failed. Repeatedly since that time we have attempted to get them recognized in order to have them receive Veterans' Administration benefits.

Mr. President, 39 of these girls were killed in the process of their flying during World War II. Their funeral expenses had to be borne by their families. They received no veterans' benefits. They were voluntary. They received almost the same pay as a second lieutenant. They were sworn in with the same oath that all of us took who served our country. They flew formations under orders. We had to make 201 files, which is the personnel report we made out on all officers. When they were sent on delivery flights, they flew under the same field orders issued by their commander as all male pilots.

Mr. President, this makes sense to me. At the most, if we take how many veterans amongst each 1,000 avail themselves of veterans' benefits, the remainder of some 800 of these girls might cost $80,000 a year.

Mr. President, I have 29 cosponsors of this legislation in the Senate and there are 150 who are sponsoring similar legislation in the House. I ask unanimous consent to have printed in the RECORD at this point the cosponsors of S. 247, which is the WASP bill.

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

TWENTY-NINE COSPONSORS OF THE WASP BILL, S. 247

Hathaway, Bentsen, Williams, Schmitt, Domenici, Hansen, Randolph, Nelson, Bayh, Metcalf, Bellmon, McIntyre, Dole, Tower.

Hatch, McClure, Anderson, Humphrey, Kennedy, Inouye, Garn, Javits, Helms, Case, Pell, Laxalt, Melcher, Baker, Bartlett.

Mr. GOLDWATER. I will not proceed further, Mr. President, unless someone happens to have a question.

I will say that the chairman was very sympathetic this year. He held very lengthy hearings, listening to all sides. I do not feel he is personally against this, but I feel he has technical problems about it.

I might say in anticipation of any argument that last year this Congress passed a bill which gave veterans' benefits to all Polish people who fought in the Polish Army and who are now American citizens.

I think we can do this much for our own American girls who were citizens during World War II.

Mr. DOLE. Will the Senator yield?

Mr. GOLDWATER. I yield to my friend from Kansas.

Mr. DOLE. I certainly support the amendment of the distinguished Senator from Arizona. I became interested because of his leadership.

Mr. President, for 33 years the United States has neglected to correct a glaring injustice by granting active duty veterans' status to the Women's Air Forces Service Pilots who served their country so valiantly in World War II. This discrepancy has been before Congress at regular intervals since 1944, but we have failed to act.

For this reason, I am cosponsoring the amendment offered by the Senator from Arizona (Mr. GOLDWATER) which would recognize the service of the WASP's and make them eligible for veterans' benefits. This amendment is being offered today to the GI benefits legislation being considered.

It will be recalled by some of my colleagues that only last year we passed H.R. 71, a bill to provide certain veterans' benefits to any citizen of Poland or Czechoslovakia who fought on the side of the Allies during World War II and who has been a citizen of the United States for at least 10 years. An amendment by the Senator from Arizona (Mr. GOLDWATER) was adopted by the Senate. That amendment would have provided the same eligibility for veterans' benefits to the WASP's—women who fought on the side of the Allies and who were born American citizens. Four days later, the WASP amendment was rejected by the House, one of the stated reasons being that no hearings had been held on the question. Those hearings have now been held. The Senate Veterans' Affairs Committee held hearings on May 25; the House Veterans' Affairs Committee held hearings on September 13.

GREAT ACHIEVEMENTS BUT NO RECOGNITION

Mr. President, the record of the WASP's contains ample evidence of often heroic achievements under the most hazardous conditions without exceptions being asked or given because these pilots were women. Unfortunately, it also contains a history of deplorable inequities.

For instance, on October 2, 1944, at Victorville, Calif., an Army Air Corps B–25 bomber crashed and burned. The Air Corps lieutenant pilot, the WASP copilot, and the crew chief, an Air Corps sergeant, were all killed.

The two men received full military honors and their families received insurance payments and other veterans' privileges.

The WASP and her family received nothing.

This WASP was one of 38 who died while flying with the Army Air Corps. In each case the same treatment—or lack of treatment—was experienced by the WASP and those family members who survived her.

It is our badge of national dishonor that on more than one occasion these military pilots "passed the hat" to help defray burial costs of former comrades. Parents and relatives could not even display a gold star because the WASP's rated none of the death or separation benefits of their designated military counterparts.

And, while they took the same oath and flew the same airplanes in performance of the same hazardous flight missions, attended the same drill formations, and were subject to the same regulations and disciplines of their male counterparts, they were paid 20 percent less than male pilots in the Army Air Corps.

WASP'S BELIEVED THEY WOULD BE MILITARIZED

In spite of the danger and death experienced by this group of patriots, the fact is that the surviving WASP's—there are some 800 of these gallant women alive today—accepted these differences willingly because they believed them to be temporary. They anticipated the eventual formal militarization of their unit. When they took the oath, the WASP's

believed they would be commissioned later into full military service.

As the Senator from Arizona (Senator GOLDWATER) pointed out so convincingly when he introduced S. 247, the WASP program proved its merit. The Army Air Corps recommended to Congress in 1944 that the WASP's be officially militarized. This bill was approved by the House Military Affairs Committee and was reported favorably to the House of Representatives. The bill failed to pass, however, due mainly to the opposition of a well-organized lobby of civilian male pilots. The record of that debate is available and revealing. It could not have occurred today. Without the support of Congress, the Army realized it was unfair to allow these women to continue their duties. The Army had no choice but to abolish the organization.

WASP'S STAND APART FROM OTHER WORLD WAR II SERVICE GROUPS

There are still those who oppose WASP recognition. The main reason given is that recognition of the WASP's would force similar recognition of hundreds of World War II splinter groups who served with but not in our Armed Forces.

I do not agree. To me there are too many ways in which the WASP's stand apart from other civilian groups which could and might petition for recognition.

The WASP's were organized and trained from the outset to become a part of the Army Air Corps after being proven operationally effective.

The organization was tested and made to prove its military capabilities before being militarized.

During recruitment of personnel, new members were informed that they were to be militarized.

Members were required to take the same oath of office that the male officers took.

The WASP's were officially sponsored for militarization by the U.S. Armed Forces during the war years.

A special staff officers school was organized in preparation for commissioning its officers.

WASP's were decorated by military orders in military ceremonies. One woman received the Air Medal, a decoration which, by regulation, can only be given to military personnel.

Mr. President, it is my hope that the Senate will act favorably to give long overdue recognition to the Women's Air Forces Service Pilots.

Mr. THURMOND. I ask to be added as a cosponsor, Mr. President.

Mr. GOLDWATER. Mr. President, I ask that the Senator from South Carolina (Mr. THURMOND) be added as a cosponsor.

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

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

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment. No one here, I think, disagrees with the Senator about the valiant service performed by the WASP's during World War II.

The demands and hazards of the flying duty performed by the WASP's are beyond dispute. They logged some 60 million air miles and incurred 38 fatalities. Duty assignments were issued by orders from Army Air Forces headquarters. They were required to wear uniforms. Provisions were made for subsistence allowances and sometimes military quarters at the duty stations.

During the wars in which the United States has been engaged, many other civilians were subject to hazards and dangers while rendering valuable services in support of the Nation's defense. Notable among these groups performing hazardous duty were civilian flying instructors of the Army Air Force, civilian pilots who flew military aircraft under the Air Transport Command, and pilots of the Civil Air Patrol, as well as the Women Air Forces Service pilots. Other civilians who have served on hazardous duty include members of the merchant marine, auxiliary military police, construction foremen with the engineer department, certain Red Cross personnel, certain individuals employed with American Expeditionary Forces in telephone operating units of the Signal Corps and in the Postal Service, civilian interpreters in the Republic of Vietnam, war correspondents, and other civilians serving in such capacities as submarine cable communications experts.

During World War I, other civilians served in the American Secret Service and as employees of Army Ordnance and Signal Corps. Many others rendered service in other capacities which, although perhaps less hazardous, were nonetheless vital to our war efforts. Legislation has been introduced in past Congresses to extend Veterans' Administration benefits to these and certain other civilians who rendered service during a period of war, but, to date, none has been enacted.

Whatever similarities to military service the employment WASP's bore, fundamental distinction remained. As civil servants, they were eligible for Federal employees' compensation for job-related injuries, and, in the event of their death, their surviving spouses and children became eligible for death benefits under this same program. They were issued civilian identification cards, and, as civilians, were docked the value of their Army quarters or subsistence allowances. Their rate of pay was $150 per month during their 3 months' training and $250 per month thereafter, plus overtime. This compares with the $75 per month base pay of aviation cadets and of $125 per month of second lieutenants in effect at that time.

The two most significant ways in which the WASP's, as civilians, differed from the enlisted and commissioned members of the Army Air Forces proper pertained to the disciplinary procedures to which they were subject and the nature of their employment commitment. As civil servants, they were not subject to the military justice system, including summary, special, and general court-martial proceedings, or to military administrative discharge regulations. Disciplinary actions against WASP members, including discharges, were governed by civil service regulations. The WASP director, a civilian, had the final decision regarding all civil service disciplinary actions.

Mr. President, as civilians, WASP's were able to resign from the program at any time. Air Force historical study No. 55, on page 36, indicates that of the 1066 WASP's who began training, 107—about 10 percent—resigned. This does not include those who "washed out" or those who received medical discharges. As those among us who are veterans are fully aware, the inability of military active-duty personnel to resign is, indeed, a most significant, unique characteristic of military service, and permeates all aspects of military life, particularly when, in time of war, one is obligated to serve "for the duration."

Mr. President, the militarization bill introduced into the 78th Congress would have provided an opportunity for the WASP's to enter into active duty as military personnel subject to full military discipline and other terms and condition of military service. But Congress rejected that approach in 1944, and those conditions of service were never imposed on the WASP's. I do not disagree that a principal reason for its defeat was the intensive lobbying by the male civilian pilots employed by the Air Force, who would become subject to the draft and to service overseas when their efforts as civilians were not needed.

But I think that the argument based on the Air Force's legal incapacity to commission the women pilots has another side. The main reason the Air Force found it necessary to propose militarization of the WASP's was to bring them under military discipline. Indeed, it is clear from the record that both Air Force officials and the WASP director believed that it was essential to achieve the controls that militarization would bring. Thus, the quasi-military discipline and regulations under which the WASP's served were practical expedients, preliminary to the eventual militarization sought by the Air Force, and not evidence of "de facto" military status.

Mr. President, when World War II began, a woman could not join the Army except as a nurse. Not until 1943, when the Women's Army Corps bill was enacted by Congress, was it legally possible for a woman other than a nurse to be "part of the Army." At that time, the Air Force was still part of the Army, known as the Army Air Force. It was the most successful service in stimulating women to join, and about 30,000 "Air WACS," as they were called, including about 7,600 commissioned officers, served in a military capacity for the Army Air Force. Many of these women served overseas in hazardous conditions, and some lost their lives. Thus, the charge that "sex discrimination" was the reason the WASP's were not militarized is not a

charge to be laid at the door of the U.S. Army Air Force.

I believe it would be a disservice of the highest magnitude to the veterans of this country if Congress should enact legislation which undermines the powerful and cogent rationale that underlies veterans' benefits—that veterans, by virtue of their service, are entitled not only to our deepest respect, but also a repayment in the form of veterans' benefits for service-connected disabilities, basic economic security, health care, education, assistance in acquiring a home and other readjustment benefits, and burials. These benefits have never been bestowed lightly and, except in certain very exceptional and highly restricted circumstances, they are not bestowed on anyone other than a person who was on active duty in the Armed Forces of the United States, with all of the concomitant obligations, restrictions on personal freedom, and subjection to military authority and discipline which such service, in the best of circumstances, entails.

Mr. President, the precedent-setting effect of granting veterans' benefits to persons classified as civilians would be extremely risky. The Committee on Veterans' Affairs has received mail from individuals who were formerly civilian pilots or in the merchant marine during World War II. Most of this mail is very favorable to the WASP position, and the writers point out that if the WASPS succeed in the Congress, they intend to be next in line. I do not have a precise estimate of the numbers potentially involved, but one estimate of the number of merchant marine personnel still living who served aboard ship under Navy regulations during World War II in hazardous areas is 100,000.

Neither title 38 nor the Veterans' Administration discriminates on the basis of sex. About 600,000 women veterans are eligible for veterans' benefits, and about one-half served during World War II. At the hearing on May 25, 1977, Dorothy Starbuck, the Chief Benefits Director, testified in opposition to S. 247 that she had personally devoted many long hours in preparing the VA report on S. 247, and neither she nor the staff of the VA General Counsel's Office could find a single feature distinguishing the WASP's from other civilian employees of the U.S. Government during that period or from other civilians who participated in the war effort.

Mr. President, these women were not deceived by any action of the Government as to their service. No evidence of a recruiting officer's promise of militarization as an inducement to join the WASP's has been submitted to the committee. I am satisfied that the Air Force acted in a most enlightened fashion in providing these women with valuable training and allowing them an opportunity to serve as civilian pilots for the air transport command.

We should not now rewrite history by "deeming" their service—valiant though it was—as military service, which it was not.

Let me make one final point. The Senator from Arizona states that the cost would not be more than $80,000 in his amendment. I agree, if we are talking only about his amendment. What disturbs me, is what will happen when some of these other groups come forward and get amendments passed? I think we are talking about many millions of dollars, which will be the ultimate consequential cost of adopting this amendment. I shall not raise the point of order that this is not germane. I leave it now in the lap of the Senate. I will vote "no".

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

Mr. CRANSTON. Yes, I yield.

Mr. MELCHER. I ask unanimous consent that Mary Gereau of my staff may be accorded the privilege of the floor during the balance of debate on this measure and all votes thereon.

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

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the name of the junior Senator from New York (Mr. MOYNIHAN), current occupant of the chair, be added as cosponsor and that the name of Senator STEVENS of Alaska be added as a cosponsor.

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

Mr. GOLDWATER. Very, very briefly, Mr. President, I can agree with everything the chairman has said. If these other groups he has mentioned want to come in and apply for this, I shall support them. I think any person who supports his country during a time that the country needs support is entitled to the benefits that we provide to those who went through the formality of being drafted or enlisting or attending the schools and so forth. But they have not. I have taken occasion, several times now, to try to get these benefits given to our women pilots.

I might say that the first women pilots I had assigned to my group were completely volunteers. They did not wear uniforms. They wore what they wanted to wear. They came to work when they wanted to. The only requirement was that each had over 400 hours and a 400-horsepower aircraft, which was hard to find.

It was rather natural when General Arnold and Jackie Cochran started to move this program out into the broad field of women that wanted to fly, that they probably did not think at first of their not being made officers or enlisted men. Although General Arnold tried through 1944, until almost the time of his death, to get this changed, the effort has been going on constantly since 1944.

Mr. President, contrary to what the chairman has told us, and I will only read one sentence, this was an order issued by headquarters, Fifth Ferrying Group, Ferrying Division, Air Transport Command, Love Field, in 1943:

During time of war, all persons accompanying or serving with the Armies of the United States in the field, whether within or without the territorial jurisdiction of the United States, are subject to military law.

Mr. President, I ask unanimous consent that this entire order be printed at this point in the RECORD, because these girls were subject to court martial according to this document.

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

HEADQUARTERS, 5TH FERRYING GROUP, FERRYING DIVISION, AIR TRANSPORT COMMAND,
Love Field, Texas, March 15, 1943.

MEMORANDUM

Subject Civilian Personnel Subject to Military Law.

To All civilian personnel.

The United States is at War. As a result of your employment at this Post, you are "serving with the Armies of the United States".

For your information and guidance, we quote from a memorandum received from Army Air Forces, Headquarters Air Transport Command, Washington, D.C., dated February 26, 1943:

"1. During time of war, all persons accompanying or serving with the Armies of the United States in the field, whether within or without the territorial jurisdiction of the United States, are subject to military law. (A.W. 2)

2. Within the limitations specified by A.W. 2, civilians on duty with the Air Transport Command, as well as civilian employees of a contractor doing work under the supervision of the Air Transport Command, are subject to military law. Such personnel may be tried by court martial if they violate any applicable provisions of the Articles of War. The following are not applicable to civilians: A.W. 54, 55, 56, 57, 60, 62, 65, 67, 71, 72, 75, 84, 85, 87 and 95.

3. Whether in a given case recourse should be had to trial by court martial or to administrative action is a matter within the discretion of the Commanding Officer concerned.

4. A civilian employee of the War Department, or a civilian employee of a War Department contractor, while accompanying or serving with the armies in the field, should not be allowed to resign if the loss of his services would prejudice the military establishment.

5. Even though the resignation of such a civilian is accepted, he may nevertheless be subject to military law if he in fact still accompanies or serves with the Armies of the United States in the field."

For the Commanding Officer:

C. R. LEDBETTER,
Personnel Officer.

Mr. GOLDWATER. Mr. President, let me close by saying that the only thing wrong with these girls is that they were girls.

Up until very recent years, we never allowed women in the armed services. We looked down on them. I have yet to admit my first girl to an academy. I may give in sometime before I am through, but I am not inclined that way.

But I will say this, we graduated 10 girls at Williams Air Force Base last month, a training base in my State. I have flown formation with them. I observed them and they are just as good as any men we have.

I say the same thing about the girls I flew with in World War II.

I do not think any man wants to see a woman go to combat, but they may be on the verge of it and we will have that fight when that comes along.

I urge my colleagues in this body to override the arguments of the chairman, arguments which I will buy, and which I will help him overcome, should the time ever arise.

But I will yield back the remainder of my time, if my opposition is willing to, and then we can have an up or down vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CRANSTON. Yes, I would like to make one statement.

Mr. President, the administration testified that these WASPS were not subject to military law. They could resign, quite a few did resign, and none were court-martialed.

There is a difference of opinion on this, obviously.

Mr. GOLDWATER. I might observe that they were very well behaved.

Mr. CRANSTON. 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 of the Senator from Arizona.

So the amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 955

(Purpose: To amend S. 457; add new section 204 to give two-year extension of delimiting date to needy Vietnam era veterans.)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 955.

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

The PRESIDING OFFICER. Without objection, it is ordered.

The amendment is as follows:

SEC. 204. (a) Section 1662 of title 38, United States Code is amended by inserting at the end thereof the following new subsection;

"(f)(1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education within the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country; and

"(D) such veteran demonstrates that, on the date of application for the extension of the delimiting date under this subsection, he or she is unemployed or underemployed with an income at or below the Intermediate Level Consumption Budget, as defined by the Bureau of Labor Statistics.

"(2) Under no circumstance may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

Mr. MELCHER. 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. MELCHER. Mr. President, in calling up amendment 1415, and I have sent a modified amendment to the desk, the amendment is sponsored by Senators STEVENS, RIEGLE, MCGOVERN, HOLLINGS, CLARK, HUDDLESTON, ANDERSON, TOWER, and myself.

This modified amendment No. 1415 to S. 457 is a very limited extension of the delimiting date to a group of deserving Vietnam era veterans who have been virtually denied the opportunity to utilize their educational entitlement because of circumstances that existed at the time of their discharge.

I want to make it clear, Mr. President, that it is not a blanket 2-year extension covering all veterans whose time has expired.

Those service personnel who were discharged after August 5, 1964, the date of the Gulf of Tonkin resolution, and before 1970 when the increased subsistence payments were enacted, could not, in many instances use their educational benefits. The law in effect for that period would have given their $130 per month out of which they were expected to pay for tuition, books and other expenses.

Mr. President, even back then, $130 a month to pay for tuition and living expenses was such that many veterans found it impossible to utilize their GI benefits.

This was totally unrealistic, except for a veteran who had a full-time job and could attend night classes, or who, for other reasons, had assets that could be used.

The fact that only 10 percent of the educationally disadvantaged veterans discharged during this period fully utilized their educational benefits is eloquent evidence that the vast majority, after investigating the matter, abandoned any effort to pursue the educational benefits they had honorably earned.

Our amendment, which is cosponsored by Senators STEVENS, RIEGLE, MCGOVERN, HOLLINGS, CLARK, HUDDLESTON, ANDERSON, and TOWER, will give veterans—who have not utilized their full entitlement, whose time has expired, who can demonstrate need, and who were discharged between 1964 and December 31, 1969, up to an additional 2-year period in which to enter or complete an educational program which will equip them to earn a living.

Now, earlier, in adopting the amendment offered by the Senator from New Hampshire, my good friend (Mr. DURKIN), the requirement for the delimiting period was that the veteran had to be enrolled at the time. This is a difference I am seeking to rectify. This permits those veterans who found it impossible at that time to enter, or who did enter and then found it impossible to continue, another chance at it.

The determination of need—and that is a part of the criteria on which the veterans of this era could apply for this—will be based on the criteria outlined in the modified amendment. The veteran is required to demonstrate that he or she could not reasonably initiate or complete a program of education during the 10-year delimiting period, that an extension of the delimiting period is necessary to enable the veteran to initiate or complete a program of education, and that the veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational status to which he or she might reasonably have aspired had his or her career not been interrupted by military service.

Because of the budget situation, I am adding a further condition limiting the eligibility under this amendment to those veterans unemployed or who are underemployed with an income at or below the intermediate level consumption budget as defined by the Bureau of Labor Statistics.

Veterans discharged between 1968 and 1970 would have their extra time for using the benefit provided by this amendment proportionately reduced, since they still may have some time to utilize their benefits under the present law. The program provided by this amendment would self-destruct by 1980 or shortly thereafter. It is a limited 2-year program for a very limited but deserving group of veterans.

The intermediate consumption level budget of the Bureau of Labor Statistics is taken from the most recent report of BLS which contains the data for 1976.

Mr. President, I ask unanimous consent to have this table printed in the RECORD.

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

TABLE C.— ANNUAL CONSUMPTION BUDGETS FOR SELECTED FAMILY TYPES, URBAN UNITED STATES, AUTUMN 1976[1]

Family size, type, and age	Lower level	Intermediate level	Higher level
Single person, under 35 yr	$2,860	$4,330	$5,970
Husband and wife under 35 yr:			
No children	4,000	6,060	8,350
1 child under 6	5,060	7,670	10,570
2 children, older under 6	5,880	8,910	12,270
Husband and wife 35 to 54 yrs:			
1 child, 6 to 15 yr	6,690	10,140	13,980
2 children, older 6 to 15 yr[2]	8,162	12,370	17,048
3 children, oldest 6 to 15 yr	9,470	14,350	19,780
Husband and wife, 65 yr and over[3]	4,160	6,310	8,690
Single person, 65 yr and over[4]	2,290	3,460	4,770

[1] For details on estimating procedures, see "Revised Equivalence Scale," BLS Bulletin 1570-2.
[2] Costs for the BLS budgets for a 4-person family from which estimates for other family types are derived.
[3] Estimated from the equivalence scale value of 51 percent of the base (4-person) family. Costs based on detailed BLS budgets for a retired couple may differ slightly from estimates obtained by the scale values.
[4] Estimated from the equivalence scale value of 28 percent of the base (4-person) family. May differ slightly from estimates obtained by applying a ratio of 55 percent to the BLS budget for a retired couple.

Mr. MELCHER. Mr. President, the table shows that a single veteran under 35 years of age would have to have an income of less than $4,330; a married veteran with no children would have to have an income under $6,060; a married veteran with one child, $7,670 and a married veteran with two children, $8,910. That all refers to income during the preceding 12 months.

I selected the intermediate consumption level budget, rather than the poverty level, since I do not believe we should limit veterans' benefits to those qualified for welfare. Certainly, the income levels cited are not luxurious. The GI benefits will provide no incentive to quit work or to remain unemployed. The veteran, in most cases, will continue to work full or part-time and use his educational benefit to pay for his or her tuition, books, tools, travel, lab fees, and so forth.

Use of the intermediate consumption level budget, according to the Bureau of Labor Statistics "Handbook of Methods" (USDL Bulletin 1910-76), in this way does not set a precedent, something we have used before in previous legislation. The publication states:

> Budgets also provide benchmarks for administrative determinations, as required by a number of existing laws or policies of social, welfare and educational agencies: e.g. to establish criteria for public assistance, public housing, support services for individuals in job development programs, subsidized medical or mental health, guidance services, or college scholarship aid.

Mr. President, this amendment, I am confident, is well within the budget limitation adopted earlier this year. I must say that there is some doubt from the CBO as to the costs of the Durkin amendment plus the costs of this amendment, interrelated to each other, because there is overlapping. There is some doubt. However, I can state with confidence that if it does exceed the budget, it is a minor amount.

There are 67,500 potentially eligible veterans covered by this amendment. Certainly, not all of them will avail themselves of this opportunity. No one can accurately estimate how many will even try to take advantage of this opportunity.

An unofficial estimate of the cost of this modified amendment, based on data available to staff of the Congressional Budget Office, is from 70 million to 100 million for fiscal year 1978. That is based on the fact that the amendment takes effect January 1, 1978. and, if adopted, will be in effect for 9 months of that fiscal year. My requests for data from the Veterans' Administration on which to base a more accurate estimate of cost have been unanswered, except to tell me that a comprehensive report is being prepared to be released in a couple of weeks. I would hope they have the data, but they have not made it available to me.

I feel, as do the cosponsors, that we have a moral obligation to these veterans who served with honor, many in the battlefields of Vietnam. Yet, they were denied, for economic reasons, the opportunity to pursue their educational opportunities during the time of discharge and during the time of the usual limiting period.

I remind Senators again of the unique problems of the Vietnam veteran. They returned, not to be welcomed as conquering heroes but to be scorned by their peers, suspected by some of their neighbors and some potential employers of being, at worst, some sort of wild people. Some of them were thought to be exposed to the use of drugs, to the point of it having become a habit. Really, they were serving their country, as they had sworn to do. We owe these men and women much more than this amendment can begin to repay. If I had my way and if we were not under such budgetary restraints as we are, I would like to do much more than this.

But, I am a realist. I recognize the budget problem, although in this case I do not believe we should be blinded by it. I recognize the opposition of the national VFW and the National American Legion to any extension of the delimiting date, an opposition I totally fail to comprehend. I am most pleased that the Montana VFW and the Montana American Legion both unanimously endorsed the principle of extension of the delimiting date. I believe most rank and file members of these two great organizations would also approve this amendment if it were clearly explained.

I am also most pleased to have the support of the National Education Association for my amendment. I am aware that the NEA has been in the forefront of every fight for every GI educational bill which has ever passed, and their support is gratifying, indeed. I ask unanimous consent that the letter from Mr. James Green, assistant director for legislation of the National Education Association be printed in the RECORD at this point.

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

NATIONAL EDUCATION ASSOCIATION,
Washington, D.C., October 12, 1977.

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

DEAR SENATOR MELCHER: The National Education Association is in support of your amendment No. 1415 to Senate 457, 1st session, 95th Congress. Your remarks printed in the Congressional Record of October 4th were convincing.

We believe it desirable to provide the two-year period in which needy and deserving Vietnam veterans may take advantage of effective readjustment programs. This makes sense in terms of equity, justice, and in attacking the high rate of unemployment that exists in the group covered by the proposed educational benefits.

Other members of the Senate are being requested to join the effort.

Sincerely,

JAMES W. GREEN,
Assistant Director for Legislation.

Mr. MELCHER. Mr. President, this amendment should not be thought of merely in terms of appropriations. Many of these veterans, through no fault of their own, did not have the economic opportunity. The $130 a month to pay for the books and the tuition and the living expenses did not do anything. If they started, many of them dropped out. Many of them never even started. This is not something that is beyond the grasp of the needs for this group. It is much better than CETA, which often is just a 1-year dead end. It is much better than being on welfare. It is much better than finding themselves held back for the rest of their lives. This gives them an opportunity to go on and develop themselves.

The needy veterans served by this amendment will be removed from the unemployment and welfare rolls. They will not be limited to dead-end, 1-year CETA jobs, they will become taxpayers of the future and, as has been true with all who were educated under previous GI education bills, will repay five times over in taxes what the cost of their training has been. Of equal importance, however, is the psychological lift we can give these veterans, even in this limited way, by letting them know that, however, belatedly, we are making an effort to, in some degree, right the wrongs that have existed for them since their discharge.

I urge my colleagues to accept my modified amendment 1415 to S. 457.

I reserve the remainder of my time.

Mr. CRANSTON. Mr. President, as a result of the adoption earlier of the Durkin amendment, it is estimated that this amendment would put us approximately $70 million to $100 million over the budget, as I understand it, by the conservative estimate of the CBO. As a member of the Budget Committee, I am authorized to express the opposition of both Senator MUSKIE, the chairman, and Senator BELLMON, the ranking minority member of that committee, to this amendment.

I oppose this amendment for that reason and because I feel that it unfairly discriminates between equally deserving veterans and creates a tenuous classification of need upon which delimiting benefits would be premised.

I am opposed to the adoption of amendment No. 1415, offered by my colleague from the State of Montana (Mr. MELCHER). I recognize his keen interest in and concern for Vietnam era veterans, and I congratulate him for it. During hearings held in June by the Subcommittee on Health and Readjustment of the Committee on Veterans' Affairs in regard to the education program, Senator MELCHER was the only Senator who appeared before the committee to speak on behalf of changes he felt were needed in the GI bill program.

Mr. President, the amendment proposes to cover some needy veterans and exclude many other equally needy veterans. In 1966, the Congress enacted a cold war GI bill and extended retroactive eligibility to those veterans who had served on or after January 31, 1955. For instance, a veteran who worked full time at a menial task but sought to improve himself by going to school part time would not be eligible. A veteran who did neither; but rather lived on unemployment compensation or welfare would be eligible. The industry is penalized.

Senator MELCHER would extend eligibility for an extension of the delimiting date only to those veterans who served on or after August 4, 1964, and prior to January 1, 1970. I oppose this distinction insofar as pre-1964 veterans are concerned.

In 1966, the amount of the allowances provided under the GI bill was insufficient for all eligible veterans, not just those who served after August 4, 1964. To the extent the VA failed to pursue vigorous outreach efforts, all eligible veterans have been affected. And to the extent that some veterans have as a result been unable to complete their education, all eligible veterans are involved.

I also cannot accept the distinction that the Melcher amendment proposes between veterans who served in different years. The amendment would grant no delimiting date extension to enormous numbers of veterans who left service at the peak of the Vietnam war only to find very inadequate GI bill benefit levels until the October 1, 1972, increase to $220 per month for a single full-time trainee with no dependents.

I prefer the theory of the Durkin amendment already adopted that if a veteran is delimited at the end of his 10th year while in full-time study, it makes good sense for the Federal Government to provide an incentive for that veteran to continue full-time study and reach his educational or vocational objective. That is sound public policy both in terms of protecting the value of our initial investment in that veteran and in terms of giving that veteran a better chance to achieve self-sufficiency and dignity as a contributing member of society.

In sum, I find this amendment inequitable. In contrast, the Durkin amendment No. 1443 does not suffer from the deficiencies noted and is thus the preferable way of affording necessary relief. I urge defeat of amendment No. 1415.

Mr. TOWER. Mr. President, I am pleased to cosponsor the amendment of Senator MELCHER to S. 457, the GI Bill Improvement Act of 1977. The Senator's amendment is designed to provide needy Vietnam-era veterans with a 2-year extension of the current 10-year delimiting period.

I wish to commend the chairman of the Veterans' Affairs Committee and members of the committee on both sides of the aisle for their excellent work on this important veterans legislation. It clearly reflects the interest and support that Members of this body have extended to our country's deserving Vietnam veterans.

Mr. President, there is complete agreement among my colleagues that the Vietnam-era veteran returned home after serving his Nation fully unprepared to face and cope with the surprisingly strong and often bitter emotions that Vietnam generated within so many Americans. Where these attitudes and feelings were directed against America's returning veterans, it was sadly a tragic misplacement of undeserving blame.

I believe it is this background that my colleagues need to keep in mind in our discussions of this amendment by the Senator from Montana. It focuses directly upon the needy Vietnam-era veterans in proposing to extend by 2 years the period for receiving educational benefits.

There is no argument here that veterans covered by this amendment are deserving while all other veterans are not. Rather, this amendment offers the Senate an opportunity to extend a reasonable, modest, and honorable helping hand to Vietnam-era veterans who may have been the most severely affected, over the longest period of time, by the prevailing attitudes in this country at the time they attempted to return to normal civilian life.

In my State, great numbers of Texans have proudly answered our Nation's call to duty time and time again, without exception. Veterans in my State who are also members of the Mexican-American and the black communities have served as Texans with equally outstanding distinction and valor. It is this particular veteran, perhaps as much as any other in my State, that may be in special need of the opportunity the Senate can provide him with this amendment.

Mr. President, the Vietnam experience has left its indelible mark on our Nation. This amendment offers us the chance to lighten that mark at least a little for those Vietnam-era veterans who may have been the least-prepared, upon returning home, to cope with a frightening national phenomena. It is fair and it is just; and I urge my colleagues to support this amendment.

Mr. STAFFORD. Mr. President, I heartily concur with the chairman of the committee. With regret, I also must oppose the amendment, for the reasons stated by the chairman of the full committee.

Mr. CRANSTON. Mr. President, before yielding back time, I was requested by a Senator—and agreed to do this—to see whether there is any opposition to putting over this rollcall vote and making it back to back with another rollcall vote.

Do any Senators object?

The PRESIDING OFFICER. Is there objection?

Mr. RANDOLPH. We should have the rollcall vote now.

Mr. CRANSTON. There are Senators who object, so I will not make the request. And I yield back my time.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum for a very brief moment.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. 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. CRANSTON. Mr. President, in view of the fact that the two Senators who wanted to vote now had to leave, I now ask unanimous consent that this rollcall occur not at the end of consideration on this amendment but rather occur back-to-back at the time we vote on the Javits-Moynihan amendment.

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

Mr. CRANSTON. I presume the vote on this amendment will occur after the vote on the Moynihan-Javits amendment. We would be discussing that amendment at that time and it would be logical to vote on that first.

The PRESIDING OFFICER. Is that the Senator's request?

Mr. CRANSTON. That is my request, and I so ask unanimous consent.

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

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

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

ORDER OF BUSINESS

Mr. TALMADGE. Mr. President, the request I am about to make has been cleared all the way around. We will substitute provisions of a Senate-passed bill for a House bill pending at the desk, accept an amendment and take it to conference. It has already been approved by the Committee on Finance and the Senate and, I believe, the entire matter will take less than 5 minutes.

I ask unanimous consent that the pending matter be temporarily laid aside.

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

RURAL HEALTH CLINIC SERVICES

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8422.

The Presiding Officer laid before the Senate H.R. 8422, an act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill which has been held at the desk.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice, and the Senate will now proceed to its immediate consideration.

Mr. TALMADGE. As I pointed out when making my unanimous consent request previously, H.R. 8422 is a House proposal designed to authorize and improve medicare and medicaid reimbursement for certain health care services in rural clinics.

The Finance Committee and the Senate approved similar provisions as an amendment to H.R. 422 a tariff bill approved by the Senate on September 16.

It is our intention to offer the rural clinic provisions of H.R. 422 and a provision dealing with a Public Health Service Hospital in Texas as an amendment for the text of the House bill H.R. 8422.

By doing this, both the full House and Senate versions of the legislation will be in conference.

UP AMENDMENT NO. 956

Mr. TALMADGE. I now offer an appropriate amendment to H.R. 8422 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment sent to the desk by the Senator from Georgia.

The legislative clerk read as follows:

The Senator from Georgia (Mr. TALMADGE) proposes an unprinted amendment numbered 956.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

TITLE II—RURAL HEALTH CLINIC SERVICES

MEDICARE AMENDMENTS

Sec. 201. (a) Section 1832(a) of the Social Security Act is amended—

(1) by striking out "paragraph (2)(B)" in paragraph (1) and inserting in lieu thereof "subparagraphs (B) and (D) of paragraph (2)"; and

(2) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and" and by adding the following new subparagraph at the end of paragraph (2);

"(D) rural health clinic services."

(b) Section 1833(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "(except those services described in subparagraph (D) of section 1832(a)(2))" in paragraph (2) after "1832(a)(2)";

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in the case of services described in section 1832(a)(2)(D), 80 percent of costs which are reasonable and related to the cost of furnishing such services or on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A)."

(c) Section 1833 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary is authorized to waive the provisions of subsection (b) of this section with respect to rural health clinic services and require in lieu thereof copayments by an individual receiving such services in cases in which he determines that such an alternative system is less costly. Such copayments shall not exceed $3 per visit to a rural health clinic, shall not exceed $60 per calendar year.".

(d) Section 1861 of such Act is amended by adding at the end thereof the following new subsection:

"Rural Health Clinic Services

"(aa)(1) The term 'rural health clinic services' means—

"(A) physicians' services and such services and supplies as are covered under subsection (s)(2)(A) if furnished as an incident to a physician's professional service,

"(B) such services furnished by a physician assistant or nurse practitioner as he is legally authorized to provide in the jurisdiction in which he performs such services, and such services and supplies furnished as an incident to his service, as would otherwise be covered if furnished by a physician or as an incident to a physician's service, and

"(C) in the case of a rural health clinic located in an area in which there exists a shortage of home health services (as defined in subsection (m)) due to a shortage of home health agencies (as defined in (o)), as determined by the Secretary, such services as would constitute home health services if furnished by a home health agency (without regard to the number of such services furnished by such rural health clinic), if such clinic meets such other conditions as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished such services by such clinic,

when furnished by a rural health clinic to an individual as a primary care patient.

"(2) The term 'rural health clinic' means a facility which—

"(A) is primarily engaged in providing rural health clinic services;

"(B) has an arrangement (consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services) with one or more physicians (as defined in subsection (r)(1)) under which provision is made for the periodic review by such physicians of rural health clinic services for which payment may be made under this title furnished by physician assistants and nurse practitioners, and for the supervision and guidance by such physicians of physician assistants and nurse practitioners;

"(C) provides for the preparation by the supervising physicians, physician assistants, and nurse practitioners of medical orders for care and treatment of clinic patients, and the availability of such physicians for such referral and consultation for patients as is necessary, and for advice and assistance in the management of medical emergencies;

"(D) maintains clinical records on all patients;

"(E) has arrangements with one or more hospitals (as defined in subsection (e)) for the referral or admission of patients requiring inpatient services or such diagnostic or other specialized services as are not available at the clinic;

"(F) has written policies to govern the management of the clinic and all the services it provides;

"(G) has appropriate procedures or arrangements, in compliance with applicable State and Federal law, for storing, administering, and dispensing drugs and biologicals;

"(H) has appropriate procedures for utilization review;

"(I) directly provides routine diagnostic services (as prescribed by the Secretary) consistent with the provisions of State and local law relative to the practice, performance, and delivery of health services, and has prompt access to additional diagnostic services from facilities meeting requirements under this title; and

"(J) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are furnished services by the clinic.

For purposes of this title, such term includes only a facility which (i) is located in (I) a rural area which is designated by the Secretary under section 1302(7) of the Public Health Service Act as having a medically underserviced population, (II) an area (other than an urbanized area, as defined by the Bureau of the Census) in which the supply of medical services is not sufficient to meet the needs of individuals residing therein, or (III) an urbanized area (as so defined) if the majority of the patients served by such facility reside in an area described in clause (I) or (II), (ii) has filed an agreement with the Secretary by which it agrees not to charge any individual or other person for items or services for which such individual is entitled to have payment made under this title, except for the amount of any deductible or coinsurance amount imposed with respect to such items or services (not in excess of the amount customarily charged for such items and services by such clinic), pursuant to subsections (a), (b), and (i) of section 1833, (iii) employs a physician assistant or nurse practitioner, and (iv) is not a rehabilitation agency or a facility which is primarily for the care and treatment of mental diseases.

"(3) The term 'physician assistant' or the term 'nurse practitioner' means, for the purposes of this subsection, a physician assistant or nurse practitioner who performs, under the supervision of a physician (as defined in subsection (r)(1)), such services, as he is legally authorized to perform (in the State in which he performs such services) in accordance with State law (or the State regulatory mechanism provided by State law) and who meets such training, education, and experience requirements (or any combination thereof) as the Secretary may prescribe in regulations.".

(c) Section 1862(a)(3) of such Act is amended by striking out "in such cases" and inserting in lieu thereof "in the case of rural health clinic services, as defined in section 1861(aa)(1), and in other cases".

(d) Section 1861(s)(2) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (C)(ii);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding the following new subparagraph at the end thereof:

"(E) rural health clinic services;".

(e) Section 1864(a) of such Act is amended—

(1) by inserting "or whether a facility therein is a rural health clinic as defined in section 1861(aa)(2)," in the first sentence after "home health agency,";

(2) by inserting "rural health clinic," in the second sentence after "nursing facility,"; and

(3) by inserting "rural health clinic," in the last sentence after "facility," each time it appears therein.

(f) Section 1122(b)(1) of the Social Security Act is amended by inserting after the term "health care facility" the following: "(including a rural health clinic as defined in section 1861(aa)(2) of this Act)".

MEDICAID AMENDMENTS

SEC. 202. (a) Paragraph (2) of section 1905 (a) of the Social Security Act is amended to read as follows:

"(2)(A) outpatient hospital services and (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)) and which are otherwise included in the plan;".

(b) Section 1905 of such Act is amended by adding after subsection (k) the following new subsection:

"(l) The terms 'rural health clinic services' and 'rural health clinic' have the meanings given such terms in section 1861(aa) of this Act.".

(c) Section 1902(a) of such Act is amended—

(1) by striking out the semicolon at the end of paragraph (13) and inserting in lieu thereof ", and", and by adding at the end of such paragraph the following new subparagraph:

"(F) for payment for services described in section 1905(a)(2)(B) provided by a rural health clinic under the plan of 100 percent of costs which are reasonable and related to the cost of furnishing such services, on such other tests of reasonableness as the Secretary may prescribe in regulations under section 1833(a)(3) or, in the case of services to which those regulations do not apply, on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph"; and

(2) by inserting ", or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic" before the semicolon at the end of paragraph (23).

(d) Section 1910 of such Act is amended—

(1) by amending the heading to read as follows: "CERTIFICATION AND APPROVAL OF SKILLED NURSING FACILITIES AND RURAL HEALTH CLINICS";

(2) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(3) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under title XVIII, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

"(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility which has applied for certification by him as a qualified rural health clinic.".

(e) Section 1866(c)(2) of such Act is amended by striking out "section 1910" and inserting in lieu thereof "section 1910(a)".

DEMONSTRATION PROJECTS

SEC. 203. (a) The Secretary of Health, Education, and Welfare shall provide, through demonstration projects, reimbursement on a cost basis for services provided by physician-directed clinics in urban medically underserved areas for which payment may be made under title XVIII of the Social Security Act and, notwithstanding any other provision of title XVIII, for services provided by physician assistants and nurse practitioners employed by such clinics which would otherwise be covered under such title if provided by a physician.

(b) The demonstration projects developed under subsection (a) shall be of sufficient scope and carried out on a broad enough scale to allow the Secretary to evaluate fully—

(1) the relative advantages and disadvantages of reimbursement on the basis of costs and fee-for-service for physician-directed clinics employing physician assistants and nurse practitioners;

(2) the appropriate method of determing the compensation for physician services on a cost basis for the purposes of reimbursement of services provided in such clinics;

(3) the appropriate definition for such clinics;

(4) the appropriate criteria to use for the purposes of designating urban medically underserved areas; and

(5) such other possible changes in the present provisions of title XVIII of the Social Security Act as might be appropriate for the efficient and cost-effective reimbursement of services provided in such clinics.

(c) Grants, payments under contracts, and other expenditures made for demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each trust fund shall be determined by the Secretary, giving due regard to the purpose of the demonstration projects.

(d) The Secretary shall submit to the Congress, no later than January 1, 1981, a complete, detailed report on the demonstration projects conducted under subsection (b). Such report shall include any recommendations for legislative changes which the Secretary finds necessary or desirable as a result of carrying out such demonstration projects.

REPORT BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE ON MENTAL HEALTH CENTERS

SEC. 204. (a) The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than April 1, 1978, a report on the advantages and disadvantages of extending coverage under title XVIII of the Social Security Act to urban or rural mental health centers.

(b) The report submitted under subsection (a) shall include evaluations of—

(1) the need for title XVIII coverage of services provided by mental health centers;

(2) the extent of present utilization of such centers by individuals eligible for benefits under title XVIII;

(3) alternatives to services provided by such centers presently available to individuals eligible for benefits under title XVIII;

(4) the appropriate definition for such centers;

(5) the types of treatment provided by such centers;

(6) present Federal and State funding for such centers;

(7) the extent of coverage by private insurance plans for services provided by such centers;

(8) present and projected costs of services provided by such centers;

(9) available methods for assuring proper utilization of such centers;

(10) the effect of allowing coverage for services provided by such centers on other providers and practitioners; and

(11) the need for any demonstration projects for further evaluation of the need for coverage for services provided by such centers.

EFFECTIVE DATES

SEC. 205. (a) The amendments made by section 201 of this Act shall apply to services rendered on or after the first day of the third calendar month which begins after the date of enactment of this Act.

(b)(1) The amendments made by section 202 of this Act shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided under a State plan approved under title XIX of the Social Security Act on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act.

(2) Notwithstanding the provisions of paragraph (1), in any case in which legislation is required in order to conform a State plan for medical assistance with the requirements imposed by reason of the amendments made by section 202 of this Act (as determined by the Secretary), such State plan shall not be regarded as failing to comply with the requirements of title XIX of the Social Security Act solely on the basis of such failure to meet the requirements imposed by such amendments at any time prior to the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature which begins after the date of enactment of this Act.

SPACE CENTER MEMORIAL HOSPITAL, NASSU BAY, TEXAS

SEC. 207. The Secretary of Health, Education, and Welfare is hereby directed to acquire the Space Center Memorial Hospital in Nassau Bay, Texas, for the purpose of transferring the activities and functions from the Public Health Service Hospital in Galveston, Texas, to such facility and upon completion of such transfer the Secretary is authorized to close the Public Health Service Hospital in Galveston, Texas.

Mr. TALMADGE. The distinguished Senator from Wisconsin has an amendment which was previously approved by the Committee on Finance.

UP AMENDMENT NO. 957

(Purpose: To provide for access to certain tax return information by the National Institute for Occupational Safety and Health.)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 957.

Mr. NELSON. 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:

SEC. . Access to certain tax return information by the National Institute for Occupational Safety and Health.

Section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and substituting ", and"; and

(3) by adding at the end thereof the following new paragraph

"(3) upon written request, to disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purposes of locating and determining the vital status of workers who are, or may have been, exposed to occupational hazards and referring sick or injured workers for medical care and treatment.".

Mr. NELSON. Mr. President, an amendment that I am calling up to H.R. 8422 would allow the National Institute of Occupational Safety and Health (NIOSH) to continue its program of obtaining from the Internal Revenue Service (IRS) addresses, based on the last date of filing income tax forms, of persons previously employed in occupations exposing them to known or suspected occupational hazards—such as carcinogens.

The amendment has been approved previously by the Senate Finance Committee and by the full Senate. A similar amendment has been approved by the House Ways and Means Committee on a package of miscellaneous tax amendments.

Unfortunately, in each instance, the measure has been tied up either by a conference—presently, it is part of the black lung bill, S. 1538, in conference—or lack of time for both Houses to act—it was approved by the full Senate at the end of the last session.

The amendment is noncontroversial. It corrects an inadvertent oversight in the Tax Reform Act of 1976. The administration and the Congress have recognized the need to make the correction as soon as possible.

The amendment involves no invasion of privacy. It simply provides that NIOSH may continue a previous program of obtaining from the IRS addresses only, in order to facilitate the NIOSH program of identifying and determining mortality or health status of occupationally exposed workers.

Using other sources, such as credit bureaus, to search out workers at risk is more expensive, more invasive of privacy, more time-consuming, and less reliable.

The NIOSH program is designed to improve public health and occupational safety. To date, some 136,500 workers have been identified, and 4,081 referred for appropriate medical treatment.

NIOSH is attempting to isolate occupationally related causes of mortality in coal miners, metal miners, public utility employees, cotton mill workers, dairymen, and oil shale workers, among others. It is also attempting to identify workers who have been exposed to such hazardous substances as arsenic, asbestos, and benzidine.

Each day that the Congress fails to correct the legislative oversight, this worthwhile program costs the taxpayers more money.

It increases the cost from 30 cents per search to approximately $20 per search, adding an estimated $2.7 million to the cost of the program for fiscal 1977.

The Tax Reform Act of 1976 prevents, with specific exceptions, outside access to IRS record information. This is a laudable and necessary protection of private records. However, in drafting the limited exceptions to the act, Congress inadvertently failed to recognize the needs of the NIOSH identification program, which are consistent with Congress' intent to improve public health and occupational safety, and which do not invade private records.

It is our understanding that the bill manager has no objection to the amendment. HEW urges its passage at the earliest possible time. I would hope that the measure would be adopted.

The PRESIDING OFFICER. Is the amendment of the Senator from Wisconsin which he sent to the desk proposed as an amendment to the amendment offered by the Senator from Georgia?

Mr. TALMADGE. As a subsequent amendment. Mr. President, it is not an amendment in lieu thereof but in addition to.

The PRESIDING OFFICER. It is an amendment to.

Mr. TALMADGE. Yes, it is an amendment to the amendment I offered on behalf of the Committee on Finance.

Mr. President, I suggest that the amendment the Senator proposes has been agreed to by the Committee on Finance. It has been agreed to by the minority members thereof, and I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Georgia, as amended by the amendment of the Senator from Wisconsin.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

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

The bill (H.R. 8422) was read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the bill, H.R. 8422, be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, et cetera, designations, and cross-references thereto.

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

Mr. TALMADGE. Mr. President, I move that the Senate insist on its amendments to H.R. 8422 and agree to the request of the House of Representatives 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 PRESIDING OFFICER. It is the Chair's understanding that the House of Representatives has not yet requested a conference. Will the Senator amend his motion?

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

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. DOLE, and Mr. PACKWOOD conferees on the part of the Senate.

GI BILL IMPROVEMENT ACT OF 1977

Mr. TALMADGE. Mr. President, I ask unanimous consent that the Senate resume the consideration of the unfinished business.

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

The Senate resumed the consideration of S. 457.

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

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. The time to be equally divided.

The PRESIDING OFFICER. The time for the quorum call will be equally divided between the two sides. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. 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. 958

Mr. CRANSTON. Mr. President, because of the need to ascertain some budget figures relating to the pending Melcher amendment. I ask unanimous consent that that amendment be set aside temporarily, and that the Senate now proceed to the consideration of the Javits-Moynihan amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. JAVITS. This amendment is submitted on behalf of Senators JAVITS, MOYNIHAN, BROOKE, KENNEDY, CHAFEE, METZENBAUM, BAYH, and RIEGLE.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and others, proposes an unprinted amendment numbered 958.

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

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

The amendment is as follows:

On page 3, beginning with line 11, strike out all down through line 3 on page 14 and insert in lieu thereof the following:

Sec. 101. The table contained in section 1504(b) of title 38 United States Code, is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$241	$298	$351	$26
Three-quarter time	181	224	263	19
Half-time	120	149	176	13
Farm cooperative, apprentice, or other on-job training:				
Full-time	210	254	293	19"

VETERANS' EDUCATIONAL ASSISTANCE

Sec. 102. Chapter 34 of title 38, United States Code, is amended by—

(1) striking out in the last sentence of section 1677(b) "$270" and inserting in lieu thereof "$281";

(2) amending the table contained in paragraph (1) of section 1682(a) of title 38, United States Code, to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional:				
Full-time	$304	$361	$412	$25
Three-quarter time	228	270	309	19
Half-time	152	181	206	12
Cooperative	244	287	326	19".

(3) striking out in section 1682(b) "$292" and inserting in lieu thereof "$304";

(4) amending the table contained in paragraph (2) of section 1682(c) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$244	$287	$326	$19
Three-quarter-time	183	215	244	15
Half-time	123	144	163	9".

(5) striking out in section 1692 (b) "$65" and "$780" and inserting in lieu thereof "$67" and "$811", respectively; and

(6) striking out in section 1696 (b) "$292" and inserting in lieu thereof "$304".

SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

Sec. 103. Chapter 35 of title 38, United States Code, is amended by—

(1) striking out in section 1732 (b) "$235" and inserting in lieu thereof "$244"; and

(2) striking out in section 1742 (a) "$292", "$92", "$92", and "$9.76" and inserting in lieu thereof "$304", "$96", "$96", and $10.15", respectively.

CORRESPONDENCE COURSES, ON-JOB TRAINING, AND EDUCATION LOANS

Sec. 104. Chapter 36 of title 38, United States Code, is amended by—

(1) striking out in section 1783 (a) (2) "$292" and inserting in lieu thereof ": $304;

(2) amending the table contained in paragraph (1) of section 1787 (b) to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$220	$248	$270	$11
Second 6 months	165	192	215	11
Third 6 months	110	137	160	11
Fourth and any succeeding 6-month periods	55	82	105	11".
Periods of training				

and

(3) striking out in paragraph (3) of section 1798(b) "$292" and inserting in lieu thereof "$304".

TITLE II—SUPPLEMENTAL TUITION ALLOWANCE AND DELIMITING PERIOD EXTENSION

Sec. 201. Section 1682 of title 38, United States Code, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) a new subsection (d) as follows:

"(d)(1) In addition to the educational assistance allowance payable to veterans under this chapter (except in the case of servicemen on active duty, programs pursued on less than a halftime basis, or flight training) there shall be paid to each veteran who qualifies hereunder a supplemental tuition allowance.

"(2) The amount of supplemental tuition allowance payable to any veteran for any ordinary school year may not exceed $700, and will be set by having—

"(A) the veteran pay the first $400 of the tuition cost owed and payable by the veteran for that year, and

"(B) the Administrator pay 70 per centum of the next $1,000 of the tuition cost owed and payable by the veteran for that school year.

"(3)(A) Application for supplemental tuition assistance under this subsection shall be made to the Administrator by the veteran in such form and manner as the Administrator shall prescribe.

"(B) The Administrator shall send to each veteran entitled to supplemental tuition assistance a voucher setting forth the amount of such assistance to which the veteran is entitled for the school year concerned.

"(C) Upon presentation of the voucher by the veteran at the start of each semester or trimester to the educational institution in which he is enrolled, the institution shall forward the voucher to the Administrator together with—

"(i) an itemization of all tuition costs for the school year concerned which will be charged to the veteran by the institution, and

"(ii) such assurances from the institution as the Administrator may require that—

"(I) the amount of tuition charged the veteran by the institution does not exceed the amount of tuition charged to nonveteran students for the same or comparable educational instruction and does not exceed the tuition charges which were in effect on, or announced by, the institution prior to July 1, 1977, plus in any year, beginning July 1, 1978, a percentage increase in such tuition charges equal to not more than the percentage increase in the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, which has occurred since July 1 of the preceding year, and

"(II) all fees and other charges imposed by the institution to the veteran for tuition purposes (regardless whether such fees and charges are designated as tuition costs) are included within the itemization required under clause (i).

"(D) After determining that the requirements set forth in paragraph (C) have been met, the Administrator shall pay, on behalf of veteran concerned, to the educational institution an amount equal to the supplemental tuition assistance specified in the voucher, and such amount shall be credited by the institution to the account of the veteran.

"(4) The effective date of coverage of this provision shall begin on January 1, 1978.

The PRESIDING OFFICER. There is 1 hour of debate time on the amendment under the unanimous-consent order, to be equally divided between the author of the amendment and the manager of the bill. Who yields time?

Mr. JAVITS. I yield myself 5 minutes.

Mr. President, this amendment is based upon a bill (S. 1899) which I introduced on July 20, 1977, which had 25 cosponsors. A list of those cosponsors, Mr. President, will appear in the RECORD.

This amendment and similar to that bill (S. 1899), provided for the payment of 70 percent of a veteran's tuition costs above $400, with a maximum additional payment of $700 per school year. It provided also for an increase in the veteran's educational benefits of 4 percent, except for veterans who are under vocational rehabilitation and therefore pay no tuition. For them, we allowed the increase to remain at the 6.6 percent which is contained in this bill.

The difference between the bill and our amendment is as follows: The bill provides that where a veteran pays in excess of $1,000 in tuition, as far as the tuition cost is concerned, then he may use up his 45 months entitlement at twice the normal rate per month, in order to pay the excess tuition. Of course, the excess being up to the amount of his entitlement. That is coupled in the pending bill with a 6.6-percent increase in the veteran's educational entitlement amount that he gets every month.

Our bill, in order to attain a more equitable result—and I will explain the reason in a moment—reduces that increase from 6.6 percent to 4 percent, except for veterans who are under voca-

tional rehabilitation, in order to permit a straight tuition payment to be made of 70 percent of tuition in excess of $400 with a maximum additional payment of $700.

Hence, the amount which the bill costs as now pending before us is roughly $805 million, and the amount of the amendment which substitutes for that scheme, the scheme I have described, costs $814 million. Thus, the difference is between $805 million and $814 million. It is a very minor difference attributable to the fact that we maintain the increase of 6.6 percent of the entitlement of the veteran under the vocational rehabilitation.

In order to maintain that amount, Mr. President, we have had to reduce from 6.6 percent to 4 percent the across-the-board increase.

Now, Mr. President, this reduction, in view of the fact that the overwhelming majority of the veterans do get higher education, and that there has been a great discrimination in the way higher education opportunity has worked out, is fully justified, for this reason: The tuition in public colleges, and most of the States have public colleges, runs above $400 but under $1,000. For example, in my State, the figure is somewhere between $500 and $800. That is generally true in most of the States of the Union.

Thus, Mr. President, I offer for myself and Senators MOYNIHAN, BROOKE, METZENBAUM, KENNEDY, CHAFEE, RIEGLE, and BAYH an amendment to S. 457, the GI Bill Improvement Act, to substitute a tuition assistance program for the accelerated benefits provision in S. 457 as reported.

This amendment is based upon S. 1899, introduced July 20, 1977, and sponsored by Senators JAVITS, HUMPHREY, MOYNIHAN, BAYH, GLENN, HUDDLESTON, MATHIAS, CLARK, DOLE, KENNEDY, CHAFEE, FORD, WILLIAMS, RIEGLE, RIBICOFF, HEINZ, BROOKE, CASE, JACKSON, MCGOVERN, HATHAWAY, WEICKER, ABOUREZK, METZENBAUM, PERCY, and ANDERSON.

Our amendment would provide for payment of 70 percent of a veteran's tuition costs above $400, with a maximum additional payment of $700 per school year. S. 457, as reported, would provide accelerated payments of benefits only to veterans whose tuition charges are above $1,000.

I see difficulties with the accelerated benefits provision in S. 457 as follows: It provides assistance to veterans in public institutions in only four States; it does not provide assistance in the tuition range in which most veterans enroll; it provides assistance to only 12 percent of currently enrolled veterans.

My tuition assistance amendment will provide: Assistance to veterans in public educational institutions in 45 States—as well as for those enrolled in private institutions in all States—assistance within the tuition range in which most veterans enroll; and assistance to 65 percent of veterans currently enrolled.

Our proposal includes an across-the-board increase in benefits of 4 percent, or $12 per month for the single veteran. S. 457 as reported includes an across-the-board increase of 6.6 percent, or $19 per month for the single veteran. This $7 per month difference in the increase of monthly benefits allows for significant assistance to be directed to almost 1 million more veterans than under the accelerated payment provision of S. 457.

The voucher system that is the mechanism for the tuition payment assistance would give a veteran a certificate along with his check that would be good for payment of part of his tuition when presented by the school to the Federal Government. This would prevent the use of the GI bill as an income supplement program, which some critics contend it could be used for.

A tuition assistance provision, similar to my proposal, received the support of the Senate as part of the 1974 bill.

The Congressional Budget Office estimates the cost to be essentially the same: $805 million for S. 457 as reported $808 million for S. 457 with our amendment.

I believe our tuition assistance amendment will provide much needed relief to many veterans rather than to merely a few, can be administered simply and without abuse, and assures better and more equitable educational opportunities for our Nation's Vietnam veterans.

Today's GI bill, unlike World War II's legislation which gave all veterans the same amount of money to live on and then paid their tuition wherever their ability and desire took them—up to a maximum grant of $500 per year—leaves veterans with wildly differing sums for subsistence. Every World War II veteran could attend his State university and have $75 a month to live on. Today's veterans with equal military service are often left in drastically difficult circumstances. For example, a veteran seeking to go to the University of New York at Farmingdale must pay $925 in tuition. A veteran in California can attend California State University at Fullerton for $190. The California veteran thus has $735 more to live on than does the New York veteran. That $735 amounts to 25 percent of the total GI bill under the proposed new benefits scale. Thus, the California veteran will have $2,600 a year to live on, whereas the New York veteran has $1,865. Similar figures apply to a Michigan veteran attending Wayne State University who must pay $930 in tuition and the Ohio veteran trying to attend Kent State University who must pay $855. The committee's bill fails to help these veterans.

I think our tuition proposal will help many more veterans and is fundamentally fairer because it attempts to restore the World War II principle of treating all veterans alike. The idea that giving equal dollars to all is an equitable solution is fallacious. It is like suggesting that all veterans should be given the same dollars for medical treatment and the same number of days they can stay in the hospital. Some with complicated diseases would be thrown out, while others with simple ailments would have credits they could never use. We must deal with the person. The disabled veterans education program does this by paying tuition, and by paying all veterans equal sums for living expenses.

The GI bill is not just a bonus for military service. If that were all it was meant to be, then it would be outrageous that veterans in Pennsylvania and Texas, whose numbers are almost equal, used $156,000,000 and $318,000,000, respectively, in GI bill benefits in fiscal year 1976—see the attached charts. But, the GI bill is much more than a bonus. It is the chance to change a person's life. Therefore, I hope that the leadership of the Senate Veterans' Committee will consider subsituting a tuition assistance provision for the accelerated payments plan and that my colleagues will read the attached editorial which supports our views so that they, too, will help see that justice is done for the people who served this Nation under most thankless circumstances.

While the committee report gives us page after page of discussion, it fails to mention something central to the consideration of most Federal legislation; namely, what share of the dollars goes to each State? The record under this GI bill is not encouraging, for the seven largest States have close to 50 percent of the veterans and the 15 largest States even more. But, among those largest States are the 49th, 48th, 47th, 46th, 45th, 42d, 39th, 36th, 35th, 33d, 32d, and 31st in terms of payments on a per capita basis. This means that large concentrations of veterans have been severely hampered in their efforts to use the GI bill. One of the prime jobs of a Senator is to see that the citizens of his State are treated fairly by Federal legislation. I do not believe that Vietnam veterans in my State, and many others, have been treated fairly by this GI bill and I think the whole Senate needs to focus on this question. Therefore, I am inserting the payments data which I believe should have been in the committee report for all to study.

One of the ironies of the across-the-board increase is that it may give money to veterans that are already overcompensated and not correct the needs of those who are undercompensated or who cannot use the GI bill at all. Congressman ALBERT QUIE suggests in testimony that he gave to the House Veterans' Committee on September 15 that we may already be overpaying a veteran attending some public junior college. GI bill benefits cover his expenses for tuition, room, board, transportation, books, and personal items and the veteran stands to make a $240 profit. The average tuition and fees are $389. A person paying less money would make an even greater profit. The across-the-board increase will give another $162 in profit to those veterans who already have too much compensation from the GI bill. Clearly, this is an unwise use of the taxpayers' dollars.

The committee report attempts to justify the present program by correlating State expenditures on higher education and Vietnam-era GI bill rates. There are two things wrong with this analysis. One is that it fails to give States with a history of reliance on private education, any credit for those expenditures in considering State expenditures. The fact that a large percentage of property

in the city of Boston consists of tax exempt private institutions which thrusts a heavy burden of tax payments on the citizens and business is given no credit in this analysis nor is the private initiative so often cited by the people who oppose this kind of corrective legislation I am offering.

Second, by analyzing State expenditures and neglecting to point out that the GI bill was not written as matching legislation, the report overlooks another important fact. If State effort had been intended to be crucial to whether or not the veterans were able to use the GI bill, then the committee should have written the legislation as matching legislation, thereby putting State and local governments on notice that a system of low-cost State educational colleges and junior colleges was a prerequisite to a veteran's entitlement to education benefits for his service to his country. Instead, this legislation was written as though everyone would be able to participate without any matching requirements.

The full Senate took cognizance of the problem of the inequality of GI bill opportunities despite equal service in 1974, by passing a tuition equalizer provision that assisted veterans whose tuition costs were between $100 and $1,000, thereby attempting to see that all veterans could attend their State institutions on more or less equal terms. That legislation, like the World War II GI bill, is a good precedent for us today. With this conviction, I am offering my tuition assistance amendment, and urge my colleagues to give it most favorable consideration.

The Veterans' Committee shows that there was a wider range of use between States under today's GI bill than there was under the World War II bill. With the exception of South Dakota, North Dakota, and Hawaii which are small States, the range is about the same as it was after World War II. But, much more importantly, the large States which have close to 50 percent of the veterans both then and now, show much wider ranges than they did before. For example, the following tables illustrate this:

WORLD WAR II AND VIETNAM WAR GI BILL STATISTICS IN LARGE STATES

States ranked by 2- and 4-yr college GI bill use rates	2- and 4-yr college GI bill use rates (percent)		Use rate for any purpose (percent)		Viet vet population	
	Today	World War II	Today	World War II	Today	World War II
California	53.9	17.3	69.9	46.4	911,000	1,253,000
Texas	38.7	17.7	56.9	58.5	451,000	774,000
Michigan	32.6	13.0	53.2	40.4	333,000	681,000
New York	31.5	16.5	51.3	49.4	570,000	1,598,000
Illinois	30.4	15.1	49.2	47.3	393,000	935,000
Ohio	24.2	14.5	44.6	44.7	410,000	858,000
Pennsylvania	20.0	11.3	43.4	50.5	442,000	1,164,000

These figures are important because whereas after World War II 17.7 veterans out of 100 went to college in Texas, the difference between the high and low States was only 6 persons. Under today's GI bill almost 54 out of every 100 Vietnam era veterans have gone to college in California and only 20 in Pennsylvania, a difference of 34 persons. In like fashion, while 58 out of every 100 Texans used the GI bill for any purpose, in Pennsylvania, the lowest State, 40 did. Under today's GI bill, the range is from 43 to 70, or a difference of 27 persons per hundred. Thus it is hard to argue that these figures are the same. It is also interesting to note that under the World War II GI bill, when New York's private education system and Massachusetts' private education system were open to veterans, their use for colleges was equal to that of California and Texas.

Perhaps the administration will read these statements. I have been most disappointed with the Veterans' Administration's position. The VA has consistently stated that veterans who "choose" to go to high-tuition schools should not be treated differently. A veteran who lives in a State which has only high-tuition institutions to choose from has no real choice other than to move away from his State and from his family and friends where he can best get a job, or undertake a heavy burden of debt which his counterpart in a low-tuition State need not assume. We did not, in writing this GI bill legislation, want to force our veterans to make that choice—which is no choice—but a penalty. I cannot understand the administration's persistence in this position. I hope that the VA and President Carter will examine carefully these issues.

It is my judgment that our tuition assistance proposal is the most equitable and effective utilization of tax dollars to assure equal educational opportunities for our Nation's Vietnam veterans.

Mr. President, I would like to bring to my colleagues' attention a recent editorial from the Washington Post, and include for the RECORD several tables which show relative costs and utilization rates among veterans in the Nation.

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

[From the Washington Post, Oct. 17, 1977]

EQUALIZING VETERANS' EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that, since 1963, an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 per cent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 per cent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 per cent increase to four per cent and apply the savings of $200 million (according to estimates by the Congressional Budget Office) toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and thus restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, it should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another part of the unfinished business of the Vietnam war.

SUMMARY COMPARISION OF S. 457's ACCELERATED TUITION PROVISION AND PROPOSED JAVITS SUBSTITUTE (S. 1899 AMENDED)

S. 457 AS REPORTED

(a) Costs $605 million.

(b) Acceleration available to 12.4 percent of veterans currently enrolled.

(c) Acceleration available to veterans in public institutions in 4 states.

(d) Acceleration available to full-time students only.

(e) 6.6 percent across-the-board increase in benefits (approx. $19 additional per month/single vet).

S. 457 WITH PROPOSED AMENDMENT (S. 1899 AMENDED)

(a) Costs $808 million.

(b) Tuition assistance available to 65 percent of veterans currently enrolled.

(c) Tuition assistance available to veterans in public institutions in 45 states.

(d) Tuition assistance to both full- and part-time students.

(e) 4.0 percent across-the-board increase in benefits (approx. $12 additional per month/single vet).

A SKETCH OF THE ALTERNATIVE PLANS FOR S. 457

[The figures used are the latest available from CBO, as of Oct. 7, 1977]

Across-the-board increase options (title I)	All enrolled students: affected and induced	New payments schedule, amounts per year		Amount lost per year compared to 6.6 percent rate, married with child	Cost (fiscal year 1978) (millions)
		Single	Married		
At 6.6 percent, effective Oct. 1, 1977	1,850,000 plus 110,000 (100 percent)	$2,799	$3,330	$3,798	$510
At 5 percent, effective Oct. 1, 1977	1,850,000 plus 83,600 (100 percent)	$2,763/—$36	$3,276/—$54	$3,744/—$54	386
At 4 percent, effective Oct. 1, 1977	1,850,000 plus 67,100	$2,736/—$63	$3,249/—$81	$3,699/—$99	310

Note: Every percentage point by which the across-the-board level is decreased makes available $77,000,000.

Costs of administrative provisions (title III) (noncontroversial), $14,000,000.

Tuition/acceleration options (title II)	Number of students [1]	Percent	Number of States whose schools would benefit: Public	Number of States whose schools would benefit: Private	Cost (fiscal year 1978 (millions)
1. S. 457, as reported:					
(a) 6.6 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	$510
(I)	110,000	2.6			
(b) Accelerated plan:					
Only full-time students eligible:					
(E)	230,000	12.4	4	All	295
(I)	63,000	1.5			
Pays 100 percent of tuition above $1,000, but may not exceed (during school year)	(2)	(2)	(2)	(2)	(2)
Total					805
2. Javits' original proposal (S. 1899):					
(a) 6.6 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	510
(I)	110,000	2.6			
(b) Tuition equalizer plan: Both full- and part-time students eligible; pays 80 percent of tuition between $400 and $1,400 yearly; no other limitations:					
(E)	1,208,000	65.0	45	All	550
(I)	145,000	3.4			
Total					1,060
3. Javits' new proposal (S. 1899, amended):					
(a) 4 percent across-the-board increase:					
(E)	1,850,000	100.0	All	All	310
(I)	83,600	2.0			
(b) Tuition equalizer plan: Both full- and part-time students eligible; pays 70 percent of tuition between $400 and $1,400, to a maximum of $700 yearly assistance; no other limitations:					
(E)	1,208,000	65.0	45	All	498
(I)	130,000	3.1			
Total					808

[1] Number of students benefited during fiscal year 1978, of 1,850,000 enrolled (E). Also, number of students induced to utilize benefits, of 4,150,000 currently not enrolled (I).

[2] May not exceed:
(1) Difference between $1,000 and vet's yearly tuition.
(2) An amount equal to vet's normal GI bill yearly entitlement.
(3) ½ of the maximum number of months the vet is eligible to accelerate.

For example: If vet is in a 27-mo law program, he has 18 mo entitlement remaining to him, out of 45 mo total. A married vet with no children could receive up to $3,330 per year for 2 yrs, or 9 mo worth of benefits each year—in addition to his normal yearly entitlement of $3,330.

HYPOTHETICAL CASES

	2-yr program		4-yr program	
	S. 457, reported	Javits, amended	S. 457, reported	Javits, amended
Tuition is $600:				
Single:				
Normal yearly entitlement	$2,799	$2,736	$2,799	$2,736
Tuition assistance	0	140	0	140
Total per year	2,799	2,876	2,799	2,876
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	0	140	0	140
Total per year	3,330	3,389	3,330	3,389
Married with Child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	0	140	0	140
Total per year	3,798	3,839	3,798	3,839
Tuition is $1,000:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	0	420	0	420
Total per year	2,799	3,156	2,799	3,156
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	0	420	0	420
Total per year	3,330	3,669	3,330	3,669
Married with child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	0	420	0	420
Total per year	3,798	4,119	3,798	4,119
Tuition is $1,500:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	500	700	500	700
Total per year	3,299	3,436	3,299	3,436
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	500	700	500	700
Total per year	3,830	3,949	3,830	3,949
Married with child:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	500	700	500	700
Total per year	4,298	4,399	4,298	4,399

Footnotes at end of table.

HYPOTHETICAL CASES—Continued

	2-yr program		4-yr program	
	S. 457, reported	Javits, amended	S. 457, reported	Javits, amended
Tuition is $3,500:				
Single:				
Normal yearly entitlement	2,799	2,736	2,799	2,736
Tuition assistance	2,500	700	[1] 699	[2] 700
Total per year	5,299	3,436	3,498	3,436
Married:				
Normal yearly entitlement	3,330	3,249	3,330	3,249
Tuition assistance	2,500	700	[1] 832	[2] 700
Total per year	5,830	3,949	4,162	3,949
Married with children:				
Normal yearly entitlement	3,798	3,699	3,798	3,699
Tuition assistance	2,500	700	[1] 949	[2] 700
Total per year	6,298	4,399	4,747	4,399

[1] Per year, for 4 yr or, twice this amount for 2 yr only.

[2] Per year, for 4 yr.

REMARKS

A. Across-the-board increase:

(1) The difference between 6.6 percent and 4.0 percent amounts to only $99 per year less money for the married vet with one child—and only $63 per year less for the single vet. Yet the change makes possible payments amounting to hundreds of dollars more per veteran in the crucial tuition range of $400–$1500.

(2) The level of 6.6 percent reflects the CPI increase for October 76–October 77. The level of 4.0 percent precisely reflects both (a) the rise in tuition rates across the country for 1976/77 to 1977/78 school years and (b) the Congress' previous (1976) across-the-board increase, which amounted to 4.0 percent per year over a period of two years. A 4.0 percent increase, therefore, fully meets tuition increases and is consistent with recent Congressional policy.

B. Tuition/Acceleration:

(1) S. 457 offers no meaningful assistance at lower and middle tuition levels, where 80+ percent of the veterans enroll.

S. 457 offers substantial assistance to a very few vets at the highest cost institutions—the higher the cost and shorter the program, the better under S. 457 as reported.

The primary target for a veterans education bill which seeks to induce more students into using their benefits—especially in areas where the use rate is especially low—is the tuition range from $400/$500 to $1500/$1700.

S. 457 offers little or no help over most of this range and no more help at the upper end of this range than does S. 1899 (amended).

(2) Both S. 457 and S. 1899 (amended) would provide assistance to vets in all private schools.

S. 457, however, aids veterans in public schools in only four States.

S. 457, its tuition threshold lowered to $800, aids veterans in public schools in only nine States.

S. 1899 (amended) aids veterans in public schools in forty-five States.

(3) S. 457 provides extra help to only 12 percent of the vets currently enrolled—and these at the higher cost schools.

S. 457, its threshold lowered to $800, increases the number helped to only 15 percent.

S. 1899 (amended) provides extra help to fully 65 percent of veterans currently enrolled—and in those institutions most vets attend.

(4) S. 457 assists less than ⅕ of the currently enrolled vets who would receive assistance from S. 1899, induces into using their benefits over 40,000 fewer vets, and yet costs the same.

GI BILL PAYMENTS BY STATE GIVING TOTALS AND PAYMENTS ON A PER CAPITA BASIS—FISCAL YEAR 1976

Rank	State	Payments on per capita basis, fiscal year 1976	Viet vet population	State GI bill—Fiscal year 1976	
				Rank	Payments
1	Hawaii	1,281	32,000	34	$41,000,000
2	Arizona	1,148	81,000	20	93,000,000
3	Alabama	1,073	110,000	13	118,000,000
4	South Dakota	1,056	18,000	43	19,000,000
5	North Carolina	924	172,000	8	159,000,000
6	South Carolina	918	97,000	21	89,000,000
7	North Dakota	889	18,000	45	16,000,000
8	California	886	891,000	1	789,000,000
9	Colorado	879	107,000	19	94,000,000
10	Rhode Island	800	40,000	38	32,000,000
11	Florida	771	284,000	4	219,000,000
12	Nevada	760	25,000	42	19,000,000
13	Maine	757	37,000	39	28,000,000
14	New Mexico	757	37,000	40	28,000,000
15	Missouri	736	178,000	10	131,000,000
16	Tennessee	731	145,000	15	106,000,000
17	Texas	723	441,000	2	319,000,000
18	Mississippi	719	57,000	33	41,000,000
19	Utah	708	48,000	37	34,000,000
20	Oklahoma	703	111,000	25	78,000,000
21	Georgia	691	188,000	11	130,000,000
22	Arkansas	682	66,000	31	45,000,000
23	Kentucky	676	105,000	26	71,000,000
24	New Hampshire	629	35,000	41	22,000,000
25	Delaware	625	24,000	47	15,000,000
26	Nebraska	618	55,000	36	34,000,000
27	Maryland	618	170,000	16	105,000,000
28	Washington	610	177,000	14	108,000,000
29	Louisiana	609	115,000	27	70,000,000
30	West Virginia	607	56,000	35	34,000,000
31	Michigan	600	325,000	6	195,000,000
32	Oregon	574	101,000	28	58,000,000
33	Alaska	571	14,000	48	8,000,000
34	Idaho	551	29,000	44	16,000,000
35	Virginia	548	188,000	17	103,000,000
36	Massachusetts	540	226,000	12	122,000,000
37	Wyoming	539	13,000	49	7,000,000
38	Montana	536	28,000	46	15,000,000
39	Illinois	525	385,000	5	202,000,000
40	Kansas	524	82,000	32	43,000,000
41	Wisconsin	500	160,000	23	80,000,000
42	New York	483	561,000	3	271,000,000
43	Minnesota	476	164,000	24	78,000,000
44	Iowa	450	100,000	30	45,000,000
45	Connecticut	435	115,000	29	50,000,000
46	Ohio	428	400,000	7	171,000,000
47	Indiana	421	202,000	22	85,000,000
48	New Jersey	375	256,000	18	96,000,000
49	Pennsylvania	360	433,000	9	156,000,000
50	Vermont	316	19,000	50	6,000,000

Source of total payments—VA data submitted to CSA for Federal Outlays, published by the U.S. Treasury—Vet population from DVB information.

GI BILL PAYMENTS BY STATE—GIVING TOTALS AND PAYMENTS ON A PER CAPITA BASIS (FISCAL YEARS 1968–76)

Rank	State	Viet vet population	State GI bill (fiscal years 1968–76)		Capita basis (fiscal years 1968–76)	
			Rank	Payments	Rank	Payments
1	California	891,000	1	$3,173,570,000	8	$3,562
2	New York	561,000	3	1,124,349,000	43	2,004
3	Texas	441,000	2	1,235,637,000	15	2,802
4	Pennsylvania	433,000	6	781,276,000	47	1,804
5	Ohio	400,000	8	747,161,000	46	1,868
6	Illinois	385,000	4	900,584,000	33	2,339
7	Michigan	325,000	7	762,480,000	32	2,346
8	Florida	284,000	5	825,071,000	13	2,905
9	New Jersey	256,000	14	418,551,000	49	1,635
10	Massachusetts	226,000	13	464,041,000	42	2,053
11	Indiana	202,000	22	350,087,000	48	1,733
12	Georgia	188,000	10	508,434,000	19	2,704
13	Virginia	188,000	18	374,404,000	45	1,992
14	Missouri	178,000	11	483,093,000	17	2,714
15	Washington	177,000	12	479,665,000	18	2,710
16	North Carolina	172,000	9	537,879,000	10	3,127
17	Maryland	170,000	21	361,091,000	39	2,124
18	Minnesota	164,000	19	373,209,000	34	2,276
19	Wisconsin	160,000	20	362,710,000	35	2,267
20	Tennessee	145,000	16	400,236,000	16	2,760
21	Connecticut	115,000	29	230,062,000	44	2,001
22	Louisiana	115,000	26	307,021,000	21	2,670
23	Oklahoma	111,000	24	325,173,000	12	2,929
24	Alabama	110,000	15	410,780,000	5	3,734
25	Colorado	107,000	17	384,883,000	6	3,597
26	Kentucky	105,000	28	249,356,000	31	2,375

Rank	State	Viet vet population	State GI bill (fiscal years 1968–76) Rank	State GI bill (fiscal years 1968–76) Payments	Capita basis (fiscal years 1968–76) Rank	Capita basis (fiscal years 1968–76) Payments
27	Oregon	101,900	29	262,789,000	24	2,602
28	Iowa	100,000	30	210,163,000	40	2,102
29	South Carolina	97,000	26	290,811,000	11	2,998
30	Kansas	82,000	31	206,670,000	29	2,447
31	Arizona	81,000	23	331,725,000	2	4,095
32	Arkansas	66,000	32	176,842,000	20	2,679
33	Mississippi	57,000	34	150,990,000	23	2,649
34	West Virginia	56,000	38	125,152,000	37	2,235
35	Nebraska	55,000	35	146,468,000	22	2,663
36	Utah	48,000	33	153,975,000	9	3,208
37	Rhode Island	40,000	39	115,185,000	14	2,880
38	Maine	37,000	40	91,919,000	27	2,484
39	New Mexico	37,000	37	133,069,000	7	3,596
40	New Hampshire	35,000	41	73,472,000	41	2,098
41	Hawaii	32,000	36	143,048,000	1	4,470
42	Idaho	29,000	43	71,746,000	28	2,474
43	Montana	28,900	44	70,647,000	26	2,523
44	Nevada	25,000	46	63,793,000	25	2,552
45	Delaware	24,000	47	53,711,000	38	2,238
46	Vermont	19,000	50	26,647,000	50	1,402
47	North Dakota	18,000	42	73,260,000	3	4,070
48	South Dakota	18,000	45	70,344,000	4	3,908
49	Alaska	14,000	48	31,385,000	36	2,242
50	Wyoming	13,000	49	31,136,000	30	2,395

Source: Federal outlays compiled annually for U.S. Treasury by OEO/CSA and VA's Department of Veterans Benefits information bulletin.

Note: Fiscal year 1976 figures from unpublished VA data.

CUMULATIVE GI BILL USE RATES FOR COLLEGE AND JUNIOR COLLEGE

Rank	State	1976 Viet vet population	Junior and 4-yr college GI bill use rate Rank	Junior and 4-yr college GI bill use rate Percent
1	Arizona	84,000	1	55.3
2	California	911,000	2	53.9
3	Hawaii	33,000	3	53.5
4	South Dakota	18,000	4	48.5
5	North Dakota	17,000	5	48.3
6	New Mexico	38,000	6	45.4
7	Colorado	111,000	7	43.6
8	Washington	181,000	8	39.8
9	Alabama	113,000	9	39.7
10	North Carolina	176,000	10	39.7
11	Utah	49,000	11	38.7
12	Texas	451,000	12	38.7
13	Oklahoma	114,000	13	37.4
14	Oregon	105,000	14	37.1
15	Rhode Island	41,000	15	37.0
16	Wyoming	13,000	16	36.8
17	Idaho	28,000	17	36.6
18	Florida	293,000	18	36.2
19	South Carolina	100,000	19	36.2
20	Kansas	83,000	20	34.4
21	Nevada	25,000	21	33.9
22	Virginia	191,000	22	33.4
23	Delaware	24,000	23	33.2
24	Nebraska	55,000	24	32.9
25	Tennessee	148,000	25	32.6
26	Michigan	333,000	26	32.6
27	Mississippi	57,000	27	32.6
28	Missouri	183,000	28	32.2
29	Montana	28,000	29	31.7
30	New York	570,000	30	31.5
31	Illinois	393,000	31	30.4
32	Kentucky	108,000	32	30.2
33	Alaska	14,000	33	29.9
34	Massachusetts	231,000	34	29.9
35	Maine	38,000	35	29.7
36	New Hampshire	36,000	36	28.9
37	West Virginia	57,000	37	28.9
38	Louisiana	118,000	38	28.8
39	Maryland	174,000	39	28.8
40	Georgia	192,000	40	27.2
41	Arkansas	67,000	41	26.4
42	Wisconsin	164,000	42	26.2
43	Connecticut	118,000	43	24.3
44	Ohio	410,000	44	24.2
45	Iowa	102,000	45	24.1
46	Minnesota	169,000	46	23.9
47	New Jersey	262,000	47	22.1
48	Pennsylvania	442,000	48	20.0
49	Indiana	207,000	49	20.0
50	Vermont	19,000	50	17.0
	Total	7,894,000		
	Average			33.7

WORLD WAR II GI BILL USE RATES FOR COLLEGE AND JUNIOR COLLEGE AND FOR ALL PURPOSES

States ranked by GI bill college participation rate	Junior and 4-yr college GI bill use rate Rank	Junior and 4-yr college GI bill use rate Percent	Total GI bill use rate Rank	Total GI bill use rate Percent	World War II veteran population
Utah	1	26.8	7	63.9	72,000
Colorado	2	26.4	11	62.1	140,000
Oklahoma	3	18.7	9	63.1	214,000
Texas	4	17.7	15	58.5	774,000
Massachusetts	5	17.5	33	46.8	527,000
California	6	17.3	36	46.4	1,253,000
Washington	7	17.0	28	48.2	230,000
New York	8	16.5	25	49.4	1,598,000
Oregon	9	16.3	37	46.4	166,000
Kansas	10	16.1	31	47.4	185,000
Mississippi	11	16.0	1	73.5	162,000
New Mexico	12	15.3	18	51.9	72,000
Illinois	13	15.1	32	47.3	935,000
Minnesota	14	15.0	29	48.0	297,000
Arizona	15	14.8	24	49.6	79,000
Louisiana	16	14.7	6	64.9	239,000
Maryland	17	14.7	22	50.4	242,000
Wisconsin	18	14.7	40	42.9	307,000
Ohio	19	14.4	39	44.7	858,000
Wyoming	20	14.3	19	51.4	28,000
Iowa	21	14.2	21	50.5	220,000
Connecticut	22	14.0	42	42.7	205,000
Nebraska	23	13.9	17	55.0	119,000
North Dakota	24	13.8	30	47.5	48,000
Indiana	25	13.7	45	40.6	398,000
Missouri	26	13.3	13	58.8	387,000
Rhode Island	27	13.1	50	34.9	94,000
Michigan	28	13.0	46	40.4	681,000
Montana	29	12.9	27	49.0	59,000
Alabama	30	12.8	3	67.6	253,000
Idaho	31	12.7	12	60.0	55,000
Vermont	32	12.5	23	50.0	32,000
Delaware	33	12.4	26	49.0	28,000
Florida	34	12.4	16	55.6	308,000
Tennessee	35	12.4	2	67.9	299,000
Nevada	36	12.2	41	42.8	18,000
Georgia	37	11.9	4	65.9	290,000
Pennsylvania	38	11.3	20	50.5	1,164,000
Arkansas	39	11.2	5	65.7	156,000
Alaska	40	11.1	8	63.3	9,000
New Jersey	41	10.2	49	37.8	555,000
South Carolina	42	10.1	10	62.6	163,000
North Carolina	43	9.9	14	58.6	338,000
South Dakota	44	9.9	38	44.7	57,000
Kentucky	45	9.8	35	46.5	245,000
New Hampshire	46	9.8	44	42.4	55,000
West Virginia	47	9.7	47	38.7	190,000
Hawaii	48	9.0	43	42.5	39,000
Virginia	49	8.6	48	38.5	302,000
Maine	50	7.5	34	46.6	83,000
Total		13.8		51.5	15,229,000

STATE GI BILL PAYMENTS AND VETERAN POPULATION COMPARED TO CALIFORNIA—FISCAL YEARS 1968–76

	GI bill payments, fiscal years 1968–76	State payments as percent of California payments	State vet population as percent of California vet population	Additional State GI bill payments if used at California rate
1 California	$3,173,600,000	100.0	100.0	
2 New York	1,124,300,000	35.4	63.0	$875,914,000
3 Texas	1,235,600,000	38.9	49.5	336,400,000
4 Pennsylvania	781,300,000	24.6	48.6	761,600,000
5 Ohio	747,200,000	23.5	44.9	679,150,000
6 Illinois	900,600,000	28.4	43.2	469,690,000

STATE GI BILL PAYMENTS AND VETERAN POPULATION COMPARED TO CALIFORNIA—FISCAL YEARS 1968-76—Continued

		GI bill payments, fiscal years 1968–76	State payments as percent of California payments	State vet population as percent of California vet population	Additional State GI bill payments if used at California rate
7	Michigan	762,500,000	24.0	36.5	396,700,000
8	Florida	825,100,000	26.0	31.9	187,272,000
9	New Jersey	418,500,000	13.2	29.7	523,644,000
10	Massachusetts	464,000,000	14.6	25.4	342,750,000
11	Indiana	350,100,000	11.0	22.7	371,311,000
12	Georgia	508,400,000	16.0	21.1	161,854,000
13	Virginia	374,400,000	11.8	21.1	295,145,000
14	Missouri	483,100,000	15.2	20.0	152,333,000
15	Washington	479,700,000	15.1	19.9	152,333,000
16	North Carolina	537,900,000	16.9	19.3	76,166,000
17	Maryland	361,100,000	11.4	19.0	241,194,000
18	Minnesota	373,200,000	11.8	18.4	209,458,000
19	Wisconsin	362,700,000	11.4	18.0	209,458,000
20	Tennessee	400,200,000	12.6	16.3	117,423,000
21	Connecticut	230,100,000	7.2	12.9	180,895,000
22	Louisiana	307,000,000	9.7	12.9	101,555,000
23	Oklahoma	325,200,000	10.3	12.5	69,819,000
24	Alabama	410,800,000	12.9	12.4	
25	Colorado	384,900,000	12.1	12.0	
26	Kentucky	249,400,000	7.9	11.8	123,770,000
27	Oregon	262,800,000	8.3	11.3	95,208,000
28	Iowa	210,200,000	6.6	11.2	145,986,000
29	South Carolina	290,800,000	9.2	10.9	53,951,000
30	Kansas	200,700,000	6.3	9.2	92,034,000
31	Arizona	331,700,000	10.5	9.1	
32	Arkansas	176,800,000	5.6	7.4	57,125,000
33	Mississippi	151,000,000	4.8	6.4	50,778,000
34	West Virginia	125,200,000	3.9	6.3	76,166,000
35	Nebraska	146,500,000	4.6	6.2	50,778,000
36	Utah	154,000,000	4.9	5.4	15,868,000
37	Rhode Island	115,200,000	3.6	4.5	28,562,000
38	Maine	91,900,000	2.3	4.2	60,298,000
39	New Mexico	133,100,000	4.2	4.2	
40	New Hampshire	73,400,000	2.3	3.9	50,778,000
41	Hawaii	143,000,000	4.5	3.6	
42	Idaho	71,700,000	2.3	3.3	31,736,000
43	Montana	70,600,000	2.2	3.1	28,562,000
44	Nevada	63,800,000	2.0	2.8	25,389,000
45	Delaware	53,700,000	1.7	2.7	31,736,000
46	Vermont	26,600,000	.8	2.1	41,257,000
47	North Dakota	73,300,000	2.3	2.0	
48	South Dakota	70,300,000	2.2	2.0	
49	Alaska	31,400,000	1.0	1.6	19,042,000
50	Wyoming	31,100,000	1.0	1.5	15,868,000

By the way, I emphasize that today's GI bill is a different plan than we had for World War II veterans. At that time, we paid the tuition up to $500. Now we do not do that, but we give them a flat entitlement.

Under this flat entitlement, what happens is that veterans in States like California, where there is no tuition, for all practical purposes, or a couple hundred dollars at the most, have a free ride. They get the most out of their entitlement. But in States like my own, it becomes literally impossible for the veteran to use his higher education benefits because the tuition simply eats up his entitlement. Hence, he does not take advantage of his higher education opportunities.

That has worked out, Mr. President, in such a way that 54 percent of the veterans in California use their entitlement, but when we get down to New York, Massachusetts, Illinois, Kentucky, a whole mass of other major States, the use of the entitlement is 30 percent or less, almost half of that in these other States.

It is in order to equalize that opportunity that Senator MOYNIHAN and I, and our colleagues, numerous as I have described, have offered this amendment.

Mr. President, the way the bill is drawn, which Senator CRANSTON and Senator DURKIN essentially have fashioned, is certainly an improvement over the present situation. The difficulty is that it is only an improvement for a few States, only four, as we figure it, whereas the improvement which we seek to make would be an improvement for GI's in public schools in some 45 States out of the 50. That is the difference between the two plans. The Senate should very definitely make its choice.

Now, Mr. President, we have prepared a chart which any Member can consult, which shows what happens to a single veteran at various State universities in all of the 50 States under our amendment and under the bill as it stands today. That chart shows, taking the normal State university—and we actually identify in each State a State university—that there are for the most part, only four States whose public institutions will get any benefit out of this bill as it stands. All of the others get no benefits, absolutely zero, on this analysis.

Mr. President, I ask unanimous consent to have printed in the RECORD the table to which I have referred:

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

COMPARISON OF TUITION BENEFITS TO SINGLE VETERANS UNDER JAVITS AMENDMENT AND S. 457 AT VARIOUS STATE UNIVERSITIES

	Javits Amendment	*S. 457*
U. of Alabama	$7	0
U. of Alaska, Fairbanks	78.40	0
No. Arizona U	0	0
U. of Arkansas, Fayetteville	70	0
Cal. State U., Long Beach	0	0
U. of California, Irvine	359	0
U. of Colorado, Denver	40.60	0
U. of Connecticut, Storre	392	0
U. of Delaware	404.60	0
D.C. Teachers' College	0	0
Florida State University	210	0
U. of Georgia, Athens	186.20	0
U. of Hawaii, Moroa	54.60	0
U. of Idaho	42	0
U. of Illinois, Urbana	218.40	0
U. of Indiana, Bloomington	225.40	0
U. of Iowa	245	0
U. of Kansas	196	0
U. of Kentucky	56	0
Louisiana State U	28	0
U. of Maine, Orono	262.50	0
U. of Maryland, College Park	268.80	0
Worcester State College, Mass.	140	0
U. of Michigan, Ann Arbor	358.40	0
U. of Minnesota, Duluth	385	0
U. of Mississippi	212.10	0
U. of Missouri, Columbia	170.80	0
U. of Montana	104.30	0
U. of Nebraska, Lincoln	228.20	0
U. of Nevada	105	0
U. of New Hampshire	499.10	$133
Rutgers U., New Brunswick, N.J.	385	0
U. of New Mexico	84	0
State U. of New York, Albany	245	0
Cornell U., state statutory schools	700	1,000
U. of North Carolina, Chapel Hill	54.60	0
U. of North Dakota, Grand Forks	89.60	0
Ohio State U	308	0
U. of Oklahoma	96.60	0
U. of Oregon	245	0
Temple U., Pennsylvania	630	300
U. of Rhode Island	387.80	0
U. of South Carolina	119	0
U. of South Dakota	182	0
U. of Tennessee, Knoxville	66.50	0
U. of Texas, Austin	0	0
Utah State U	77	0
U. of Vermont	668.50	355
U. of Virginia, Charlottesville	269.50	0
U. of Washington	114.80	0
West Virginia University	17.50	0
U. of Wisconsin, Green Bay	189	0

SOURCE.—Student Expenses at Postsecondary Institutions, CEEB.

Excerpted in Chronicle of Higher Education 3/28/77, pp. 13–16.

Under our amendment, as I have described it, the benefit is a very real one because the tuition falls in that slot which is not covered by this bill, but which is covered by our amendment, to wit, from $400 up to $1,100, with a maximum entitlement of $700 in additional tuition for the individual student.

That is the issue, Mr. President, the issue which we present to the Senate. The idea of the GI bill is to encourage, not to discourage, veterans to take advantage of their higher education opportunity. Yet the record shows this has failed miserably because of this tuition pattern which I have described, with a high enjoyment by the GI of his higher education opportunity in the States I have named, starting with Arizona and California, and the low going way down to around 20 percent of actual utilization based upon these categories of tuition payments which are required in order to go to State universities.

I hope very much the Senate will look with favor upon this amendment. I yield 6 minutes to my colleague from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank my colleague very much.

Mr. President, the question before us is one of equity, both for individuals and for our region and State. It is surprising that for a quarter century the Congress somehow has not addressed itself to this question.

I believe it is the case, Mr. President, that the distinguished chairman of the Veterans' Committee in the Senate is a veteran of the Second World War, an

Army veteran. I believe his distinguished colleague, the ranking minority member, is a Navy veteran. Senator JAVITS was in the Army in the Second World War. I was in the Navy in the Second World War. I suspect all four of us first came upon the GI bill in its original form and with its purpose intact. Its purpose was to provide to the veterans of that war an equal opportunity for education, at institutions of their own choice. We all had that opportunity. There was a clear distinction made between the payment we received for our own living expenses, and the tuition paid to the institution we attended.

It worked well. It certainly gave persons such as myself an opportunity to go on to finish undergraduate school, to go to graduate school, and to go on further, which we otherwise would not have had.

It certainly was an arrangement that had the overwhelming support of the American people and the veterans' community.

In 1952 it was changed. I do not suppose the change was made to combine both tuition and living expense benefits. I cannot imagine that Senator STAFFORD in Vermont would have thought that when the change was made the result 25 years later would be that the veterans of the State of Vermont would have the lowest rate of participation of any State in the Union, any more than I suppose the distinguished chairman of the committee would have imagined that this would result in California having the second highest rate, or that the difference between these two States would amount to one of more than three times, 52 percent as against 16 percent.

But this is what has happened; we now have a regional imbalance of the most extraordinary kind. Just this week, in the Washington Post, a long and supporting editorial, which I ask to have printed in the RECORD, Mr. President, noted that since 1968 the veterans of the Northeast and Middle West have received only $8 billion worth of veterans' benefits as against $12 billion for the South and West itself.

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

EQUALIZING VETERANS EDUCATION

The disparity in education benefits to veterans continues to hamper, and even suppress in many cases, the educational goals of ex-servicemen. A recent study by a congressional coalition of Northeast and Midwest members found that since 1968 an equal number of veterans in the South and West have received nearly $12 billion in benefits, against $8 billion for veterans in the Northeast and Midwest. The difference is in the lower tuition costs in the Sunbelt, where more low-cost public education is available; many eligible veterans simply can't afford the higher tuitions in the Northeast and Midwest, even with the GI Bill's help. Those who drafted the current GI Bill may not have wished to put veterans in some parts of the country at a disadvantage, but that is much the way it has worked out.

The question is what to do about it. One approach, advanced by the Veterans Administration, is an across-the-board increase in education benefits. Legislation passed by the Senate Veterans Affairs Committee offers a 6.6 percent increase. As generous as this may appear, it serves to continue the inequities that make it easier for veterans in one area of the country to get an education than it is for veterans in other areas.

A second approach, advanced by Sen. Alan Cranston (D-Calif.) and also contained in the committee's bill, would allow veterans whose tuitions exceed $1,000 to use their 45 months worth of benefits at a faster rate. That makes it easier to pay high tuitions but it also means that the money runs out sooner. Although this approach is better than the straight 6.6 percent across-the-board increase, it still leaves a number of problems unsolved. In helping veterans whose tuition goes beyond $1,000, the Cranston approach doesn't eliminate the disadvantage of veterans in colleges in Michigan, Ohio, New York or other Midwestern or Northeastern states. They still have almost $1,000 less to live on than their California counterparts, because the latter have little tuition to pay.

To remedy this, Sens. Jacob Javits (R-N.Y.) and Daniel P. Moynihan (D-N.Y.) are offering an amendment that would reduce the 6.6 per cent increase to four per cent and apply the savings of $200 million (according to estimates by the Congressional Budget Office) toward easing the tuition burden of veterans in colleges and technical schools in many more states. This strikes us as addressing the issue from a broader perspective—which is to say that more veterans are likely to be served. It also promises to be a better use of federal funds because it focuses the available money on those most needing it.

A second possible outlet for money saved by reducing the across-the-board increase is an extension of time during which veterans can take advantage of their benefits. From 1966 to 1972, benefits were much too low to be of much use by many veterans who served in Vietnam. Extending the eligibility period would allow these veterans to avail themselves of an educational opportunity that, for all practical purposes, was closed to them.

Either Sen. Cranston's approach or the Javits-Moynihan plan would assuredly be more positive than the across-the-board increase adopted by the House. With a conference committee struggle likely to occur, the Carter administration has an opportunity to move forcefully from its narrow position to one that will distribute whatever funds are available to more veterans—more equitably.

The time for the administration to move is now, while the bill is still before the Senate. And the argument for doing so is all the stronger in the light of the President's recent refusal to veto a bill that severely weakens his program to help veterans, principally those of the Vietnam war, to "upgrade" other-than-honorable discharges and thus restore their entitlements to GI benefits, and improve their chances of getting jobs. The principal beneficiaries of the increased education benefits, it should be emphasized, would also be veterans of Vietnam. We are talking, in other words, about still another part of the unfinished business of the Vietnam war.

Mr. MOYNIHAN. In my own State of New York, Mr. President, the operation of the GI bill in the past 25 years has served to diminish the opportunities of veterans for education. This is characteristic of the impact of this whole measure. It is not an accident that the seven Northeastern States, which have 20 percent of the Vietnam era veterans of this country, receive only 10 percent of the GI bill benefits. We must ask why.

Mr. President, no educational assistance program in history can begin to match in scope the GI bill, in all its incarnations over three decades. I think this splendid record is continued in the bill before us, S. 457, which I consider meritorious in most respects.

I am particularly pleased with the so-called "acceleration" provision, which accepts both that the education expenses faced by different veterans can vary considerably and that the veterans' educational benefits program should respond to this reality. The notion of accelerated benefits is a step in the right direction, but I would argue that the acceleration provision of S. 457, while unobjectionable so far as it goes, is so limited in application as to be unacceptable. S. 457, as reported, makes a promise—that it will attend to the variable educational needs of veterans—and then fails to deliver on that promise.

I speak today in support of the amendment, proposed by my able colleague, the distinguished senior Senator from New York, which would substitute a tuition equalization program for the accelerated benefits provision of S. 457. He and I join with Senators BROOKE, KENNEDY, and METZENBAUM—in offering this amendment which will extend tuition relief to more than five times the number of student veterans as would receive relief under S. 457. Our amendment would provide relief to veterans attending public educational institutions in 45 States rather than in only the four States allowed by S. 457. Our amendment would include not only full-time students, as does S. 457, but part-time students as well, thus not denying relief to those whose financial needs are already so great as to force them to work. Our amendment's provisions would, according to the Congressional Budget Office, induce nearly 20,000 more veterans to use their GI benefits than would S. 457 as reported.

Last, our amendment would cost no more than S. 457 as reported.

I should like to speak to the arguments made against our proposal. It cannot be contested that our amendment would mean a huge increase in the numbers of students and States receiving tuition relief.

Yet, it is argued that these additional veterans, totalling almost 1 million this year, do not need any such assistance. And it is argued that unequal benefit payments should not be made to veterans who served their country equally. The first is a factual argument; the second, one of principle. I suggest that the facts stand in favor of our proposal, and that opposition to our proposal on principle is simply mistaken. I shall address both points.

The factual problem is straightforward: a set monthly education payment to all veterans is not equitable because veterans face widely varying educational costs. An example one could cite is that of the single veteran attending Temple University in Philadelphia and of another single veteran attending California State University in Sacramento. The veteran at Temple must spend 50 percent of

his yearly entitlement for tuition, leaving him with less than $150 per month for living expenses; the veteran at Cal. State, on the other hand, spends only 7.5 percent of his yearly entitlement on tuition, and has more than $270 per month remaining on which to live. Turning to my own State of New York, a veteran at the State University at Buffalo must pay nearly 40 percent of his annual entitlement for tuition and must make do with about $180 per month to defray living costs. Yet a veteran at the University of Arizona pays but 17 percent of his entitlement toward tuition and can put over $240 per month toward other costs. Is it any wonder, then, that fewer than 20 percent of Pennsylvania's and only 30 percent of New York's veterans use their benefits, while the rate of use is 52 percent in California and 54 percent in Arizona?

I suggest that something evidently is quite wrong when rates of veteran participation uniformly fall below the national average in the Northeast and Midwest, while other regions of the country enjoy rates uniformly higher than the national average. One cannot easily overlook the fact that the veterans in the seven Northeastern States, who amount to 20 percent of the Nation's Vietnam veterans, last year received only 10 percent of the GI bill payments.

The facts of the matter support our proposal: The need for equalized tuition assistance is as real for those veterans whose tuitions are below $1,000 per year as for those above. This is all quite straightforward: tuitions vary, and so should assistance.

What is less straightforward, in my opinion, is the argument of principle, the argument that our tuition assistance plan grants unequal benefits for equal service. It is agreed that we must provide equal benefits to veterans. But why is it claimed that our proposal would do anything different?

It seems that the ground of the argument is that, unlike an acceleration plan which simply allows a veteran to speed up the payment of his statutory entitlement, our plan would actually grant different benefit to veterans with different costs. But reliance is made here on a most unusual notion of the benefit intended by the GI bill to be conferred equally on all veterans.

In fact, the purpose of the GI bill was at its inception, is now, and I trust shall remain that of assisting veterans to obtain an education. Applied equally, this means providing an equal opportunity to all veterans to further their learning and improve their skills. Equal opportunity for education surely does not mean denying to veterans in some areas the chance to attend their own State's institutions, remaining thereby near their families and communities, and becoming ever more productive members of their native States.

The GI bill was never meant to be a pension program, compensating veterans for time served by making monthly payments to them. The benefit conferred equally by the GI bill is not a monthly check. Indeed, if it were, an increase in the payments schedule could be seen as an increase in certain veterans' benefits over the benefits received a short time earlier by other veterans. A change in the monthly entitlement would, if money were the benefit we intended to confer, rightly raise the cry "unequal benefits for equal service" throughout this honored forum.

But we heard no such cry when we raised the monthly entitlement, by stages, from $100 per month in the early 1960's to the present $292 per month for the single veteran. There was no charge made because it was understood by all that, if the cost of education itself had increased, then the payments made to veterans should also increase. The actual "benefit" remained the same—an equal opportunity to seek an education. Payments were raised to allow the veteran to keep up with the rising cost of education in America.

I suggest to my colleagues that there is no fundamental distinction to be drawn between having provided veterans in different decades with differing entitlements and, now, providing veterans of the same era, albeit in different settings or educational programs, with differing amounts of financial relief—so long as the purpose of the varying relief is the bona fide one of assisting veterans equally to meet the costs of an education. In fact, one need not extend thoughts back to other eras; one need only look at the payments tables in the various chapters of title 38, governing veterans' benefits. We give different amounts to veterans in vocational rehabilitation as opposed to college; we give the veteran in the on-job training program less than we do the veteran in the farm cooperative program. And we do this because their needs are different.

The principle underlying the GI bill is clear: Our assistance to veterans must provide an equal opportunity for each to pursue an education. S. 457, as reported, does reflect an understanding of this principle. For the first time since the Korean war, provision is made in the GI bill for veterans whose tuition costs differ to receive variable tuition assistance, beyond their monthly entitlements, to offset costs.

I am perplexed, therefore, when I hear it argued that we must not turn to a tuition equalization program, because it provides different rates of assistance to veterans facing different educational costs. I am doubly perplexed when I hear this argued by distinguished colleagues who, in their own proposal, accept the need for variable tuition relief, but who then choose to grant such relief to veterans in public institutions in only four States of the Union and, overall, to only 12 percent of veterans currently enrolled in training. It is as if the burden of varying costs has been deemed nonexistent for 88 percent of our Nation's veterans. I simply do not believe it is right to adopt a plan which would pay so few veterans what strikes me as an uncommonly generous amount—up to twice their normal yearly entitlement—while allowing to the overwhelming majority of veterans no relief at all.

The amendment before us would, for the same cost, grant tuition assistance to more than 65 percent of currently enrolled veterans and expand the coverage of veterans assisted and who attend public institutions to include those in 45 States. These figures speak for themselves.

I urge the Senate to consider carefully its actions on this amendment. I believe it to be manifestly the more equitable provision, and to provide equal educational opportunity for all veterans.

Mr. CRANSTON. Mr. President, I oppose the amendment offered by my colleague from New York for a number of reasons.

The committee bill, reported unanimously by the Veterans' Affairs Committee, includes an accelerated program designed to ameliorate inequities in the current GI bill program. That program, found at sections 201 and 202 of the committee bill, is, in the committee's judgment, superior to the program's amendment.

The committee believes that a program designed to provide an avenue to additional GI bill assistance is needed to aid those veterans without access to low-cost educational institutions and those veterans enrolled in, or desirous of enrolling in, a high-cost program of education.

After due consideration, the committee determined that the most equitable method of providing such assistance is the accelerated benefit program contained in the committee bill. Under an accelerated program, all veterans would continue to be treated similarly by the Federal Government; that is, each veteran, as a result of his service, is entitled to a maximum of 45 months of educational assistance entitlement at the same rate. The accelerated program merely changes, in certain instances, the general rule that the benefits have to be used 1 month at a time.

The committee has structured its program in order to provide the greatest amount of assistance to those veteran-students bearing a heavier than average burden of expenditures in obtaining an education—those having to pay a total of $1,000 or greater per school year for tuition and fees.

In addition, in order for a veteran to be eligible for assistance under the committee's program, the veteran must qualify for a VA loan on the basis of need, as outlined in section 1798 of title 38. Thus, the committee's program takes into consideration the veteran's needs and the actual cost to the veteran of attending the particular college or university in which he is enrolled. In this regard, I would like to quote from a recent article by Chester E. Finn concerning the GI bill program:

> Various provisions—whether the veteran is single or married, the number of his dependents, the amount of time he spent in uniform, et cetera—govern the size of an individual's stipend and the number of months he receives it, but two key variables commonly found in other students' aid programmes are conspicuously absent from these calculations: financial need—i.e., the recipient's ability to pay for college himself, and the cost of attending a particular college or university.

This is exactly the concept which is incorporated into the committee's acceleration proposal which is not included in the amendment of the Senators from New York.

The committee bill seeks to address inequities existing within the GI bill program. Specifically, it is apparent to the committee that, as a result of the uniform payment formula, many veterans have not elected to attend certain high-cost educational institutions. At the end of November 1976, only 13.8 percent of veterans enrolled in training under the GI bill were enrolled in private institutions of higher learning. This low figure suggests that the lack of sufficient benefits, in many instances, precluded attendance at such private institutions. A recent article by Norman Birnbaum in the Educational Record is pertinent.

If lower income students are relegated to community colleges, middle income students to State universities, and high income students to the private elite sector, our institutions of higher education are not invariably the mechanism of democratization we like to believe.

Under the committee proposal, for example, a married veteran in Maine could, under some circumstances, obtain greater amounts of assistance to attend a private institution, such as Bates where, in 1977–78, the average tuition will be $3,960, and where, between July 1976 and December 1976, only 11 veterans were enrolled.

Under the Javits-Moynihan amendment, in order to fund the tuition subsidy proposal, the GI bill increase would be reduced to only 4 percent, rather than the 6.6 percent increase unanimously recommended by the committee. The trouble with that reduction is that 6.6 percent is the increase in the cost of living as measured by the Consumer Price Index since the effective date of the GI bill benefit increase in October 1976.

Many veterans are not interested in attending a residential educational institution. For example, over the 11-year period during which the current GI bill has been in effect, almost 25 percent—and 21 percent last year—of those veteran-residents of New York who have participated in the GI bill program were enrolled in programs of on-job training and correspondence. These equally deserving veterans would be disadvantaged in order that veterans attending a residential educational institution might be advantaged. I stress that the tuition subsidy proposal does not target available Federal dollars to those who shoulder the greatest financial burden. That is, I think, a major reason for my concern about the proposed amendment.

We fully realize that if we were to lower the $1,000 threshold figure contained in the accelerated proposal, we could increase the base of eligible veterans. However, I point out that the committee has the same problem in attempting to restructure the veterans pension program. The committee would be interested in providing assistance to greater numbers of veterans, and, by increasing the levels of the income limitations, it could do that. Unfortunately, there are budgetary limitations, and hard decisions will have to be made in that program and in this one. Thus, in the case of the GI bill, the committee determined that expenditures of available funds should be made to assist those veterans most in need and bearing the largest and most disproportionate burden in terms of cost. We have defined that need threshold to be $1,000 in tuition and fee cost. Establishing that threshold enabled us to stay within our functional spending limitations and assist veterans bearing the heaviest cost of education.

The $400 threshold proposed by our colleagues from New York is just too low. And I say this even though the accelerated payment proposal with its $1,000 threshold would be of minimal assistance to the vast majority of the 170,997 California residents enrolled in training under the GI bill at the end of November 1976. A $400 threshold would help them a lot more. However, the best evidence is that the vast majority of those enrolled in institutions of higher learning under the GI bill are managing now to go to school with the approximately $3,000 to $4,000 per school year now provided under the GI bill. I do not believe we should provide them with additional support at the expense of those who are precluded from education or training by the high costs entailed.

Further, the tuition subsidy proposal contains few, if any, devices designed to curb control. The payment of the additional moneys to the institution, rather than to the veteran, is no guarantee. Institutional abuse of the program has been evident, not only in the World War II program but also in the current GI bill program. The committee's hearing records and reports includes much testimony in this regard. Recently, for example, a barber school in Chicago was found enrolling hundreds, even thousands, more veterans than it had room to teach.

Under the accelerated program the veteran would become entitled to additional moneys only upon the satisfactory completion of the term for which the benefits are to be paid. In addition, a veteran can accelerate only in an institution which has certified that 35 percent or less of its student body is in receipt GI bill benefits.

Finally, I speak to the points that have been raised concerning the varying GI bill participation rates.

Admittedly, there are differences from State to State in the numbers of veteran residents in such States who have participated in the GI bill program. We must remember, however, that under the current uniform payment program, 64.3 percent of Vietnam-era veterans have participated in the VA educational assistance program, as compared to a participation rate for the World War II GI bill of 50.5 percent, and the Korean conflict GI bill of 43.4 percent. Although I am skeptical as to whether we should consider these participation rates as themselves an adequate indicator of effectiveness, I do believe that it is a basis upon which the three GI bills can be compared. These participation rates could be interpreted to indicate that the current GI bill has been comparatively successful.

I think it important to realize in this regard—and again, this is a key point—that there has been a significant correlation between GI bill participation and increases in the amounts of educational assistance allowance provided. I think that this correlation is especially important in light of the proposed reduction of the increases provided in the committee bill which the Senators from New York are proposing. Differences in State participation rates under the GI bill are not unique to the current GI bill program. Under the World War II program, there were wide disparities in participation rates among the States: the State of Mississippi had a 72.1-percent participation rate, more than twice that of the State of Virginia.

Moreover, the participation rate in some States, alleged to have a deficit of accessible low-cost educational institutions, is better under the current GI bill than under the World War II program. For example, Rhode Island's participation rate for the World War II program was 34.4 percent; whereas, under the current Vietnam-era GI bill program, the participation rate is 54.3 percent.

The post-World War II participation for the State of Maine was 47.6 percent; the Vietnam-era participation rate is 57.5 percent. The participation rate for the State of Delaware under the World War II program was 44.1 percent; under the Vietnam-era bill, 57.2. The State of Michigan World War II participation rate was 45.5 percent; under the Vietnam-era program, it is 53.2 percent.

There is no easy explanation for these kinds of variations in State participation rates, it does seem likely that the varying State participation rates are to some extent a function of the amount of resources which individual State and local communities have committed to the development of adequate accessible low-cost post-secondary education programs.

A study conducted by the Veterans' Administration, pursuant to section 105 of Public Law 93–508, in November 1975, reported:

More than half of GI bill trainees in residence schools on a half-time or greater basis selected their schools on the basis of geographic location.

The number of veterans surveyed who listed this as the most important reason was more than five times greater than the number who cited low cost of tuition as being the primary reason for selection of the school. Thus, providing relatively modest tuition subsidy assistance is not going to resolve the basic problem which is, as a recent report by the Carnegie Foundation for the advancement of teaching pointed out, that there is a deficiency of accessible low-cost institutions in many States—many of which have low veteran participation rates. Thus, participation rates are a function of many factors, and nothing in either amendment is going to produce a totally adequate answer, especially regarding the availability of reasonably priced education.

The GI bill program is a good program. It is not a perfect one. I welcome the assistance of my colleagues in seek-

ing to improve the program. I just do not agree with the way this particular amendment proposes to do it is advisable.

For the reasons I have outlined, I believe that the accelerated proposal unanimously recommended by the committee charged with matters in regard to veterans is superior.

Let me point out finally that the chart described by my colleague from New York fails to take into consideration the differences in the rates of benefits paid under the committee bill and the lower rate proposed to be paid by the pending amendment. I note that for a number of the State institutions listed on the chart—for example, Alabama, Idaho, Kentucky, and Tennessee—veterans in attendance would in fact be financially "better off" under the committee bill than under the pending amendment.

Mr. JAVITS. Will the Senator yield for a question?

Mr. CRANSTON. Of course.

Mr. JAVITS. Mr. President, I yield myself 2 minutes so we do not intrude upon the Senator's time.

Mr. CRANSTON. Fine.

Mr. JAVITS. The thing that puzzles me is this. The Senator says the $400 is too low, and it seemed to me clearly intimated that $1,000 is too high. Now, what is the Senator's expertise on that subject?

I do not pretend to be an expert on the GI bill. I am sure the Senator has worked with it and is much more expert in that than I am.

I would like his view as to what we ought to do that is fair because it struck us, with so very few States really benefitting, that there was something very wrong with this program, especially with the very awkward nonuse slant which we found in our own States.

Now, if $400 is too low, and I got the clear intimation that $1,000 just helps some private schools in some particular States which could be helped anyhow, what is a fair shot at this to help most of the States and to try to, naturally, improve their utilization of their GI bill rights?

Mr. CRANSTON. The committee would rather target available money on those individuals who are not likely to be able to get an education without this assistance. They are the ones who need it the most.

There is no magic figure; $1,000 seems to us, obviously, preferable and more helpful than $400.

We can say that we would be willing, as the Senator knows we would, to try to work something out around $750 that would be consistent with the Function 700 budget ceiling; but it would have to utilize the acceleration, not the subsidy, concept, it could not be capped, and it could not entail any reduction from the across-the-board, 6.6-rate increase.

Mr. JAVITS. That figure, it turns out, I begged the Senator to confer with us on that.

Mr. CRANSTON. We did already, extensively, as the Senator knows.

Mr. JAVITS. We could not work it out. I have no complaints. But it seems to me that is the answer. If the committee wants us to go the route of this accelerated payment and, therefore, to target to the individual, we have to get some figure that reaches most of our States, and that figure should be something between the figures which we have been discussing.

Our base figure, apparently, is $500. The Senator's base figure is $1,000.

Normally, we do that in conference all the time, we would split it.

The difficulty is that it does not respond to the cold relative number, to wit, the normal tuition in the State institutions.

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

Mr. JAVITS. I yield myself another minute.

It does not correspond to the normal tuition in the State institutions, which I understand runs between $500 and $800.

If we could find a reasonable approach to this, we have got to go to conference with the House anyhow, which has nothing, it has not even got the self-starting quality the Senator's own bill has.

I said when I began that this is certainly an improvement over what they have offered us.

Mr. CRANSTON. I appreciate that. We will be able to get to conference one way or the other on this kind of proposal as soon as we pass this bill. The question is what kind.

Mr. JAVITS. I would be very interested, and I believe Senator MOYNIHAN would be in working something out.

I yield 2 minutes to the Senator.

Mr. MOYNIHAN. I thank my distinguished senior colleague. I would like to echo his sentiments precisely.

Mr. President, the Senate is proud of its Veterans' Committee and proud of the two men who run it. We rise concerned, and I ask the chairman of the committee to hear me on this.

Does the chairman of the Veterans' Committee want the GI bill, with all that it has meant to the country, to the Members of the Senate, to him, to me, to all of us here, to be stigmatized as one of our Sun Belt ripoffs?

Certainly, he does not. That is why we wish to cooperate and arrive at a GI Bill Improvements Act which is as fair as possible to all veterans, countrywide.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. In response to the Senator's question, I say that I do not want it called that, and I do not think it merits being called that.

My interest is—and I think our interest should be—in seeing that Government funds are used to serve all veterans equitably and to help those who need help the most.

Mr. MOYNIHAN. Yet the facts of your proposal are otherwise.

Mr. CRANSTON. I disagree with that. Moreover, I am not necessarily serving the particular needs of California's veterans by the amendment I am offering here.

Mr. MOYNIHAN. Certainly not.

Mr. CRANSTON. I think that the program in the committee bill is the best and fairest use to make of the funds for veterans everywhere, regardless of the State in which they happen to live. Seven hundred and fifty dollars happens to be the approximate average amount that veterans now pay out of there GI bill assistance for the total cost of tuition when they go to a 4-year institution of higher learning. Many of those people need less help than people who may not get any education at all. That may be the result if we fail to provide a real cost-of-living increase in the amount of the educational assistance allowances.

Mr. MOYNIHAN. I beg the Senator, nonetheless, to consider that, although no one has intended it, the inexorable movement of expenditure under the GI bill since 1952 has been to the profound disadvantage of the Northern and Midwestern States.

I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from New York.

Mr. President, I do not think we want to call this the Sun Belt bill, but I do not think we want to call it a CARE package for the State of New York, either.

I am afraid that if the amendment of the Senator from New York is adopted, in effect, it will gut much of the work that this committee has done. I commend the Senators from New York for aggressively representing their State. However, in effect, it becomes a CARE package for the moderate-priced public institutions of the State of New York.

With respect to the Northeast and the Midwest, we all received a letter indicating that the Northeast-Midwest coordinating committee, or council, whatever it is called, endorsed this amendment. I think the record will show that the Northeast-Midwest committee never met and never endorsed anything, and that letter was misleading, at best.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRANSTON. I yield to the Senator from New Hampshire such time as he needs.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. DURKIN. I thank the Senator from California.

My problem with the amendment of the Senators from New York is that the cost is prohibitively high—$495 million. It would push the Veterans' Committee far over the budget allocation. There is only $54 million left. In order to adopt this amendment, we would have to take the money from the cost-of-living increase which is needed by every veteran in school.

To further fund the amendment of the Senators from New York, we would have to gut the accelerated tuition provision. The accelerated tuition provision is in the bill. So that in those areas where there are high-cost public institutions, as opposed to the moderate-cost public institutions and the high-cost private institutions, the veterans cannot get in.

I point out some figures with respect to 1976. The State of Maryland ranked 42d out of 50 for veterans' participation in programs. New Hampshire is 43d, Ohio is 44th, Pennsylvania is 45th, Connecticut is 46th, Indiana is 47th, Massachusetts is 48th, New Jersey is 49th, and Vermont is 50th.

That is because there was no accelerated tuition provision. We fought that battle. We passed it in the Senate last year, it was dropped in the House, and we adopted it today.

To fund the amendment of the Senators from New York would require us to gut the accelerated tuition provision, which is not only going to help white-collar students but also is designed to help those who have to go to high-cost technical schools, to provide the blue-collar expertise we sorely need in the Northeast, Midwest, Sun Belt, and all across the country.

So, aside from the cost, it has the unintended effect of gutting the provision which would rectify to a tremendous degree the imbalance we find in New England, Maryland, Pennsylvania, and many other parts of the Northeast.

I understand that New York is blessed with moderate-priced public institutions which would be helped by the amendment of the Senator from New York, and I commend him for it. But I do not think we can unduly help the schools of New York and sacrifice the accelerated tuition program, which does much to help the whole of the Northeast.

I yield back the remainder of my time.

Mr. CRANSTON. Mr. President, I should like to read excerpts from communications in regard to the amendment and the factors that are relevant to this amendment.

The American Legion communicated the following view:

The American Legion supports S. 457 as reported by the Senate Committee on Veterans' Affairs on October 3. This measure, the G.I. Bill Improvement Act of 1977, has the strong backing of our organization for several reasons. The 6.6 percent across-the-board increase in the education and training allowances is particularly important due to recent substantial increases in tuition costs alone. We urge the Senate not to entertain any move to reduce the increases now contained in S. 457.

Additionally, we support the provisions that establish authority for accelerated payment of educational assistance allowances.

The Veterans of Foreign Wars:

Mr. Chairman, the Veterans of Foreign Wars is unalterably opposed to reducing the 6.6 percent cost of living increase to 4 percent which would not in fact be a cost of living increase, to finance a program which would be a vast departure from the basic philosophy of all three GI Bills.

The Disabled American Veterans:

The Disabled American Veterans firmly adheres to the well-established principle of according equal benefits for equal service, and we do not view the veterans' educational program as a device to subsidize high cost schools or state educational systems.

We therefore cannot support the proposal to pay supplemental tuition allowances to a certain class of veterans for the purpose of offsetting the differences in state educational costs. And we strongly oppose any move that would reduce the 6.6 percent adjustment in veterans' educational allowances to anything less than the full cost-of-living adjustment proposed by the Senate Committee on Veterans' Affairs.

The following advice arrived from the American Association of State Colleges and Universities:

It is my understanding that efforts may be made to amend the Senate Veterans Committee bill amending the G.I. Bill, S. 457, to eliminate the acceleration feature, reduce benefits from 6.6 percent to 4 percent, and transfer an estimated $200 million taken from all veterans in the country to benefit the small group of veterans attending higher-tuition institutions.

Such an amendment is not really necessary to meet the costs of education at higher-tuition public institutions in the Northeast and Middle West, given the benefit level proposed in S. 457. This bill proposes payments to an unmarried veteran attending college full-time for $311 a month or $2799 for a nine-month academic year. This is enough or practically enough to attend even the most expensive state universities in the Northeast. Veterans with wives and children would receive still more. Those in need of further funds can obtain veterans loans, or otherwise find the relatively small additional sums needed.

The American Association of Community and Junior Colleges had this comment:

We can see no merit in the proposal outlined in newspaper reports today that would reduce all veteran benefits from the 6.6% proposed in both the House and Senate bills to increase the payments to the small number of veterans selecting high cost institutions.

So, these organizations believe they have the facts and that the facts and equities are in support of the committee bill.

Mr. JAVITS. Mr. President, I yield myself 3 minutes. How much more time do we have after I yield myself 3 minutes?

The PRESIDING OFFICER. At the expiration of the Senator's 3 minutes, he will have 5 minutes remaining.

Mr. JAVITS. Mr. President, I should like to deal with a few points which have been raised.

One, we already have discussed the question of the amount of $1,000, which confines the benefit of this accelerated payment only to high-cost institutions outside the State public higher education institution range. That is what excludes the benefit for all the States to which we have referred.

The second argument which is made is on the budget. There, we must take direct issue. We have had this analyzed by the Budget Committee, and the fact is that you come out in exactly the same place with our amendment that you do with S. 457.

There is $1.1 billion remaining as an allowance for this overall activity in the second budget resolution. Both our amendment and S. 457 use up about $1 billion of that, even when you add the $200 million which is taken up by extended time for use, which already has been incorporated in the bill. So the difference really is nothing. There are perhaps $9 million between the two.

Finally, if there is anything to the position which has been taken by the chairman of the committee, then why is that not reflected in the basic sum which, on the accelerated basis, will make it possible for our GI's to go to college, too, and to have a relatively greater utilization of these rights?

We have made that proposal, and it seems to me to be an eminently fair and sound one. Utilizing the same techniques, thousands more will be given an opportunity if that figure is lower.

It does not cost any more money. It is the same money. The money will simply be used up either more slowly or more quickly under the acceleration provision. And the $750 figure which has been mentioned is unrealistic for the reasons that I have stated.

Therefore, Mr. President, if we want to get something in conference which breaks this matrix, and benefits an appreciable number of States, we have to adopt this amendment. Then the matter will be at issue. If we do what we are asked to do by the sponsors of this bill, it will not be at issue.

Mr. President, I yield such time as he may desire to my colleague from New York.

Mr. MOYNIHAN. I thank my senior colleague.

I simply wish to repeat this for the chairman and ranking member of the committee to say to them that there is a regional storm brewing in this country and it is going to make for divisions we have not known and will not like. And in the name of all that is holy, ought the great GI bill be brought into this argument? If ever there were a symbol of nationhood, it has been the GI bill. It is in a genuine hope that it should not come to be seen as a source of regional imbalance, as much for that purpose as for the redress of the genuine imbalances we know to exist, that we ask the support of this Chamber for our amendment.

Mr. JAVITS. Mr. President, will the Senator yield to me so we may get the yeas and nays?

Mr. MOYNIHAN. I yield.

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

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

The yeas and nays on the amendment are ordered.

Who yields time?

Mr. STAFFORD. Mr. President, I wonder if the chairman of the committee will yield me 2 or 3 minutes on the bill.

Mr. MOYNIHAN. Of course, I yield whatever time the Senator needs.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. I thank the Senator for yielding.

Mr. President, I do not find myself in a happy position here in opposition to my long-time good friend, the senior Senator from New York. But in this case, it simply has to be.

For those veterans choosing to attend higher cost schools, there are a number of other Federal assistance programs available to veterans which provide additional assistance. Examples are the basic educational opportunity grant and supplemental educational opportunity grant programs, and the various student loan programs administered by the Department of Health, Education, and Welfare. And where there is additional need for educational funds, over and above monthly assistance allowances and the programs just mentioned, there is available, through our veteran-student

loan program (38 U.S.C. 1798), eligibility for low interest, direct Federal loans in amounts up to $1,500 for an academic year—more where the individual also attends summer school.

The Veterans' Administration revised its regulations this year so that the procedures for obtaining a loan is much simpler and easier for the veteran. A compelling reason for raising the maximum loan amount last year was to provide additional assistance to veterans attending higher cost institutions to help meet higher education and living expenses at those institutions.

Veteran-students enrolled as full-time students may agree to perform services and receive an additional allowance. A student who agrees to work 250 hours in a work study program receives $625. A student who agrees to work a lesser number of hours gets a proportionately lesser amount. We, of the committee, are proposing an increase in keeping with the recently passed minimum wage changes.

In considering the amendment before the Senate at this time—the Javits-Moynihan amendment—we should look closely at all factors of it. The amendment includes an across-the-board increase in benefits of 4 percent. S. 457 includes an across-the-board increase in benefits of 6.6 percent. This increase goes to those under on-the-job training, those taking correspondence courses, those taking flight training, those attending other residence schools, as well as attending college. All would be affected by the proposed reduction from 6.6 percent increase down to 4 percent increase. It is submitted that although the proposed tuition subsidy would benefit some, the proposed plan would not be beneficial to others. Vocational students and many who need the educational advantages the most would be hurt the worst under the proposed amendment.

The present GI bill and its immediate predecessors have been based upon the principle of the Federal Government providing equal benefits for equal service to the Nation. The committee's proposed acceleration program is consistent with this principle.

The committee is well aware that programs designed to assist those veterans enrolled in "medium cost" institutions would necessitate the expenditure of far more dollars than are currently available to Congress under the second concurrent resolution on the budget for fiscal year 1978. It should be questioned, also, whether it would be proper to expend Federal dollars at the expense of other veterans' programs on those veteran-students not required to spend large sums of money for purposes of education.

Mr. THURMOND. Mr President, I am opposed to this amendment offered by my distinguished colleagues from New York.

The basic rationale for the tuition assistance proposal is founded upon the premise that the current GI bill program, and the changes sought to be effected by S. 457, do not and will not provide all veterans with the same equal opportunity to obtain an education. Advocates of this position then attempt to substantiate it by pointing to the low participation rates in the GI bill program in the Eastern and Midwestern States, as compared to the relatively higher rates in the Sun Belt States of the South and West. The cause for this low participation rate is then laid at the feet of the Federal Government which has failed to tailor the GI bill to accommodate the needs of veterans in States where the high cost of tuition effectively prohibits their attending school on the GI bill.

Analyzing the disparate participation rates for veterans on the GI bill among the States leads inevitably to the old problem of deciding which causes one should assign as being responsible for this phenomenon. I cannot, in any real sense, lay the blame for this problem on Congress lack of responsiveness to veterans' educational needs. The States share a definite responsibility in this area. Moreover, the committee report to S. 457 demonstrates a relationship, in many instances, between participation rates under the GI bill and the extent to which a State uses tax revenues to subsidize the cost of public education.

South Carolina presents a good example of the point which I am trying to make. In my State approximately 68 percent of the Vietnam-era veterans have participated under the GI bill; 36 percent of those attended college. By comparison, however, South Carolina ranks 12th in the Nation for total expenditures for higher education as a percentage of State personal income—a total of 1.2 percent. Furthermore, for every $1 in tuition paid by students at public institutions, approximately $3 are paid by the State.

Mr. President, many other Members of the Senate can point to similar statistics concerning their States which are indicative of the measure of the commitment of the States to offset the rising costs of higher education. In short, I think that the high participation under the GI bill among veterans in South Carolina has resulted largely because of timely and effective planning by the State and because its citizens have chosen to pay the price for educating its veterans. Statistics from the report to S. 457 indicate that the 10-year increase in appropriations of State tax funds in South Carolina for operating expenses of higher education amounted to 895 percent, the highest in the Nation.

In addition to the foregoing, Mr. President, under the present amendment, much of the cost required under the tuition equalizer proposal would be borne by veterans in training under vocational and on-the-job training programs who would receive only a 4-percent increase in their benefits. In my years of working with veterans legislation, I can think of no principle more important than that which demands that all veterans should be treated equally.

I think the effect of the acceleration proposal, as contained in S. 457, would be consistent with this important principle. I think the proposal as contained in the amendment now before the Senate would violate it.

Mr. President, again I wish to emphasize that I appreciate the concerns of those proposing this amendment, but I think the bill, as reported out of the Veterans' Affairs Committee, is fair and deserves the unqualified support of my colleagues.

Mr. STAFFORD. Mr. President, I shall close by simply saying this. I think that the committee feels, as I do, that as a result of enactment of the accelerated benefit program more veterans, particularly unemployed and underemployed, should be better able to take advantage of the GI bill program.

I believe, Mr. President, that the veterans of America will be best served by the bill as the Committee on Veterans' Affairs has written it.

I have to confess to the distinguished senior Senator from New York that there is a temptation here to be provincial in considering this matter, but it is a temptation to which I am going to respond by saying, "Get thee behind me."

I believe that we must afford equal treatment to all of the veterans who have served this country and have given equal service to the Nation in time of need.

For that reason, I particularly support the bill as our committee has written it.

There has been, as the chairman has indicated, a 6.6-percent increase in the cost of living. Should we adopt the proposal of the two distinguished Senators from New York, we would take 2.6 points of that increase away from all of the veterans in the States where the higher cost of tuition might result under their bill in more funds to them and less to the rest of the veterans of the Nation. I think all of the veterans who are in our educational institutions or who are eligible and about to go should get the same increase, 6.6 percent. I reluctantly must express the hope that the Senate will reject the amendment.

I yield back whatever time I have to the opposition.

Mr. CRANSTON. I am prepared to yield back my time.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

Mr. President, according to our figures, the committee bill will benefit about 12.4 percent of the veterans on this accelerated provision; whereas our tuition equalizer plan would benefit about 65 percent of the veterans.

I think it is only fair to put that on record because of any impression that might exist that we are trying to benefit some small number of veterans.

Mr. President, I am prepared to yield back my time as well.

Mr. CRANSTON. I am prepared to yield back time here and so do.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is——

Mr. CRANSTON. Mr. President, I believe we now revert to the Melcher amendment under a prior order.

Mr. JAVITS. Mr. President, under those circumstances, do I have any time remaining? I think I have a minute or two.

The ACTING PRESIDENT pro tempore. The Senator from New York has 3 minutes left. But I might say to the Senator from California, under the previous order we are to complete action on this amendment prior to going back to the Melcher amendment.

Mr. CRANSTON. The only reason, and I think there may be a good reason to try to put the rollcalls together, is that the energy conference committee is in session now. If we could interrupt them for three back-to-back rollcalls on these two amendments and passage we would interfere less with their work than if we bring them over now and then go briefly to the Melcher amendment and then have another rollcall. I do not think it will affect the outcome of the vote.

Mr. JAVITS. What is the time on the Melcher amendment that is needed?

Mr. CRANSTON. How much time remains on the Melcher amendment? It is going to be very short.

The ACTING PRESIDENT pro tempore. There are 25 minutes remaining on the Melcher amendment.

Mr. MELCHER. Will the Senator yield?

Mr. CRANSTON. I yield.

Mr. MELCHER. There is no need to take more than 2 or 3 or 5 minutes on the Melcher amendment.

Mr. CRANSTON. I agree to do it swiftly. Let us do that and vote on all three.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. JAVITS. Mr. President, I have no objection but I do reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New York reserves the remainder of his time, which is 3 minutes.

Mr. CRANSTON. I reserve 1 minute of my time.

The ACTING PRESIDENT pro tempore. The Senator from California reserves 1 minute of his time.

The Senator from Montana.

UP AMENDMENT NO. 955—AS MODIFIED

Mr. MELCHER. Mr. President, when I was describing the amendment that we offered, I described it as one that would affect certain Vietnam veterans who are not now enrolled in school or who were enrolled in school but whose family incomes were such that they would fit into a certain intermediate part of that table of the Bureau of Labor Statistics.

In order to clearly define that that is the purpose of the amendment, I ask unanimous consent to modify it and such modification is at the desk now.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. The amendment is so modified.

The modified amendment is as follows:

On page 14, after line 16 insert the following new section:

SEC. 204. (a) Section 1662 of title 38, United States Code is amended by inserting at the end thereof the following new subsection:

"(f) (1) Notwithstanding the provisions of subsections (a) and (c), the Administrator may authorize an extension of the ten-year delimiting period in the case of any eligible veteran who served on active duty, any part of which occurred after August 4, 1964, if—

"(A) such veteran demonstrates that he or she could not reasonably initiate or complete a program of education within the ten-year delimiting period;

"(B) an extension of the delimiting period is necessary to enable such veteran to initiate or complete such veteran's program of education; and

"(C) such veteran is or will be enrolled in a program of educational instruction that will provide vocational readjustment and restore lost educational opportunities or aid such veteran in attaining the vocational and educational status to which such veteran might normally have aspired and obtained had such veteran not served such veteran's country; and

"(D) such veteran demonstrates that, for the twelve months preceding the date of application for the extension of the delimiting date under this subsection, the family income did not exceed the Intermediate Level Consumption Budget, as defined by the Bureau of Labor Statistics.

"(2) Under no circumstance may the extension of the delimiting period exceed the time required to complete the veteran's program of education or two years after the effective date of this provision, whichever is the lesser period of time.".

(b) The provisions of this section shall become effective January 1, 1978.

Mr. MELCHER. Mr. President, in going over very carefully with the Congressional Budget Office the effect of the Durkin amendment previously agreed to, and this amendment if it were agreed to, what would be the cost, keeping in mind that there would be certain overlapping—some of the veterans that would be covered in the Durkin amendment are also covered in the amendment I have before the Senate now—we have taken that situation to the Congressional Budget Office and they have responded on the overlapping being of such nature that the total cost of the two budgets during the coming fiscal year would be within the budget. I now ask the chairman of the committee, Senator CRANSTON, if that is not the case.

I have noted that, taking into consideration the cost of the Durkin amendment, and the Melcher amendment, if it were adopted, and keeping in mind there would be certain overlapping language between the two, the costs of the two combined would be within the budget for this fiscal year.

Mr. CRANSTON. CBO now advises informally there are sufficient funds within the veterans function to accommodate the amendment as modified. I must advise the Senate, however, the CBO has yet to see the language.

Mr. MELCHER. I would ask the Senator, and the distinguished chairman of the Veterans' Committee, if under those circumstances the chairman is willing to accept the amendment.

Mr. CRANSTON. I am afraid I cannot because of the other concerns I have expressed; such as discriminating between equally deserving veterans in the amount of aid we provide and establishing an unworkable and inequitable so-called need standard.

Mr. MELCHER. Mr. President, I regret the chairman taking that position. But I want to clearly tell the Senate that the needs are there, the merits are there, and the budget is there. That being the case—I would yield to the distinguished chairman of the Budget Committee for his comments.

Mr. MUSKIE. May I say, in deference to my good friend from California, Senator CRANSTON, as well as my good friend from Montana, Senator MELCHER, I regret to say that as these amendments have been modified in language it is very difficult to stay on top of the budget implications. But as of 5 minutes ago the word from my staff was this probably breached the ceiling, to the best of the information available to us, following the modifications of these amendments and that, at this moment, I would not be arrogant enough to suggest I have a hard and fast figure. But I know that this bill has been skirting with the ceiling all day long as we considered these amendments.

I wish I were in position to give the Senator a hard and fast figure, but because of the doubt on that score I find myself not in a position to support the Melcher amendment.

Mr. MELCHER. Mr. President, there is no hard and fast figure for these amounts.

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

Mr. MELCHER. Yes, I yield.

Mr. MUSKIE. I hope the Senator is not making the point that the budget resolution is such that there is never a hard and fast ceiling.

Mr. MELCHER. No, I would not make that point.

Mr. MUSKIE. But that is a point that could be made if one wants to rationalize at any given moment, and one could add components of the budget functions and conclude that there is room for something else. That is always true of every function at any point until the last legislative measure of the year is basically acted upon.

But if one waits until that point, then one is never in a position to exercise budgetary discipline. That is the message I have tried to convey to the Senate for some 3 years now.

Mr. MELCHER. I accept the chairman's admonition, and I think it is valid. But my point is there are no hard and fast figures on what it is going to cost in this case because we do not know exactly which veterans will respond.

Mr. MUSKIE. That is true of every entitlement program, Senator.

Mr. MELCHER. That is correct.

Mr. MUSKIE. And yet we have to cost out entitlement programs if we are going to have budget ceilings.

Mr. MELCHER. That is correct.

With that admonition and those guidelines, we go to the Congressional Budget Office and say, "Project the best figure you can get." It may be that this does not even come close to taking the amount of money they have projected, but they have given us their best advice, and we have worked diligently within that framework describing the needs and doing our utmost to take care of the needs of many of those veterans, as many as we can. Now we have modified the amendment to make it clear just which veteran would be eligible. There is no question that under this modification on that eligibility limitation those veterans are in need, and if they so choose to exercise their rights under the terms of this amendment, the country would be well-served because exploring for and accomplishing their educational opportunities would help the country.

Mr. President, there is a request by Senator Stevens to enter into some col-

loquy, and it is rather short, and I would like to do that at this time.

I yield to the Senator from Alaska.

Mr. STEVENS. I thank the Senator from Montana.

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

Mr. STEVENS. First let me say that I am pleased to be a cosponsor of this amendment to extend the period for eligible Vietnam veterans to use their education benefits.

For the record, I would like the good Senator from Montana to clarify that this amendment would also extend the period for flight training benefits. As my colleagues are aware, educational benefits for farm cooperative, flight, apprentice or other on-the-job training were not included in the original GI bill but later included in the program. The period for these benefits expired on August 31, 1977 or 10 years after being discharged from the service, whichever is later.

The flight training program is particularly important in Alaska where airplanes are the standard mode of transportation. My home State of Alaska, one-fifth of the size of the entire United States, consists of 357 million acres of land. Right now, there are only 2,744 miles of paved roads in Alaska. The District of Columbia and Montgomery County, Md., together contain over 2,800 miles of paved roads.

In my State, many areas are accessible only by air; therefore, flight training is essential. Alaska has approximately 200 State-maintained airports. According to a recent article in Air Force Magazine, Alaska has 400 times as many private planes per capita as the national average. Additionally, due to Alaska's harsh winters and frequent inclement weather conditions, veterans in my State are generally limited to the summer season for flight training.

Many of my constituents got caught in the flight training delimiting period time crunch. There are 10 Veterans' Administration approved flight schools in Alaska. To illustrate my point, Alaska Airco, the only Veterans' Administration approved flight training school in Fairbanks, serves not only area veterans, but also active duty military at Fort Wainwright and Eielson Air Force Base. Veterans are forced to compete with the active duty military members for enrollment in this school. Pursuant to the enforcement of the 85–15 percent veteran-civilian ratio, many qualified veterans are not eligible to enroll in this training. As their flight training benefits were expiring, they remained on the waiting list or were in the middle of their courses.

As my colleagues may know, the Veterans' Administration requires at least one-half of their vocational graduates from the preceding 24 months to be employed in an occupation directly related to their training. According to Brent English, Alaska's Airco's chief pilot, graduates in each of the courses have passed the VA's occupational graduate employment report with flying colors. Alaska Airco's courses have exceeded the 50-percent requirement. The airplane single engine C float rating course had 71 percent of their graduates employed in a flight oriented occupation; multi-engine course, 100 percent; certified flight instructor, 100 percent; multi-engine flight instructor, 100 percent; and commercial flight course, 100 percent.

It is my understanding, Mr. MELCHER, that this amendment would extend the delimiting period for eligible veterans to pursue vocational flight training.

Mr. MELCHER. The Senator is correct. Any eligible veteran under the amendment who can demonstrate need could be enrolled in a flight training program which would lead to employment.

I recognize the unique situation in Alaska, and perhaps Hawaii, two very air-minded States. The use of the opportunity afforded in this amendment would be very limited elsewhere. It should be stressed that this extension would not cover a veteran who seeks flight training for recreational purposes and who is employed full time in other work. It is limited to flight training, as in every other program to needy veterans who are engaging in a program leading to full-time productive employment.

Mr. STEVENS. I thank the Senator. I congratulate you on proposing this amendment and am pleased to be a cosponsor. The plight of the veterans who served in the early days of the Vietnam combat era must be addressed. At the time of their discharge, the cold war GI bill in effect at that time provided unrealistic benefits. We adjusted them in 1970 and will do so again in the bill now before the Senate. I feel that we owe the veterans this one-time chance to take advantage of the benefits that they earned through honorable service to their country.

Mr. MELCHER. Mr. President, I ask the Senate to approve the amendment.

I ask it for a group that has been disillusioned at times, for a group that just happened to come on the scene when the GI bill benefits were enough to pursue an educational opportunity, and for a group, under these tests, who will become more productive and more advantageous for the country if they do pursue their opportunities afforded under the amendment. I hope the Senate will agree to it.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. On the cost question, Mr. President, it is my impression, based upon telephone conversations with CBO that the amendment, as modified, probably fits within the budget ceiling.

I oppose the amendment, however—I can say this in about three sentences—because it proposes to cover some needy veterans and exclude many others who are equally deserving.

For instance, a veteran who worked full time at a fairly menial task for $6,100 or so but sought to improve himself by going to school part time would not be eligible.

A veteran who did neither but rather lived off unemployment compensation or welfare would be eligible. Individual initiative would be penalized. The income test contained in the modified amendment is just not equitable.

I do not see how we can justify paying one equally deserving veteran 100 percent of benefits and another only 50 percent and 33 percent.

Second, I do not see how we can justify paying benefits to a veteran who has not been working, and how we can deny benefits to a veteran whose spouse and he have both worked in order to earn say, $6,061 per year.

I am prepared to yield back time so that we can proceed to vote after we use up the time on the Moynihan and Javits amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MELCHER. Mr. President, I will only use a moment or 2 to say that the task melding this amendment with the Durkin amendment to the best advantage of all veterans is obviously a task that would be undertaken in tandem. I think both amendments are worthy.

I am delighted at the acceptance of the Durkin amendment, and I hope the Senate will find it within itself to accept the amendment we have offered.

I yield back the remainder of my time.

Mr. CRANSTON. I yield back the remainder of my time.

There is a bit of time remaining on the Moynihan-Javits amendment.

The ACTING PRESIDENT pro tempore. The proponents have 3 minutes left and the opponents have 1 minute.

Who yields time?

Mr. JAVITS. I yield myself 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

UP AMENDMENT NO. 958

Mr. JAVITS. Mr. President, just to sum up our argument in hopes that there are other Members who are here who were not here before, the point we are trying to make is we are trying to reach the public institutions in the great bulk of the States whose tuition is in the area of $500 to $800.

In order to reach them and not to exclude them, we have somewhat reduced the overall increase, from 6.6 percent to 4 percent, in order to accommodate payments beginning above tuition, and taking it up to a maximum of a $700 additional payment, with that as a cap.

Mr. President, in the course of the debate we developed that it was considered that the $1,000 tuition level deprives many of the States' public schools of this fund, and therefore many veterans, and that the underutilization which is characteristic of a great number of States in the country could be materially cured by a plan such as we propose.

Recognizing that we must go to conference in this matter with the House of Representatives, which has nothing, just a continuation of the present situation, we feel that the basis which we have offered will give us a much better opportunity to work equity and encourage greater usage of the GI bill without invading the budget, or changing the basic figures within the budget, than the proposal which the committee has brought in. Therefore, we urge its support by Senators.

Mr. CRANSTON. Mr. President, I will take only 1 minute to say that this

amendment is opposed by the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the American Association of State Colleges and Universities, and the American Association of Community and Junior Colleges, because it cuts the cost-of-living increase by almost 40 percent to all veterans seeking to get help under the GI bill, and it tends to give help for those who need help the least at the expense of those who need it the most.

The PRESIDING OFFICER. Does the Sentor yield back the remainder of his time?

Mr. CRANSTON. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New York yield back the remainder of his time?

Mr. JAVITS. Yes.

Mr. CRANSTON. Mr. President, let me point out at this point that we will have at least two back-to-back votes. I know of no other amendments; are there any other amendments to be proposed?

Mr. JAVITS. Yes; if our amendment fails, I intend to offer another one.

Mr. CRANSTON. At any rate, we will have two back-to-back votes now, so I ask unanimous consent that the second vote take only 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The first rollcall vote will occur on the question of agreeing to the amendment of the Senator from New York (Mr. JAVITS). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Montana (Mr. METCALF) are necessarily absent.

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

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

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

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

The result was announced—yeas 18, nays 73, as follows:

[Rollcall Vote No. 568 Leg.]

YEAS—18

Bayh	Eagleton	Moynihan
Biden	Hayakawa	Pell
Brooke	Heinz	Roth
Case	Javits	Schweiker
Chafee	Kennedy	Weicker
Danforth	Metzenbaum	Williams

NAYS—73

Allen	Bentsen	Byrd, Robert C.
Anderson	Bumpers	Cannon
Baker	Burdick	Chiles
Bartlett	Byrd, Harry F., Jr.	Church
Bellmon		Clark
Cranston	Helms	Pearson
Culver	Hollings	Percy
Curtis	Huddleston	Proxmire
DeConcini	Inouye	Ribicoff
Dole	Jackson	Sarbanes
Domenici	Johnston	Sasser
Durkin	Laxalt	Schmitt
Eastland	Leahy	Scott
Ford	Long	Sparkman
Garn	Lugar	Stafford
Glenn	Magnuson	Stennis
Goldwater	Matsunaga	Stevens
Gravel	McClure	Stevenson
Griffin	McIntyre	Stone
Hansen	Melcher	Talmadge
Hart	Morgan	Tower
Haskell	Muskie	Wallop
Hatch	Nelson	Young
Hatfield	Nunn	Zorinsky
Hathaway	Packwood	

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So Mr. JAVITS' UP amendment (No. 958) was rejected.

The ACTING PRESIDENT pro tempore. The question now recurs on the amendment offered by the Senator from Montana. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. SPARKMAN (after having voted in the negative). I have a pair with the Senator from South Dakota (Mr. MCGOVERN) who is sick and unable to be here. If he were here, he would vote "aye." I have previously voted "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), 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 Minnesota (Mr. HUMPHREY), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

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

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

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

The result was announced—yeas 41, nays 49, as follows:

[Rollcall Vote No. 569 Leg.]

YEAS—41

Anderson	Ford	Melcher
Bayh	Glenn	Metzenbaum
Bentsen	Gravel	Nelson
Biden	Hart	Pell
Brooke	Hatfield	Proxmire
Chiles	Hathaway	Ribicoff
Church	Heinz	Roth
Clark	Hollings	Sarbanes
Culver	Jackson	Stevens
DeConcini	Kennedy	Tower
Dole	Magnuson	Wallop
Durkin	Matsunaga	Weicker
Eagleton	McClure	Young
Eastland	McIntyre	

NAYS—49

Allen	Bellmon	Byrd, Harry F., Jr.
Baker	Bumpers	Byrd, Robert C.
Bartlett	Burdick	Cannon
Case	Helms	Pearson
Chafee	Huddleston	Percy
Cranston	Inouye	Sasser
Curtis	Javits	Schmitt
Danforth	Johnston	Schweiker
Domenici	Laxalt	Scott
Garn	Leahy	Stafford
Goldwater	Long	Stennis
Griffin	Lugar	Stevenson
Hansen	Morgan	Stone
Haskell	Moynihan	Talmadge
Hatch	Muskie	Williams
Hayakawa	Nunn	Zorinsky
	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So the amendment was rejected.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 959

(Purpose: To expand coverage of the accelerated payment program)

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

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

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, Mr. CRANSTON and Mr. DURKIN, proposes an unprinted amendment numbered 959.

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

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

The amendment is as follows:

On page 8, line 9, strike out "$1000" and insert in lieu thereof "$700"; and on page 10, line 4, insert "an amount equal to 66⅔ per centum of" after "(B)", and on line 5, strike out "$1,000" and insert in lieu thereof "$700".

Mr. JAVITS. Mr. President, I am joined in this amendment by the manager of the bill, Senator CRANSTON; by Senator MOYNIHAN, my colleague from New York; and by Senator DURKIN.

This amendment provides that where the tuition is above $700 per annum, the accelerated plan under the bill shall apply to the extent of two-thirds of the excess. That keeps everything within the budget. It is something for the States which have public colleges where tuition generally ranges between $500 and $800 and is, we think, a reasonable compromise between the two points of view which have been debated ardently, and it benefits a great many more States than are now benefitted under the bill.

Mr. CRANSTON. Mr. President, in the spirit of accommodation, as far as I am concerned, I think we can accept this amendment and not have a rollcall vote.

Mr. STAFFORD. Mr. President, we also are prepared to accept the amendment. I think this is an agreeable way to bring this matter to a conclusion, and I see no cause for a rollcall vote.

Mr. JAVITS. I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from New York.

The amendment was agreed to.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BROOKE. Mr. President, I cannot overstate the Federal Government's obligation to equip our Nation's veterans with the "tools" they need to find fulfilling and productive work. Nor can I overstate the importance of education in the attainment of that goal. I have always supported programs to improve and to expand educational benefits for all our veterans and I am pleased that the bill we are considering today, Senate bill 457, the Veterans' Education Benefits Act, would expand those educational benefits. However, while I believe this bill contains many worthwhile provisions, I also feel it has some shortcomings which work to the detriment of some veterans. And, therefore, I am supportive of efforts to correct those defects.

S. 457 provides an across-the-board cost-of-living increase in the amount of educational assistance allowance granted under the GI bill. This increase, which is retroactive to October 1, 1977, will protect a veteran's current course of study from the ravages of inflation.

The bill will also correct the existing problems with our 85/15 program and our 2-year program for overseas education programs. These reforms will prove beneficial for many schools which have large overseas programs, especially universities in the Northeast.

At the present time, the "2-year rule" creates a "Catch 22" situation for college level programs on military bases in foreign countries. As my colleagues know, this rule prohibits the payment of veterans assistance to persons enrolled in programs of study which have been in existence for less than 2 years. If education institutions apply for the exemption from the rule which is provided in the law for certain courses, civilian and foreign nationals can be prohibited from enrolling in their courses. Not only might this result in as much as a 25-percent loss in enrollment, but it effectively violates the terms of the contracts which these schools have with the Department of Defense and the understanding reached with host countries.

And if, on the other hand, educational institutions comply with the rule's provisions, military bases can be adversely affected. For then, no person eligible for veterans assistance can receive benefits if enrolled in courses at new military bases for the first 2 years of operation.

The Veterans Education Benefits Act corrects these deficiencies by authorizing the Administrator of the Veterans' Administration to waive the 2-year rule for branch campuses if he determines that the waiver would be in the best interests of eligible veterans and of the Federal Government. I am confident that this provision will eliminate the problems currently burdening universities with overseas programs for veterans.

Also, since the legislation we are considering makes the 85/15 rule inapplicable for courses offered by American universities abroad, then universities such as Boston University, which has 73 percent of its students at foreign study centers receiving veterans' assistance, would not be penalized as the number of its civilian students approaches the 15-percent level.

The legislation also includes other provisions which will benefit both veterans and education institutions. These provisions would:

Increase the educational counseling currently provided for veterans who are eligible for VA benefits;

Continue to exclude basic educational opportunity grants (BEOGs) and secondary education opportunity grants (SEOG's) in determining benefits until a study is completed on the need to count BEOG's and SEOG's in the 85/15 determination and on the method to count them if necessary;

Require a study to be conducted and recommendations to be submitted on possible administrative and legislative changes in the veterans' vocational rehabilitation program; and

Increase by 10 percent the amount of expense money reimbursed to State approving agencies for expenses incurred for approving educational institutions for purposes of GI bill enrollment.

However, while I am pleased these measures have been included in this bill, I am disappointed with two actions taken by the Veterans' Affairs Committee. One of these actions was the 5-to-4 decision to exclude a provision to extend the delimiting period for veterans who want to pursue their education. The other action was to include a provision for accelerated payments instead of a tuition equalization formula for veterans.

Not very long ago, 483,000 veterans lost their GI education benefits, because their delimiting period expired. Many of these veterans were full-time students, and all of them were in the process of completing their education and training programs. I think it is unfair for us to cut off their benefits and, in many cases, shatter the dreams of our veterans for eventually improving their chances in the job market they face today. Therefore, I favor extending benefits for veterans for a 2-year period.

Critics of extending education benefits argue that money for veterans should be spent on other veterans programs. I agree that we must increase our programs for medical care and treatment, pensions, and compensations. But, we must not sacrifice educational benefits to achieve these other goals.

A second argument against extending benefits is that we have not extended education benefits for veterans of other eras. However, I think that we must consider the particular circumstances which warrant extension today. Schools were experiencing a time of turmoil in the late 1960's. Student costs were escalating, veterans were not welcomed on some campuses and some veterans had a difficult time adjusting to society upon their return from Vietnam. For these reasons, many veterans delayed entering school.

These distinctions justify the efforts to extend benefits for all veterans. However, if we are unable to pass a provision to extend benefits for all veterans in need who were discharged after August 4, 1964, the date of the Tonkin Gulf Resolution, then I support the provision to extend benefits for the 400,000 veterans who are currently full-time students and must be allowed to finish their education. The proposal to do this is modest. It would provide only 50 percent of the regular benefits during the first extension year and 33 percent during the second year.

I also feel that the proposal to institute a tuition equalization formula will help more veterans than the bill's accelerated payments provision. The equalization formula, which is similar to legislation which I am cosponsoring in the Senate, would pay 70 percent of the veteran's tuition above $400, with a maximum tuition assistance payment of $700. The accelerated payments provision would do nothing more than allow a veteran to accelerate his GI bill benefits to the extent that he has a sufficient number of months of entitlement to complete his course of study.

Although the latter proposal will help some students attending schools with higher tuition and fees, it will not assist those veterans who lack enough months of entitlements for meeting costs during the academic school year. In fact, the accelerated payments provision is estimated to provide assistance to only 13 percent of currently enrolled veterans and only in public institutions in four States. However, the equalization formula would increase the number of eligible veterans to 65 percent and extend benefits to public institutions in 45 States.

The tuition equalization formula would allow all students to attend schools regardless of their State of residence. We would thus be ending the current discrimination against veterans in the Midwest and the Eastern States. Since 1968, veterans from the Midwest and Eastern States have received $8 billion in benefits, while veterans from the South and West have received nearly $12 billion.

And, I am certain this change would improve the situation for veterans in Massachusetts. For, while my State ranks 10th in population for Vietnam-era veterans, it ranks 33d for its college participation rate under the GI bill. Only 28.9 percent of the veterans in Massachusetts are currently enrolled in programs at schools under the GI bill. The equalization formula would rectify this injustice and would increase educational opportunities in the future.

Therefore, I enthusiastically support Senator JAVITS' amendment authorizing a tuition equalization formula and I urge my colleagues to support equitable and viable provisions to assist all of our veterans.

Mr. GLENN. Mr. President, I have become aware of a problem which has recently developed in Ohio, and I assume elsewhere, involving the payment of educational benefits to veterans this winter. It has developed that a number of educational institutions in my State have

rearranged their academic schedules providing for a lengthened semester/quarter break in order to avoid possible curtailments of energy supplies, in the event of another severe winter, or to realize substantial energy savings, which I believe would be consistent with the national goal of energy conservation. However, as a result of this rescheduling many veterans will not receive a month's benefits, for the scheduled break will exceed the VA limit of 30 days. This has caused considerable uncertainty and concern among student veterans. Current VA regulations, as I understand them, provide for the continuation of benefits during a break period longer than 30 days in the event of an emergency or pursuant to an Executive order. However, as interpreted by the VA to date, these regulations do not provide relief for the veterans attending those schools in Ohio which have so far applied to the VA for such relief.

In studying the bill, which is presently before the Senate, and the accompanying report from the Veterans Affairs Committee, I noted that in the report on page 131 under the heading "VA Energy Conservation Impact" the committee instructs the VA as to its thinking on this matter, saying in part:

Specifically, the Committee believes that the VA should continue payments to involved veterans and eligible persons during periods when a school is temporarily closed when the school has made a strong showing of a clear likelihood that such closing would avert an emergency due to shortages or would result in substantial reductions in the amount of energy consumed by the school while not adversely affecting the quality of the training provided.

I would like at this time to associate myself with the committee suggestion and I trust that the VA will take heed of this suggestion and be receptive to the needs of veterans in this situation. I interpret this language as suggesting that the VA apply the criteria for making decisions on the payments of benefits in such situations liberally. I hope and trust that they will do so.

The students cannot all get temporary jobs. Student veterans should not bear the brunt of something that's administrative, out of their control, and can be remedied with an understanding application of the intent of the law.

Mr. CRANSTON. Mr. President, the committee is aware of the problems articulated by my colleague from Ohio (Mr. GLENN). I appreciate his interest in this matter. I know that the junior Senator from Ohio (Mr. METZENBAUM) also has a keen interest in this matter.

I also appreciate his careful scrutiny of the report accompanying S. 457. The committee did express concern in regard to the efforts undertaken by institutions to conserve energy through calendar scheduling. We agree that the involved veteran students should not bear the brunt of an administrative decision quite beyond their control.

It is my understanding that the Veterans' Administration is preparing a draft of an Executive order in order that student veterans enrolled in schools such as those described by my colleague from Ohio (Mr. GLENN) will not suffer a termination of benefits when certain institutions arrange their academic schedule to make major conservations of fuel, as long as the closing does not exceed 45 days. I believe that issuance of an Executive order would be the wisest resolution of this problem.

I can assure my colleague that the Veterans' Affairs Committee will actively monitor this area. Not only are we concerned about the welfare of the involved student veterans, but I also believe that we should establish policies conducive to the most efficient use of our available energy. I thank the Senator for raising this important issue, and pledge close cooperation with him in following up on this with the Veterans' Administration.

NEED TO EQUALIZE VETERANS EDUCATION BENEFITS

Mr. BAYH. Mr. President, I want to take this opportunity to associate myself with the remarks today made in support of the tuition equalization amendment to S. 457, the GI Bill Improvement Act of 1977. This proposal which I have cosponsored will provide additional assistance for a great many veterans seeking to complete educational programs who are not presently covered in the committee's bill. The change which we are seeking to make in S. 457 would provide a tuition subsidy rather than an accelerated payment of education benefits under the GI bill as a means of improving the present program. This amendment would provide for payment of 70 percent of a veteran's tuition cost above $400, with a maximum additional payment of $700 per school year.

Under S. 457 as reported, the accelerated payment plan will really help only those veterans whose tuition charges are above $1,000. For veterans enrolled in State colleges and universities this would mean help in only four States and extend additional assistance to only 12 percent of those veterans currently enrolled. The amendment we are supporting would extend coverage to 65 percent of enrolled veterans in public institutions in 45 States.

Mr. President, from the standpoint of fairness, this change in present law is essential to veterans participating in programs of higher education. Clearly, we must structure programs geared to individual requirements if we are to accomplish the goal of the GI bill which is to provide meaningful readjustment assistance on a fair basis to those who have served under the most thankless circumstances. The experience of the Vietnam-era veteran underlines the importance of our performance in this area.

For Indiana, this particular change being considered today is important from the standpoint of Federal dollars coming back to the State. One of the prime duties of a U.S. Senator is to see that the citizens of his State are treated fairly by Federal programs. While Indiana ranks 11th in Vietnam veteran population (202,000), it ranks 22d in Federal payments to the State under the GI bill from fiscal years 1968 to 1976 and an appallingly low 48th in payments on a per capita basis. In fiscal year 1976, Indiana ranked 47th in terms of per capita GI bill payments by State. That same year only 20 out of every 100 eligible Hoosiers availed themselves of junior and 4-year college benefits under the GI bill. This put Indiana 49th in this category. The 20-percent participation rate is especially disturbing when compared to California where nearly 54 out of every 100 veterans take advantage of GI educational assistance.

Mr. President, in addition to more adequately addressing the needs of the Vietnam-era veteran in adopting this amendment providing tuition equalization, the Senate will also be acting in a fiscally responsible manner. By reducing the across-the-board increase from 6.6 percent provided in the committee bill to 4 percent in the amendment before us, we will be providing revenues to support the tuition subsidy program. Opponents of this amendment may argue that limiting this increase may hurt veterans, but let us take a look at a case in point. For a student at Indiana University receiving VA education benefits, his monthly subsistence check will be increased by $12 per month rather than by $19. For a 9-month school year this would mean a difference of $63 per year. That same student under the committee bill, however, will receive no direct support to cover the cost of tuition. Under our amendment he would be entitled to 70 percent of the difference between $400 and his tuition which is about $720 per year. This works out to about $224 in additional assistance applied directly to tuition. We would be providing him with a total increase in educational assistance of $332 for the school year if we calculate as well the 4-percent across-the-board increase. This is nearly twice as much assistance as provided by the increase in the committee bill.

The following are tuition subsidies which would be available to veterans enrolled in higher education in Indiana. These figures are based on the 70-percent formula provided by the amendment offered her today. We should keep in mind that no direct assistance for tuition payment would be provided if the committee bill now passes in its present form:

Ancilla College	$238
Anderson College	700
Bethel College	700
Butler University	700
Deaconess Hospital	700
Evansville	
Earlham College	700
Franklin College	700
Goshen College	700
Holy Cross Jr. College	413
Indiana College of Business and Technology	700
Indiana Institute of Technology	700
Indiana Northern University	549
Indiana State University	175
Indiana University	225
International Junior College of Business	700
Lockyear Business College	700
Manchester College	700
Marion College	700
Northwood Institute	700
Oakland City College	700
Purdue University	245
Rose Hulman Institute	700
St. Joseph's College	700
St. Mary's College	700
St. Meinrad College	700
St. Meinrad School of Theology	700

Taylor University	700
Tri-State University	700
University of Evansville	700
University of Notre Dame	700
Valparaiso University	700
Vincennes University	280
Wabash College	700
Wishard Memorial Hospital	383

Mr. President, it is clear that tuition equalization is an idea whose time must come. There can be little doubt that this change in the veterans education program is a real step in the right direction of providing the right kind of help. It will help redress the disparity of treatment of veterans in various parts of the country be recognizing the important role that private educational institutions have played in the Midwest and Northeast.

One thing which this amendment will not do will be to encourage veterans to go to school simply to collect a subsistence allowance for education. As I noted, the low participation rate already indicates that this is not the case in Indiana. Nor will it "bust the budget" since the reduction of the across-the-board increase will go for a sensible redirection for the program.

Mr. President, I hope the Senate will concure with my judgment and that of my colleagues here today and that the amendment before the Senate will pass.

Mr. DURKIN. Mr. President, for the 2 years that I have been a Member of this distinguished body I have stressed my belief that the GI educational bill is perhaps the single-most effective Federal program in the history of our Government. Since its enactment in 1944, the GI bill has aided millions of veterans in their readjustment to civilian life. In the relatively short period of 33 years, the World War II GI bill, the Korean conflict GI bill, and the post-Korean conflict GI bill and Vietnam-era GI bill have provided assistance to almost 17 million veterans and other eligible survivors and dependents. Currently, this program, which is designed to assist those who have served our country in obtaining an education, is the largest single Federal program providing postsecondary educational assistance.

As a member of the Senate Veterans' Affairs since I first came to Congress, I have been committed to the continuation of a strong and effective GI bill for post-Korean and Vietnam-era veterans. Throughout this period I have been cognizant of the fact that in the absence of GI bill benefits, from one-half to two-thirds of the current veteran-student population would not otherwise have entered training. I have also been fully cognizant of and sensitive to the particular readjustment difficulties that are common to our Vietnam-era veterans. I ask unanimous consent that two articles from the Washington Post be included in the RECORD at this point.

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

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 noncombat 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 percent of the combat veterans stated "absolutely not." More than 90 percent 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 percent 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 veterans, 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 ignominously lost. With the exception of eight Vietnam-era 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 mora's 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.

VIETNAM VETERANS AND THE GI BILL

The Congress is discovering, and rightly so, that the unfinished business having to do with equity and reasonable opportunity for the veterans of the Vietnam era cannot be wished away. The other day we talked about the efforts of sensitive and responsible members of Congress to rescue the administration's program for speedier review of less-than-honorable discharges. Today, as the Senate Veterans Affairs Committee begins to debate amendments to improve the GI Bill, we would like to take note of another effort by those in Congress who recognize the importance of working for fair and humane solutions to the particular problems confronting the veterans of Vietnam as a consequence of the particular nature of that conflict.

Sens. Alan Cranston (D-Calif.), John Durkin (D-N.H.), Jacob Javits (R-N.Y.) and Hubert Humphrey (D-Minn.) are aware of the flaws in the current provisions of the GI Bill But doing repair work on this legislation is not one of the appealing pursuits in Congress. For one thing, the GI Bill is perhaps the best known of the veterans' programs, which means that its failures receive the most publicity. For another, when Vietnam veterans are involved in the failures, a kind of general, anti-Vietnam prejudice sets in.

A few years ago, when abuses involving Vietnam veterans began to be reported—overpayments, payments to those who didn't attend classes, creation of training courses that had no substance—the critics seemed not to remember that similar abuses occurred after World War II and Korea; only the glowing successes of those programs were well remembered. That almost nobody seemed to remember any *successes* of the GI Bill for Vietnam veterans may have something to do with a general inclination on the part of politicians as well as the public not to want to be reminded about anything having to do with the first war America lost.

In any case, Sens. Cranston and Durkin have set out, first of all, to correct some of the abuses that have come to light. This is expected to be handled without great difficulty by balancing the needs of the schools with a prudent use of federal funds. Other problems will not be resolved so easily. For example, the GI Bill as it is now operating favors veterans in states that have educational systems providing low-cost schools—unlike the World War II program, which gave all veterans equal amounts to live on. An example of this, as Stuart Feldman has pointed out in a report to the National League of Cities and the U.S. Conference of Mayors, is that "a veteran at Temple University, the public college in Philadelphia, would have to pay $1,498 for tuition fees and books. A veteran attending San Francisco State would have only to pay $200 tuition. When coupled with expenditures for average book and supply costs, this means that the California vet, who may have served in the same company with the Philadelphia vet, has to spend only 15.1 per cent of his yearly GI Bill benefits for education costs—while the Philadelphia vet has to spend 57 per cent of his benefits. The California vet has $122 more per month to apply to his living expenses."

Sen. Cranston would take a step toward correcting these inequities by allowing veterans whose tuition is more than $1,000 a year to use their benefits at a faster rate to cover the differences. This is the "acceleration provision," which was part of the World War II GI Bill. It has the support of the VFW and American Legion. An alternative, which also has merit and which passed the Senate in 1974, is being offered by Sens. Javits and Humphrey. It would pay 80 per cent of a veteran's tuition between $400 and $1,400. The Javits-Humphrey proposal would help veterans who are now locked out of high-cost schools that may be the only ones in their area. A third alternative, favored by the Veterans Administration, is to provide a five per cent increase in educational benefits. But this does little to affect the geographical inequities.

Another proposal, offered by Sens. Cranston and Durkin, would allow veterans whose benefits have run out to pick them up again so they can complete their training or schooling. This would extend the delimiting period that cut off benefits to veterans whose time has or will run out 10 years after eligibility began.

Although the GI Bill legislation is in only the markup period in the Senate, it is important that a strong bill emerge now. In the past, the leadership of the House Veterans Committee has resisted such proposals as the tuition-equalization plan, accelerated payments and delimiting-date removal. The President has an obvious role to play in the debate. In his campaign, he spoke out in behalf of Vietnam veterans. He now has the opportunity to involve his administration in ensuring that the money that it has already committed goes to those legislative approaches that promise to serve veterans with the greatest need.

Mr. DURKIN. In reporting S. 969 last session which was enacted as 94–502, the Senate Veterans' Affairs Committee went a long way in making the GI bill a stronger and more equitable program. However, criticisms from individual veterans, the veterans' organizations, and post-secondary institutions vitally concerned with veterans educations have indicated that serious deficiencies remain in the post-Korean conflict and Vietnam-era GI bill. Earlier this session I introduced four separate bills which were designed to remedy many of these deficiencies. Having become aware of the financial and budgeting constraints that the committee must operate under, the distinguished chairman of the Veterans' Affairs Committee, Senator CRANSTON, and I revised those four bills incorporated other provisions essential to the improvement of the GI bill, and introduced the legislation presently before this body.

Although many of the provisions do not go as far as I would have liked, this legislation will provide a substantial improvement to the GI bill. The legislation was further weakened, however, when the committee, by a 5-to-4 vote, struck that provision which would have extended the GI bill delimiting date for the 2 years for those veterans enrolled as full-time students who lost their benefits due to the passage of the delimiting date and who desired to continue in full-time educational program. Even though the legislation fails in these significant regards, there remain provisions of a vital nature which require immediate consideration, support, and passage. I would briefly like to comment on a number of these provisions.

One of the most significant sections of the bill is that provision which provides for a new accelerated benefits program. Accelerated tuition is aimed at helping several groups of Vietnam-era veterans.

First. Unemployed veterans, who cannot afford to attend college or vocational school with GI bill benefits of current levels;

Second. Veterans living in States without readily available low-cost community colleges;

Third. Veterans enrolled in graduate schools; and

Fourth. Veterans now underemployed who find they cannot afford to give up their present employment to attend school under the GI bill in order to qualify for better jobs.

Accelerated tuition is specifically designed to help veterans in States that do not have low-cost colleges. In those States, it is often too expensive for the veteran to attend school with only his GI benefits. South Dakota, Vermont, and Nevada do not have any schools which cost less than $750 for a year's tuition. North Dakota, New Mexico, Arizona, Hawaii, Colorado, Nebraska, Louisiana, Wyoming, Montana, Mississippi, Maine, Idaho, Utah, Rhode Island, Delaware, Alaska, New Hampshire, Indiana, Ohio, and Pennsylvania all have less than 10 schools where the cost is less than $750.

The Veterans' Affairs Committee has worked hard to insure that the accelerated payments are directed to students seriously pursuing their course of study and will not be subject to abuse. This legislation has included many restrictions on accelerated tuition which are designed to prevent potential abuses with the program. The provision allows for a loan to be given the veteran at the beginning of the term and the accelerated tuition is paid to the veteran to repay the loan after the veteran has satisfactorily completed the term.

Entitlement to accelerated tuition is limited to full-time students in institutions where costs are greater than $1,000 and where there are less than 35 percent veterans. In any school term, the veteran can accelerate only half of his eligible months and he is eligible for acceleration of entitlement only to the extent that he has more months than is necessary for a degree. The provision is designed to allow the most equitable distribution of scarce resources. The accelerated program will not allow a veteran more entitlement, but rather will change the general rule that benefits have to be used 1 month at a time.

A second major element of the legislation is to guarantee that effective comprehensive counseling service be provided to all veterans who desire such services. Such counseling services are provided in order to aid the veterans in reaching a determination in regard to his educational or vocational goals and to aid the veteran in overcoming his personal readjustment problems. This provision further directs the administrator to carry out an active outreach program to encourage veterans to utilize such counseling services.

This provision recognizes the fact that since the GI bill was first passed through

June 1974, only 4.65 percent of the veterans who have trained under the program have been counseled. And only 2.9 percent of educationally disadvantaged veterans in training had ever received counseling. Comprehensive counseling will enable the veterans to: First, arrive at sound decisions about educational and vocational goals, and second, plan a program of education or training that will enable the veteran to attain a chosen goal.

A third major element of this bill is to provide a 6.6-percent increase in the amounts of GI bill educational assistance allowances. The GI bill when enacted was intended to cover the costs of the veteran-student for tuition, fees, books, supplies, subsistence, and other such costs. A worsening economy with increasing inflation has seriously diluted the beneficial aspects of the GI bill educational program. Benefit increases has not kept pace with the rate of inflation, and the rising costs of higher education. This provision is designed to ameliorate the burden some tuition and fee increases which have become prevalent in the institution of higher learning.

Much of our efforts in designing Public Law 94–502 was an attempt to curb the abuses that we realized existed in the GI bill programs. Since enactment of 94–502 we have learned that in many instances in our zeal to prevent abuse we have fashioned rules that are too rigid or are overinclusive in their operation. We have included in the GI bill Improvement Act of 1977 a number of measures which are more closely fashioned to curbing abuse without depriving veterans of a valuable educational experience where no abuse in fact exists.

I refer specifically to those provisions which: First, grant the Administrator the authoriy to waive the 1-year rule when it is in the best interest of the veteran and of the Federal Government; second, mandates that a study be conducted and reported in regard to the "satisfactory progress" study requirement and suspends the satisfactory progress requirement until completion of the study; third, mandates that such study include a comprehensive examination and evaluation of the need for and effectiveness of the "seat time" requirement and suggests that the Administrator establish regulations to waive this requirement in certain instances; and fourth, exempts any institution with an enrollment of veterans in receipt of educational assistance allowance which comprises 35 percent or less of the total enrollement from the requirements of separate course-by-course computation of the 85–15 rule. These measures should in no way be interpreted to illustrate a withdrawal from our commitment to curb abuse, but rather must be understood as a sensitivity to the genuine problems encountered by legitimate educational institutions which seek to provide veterans with a valuable educational experience.

Mr. President, although this legislation does not provide benefits to the extent that I originally had advocated and fails to include the provision extending the delimiting period under certain conditions, the bill provides numerous valuable provisions which will strengthen and make more effective the GI educational program. Unemployment among Vietnam era veterans remains dangerously high. This legislation will go a long way to provide the post-Korean veteran with the full educational opportunity necessary to any worthwhile employment.

Mr. THURMOND. Mr. President, S. 457 is another product of the Veterans' Affairs Committee under its capable chairman, Senator CRANSTON which is designed to meet the changing educational needs of our veterans population. I also wish to commend the efforts of the committee staff, particularly Jack Wickes. for their exhaustive efforts in the development of this legislation.

As reported, S. 457 provides a 6.6 percent cost-of-living increase to veterans and other eligible persons training under chapters 31, 34, 35, and 36, of title 38. The act also provides for the acceleration of educational assistance payments for eligible persons attending higher cost programs of education. Additionally, title II of the act provides for an extension of the 10-year delimiting period for certain veterans who were prevented from initiating or completing a course of study by virtue of a mental or physical disability not the result of the veteran's misconduct.

Since the enactment last year of the Veterans Education and Employment Assistance Act of 1976—Public Law 94–502—the committee has been besieged by complaints from educational institutions as a result of the substantive changes effected by that act. Certain provisions of S. 457 are designed to provide equitable and administrative relief to certain institutions aggrieved by certain provisions of Public Law 94–502.

Specifically, the act provides for a 10-percent increase in the amount of money paid State approving agencies for expenses incident to the GI bill education program. Also increased are the amounts paid to reimburse educational institutions for the costs incident to filing certain reports with the Veterans' Administration involving GI bill participation.

Mr. President, the most frequent complaints which the committee has received over the past year have involved the application of the 85–15 rule and the 2-year rule. S. 457 provides administrative and equitable relief under these two requirements by exempting, under certain circumstances, courses with vocational objectives from the application of the 2-year rule and exempts any institution with a veterans enrollment of 35 percent or less from the requirement of course-by-course computation of the 85–15 rule. The act also suspends, until after the completion of a study in 1978, the inclusion of students in receipt of Federal grants for purposes of computing the 85–15 ratio.

Finally, S. 457 would authorize the Administrator of Veterans' Affairs to provide equitable relief to certain educational institutions in receipt of veterans educational subsistence checks pursuant to power of attorney arrangements with former students, which the institutions are unable to negotiate due to the prohibition in existing law as contained in section 701 of Public Law 94–502.

Mr. President, S. 457 would appear to be a realistic response to the needs of the Nation's veterans and other eligible persons training under the GI bill education program. It is among the best evidence to measure the commitment of our Nation to those who responded in times of greatest need.

I commend S. 457 to my colleagues and urge their full support of this measure.

Mr. DOLE. Mr. President, the only thing more difficult for a serviceman than adjustment to military life is the readjustment to civilian life after completion of military duty. Mr. President, we are all aware the GI education bill has been, perhaps, the single most successful Federal program in the history of this Nation.

The Senator from Kansas strongly believes the deserving Vietnam veteran should continue to be afforded assistance as he or she pursues rejoining our society as educated and productive American citizens.

However, as we all know, this program ceased for an estimated 450,000 veterans enrolled in educational programs who lost their entitlement to benefits in May 1976 as a result of the expiration of the 10-year "delimiting" period.

S. 457: ADDRESSING THE PROBLEM

The measure the Senate is considering today, S. 457, is aimed at correcting problems that have arisen with the GI bill in recent years. Most of these problems can be attributed to the unique status of Vietnam war veterans. Just as that war was unprecedented in our history, the particular problems of Americans who fought that war have never been encountered before. As the Senate works to correct some of the abuses of the system, the Senator from Kansas hopes that old prejudices can be put aside and that the needs of these veterans be the focus of our debate.

The Committee on Veterans' Affairs has reported a bill that points out the urgent needs of the veterans who took advantage of the bill. A rate increase to offset the seemingly endless spiral of inflation is included. Some increase is certainly needed if the benefits are to remain realistic.

AN EXTENSION

In 1970, the President's Committee on Vietnam Veterans stated that 1.06 million of the 3.8 million eligible Vietnam-era veterans had used the GI bill education or training benefits. Additional data also showed the participation in the GI bill training was inverse to need. Nearly 50 percent of the veterans who had college training at the time of discharge had the best prospects for immediate employment, and also sought to upgrade their education under the GI bill. However, those who had serious education deficiencies showed a low participation rate of 10 percent.

It is very clear to the Senator from Kansas that many of the most needy and deserving Vietnam veterans could not afford to enter education and training programs at the completion of their service. Readjustment benefits were simply not enough to provide meaningful

support, especially married veterans with dependents.

Mr. President, I believe this measure before the Senate today begins to seriously address the deficiencies in the current GI education bill. I urge my colleagues to join me in fulfilling our obligation to the Vietnam veteran by voting for its adoption.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on final passage of the House bill, H.R. 8701.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays at this time?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be one other vote later today, on the adoption of the foreign assistance conference report.

Mr. CRANSTON. Mr. President, I am prepared to yield back the remaining time, if no one else has anything else to bring up.

I yield back the time.

Mr. STAFFORD. Mr. President, if there are no speakers on this side nor further amendments, I yield back the remaining time I have.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

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

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 8701, a bill to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

I ask unanimous consent that the bill be considered as having been read twice and that the Senate proceed to its immediate consideration.

The Chair laid before the Senate a message from the House on H.R. 8701, a bill to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered as having been read twice, and the Senate will proceed to its immediate consideration.

Mr. CRANSTON. Mr. President, I move that H.R. 8701 be amended by striking all after the enacting clause and inserting in lieu thereof the text of S. 457, as amended.

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

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), 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 Minnesota (Mr. HUMPHREY), the Senator from Michigan (Mr. RIEGLE), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

I further announce that if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 570 Leg.]

YEAS—91

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

NAYS—0

NOT VOTING—9

Abourezk	McClellan	Randolph
Humphrey	McGovern	Riegle
Mathias	Metcalf	Thurmond

So the bill (H.R. 8701), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 8701.

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

Mr. CRANSTON. Mr. President, I move that S. 457 be indefinitely postponed.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take just a moment to congratulate Senator CRANSTON and Senator STAFFORD on bringing before the Senate and shepherding to passage the GI Bill Improvement Act of 1977.

I hope that we will never forget, and I know that these two Senators will never forget, the tremendous debt of gratitude that this Nation owes to those men and women who have served well in our Armed Forces. The contribution they have made to our country is incalculable.

What is also important to remember, however, and what some people may forget, is that the provision of certain benefits to veterans in an effort to ease their transition back to a civilian society is not something that can simply be done on a one-time basis and then forgotten. With changing social and economic conditions, it is necessary to constantly review these benefits to insure that they continue to provide an effective means of assisting veterans as they return to civilian life. As chairman and ranking member of the Veterans' Affairs Committee, Senator CRANSTON and Senator STAFFORD, respectively, have done just that.

The GI Bill Improvement Act of 1977 represents only the latest of their efforts to insure that we not forget our obligation to repay in some way the debt we owe our veterans, and I congratulate Senator CRANSTON and Senator STAFFORD on its on its passage.

APPOINTMENT OF CONFEREES—H.R. 3387

Mr. LONG. Mr. President, at the desk is H.R. 3387 which was passed on Friday by the Senate.

I move that the Senate insist on its amendments, request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Acting President pro tempore (Mr. MATSUNAGA) appointed Mr. LONG, Mr. MOYNIHAN, Mr. HATHAWAY, Mr. DOLE, and Mr. DANFORTH conferees on the part of the Senate.

FOREIGN ASSISTANCE—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, the clerk will report the conference report on H.R. 7797.

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 7797 and ask for its immediate consideration.

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

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the

amendments of the Senate to the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of October 12, 1977.)

Mr. ROBERT C. BYRD. Mr. President, I am advised that there will be a request for the yeas and nays on the adoption of the conference report and, therefore, on behalf of that Senator, I want to ask for the yeas and nays so that all Senators may be advised.

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

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Under the previous order of the Senate, there will be 1 hour of debate equally divided between the Senator from Hawaii (Mr. INOUYE) and the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. BROOKE addressed the Chair.

Mr. SCHWEIKER. I yield Senator BROOKE 4 minutes.

Mr. BROOKE. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 4 minutes.

Mr. BROOKE. Mr. President, I thank my distinguished colleague.

Mr. President, I shall vote for this conference report, even though I am seriously troubled by actions taken by the administration during consideration of this measure. My vote shall be positive because there are many worthwhile initiatives funded by this bill that should proceed with further delay. These include funding for U.S. Middle East programs; funding for assistance to Portugal; funding for assistance to the victims of earthquakes in Italy; refugee assistance funding including that made available to refugees from the Soviet Union and Eastern Europe; and funding for many worthwhile development efforts in many of the world's poorest lands.

Any hesitancy I have regarding this compromise between the House and Senate, other than the normal hesitancy stemming from a desire that the Senate position had remained dominant throughout the bill, stems from the letter the President sent to the chairman of the Foreign Operations Subcommittee in the House. In that letter, a copy of which I ask unanimous consent to be included at the end of my remarks, the President agreed to instruct our delegates to the various international financial institutions to vote against loans to seven specific countries that had been singled out for special attention in the House version of the bill.

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

Mr. BROOKE. In addition, he agreed to instruct our delegates to vote against loans for the production of three commodities that the House had identified as possibly injurious to American producers. Such a letter from the President of the United States to an individual Congressman is unprecedented as far as I have been able to determine. And as one deeply involved in efforts by the Congress and the Executive to produce responsible foreign assistance initiatives, I believe the President has made a serious error by this action. This is the case for several reasons.

First, he has completely bypassed the formal congressional decisionmaking process by his action, for none of us today will have the opportunity to vote "yes" or "no" on whether we believe that such an automatic "no" vote should characterize our dealings in the international financial institutions on loans to these seven countries. I, for one, do not accept the President's letter as a binding commitment and hope that he will seek to have its intent abrogated by a subsequent understanding with the Congress. I say this, not because I necessarily agree that loans should be made to the seven countries mentioned in the House version, but because I believe that a certain degree of flexibility is needed in furthering our interests within the IFI structure. The President's letter sacrifices too much of that flexibility.

Secondly, by his action the President has opened the way for other countries to attach preconditions to their contributions to the IFI's. It is not hard to conceive of a situation where other contributors would exclude funds they provide to the IFI's from being used for any loans to a specific country or to states having close relations with that country. In a sense, the President's action may tempt others to engage in primary, secondary and tertiary boycotts of a country through the IFI mechanism.

Third, the precedent set by agreeing to instruct U.S. delegates to vote against loans for the production of certain commodities will come back to haunt the President and the Congress. Is it conceivable that other U.S. commodity producers, threatened or perceiving themselves to be threatened by external competition, are not encouraged to press their arguments for "protection" even more forcefully than at present in light of the President's letter?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROOKE. I ask for 2 additional minutes.

Mr. SCHWEIKER. I yield the Senator from Massachusetts 2 additional minutes.

Mr. BROOKE. Finally, the President's action is one more example of his propensity to undercut those in the Congress who find merit in certain of his administration's proposals and are willing to fight for their passage. The Senate is only too painfully aware of this propensity. His action on the foreign assistance appropriations bill further reduces the willingness in the Congress to take seriously the programs he proposes.

Mr. President, I want to make it clear that I have the greatest respect for the distinguished chairman and ranking minority member of this subcommittee. I know they have done everything they possibly could to give us a strong foreign aid bill. I know how they feel; I serve on that subcommittee, and I have had the distinct pleasure and privilege of serving as the ranking minority member of that subcommittee previously. I know the work they have done, and I commend them for it.

But then to have them undercut by the President of the United States in trying to get a foreign aid bill through I think is unconscionable, and that has prompted me to make this very strong statement today, and send this message to the White House, which I hope they will hear clearly, and not attempt to undercut our efforts as we face this important issue, not only this year but in the years ahead.

EXHIBIT 1

THE WHITE HOUSE,
Washington.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

To Chairman Clarence Long:

Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

Mr. INOUYE. Mr. President, the bill now before the Senate emerged from conference only after protracted and intensive deliberations; it is a carefully crafted compromise between the House and the Senate—and the executive branch. It is a compromise which was hammered out on the anvil of necessity; while the Senate position prevailed on many important issues, it was necessary to yield to the House on restrictions on assistance to certain countries in order to reach a conference agreement. Nonetheless, the bill represents, I believe, the best possible effort on the part of the conferees to achieve a practicable balance between the economic and political realities of our times and the growing concern for fundamental human rights.

As is well known, when the conference committee first reported on its attempts to reconcile the differences between the House and the Senate versions of the bill, 10 issues remained unresolved. After the passage of time, it was possible to reflect on the matters which were in disagreement and to view them in the context of the whole bill. The compelling importance of the bill as a whole to our assistance efforts and to the conduct of American foreign policy became evident to all and, when the conferees met for the second time, agreement was reached on all items.

Mr. President, yesterday, on the House floor, the House conferees were overruled on one item—amendment No. 47. The House voted to insist on its position. By this action, the House refused to accept the Senate amendment which would have provided the President of the United States the authority to waive the prohibition on direct assistance to Mozambique or Angola.

Under the terms of the Senate amendment, in order to waive the prohibition on such assistance, the President would have been required, first, to make a determination that direct assistance to Mozambique or Angola would further the foreign policy interests of the United States. Secondly, he would have been required to seek and receive the concurrence of both Houses of Congress.

With the House refusal to accept the Senate amendment, the prohibition on direct assistance to Mozambique or Angola stands. If the President were to determine that direct assistance to either or both of those countries, either now or in the future, would further the foreign policy interests of the United States, he would have to seek further congressional action granting him the authority to provide such assistance.

There is, to my mind, no major differences between the two positions. Under the Senate position the President would have been required to seek the concurrence of both Houses of Congress; under the House prohibition, the President will have to seek the concurrence of both Houses of Congress expressed through legislation. They are essentially the same. Therefore, at the proper time I will move that the Senate recede from its amendment.

Mr. President, it is true that, in conference, concessions were made on both sides—important concessions. But, I believe that were we to focus our attention only on the items which were in disagreement we would be committing a grievous error. There is much of significance in this bill:

It provides a generous and humanitarian response to the desperate need for assistance in the impoverished nations of the world;

It provides vital elements of security assistance to our friends and allies and seeks to lay the economic foundations for peace in the Middle East.

It provides for a constructive and responsible relationship with Africa, both through the Sahel development program and the southern Africa special requirements fund.

Mr. President, this bill represents a thoughtful approach to the problems of development. While the amounts it provides for the so-called functional development assistance accounts—food and nutrition, population planning, health, education, and human resources development, and technical assistance—exceed by $75,000,000 the amounts provided for these accounts last year, the bill does not simply throw dollars at difficult problems. In each instance, for each appropriation account, careful study has been given both to the need for U.S. assistance and to the ability of the various agencies and departments to carry on efficient and effective assistance programs.

In addition, largely at the initiative of the Senate, the bill has important provisions which improve and safeguard congressional oversight of our assistance programs. Senate initiatives which cleared conference include:

Tightening the terms of U.S. development and security assistance loans. Henceforth, U.S. lending through its assistance programs will reflect the varying potential for improvement among the national economies of aid recipients. In the past all of our assistance loans were for 40 years; now some will be for 30 years, others for 20 years. The countries receiving our assistance differ greatly in their prospects for economic growth. Clearly, the terms of our assistance should reflect this diversity.

Controlling the use of reappropriated prior-year funds.—From now on, the Congress may be assured that unobligated balances brought forward from prior years (and reobligations made during the year) will be used to provide assistance under the same appropriations account and for the same purposes for which they were originally appropriated. In the past, these funds could be shifted from one account to another without the Congress even being informed. Now we have stopped this practice. The Appropriations Committees of both Houses of Congress will have to be notified 15 days in advance of reprogramed obligations of such funds.

Maintaining congressional control over the ultimate use of appropriated funds.—For many years the foreign assistance program was presented on an "illustrative basis." Program presentations made to the Congress were not inclusive of all projects and purposes for which funds were to be obligated. The Congress, therefore, had incomplete knowledge of the ultimate purpose for which it was being asked to appropriate funds.

Moreover, the agencies and departments which administer foreign assistance funds could under the procedure which then prevailed reprogram funds at will, without even informing the Congress.

For fiscal year 1978, the administration has followed the practice which was initiated in fiscal year 1975 of detailing the specifics of individual items for which funds were to be obligated. The foreign assistance appropriations bill again this year carries the requirement that the Appropriations Committees be notified in advance of the obligation of all reprogramed funds. The managers on the part of the House and the managers on the part of the Senate agreed to include this provision with the firm expectation that the executive branch will follow the historical pattern of honoring objections to the obligation of funds for reprogramings. That there may be full understanding of the intent of the conferees, I ask unanimous consent that the pertinent portion of the joint explanatory statement of the conferees be printed in the RECORD at this point.

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

STATEMENT

Amendment No. 28: Restores language proposed by the House which requires that the various agencies and departments funded in this bill notify the Appropriations Committees of both Houses 15 days prior to the obligation of reprogramed funds.

The managers on the part of the Senate and the managers on the part of the House have agreed to this action with the firm expectation that the Executive Branch will follow the historical pattern of honoring objections to the obligation of funds for activities, programs, projects, type of material assistance, countries or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligations under any of the specific headings mentioned in this section.

The managers agree that any activity, program, project type of materiel assistance, or other operation specifically set forth by recipient or country and by amount to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed to have been justified and the Committees informed. Similarly, amounts not in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to have been justified and the Committees informed.

Any activity, program, project, type of materiel assistance, or other operation not specifically set forth by recipient or country and by amounts to be obligated in fiscal year 1978 in the fiscal year 1978 Congressional Presentation Document shall be deemed not to have been justified and the Committees not informed. Similarly, amounts in excess of the amounts proposed therein for obligation in fiscal year 1978 shall be deemed to not have been justified and the Committees not informed.

Mr. INOUYE. Mr. President, in my remarks I have attempted to give emphasis to the importance of the foreign assistance and related programs appropriations bill to our national policies and to suggest some of the constructive measures taken by the Appropriations

Committees to safeguard congressional oversight.

I believe that the actions taken by the committee on conference are responsible actions. As I said at the outset, we have had to make some concessions in order to reach agreement on the larger issues, but we have made some notable achievements. I hope that the Senate will support the achievements of the Senate conferees and vote approval of the bill.

Mr. President, I move that the conference be agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr SCHWEIKER. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SCHWEIKER. Mr. President, as outlined by the chairman of the subcommittee, this conference report is finally back to the Senate after two hard conference meetings with the House. The conference agreement appropriates $6,772,000,000, which is $829,000,000 under the administration's budget.

Mr. President, the so-called compromise that was reached on several controversial and important language items was gained under unusual circumstances and the result was not very satisfactory. Before I explain the difficulty I have with this Conference report, I want to make it clear that none of the criticism I will be voicing reflects on the chairman of our subcommittee, the distinguished Senator from Hawaii. In fact, he did an outstanding job throughout the consideration of this bill. However, actions by the House and the administration, especially the latter, are not to be commended. While obviously there was genuine disagreement, the manner in which this disagreement was resolved was most unfortunate.

The issues which took most of our attention and created the most controversy were a result of several amendments added to the bill by the House of Representatives. The first class of amendments prohibited any funds in this bill, directly or indirectly from going to seven countries and prohibited funds made available to the international financial institutions from being used to establish or expand the production of sugar, palm oil, or citrus crops. The second class of amendments added by the House prohibited various military assistance funds from going to Argentina, Ethiopia, Uruguay, Brazil, El Salvador, Guatemala, and reduced such assistance going to the Philippines.

The effect of the so-called compromise allows our indirect assistance to several left of center countries but does not allow bilaterial assistance to some right of center countries, most of which have been historic and good friends of the United States. This is an unfortunate double standard and certainly a fair compromise would have been to treat both groups of countries in the same manner.

The second class of House amendments, barring military assistance to the various Latin American countries and Ethiopia, was done supposedly on human rights grounds. The House evidently thought that they had the wisdom to single out these countries as human rights violators to a degree sufficient to make a part of our foreign policy their exclusion from receiving American assistance. This was quite a feat considering such countries as Panama, Columbia, South Korea, and others were not likewise excluded. Unfortunately, these amendments represent more the inability of Congress to deal with this issue than it does formulation of a rationale policy on human rights. Is the House more sensitive to human rights issues than the Senate? Obviously, the answer is "no" but the Senate certainly has been more responsible in its approach to this issue. At the strong urging of the administration, and with a near unanimous voice, the Senate Appropriations Committee deleted these amendments and instead called upon the administration to develop a uniform policy rather than willy-nilly and capricious cutting off of aid to various countries because of real or supposed human rights violations. I strongly supported this position because it makes sense. Unfortunately, the House position prevailed and Argentina, Uruguay, Brazil, El Salvador, and Guatemala are cut off for at least this fiscal year regardless of any internal political change which may occur, and regardless of what other judgments we make about other countries who, in my opinion, would be far more serious violators of human rights than some of these countries.

The first class of amendments I mentioned prohibited both direct and indirect assistance to various countries because of human rights and political concerns. This amendment would have prohibited any U.S. funds from going to these countries either directly through our bilateral program or indirectly through the international financial institutions or U.N. agencies which receive funds in this bill. The Senate did not disagree with the House prohibition on our bilateral assistance to these countries but resisted the prohibition on indirect assistance because of what the Senate saw as a harmful effect on the international financial institutions. The administration likewise strongly resisted these amendments. The reason for the Senate's position on this matter was the assertion by the President of the World Bank and representatives of the other development banks that such a restriction would require the institutions to refuse our contributions. The effect of this might well have meant the demise of the banks. Therefore, the Senate deleted the word "indirectly" from the House amendments. While I do not want to see one dime go to the countries named in the House amendments, I am not prepared to take what may be a dangerous route to insure such an end.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. SCHWEIKER. I yield myself 3 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 3 additional minutes.

Mr. SCHWEIKER. The author of these amendments, Congressman YOUNG, is sincere and correct in trying to get a better accountability of how U.S. funds are used through the IFI's. However, it is my hope that we will be able to find another route to go in order to reach Congressman YOUNG's admirable goal.

Mr. President, the Senate's position, despite the provisions of this conference report, did not prevail. The administration, as is becoming common around here, "Pulled the rug out from under us." This was done by an incredible letter signed by President Carter to Representative CLARENCE LONG, chairman of the House Appropriations Subcommittee on Foreign Operations. In that letter the President stated that he would "instruct the U.S. executive directors in the banks to oppose and vote against, throughout fiscal year 1978, any loans to the seven countries mentioned in the House amendments. Our Representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States." Many of us went out on a limb in support of the administration's original position and each step along the way were told forcefully by the administration that we were following the responsible course. Perhaps the lesson in this matter is that the way to deal with this administration successfully is through adversity and not cooperation.

Mr. President, one of the particular statements in the President's letter that disturbs me is his assertion that our Representatives will vote "no" on loans through these banks which would harm the domestic producers of citrus crops, sugar and palm oil, and/or producers of similar or competing agricultural commodities. An editorial in the Baltimore Sun of July 14, 1977 cautioned that such a provision was "protectionism that could proliferate." Surely if the administration could bring itself to protect sugar, citrus crops, and palm oil from IFI loans for export to this country, it would have no objection, for example, if I sought to add steel, mushrooms, television sets, electronic equipment and shoes.

I have a mind to do that in view of the administration's concept that we are going to protect these crops.

Perhaps the chairman might be interested in seeing that macadamia nuts are also protected. Let me assure the administration that I am very serious about this matter. While I do not want to be accused of doing the very things I am criticizing, neither do I want to be put in the position of going by a different set of rules than everyone else and a double standard.

Mr. President, aside from Mr. Carter's letter to Chairman LONG, the other disturbing factor which enabled this conference report to reach the Senate floor was the way in which my Republican counterparts were treated in the House. Perhaps this is an internal matter which I should not comment on but it has been brought out into the public and therefore I believe it can be discussed. Last week, when we had our second conference meeting, the House proposed the

final compromise which was accepted and it was not until that meeting that Congressman YOUNG and other Republicans knew what it contained. Obviously, there is nothing the Senate can do about this sort of situation, but it was indicative of the way this whole matter was handled. I do want to quickly point out that there was no such partisan action on this side of the Capitol.

I compliment the chairman on the very fair and bipartisan way he has always conducted this committee.

Mr. President, if the administration's methods and uncertainties about its foreign policy continues, they will have a great deal of difficulty in Congress. I will try to be cooperative but I can assure the administration that I am going to be very careful before I commit myself to support their programs in the future.

I again wish to emphasize and state my appreciation to the chairman of our subcommittee, the Senator from Hawaii. I might add that as a member of the President's party, he has a more difficult role than I did in this situation.

Mr. JAVITS. Will the Senator yield me 2 minutes?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, we see a fait accompli here. As Senator SCHWEIKER and Senator BROOKE, I shall vote for the conference report. I wish to join with them in expressing appreciation, not so much for ourselves—he knows that and has for years—but for the people of our country and the peace of the world for the way in which Senator INOUYE has put himself out to bring this about. I feel that I really bespeak their best interest when I say that to the Senator.

Mr. President, what is most regrettable—because, after all, we understand that this is a 1-year proposition and that the President's letter to Chairman CLARENCE LONG over in the other body says, "Throughout fiscal year '78," and so on—is the notice which we are serving upon our President that if he disables himself from carrying on a foreign policy which has to be based upon the opportunity to give as well as receive, it is going to make it more difficult for the United States to keep the peace and to gain human rights which it is trying to gain in the world.

As an example, if these countries—Uganda, Laos, Cambodia—know in advance that nothing is going to happen as far as they are concerned that is any good, if the Philippines, Argentina, Brazil, El Salvador, and Guatemala also feel that there is no discretion left in dealing with human rights as far as the United States is concerned, what incentive is there to improve?

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

Mr. JAVITS. May I have 1 more minute?

Mr. SCHWEIKER. I yield another minute.

Mr. JAVITS. If there is a stick, where is there a carrot? I hope very much that, by these expressions, Mr. President, our President may be moved to think about this. He was very well equipped to gain the nomination and to win the Presidency. The question is, what about doing the job? That is a collaborative effort in which our participation, in terms of support or lack of it and in terms of how we handle things and what advice and consent we give, are very important.

Mr. President, it is my privilege, as a U.S. Senator, to say to the President of the United States that the worst thing we can do in this world situation is to tie our hands in advance. It is better, if necessary, to fight some of these things through to the end in order to avoid the kind of paralysis which will set in if, on front after front, the United States immobilizes itself in respect of its ability to move intelligently in foreign policy.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. Will the Senator from Pennsylvania yield 1 minute to the Senator from New Mexico?

Mr. SCHWEIKER. I am delighted to yield.

Mr. DOMENICI. Mr. President, I compliment the Senator from Pennsylvania. I heard his remarks. I shall vote against the conference report. I think my record in the past indicates that I do not do this easily, but I think he has pointed up some things—and I now do not speak of the partisan issues. I think he is right in bringing those up. Rather, I speak of the issues that he raised with reference to a double standard as to human rights treatment in various countries. I think this is something we all have to understand. I compliment him for the very specific way in which he laid out this issue.

I do not think human rights are violated any differently by a dictator than they are by the kind of leaders that exist in South Vietnam. I think both are the same. I do not think the United States can afford to put itself in that kind of posture, where it treats either differently. Most assuredly, if we treat the rightist one differently from the leftist, we at least ought to ask ourselves the question, which one is more apt to be our friend if they both are bad?

When we treat South Vietnam and countries like that, which have communistic collective dictators that violate human rights, and give any preferential treatment to them versus another kind of dictatorial regime that violates the same kind of human rights, in this Senator's opinion, it destines those who resist communism absolutely to a position where they know no one will help them. For if they resist it as rightists, they are lost to the only free power in the world, the United States of America and they look to no one. Well, if it is the other kind, it appears that, after they have done their job and taken over, they can work with the United States in the interest of furthering human rights in their country. Over the long haul, that puts us and those who want to defend, by whatever means they have at their disposal, against communism, in a position where they can look to no one.

I compliment the Senator from Pennsylvania for his remarks.

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

Mr. SCHWEIKER. Yes, I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that Barbara Washburn and Beverly Charles of my staff may have the privilege of the floor during this debate.

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

Who yields time?

Mr. SCHWEIKER. I yield 2 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, although I will not raise an objection to the conference report on the Foreign Assistance Appropriations bill, I am truly disappointed that it does not contain restrictions on use of American funds for aid to Vietnam, Laos, Cuba, Uganda, or Angola, by way of the international lending institutions. Even though we know that Congress would never approve direct aid to any of these governments under present circumstances, we continue to pour annual contributions into international funding organizations which in turn pass it on. I think it is objectionable to do indirectly what we would not think of doing directly.

Earlier this year, the Senator from Kansas proposed an amendment to the international lending institutions authorization bill which would have stipulated that none of our contributions to such organizations could be used in providing aid to Vietnam, Cambodia, or Laos. That amendment was cosponsored by 10 U.S. Senators, and passed the Senate on a vote of 58 to 32. That amendment was later rejected in conference. That is the kind of consideration we have had.

A few weeks later, the House of Representatives attached a similar amendment to this bill, encompassing Cuba, Angola, Uganda, and Mozambique as well. The vote was a strong 295 to 115. Once again, the effort was effectively overruled in conference, after the President intervened by promising to have U.S. Representatives to the international banks vote against aid to the seven countries. However, I do not think any of us are really convinced that this accomplishes what both the Senate and the House have mandated.

A PASSIVE ROLE FOR THE UNITED STATES

What the President's "compromise" really means is that we will passively accept continued use of American funds for bolstering these repressive regimes. We will not actively vote in support of the aid, but neither will we actively oppose it. So, we will stand quietly by while the international lending institutions—the World Bank, International Monetary Fund, and others—approve the assistance.

It is regrettable that the clearly expressed will of both Houses of Congress will in this way be thwarted.

It seems to me that, since we have expressed our will in both the House and the Senate, we ought to carry it through. If the President is unwilling to place formal restrictions on U.S. contributions to the international banks, then I hope he will be willing to instruct American representatives to take a more aggressive

role in opposing assistance programs to selected governments—those designated in Senate and House legislation. Those representatives should actively speak against such aid proposals on humanitarian and ethical grounds. Perhaps they could sponsor resolutions within the organizations decrying the oppressive governments in Vietnam, Cambodia, Cuba, Uganda, and elsewhere. But they should by no means remain passive. To do so would be to undermine the intent and the mandate of Congress, and the consensus of most Americans on this issue.

I just happen to believe that those who represent our Government should speak out actively against such loans, not just say, well, I am against it; we have been instructed to vote against it but we really are for it.

It seems to me that we do not really accomplish much of anything that way. I hope that, as we look around at some of the repressive regimes, particularly the one in Cambodia that comes to my mind and the one in Uganda, we might give this very serious consideration. It is going to take aggressive action by Congress if we hope to achieve any success.

Mr. CASE. Mr. President, the conference report on the foreign aid appropriations bill creates a dilemma for me and, I think, for many other Members of the Senate. The provisions of this legislation are, on balance, acceptable. However, an agreement between the President of the United States and the chairman of a House subcommittee changes the substance and effect of the legislation.

I refer to the letter which President Carter sent to the chairman of the House Appropriations Subcommittee on Foreign Operations in which the President agreed to instruct U.S. representatives to international financial institutions to vote against loans to seven countries and against projects involving three commodities.

Mr. President, in my view, the substance of that agreement does not serve the interests of the United States. That agreement ignores the long, and unsuccessful history of predetermined "no" voted by U.S. Executive Directors in these institutions. The United States does not have a majority of the votes on the boards of any of these banks save one, the IDB. Our votes alone do not block loans. Our predetermined "no" vote only serves to reduce our influence as loans are considered. Everyone knows our position—they do not have to work for our vote. Our position is already established.

Furthermore, this agreement does not take account of the fact that conditions in any one of the seven countries may change in the next year. Neither the President nor the Subcommittee on Foreign Operations of the House of Representatives can predict what will happen in any of those countries in the next 12 months.

How would this agreement serve our interests if, as many of us hope, a new government comes to power in Uganda?

How would this agreement serve our interests if international development loans could help to achieve peace in Southern Africa?

In addition to being poor public policy, the President's letter has effectively preempted the process by which our laws are made.

Members of both Houses are denied an opportunity to vote on this policy within the context of the conference report.

Members of the Senate and the House who, with the strong support of the administration, opposed the provisions included in this agreement have been abandoned without a fare-thee-well from the White House.

Members of the committees responsible for the legislation authorizing the appropriation of these funds were not informed about this agreement before it was reached, let alone afforded the opportunity to express their views on its merits.

Mr. President, I cannot cast a vote against a letter from the President of the United States to the chairman of a House committee. So I will vote for this conference report. However, if that agreement were part of the legislation which we consider today, I would vote against that legislation.

I ask unanimous consent to place into the RECORD a copy of President Carter's letter and a Dear Colleague letter circulated in early June which more fully explains the adverse impact of mandatory "no" votes on the U.S. role in international financial institutions. I joined my colleagues Senators SPARKMAN, JAVITS, HUMPHREY, PERCY, CRANSTON, MATHIAS, STEVENSON, and BIDEN in signing this letter.

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

THE WHITE HOUSE,
Washington, October 6, 1977.

Hon. CLARENCE D. LONG,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

TO CHAIRMAN CLARENCE LONG: Secretary Blumenthal has informed me of your constructive efforts to achieve a successful resolution of the problems posed by the amendments to the foreign aid appropriations bill restricting the use of U.S. contributions to the international development banks.

I deeply appreciate your helpful suggestions and the role you have played thus far in steering this vitally important legislation through the House.

As I stated in our meeting last Friday, I fully agree with you and your colleagues in the House that U.S. assistance through the banks must take full account of the human rights policies of recipient countries. Accordingly, I will shortly sign into law the recently passed authorizing legislation for U.S. participation in the international development banks which require that the U.S. representatives to the banks oppose loans to gross violators (except where those loans are directed specifically to programs which serve the basic human needs of citizens of such countries).

Additionally, as we discussed earlier, I shall instruct the U.S. Executive Directors in the banks to oppose and vote against, throughout FY 1978, any loans to the seven countries mentioned in the House amendments. Our representatives will also oppose and vote against loans for the production of the three commodities where such production is for export and could injure producers in the United States. You may be certain that I shall closely watch and review the lending practices of the banks during this fiscal year.

For the longer run, I have directed the Secretary of the Treasury, in consultation with the leadership and appropriate committee of the Congress, to undertake a thorough study of how the whole range of U.S. objectives, including the type envisaged in these amendments, can best be pursued in the banks. I would expect that the results of this appraisal could help guide our efforts for FY 1979 and beyond, in partnership between the Administration and the Congress.

I would hope that these steps would enable the House to avoid adopting any of the restrictive amendments, previously passed, in the final foreign assistance appropriations bill for FY 1978.

I appreciate your support and counsel on these critically important issues confronting our foreign policy.

Sincerely,

JIMMY CARTER.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

DEAR COLLEAGUE: We are writing to urge you to support H.R. 5262, which authorizes $5.225 billion over the next three to four years for continued U.S. participation in six international financial institutions (IFIs), and to resist any modification of the strong human rights provision in Title VII of the bill.

It is important that the United States Congress authorize the full requests for these institutions. The requests are based on internationally negotiated agreements; failure by the United States to participate in these institutions at the negotiated levels could require renegotiations of some of the agreements. It would raise questions about the seriousness of the United States commitment to world economic prosperity as reaffirmed by the President in London. The economies of the developing countries are now closely tied to the United States and other industrial nations through trade, private investment, commercial bank lending, the supply of raw materials, and participation in international economic arrangements. Their prosperity is linked to ours, and ours to theirs.

These institutions permit the U.S. to share the development assistance burden with other developed countries, while reducing the political overtones associated with bilateral assistance. The U.S. share in the current replenishment of these institutions averages less than 25 percent. Our share has been declining steadily over the years.

The $5.2 billion represents the U.S. share of overall international contributions to these institutions:

(a) $4,081 million for the World Bank Group;

International Bank for Reconstruction and Development (IBRD) $1,570 million (over 3 years);

International Development Association (IDA) $2,400 million (over 3 years); and

International Finance Corporation (IFC) $112 million (over 3 years).

(b) $994 million for the Asian Bank and Fund (ADB) and (ADF);

Bank—$814.2 million (over 4 years); and

Fund—$180 million (over 3 years).

(c) $150 million for the African Development Fund (AFDF) (over 3 years beginning in FY 1979).

The request includes $654 million in callable capital—collateral for IFI borrowings in commercial money markets; this is highly unlikely to result in U.S. Government outlays but must nevertheless be authorized.

Most of the debate about H.R. 5262 has focused on the issue of human rights. The human rights language in Title VII of the Senate bill was developed in concert with the Executive Branch and the House Banking Committee. Similar language is con-

tained in the House version of H.R. 5262. The major difference is that the House language requires a no-vote in specific instances.

Title VII reinforces and provides strong Congressional support for the Administration's stance on human rights. It requires the U.S. Executive Directors, by all their actions in the Banks, to promote the cause of human rights in the Banks' member countries. It states further that both bilateral actions relating to human rights and the channeling of assistance to the neediest people should be taken into consideration when developing a human rights policy in the Banks.

Past experience indicates that mandated no-votes have a negative impact on the institutions involved. Loans continue to be made because the United States does not have a veto power, but the United States has less opportunity to play an influential role in the consultation process since its vote is pre-determined. Up to now other countries have refrained from mandating particular votes by their directors; continued U.S. moves in this direction could lead to similar mandates by other countries. Finally, a required no-vote implies that the Congress does not believe the Administration is fully committed to promoting human rights.

We are strongly committed to an effective human rights approach. The Administration shares this commitment and opposes mandated no-votes. Title VII is a strong and comprehensive provision worthy of the support of all who are concerned about human rights.

We urge you to join us, the Administration and many others who support passage of this bill and its human rights title.

Sincerely,

Clifford P. Case, John Sparkman, Jacob K. Javits, Hubert H. Humphrey, Charles H. Percy, Alan Cranston, Charles McC. Mathias, Adlai E. Stevenson III, and Joseph R. Biden, Jr.

INTERNATIONAL FINANCIAL INSTITUTIONS AND THE UNITED STATES

Mr. PERCY. Mr. President, from the Bretton Woods agreement which established the World Bank, through the creation of the International Development Association—which was largely a Senate initiative—to the establishment of regional development banks, the United States has encouraged other nations to join in an effort to provide development assistance to poor nations. This multilateral aid effort was in our own interest in two basic respects. First, because other nations would share the burden of providing development assitance. Today, members of international financial institutions contribute about $3 for every $1 of ours. Second, because many recipient nations are more willing to accept stringent criteria for use of aid from multilateral organization than from a bilateral donor, our development resources are used more effectively.

Because I believe that international financial institutions have made an important contribution to development efforts and to our own national interests, I am deeply concerned about the implications of a letter which President Carter sent to the chairman of the House conferees on the foreign aid appropriations bill. President Carter has agreed to direct U.S. representatives to international financial institutions to oppose loans to a list of seven countries and for projects involving three commodities.

Mr. President, I do not approve of each and every loan which has been made by an international financial institution. And I certainly do not believe that the United States should provide assistance to Vietnam, Cambodia, Uganda, and other countries on this list—in fact, I have supported legislation which prohibits bilateral assistance to them. But the agreement which the President has made will not prevent one dime from going to any country on that list. All that agreement will do is seriously reduce the effectiveness of our representatives in those institutions. We have had experience with predetermined "no" votes—and we have found that when our position was known in advance, nobody would listen to our executive directors as the loans worked their way through the institutions.

Mr. President, I regret that President Carter made the agreement with the House conferees. I regret that the House and Senate had no opportunity to vote on this proposal. I regret that members of the authorizing committees were not consulted about this agreement, especially in view of the fact that the authorization legislation provides well thought out procedures for opposing aid to countries which engage in gross volaions of the human rights of their citizens.

Finally, I regret that the President has tied his own hands to respond to what we all hope will be changes in the conduct of governments in Southeast Asia and Africa.

I will support this conference report with little enthusiasm, with the hope that this agreement will not set a precedent for the future, and with the hope that the executive branch will provide more effective support for its own initiatives next year.

Mr. CLARK. Mr. President, Mr. HUMPHREY asked me to put his remarks on this appropriations bill into the RECORD. They are consistent with my own concern about the "compromise" reflected in this legislation. I have long been a strong supporter of human rights but mandatory no votes against loans to an arbitrary list of countries and commodities is not, in my opinion, a good way to protect human rights. I am especially concerned that the President has agreed to oppose assistance for Mozambique and Angola and that the House has dropped the Presidential waiver which would have made it possible to provide direct assistance to these countries. Bank membership could be a very positive thing for the economies of these poor countries, and would encourage important links to the Western countries. Furthermore, this decision is inconsistent with our current policy of cooperation with the frontline States in the Rhodesia negotiations. This is part of the reason why I sponsored an amendment which would allow the President to waive the prohibition against direct assistance to Mozambique.

I do support this bill, Mr. President, but I want to express my deep concern about the executive branch's policy reversal.

Mr. President, I ask unanimous consent that Senator HUMPHREY's statement may be printed in the RECORD.

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

STATEMENT BY SENATOR HUMPHREY

As we all know the foreign assistance appropriations process has been long and difficult—again. Enactment of foreign aid appropriations even defied deadlines established by the Budget Act. We had to pass a continuing resolution so that AID employees could be paid and even Peace Corps volunteers receive living allowances.

I am pleased that this bill no longer includes provisions which would make it impossible for the International Financial Institutions to accept our contributions. Both Houses of Congress deliberated at length about continued United States participation in these organizations and duly authorized it by substantial margins—194–156 in the House and 59–30 in the Senate. I am concerned, however, about the process by which agreement to delete prohibitions against indirect assistance was reached. Before either House had a chance to express its will about the items in diagreement in the Conference Report, the President committed the United States to vote against loans to seven countries and for the production of three commodities all throughout fiscal 1978. This is a reversal of Executive Branch policy which has consistently opposed mandatory no-votes of all kinds. This policy reversal was expressed in a letter to the Chairman of the Appropriation Subcommittee of the House of Representatives.

I am concerned about this process and seriously question the wisdom of this policy reversal. Members of my Subcommittee on Foreign Assistance together with the Executive Branch have consistently argued that mandatory "no" votes simply tie the hands of the U.S. representatives to these institutions. Our "no" vote alone cannot defeat a loan, but knowledge that we must vote no makes it irrelevant that other countries consult with us about that loan. If we are concerned about lending to particular countries the least effective means to influence that policy is to tie the hands of U.S. representatives in respect to decisions concerning that country. In support of Administration policy, the Senate has gone on record four times opposing "no" votes. Now the President has accepted this procedure.

Second, the President agreed to unqualified "no" votes. This will circumvent procedures currently being developed by this Administration to determine whether governments are, in fact, in gross violation of internationally recognized human rights. It also prevents the United States from considering whether to support projects which will directly benefit needy people in those countries. This is inconsistent with our New Directions policy to assist needy people and the urgings of Congress that international financial institutions do so as well.

When the list of barred countries is examined more closely it becomes clear that a pledge to vote "no" against loans to at least 4 of them is not very useful. Mozambique, Angola, and Cuba are not even members of these institutions and Uganda has received no assistance from the banks in several years. Further, it may be in the interest of the United States to support bank membership for Mozambique and Angola if this will help to stabilize their economies. Again, the Senate previously indicated that it did not approve of a blanket prohibition against *direct* assistance to Mozambique and Angola by voting to allow the President to waive that prohibition. Mandatory "no" votes are clearly inconsistent with that decision.

I am also worried about the pledge to vote against loans for the production of palm oil, sugar and citrus. This opens a pandora's box for the addition of other commodities. Part of the purpose of U.S. development assistance is to help countries get off the dole—become more self-reliant. Yet the United States now

plans to oppose assistance for production designed to accomplish just that.

I support passage of this bill; we need appropriations legislation and this bill no longer contains many of the provisions I opposed. Nevertheless, I am disappointed with the policy outcome because I firmly believe, and had clearly understood that the President believed, that unqualified mandated "no" votes in the international financial institutions are poor and even harmful policy tools. I do not regard this action as a precedent for appropriations legislation next year, and I shall seriously consider opposing the foreign aid appropriations bill next year, if these provisions are written into it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. INOUYE. Mr. President, before asking for the vote, as chairman of the Appropriations Subcommittee on Foreign Operations I would like to express my gratitude to four of the people who have done yeoman work in bringing this bill to this point. I am speaking of Bill Jordan, Richard Collins, Jim Bond, and Helen Dackis. To all of them, we owe a great debt.

I also want to thank all of my colleagues on the committee, particularly the Senator from Pennsylvania, Mr. SCHWEIKER.

Mr. President, I ask for the vote.

Mr. SCHWEIKER. I yield back the remainder of my time.

Mr. INOUYE. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the conference report. 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 Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from West Virginia (Mr. RANDOLPH), 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 Minnesota (Mr. HUMPHREY) and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

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

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) and the Senator from North Dakota (Mr. YOUNG) would each vote "nay."

The result was announced—yeas 53, nays 33, as follows:

[Rollcall Vote No. 571 Leg.]

YEAS—53

Anderson	Ford	Moynihan
Baker	Glenn	Muskie
Bayh	Gravel	Nelson
Bentsen	Hart	Packwood
Biden	Haskell	Pearson
Brooke	Hathaway	Pell
Bumpers	Heinz	Percy
Case	Huddleston	Ribicoff
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Magnuson	Stevenson
Danforth	Matsunaga	Stone
DeConcini	McIntyre	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Morgan	

NAYS—33

Allen	Garn	Nunn
Bartlett	Hansen	Proxmire
Bellmon	Hatch	Roth
Burdick	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Scott
	Helms	Stevens
Byrd, Robert C.	Hollings	Talmadge
Cannon	Johnston	Tower
Curtis	Long	Wallop
Dole	Lugar	Zorinsky
Domenici	McClure	
Eastland	Melcher	

NOT VOTING—14

Abourezk	Mathias	Riegle
Goldwater	McClellan	Stennis
Griffin	McGovern	Thurmond
Humphrey	Metcalf	Young
Laxalt	Randolph	

So the conference report was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

: *Provided*, That $2,000,000 shall be available for the World Health Organization Onchocerciasis Control Program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided*, That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 per centum of the total contributions to such program

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $37,100,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

The Mutual Security Appropriation Act, 1956, is amended by striking out section 108 thereof, effective as of October 1, 1977.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

: *Provided further*, That not to exceed $700,000 of funds provided to the Agency for International Development by this Act shall be available for hiring experts and consultants pursuant to 5 U.S.C. 3109 and of this amount not to exceed $100,000 shall be available for hiring experts and consultants who are retired employees of the Agency for International Development: *Provided further*, That none of the funds made available by this Act shall be available for leasing, purchasing, renovating, or furnishing of housing or office space in Cairo, Egypt, except through the Foreign Building Operations of the Department of State: *Provided further*, That not to exceed $125,000 of the funds made available by this Act shall be available for the Administrator's Development Seminar of the Agency for International Development.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 115. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committee of both Houses of the Congress.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $38,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 503C. Of the funds appropriated or made available pursuant to this Act, not more than $18,100,000 shall be used for military assistance, not more than $1,850,000 shall be used for military assistance, not more than $1,850,000 shall be used for foreign military credit sales, and not more than $700,000 shall be used for international military education and training to the Government of the Philippines.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 508. Notwithstanding the budget authority levels of $523,000,000 for the Inter-American Development Bank and $400,000,000 for the International Bank for Reconstruction and Development provided elsewhere in this Act, not more than $480,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the Inter-American Development Bank and not more than $380,000,000 shall be made available by this Act for obligation or expenditure for a United States contribution to the International Bank for Reconstruction and Development: *Provided*, That this section shall apply only to the establishment of budget authority levels for the aforementioned Banks and shall not alter limitations, restrictions or other language provisions elsewhere in this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 82 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 509. None of the funds appropriated or otherwise made available by this Act to the Export-Import Bank and funds appropriated by this Act for direct foreign assistance may be obligated for any government which aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism, unless the President of the United States finds that the national security requires otherwise.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 510. It is the sense of the Congress that the Secretary of State should prepare and submit to the Speaker of the House of Representatives and to the President of the Senate—

(1) not later than six months after the date of enactment of this section, a report on the adequacy of insurance provided by the accredited diplomatic missions to the United States to cover lossor injury arising from the wrongful acts or omissions of the employees of such missions in the United States;

(2) not later than one year after the date of enactment of this section, a report on what efforts the President and the Secretary of State have made to encourage the provision of such coverage; and

(3) not later than six months after the date of enactment of this section, a report on what the Secretary of State has done to encourage the Government of Panama to make satisfactory compensation to Dr. Halla Brown for loss or injury arising out of the accident of April 20, 1974.

Mr. INOUYE. Mr. President, I move that the Senate agree to the amendments of the House to the amendments of the Senate numbered 6, 20, 21, 27, 36, 49, 61, 74, 81, 82, and 83.

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

The motion was agreed to.

Mr. INOUYE. Mr. President, I move that the Senate recede from its amendment numbered 47.

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

The motion was agreed to.

PANAMA CANAL TREATIES

Mr. SCOTT. Mr. President, as indicated on several occasions in the past, I am opposed to the ratification of the proposed Panama Canal treaties and this position is in line with the views that have been expressed by the people of Virginia in correspondence and telephone calls to our office. In fact, roughly 96 percent of the people contacting the office are opposed to ratification. Yet, evidence continues to accumulate that the President intends to utilize the full force of his office as Chief Executive to change the views of individual Senators and to change the opinions of the American people. To my mind this will prove to be a difficult task and I would like to cite as an example a copy of a letter received from a Virginia constituent. Let me read the letter omitting the name and address of the writer and also omitting identifying portions of a telegram enclosed with the letter. The letter reads as follows:

OCTOBER 12, 1977.

Hon. WILLIAM LLOYD SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: As a registered and active voter of Virginia I am writing to ask that you vote against ratification of the Panama Canal Treaties. I must also request that you not use my name in this matter as I have been told indirectly to support these treaties by General David C. Jones, Air Force Chief of Staff.

I am enclosing a copy of a message that General Jones sent to all commanders. Paragraph 5 makes it quite clear that we as military personnel are expected to support these treaties.

Although I can not speak out publicly against the Panama Canal Treaties, I will not speak out in support of them either. Because of my position in the military, I would appreciate it if you and your staff not reveal how you received the enclosed message.

Sincerely,

The unclassied telegram has a number of identifying features indicating the wide distribution it received within the These features removed, it reads as folspecic command to which it was referred. lows:

For Commanders from General Jones.
Subject: Panama Canal Treaties

1. On 10 Aug. 1977 Panamanian and U.S. negotiators announced agreement in principle on a conceptual framework for two new treaties. One, the neutrality treaty, provides for the permanent neutrality of the canal; the second, the Panama Canal Treaty, deals with the operation and defense of the canal. Both treaties would enter into effect after ratification and document exchange processes are complete. The neutrality treaty will be of indefinite duration, whereas the Panama Conol Treaty will terminate in all aspects on 31 December 1999.

2. The Panama Canal is a major defense asset, the use of which enhances United States capability for timely reinforcement of United States forces. Its strategic military advantage lies in the economy and flexibility it provides to accelerate the shift of military forces and logistic support by sea between the Atlantic and Pacific Oceans and to overseas area. United States military interests in the Panama Canal are in its use, not its ownership. The proposed treaties would assure that access to and security of the Panama Canal are protected in time of war and peace.

3. As President Carter has stated, "We will have operating control and the right to protect and defend the Panama Canal with our own military forces until the end of this century. Under a separate neutrality treaty we will have the right to assure the maintenance of the permanent neutrality of the canal as we may deem necessary."

4. The Air Force actively participated in the development of all defense related aspects of the proposed treaties, and fully supports them. They would provide a basis for development of a continuing friendly relationship between the United States and Panama which would be of significant importance in insuring that the Panama Canal would be available to the United States when needed. Once the U.S. no longer operates the canal, the proposed neutrality treaty would provide an adequate basis for safeguarding our interests in the canal.

5. It is important that our personnel, particularly our senior people, understand our support for the proposed treaties.

Now, Mr. President, if the Air Force Chief of Staff, Gen. David C. Jones, has sent telegrams to all of his commanders and the President has indicated he intends to educate the American people in the Panama Canal Treaty so that they will insist that it be ratified by the Senate, is it not reasonable to assume that this telegram from the Air Force Chief of Staff is a part of the educational process and that the Chiefs of Staff of our other military services, as well as the heads of our civilian departments and agencies are also utilizing the vast apparatus of the Federal Government to influence public opinion so that it will parallel that of our Chief Executive.

I have been led to believe over the years that ours is a representative form of Government, where elected officials, whether they be Members of the U.S. Senate or President of the United States, act on behalf of the people who elect them to office and that the ultimate will or sovereignty resides in the people of the country collectively not in the Members of the U.S. Senate or in the President of the United States.

Frankly, I hope the President will have a change of heart and come to recognize that we do have popular sovereignty in this country and that he too is subject to the sovereign will of the people. They have made it very plain in their communications, both orally and in writing to their elected representatives, that they do not want this treaty ratified. A change on his part would indicate that the President himself is growing in wisdom and stature and that he too is capable of being educated.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, without any call of the calendar or resolutions coming over under the rule.

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

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 MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

APPROVAL OF BILLS

A message from the President of the United States announced that on October 18, 1977, he approved and signed the following bills:

S. 1060. An act to amend the Act of February 9, 1821, to restate the charter of the George Washington University.

S. 1522. An act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

U.S. SINAI SUPPORT MISSION—PM 125

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith the Fourth Report of the United States Sinai Support Mission. It highlights the Mission's operation of the United States early warning system in the Sinai and the relationship of the system to the overall disengagement arrangements of the Agreement signed by Egypt and Israel on September 4, 1975—the Sinai II Agreement. This report is provided to the Congress in conformity with Section 4 of Public Law 94–110 of October 13, 1975.

Since the beginning of operations on February 22, 1976, there have been no serious intrusions into the area of the early warning system by either party. Some 40 minor or accidental intrusions have been detected and reported to both sides and to the United Nations, but none of them appears to have had any hostile purpose.

The Director of the Sinai Support Mission raised with senior Egyptian and Israeli officials the congressional interest in the feasibility of substituting nationals of other countries for some of the Americans working in the Sinai. They expressed strong opposition to this proposal as, in their view, such a change would create difficult problems for their governments and risk upsetting arrangements which are now working to their complete satisfaction. Both parties continue to make clear their full support for the role of the United States in maintaining the disengagement arrangements in the Sinai.

At a time when we are engaged in intensive discussions to help Israel and the Arab States make further progress in the search for a lasting peace, it is essential that the United States meet fully its commitments under the Sinai II Agreement. The Sinai Support Mission is an important element in meeting these responsibilities, and I urge the Congress to continue its support for this peacekeeping mission.

JIMMY CARTER.

THE WHITE HOUSE, *October 19, 1977.*

MESSAGES FROM THE HOUSE

At 9:36 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed, without amendment, the following bills:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes; and

S. 2089. An act to establish within the Department of Justice the position of Associate Attorney General.

The House has agreed to, without amendment, the concurrent resolution (S. Con. Res. 58) to correct the engrossment of Senate amendments to H.R. 4018.

The House agrees to the amendments of the Senate to the bill—H.R. 7769—to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia.

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 5858. An act to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada;

H.R. 6966. An act to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button; and

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949.

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7797) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1978, and for other purposes; that the House recedes from its disagreements to the amendments of the Senate numbered 11, 13, 15, 22, 24, 26, 29, 31, 33, 54, 57, 59, 64, 66, 80, and 84 and concurs therein; that the House recedes from its disagreement to the amendments of the Senate numbered 6, 20, 21, 27, 36, 49, 61, 74, 81, 82, and 83 and concurs therein, each with an amendment; and that the House insists upon its disagreement to the amendment of the Senate numbered 47.

At 1:21 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that:

The House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 3090. An act for the relief of Fidel Grosso-Padilla;

H.R. 4401. An act for the relief of Kwi Sok Buckingham (nee Kim);

H.R. 5643. An act to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; and

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that Act.

The House has passed the bill (S. 1184) to amend section 7(e) of the Fishermen's Protective Act of 1967, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The House has passed the bill (S. 1316) to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out State cooperative programs under the Endangered Species Act of 1973, with amendments in which it request the concurrence of the Senate.

The House has passed the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, with amendments in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The Speaker has signed the enrolled bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

The enrolled bill was subsequently signed by the President pro tempore.

At 3:22 p.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 8149. An act to provide customs procedural reform, and for other purposes;

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes; and

H.R. 9418. An act to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:19 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 393. An act to provide for the study of certain lands to determine their suitability for designation as wilderness in accordance with the Wilderness Act of 1964, and for other purposes.

H.R. 7769. An act to authorize the creation of a record of admission for permanent residence in the cases of certain refugees from Vietnam, Laos, or Cambodia, and to amend the Indochina Migration and Refugee Assistance Act of 1975 to extend the period during which refugee assistance may be provided, and for other purposes.

H.J. Res. 573. Joint resolution commemorating General Thaddeus Kosciuszko by presenting a memorial plaque in his memory to the people of Poland on behalf of the American people.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions which were referred as indicated.

POM–315. Resolution No. 187 adopted by the Legislation of the Territory of Guam relative to endorsing the passage of H.R.

6550, as amended, to permit the Government of Guam, among other purposes, to purchase a fully equipped new hospital on Guam; to the Committee on Energy and Natural Resources:

RESOLUTION No. 187

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, interested and concerned parties have been working to upgrade the total medical care facilities within the Territory of Guam for a number of years; and

"Whereas, a modern and private acute care medical facility has recently been completed and is now providing health care services to the territory; and

"Whereas, acute care services are also provided through the Guam Memorial Hospital, an autonomous facility of the Government of Guam which is accredited by the Joint Commission on Hospital Accreditation and managed by an expert hospital management firm; and

"Whereas, although the physical plant of the Guam Memorial Hospital is marginal and in need of extensive rehabilitation and renovation, a majority of the people of the territory have expressed a desire to obtain medical services through the Guam Memorial Hospital; and

"Whereas, prior projections concerning the medical needs of the population of the Territory of Guam have been found to be unrealistic and overstated due to changed economic conditions in the territory and resulting in underutilization of the private medical facility, the Medical Center of the Marianas; and

"Whereas, the Medical Center of the Marianas have expressed a desire to sell their new and modern facility to the Guam Memorial Hospital Authority; and

"Whereas, purchase of the new Medical Center of the Marianas facility by the Guam Memorial Hospital will further improve health care and lower health care cost; and

"Whereas, a territorial appropriation authorization measure (H.R. 6550) is now pending in Conference Committee to provide federal guarantees so that the Government of Guam can purchase a 'fully equipped new hospital in Guam', the Medical Center of the Marianas; now, therefore, be it

"Resolved, that the Fourteenth Guam Legislature hereby endorses the passage of H.R. 6550, as amended, to enable the Government of Guam to purchase a fully equipped new hospital on Guam; and be it further

"Resolved, that the Fourteenth Guam Legislature hereby respectfully requests President Jimmy Carter to sign H.R. 6550 into law; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States of America; to the Speaker of the U.S. House of Representatives; to the President Pro Tempore of the United States Congress; to Congressman Philip Burton; to Secretary Henry M. Jackson; to Senator Bennett Johnston; to the Secretary of the Interior; to Congressman A. B. Won Pat; to the Chairman of the Board, Medical Center of the Marianas; to the Chairman of the Board of Trustees, Guam Memorial Hospital; to Bishop Felixberto Flores; and to the Governor of Guam."

POM–316. Senate Concurrent Resolution No. 25 adopted by the Legislature of the Territory of American Samoa requesting Congress to upgrade the status of their delegate to that equivalent with the delegates from Guam and the Virgin Islands; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION 25

"Whereas, the Delegate-at-Large from the Government of American Samoa is every bit as important to the people of the Territory and the Federal Congress as those Delegates from other Territories; and

"Whereas, in the evolving duties of our Delegate's operation, now 7 years in the law, it is now clear that an equivalent status with those Delegates from our sister Territories of Guam and the Virgin Islands would be both appropriate, timely, and necessary.

Now, therefore, be it resolved by the Senate of the Territory of American Samoa, the House of Representatives concurring:

"That, the Congress is respectfully requested to amend 48 USC 1711–15 to include a nonvoting delegate to Congress from American Samoa; and be it further

"Resolved, That the Secretary of the Senate send copies of this resolution to the Honorable Henry M. Jackson, Chairman of the Senate Committee on Energy and Natural Resources; Honorable Phillip Burton, Chairman of the House Subcommittee on National Parks and Insular Affairs; Honorable H. Rex Lee, Governor of American Samoa; the Honorable Francis R. Valeo, Secretary of the Senate; the Honorable Edmund L. Henshaw, Jr., Clerk of the House of Representatives; and the Honorable A. P. Lutali, Delegate-at-Large."

POM–317. Senate Joint Resolution No. 40 adopted by the Legislature of the State of Wisconsin memorializing the Interstate Commerce Commission to postpone for two years its decision on whether to grant the application of the Chicago and Northwestern Railroad to abandon the rail line between Gillett, Wisconsin and Scott Lake, Michigan; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION 40

"Whereas, Chicago and Northwestern Transportation Company has applied to the interstate commerce to abandon service between Gillett, Wisconsin and Scott Lake, Michigan; and

"Whereas, the area served by the rail line is a rural area, the industries of which are dependent on the rail line for transportation; and

"Whereas, possibly the world's largest deposit of metalliferous minerals has been discovered in the area served by the rail line and mining and related industries in the near future may require the services of the rail line; and

"Whereas, preservation of rail services is a sound energy conservation measure necessitated by current energy shortages; now, therefore, be it

"Resolved by the senate, the assembly concurring, that the interstate commerce commission is urged to postpone for 2 years its decision on whether to grant Chicago and Northwestern Company's application to abandon the rail line between Gillett, Wisconsin and Scott Lake, Michigan; and, be it further

"Resolved, that duly attested copies of this resolution be transmitted to the secretary of the interstate commerce commission, the President of the United States, the secretary of the U.S. Senate, the chief clerk of the U.S. house of representatives and to each member of the congressional delegation from this state."

POM–318. Senate Concurrent Resolution No. 23 adopted the Legislature of the State of Ohio memorializing the President and the Congress of the United States to abandon consideration of any legislation establishing a water conservation program that does not take into account the dependence of Ohio's economy on its ability to utilize its abundant water resources fully; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION 23

"Resolved by the Senate (the House concurring),

"Whereas, the availability and growth of industrial employment depends upon the ability of the State of Ohio and the entire Great Lakes region to utilize its abundant water resources fully; and

"Whereas, the quality of life of all the residents of Ohio and the Great Lakes region is directly related to the ability of its people to utilize its abundant water resources fully; and

"Whereas, the United States Environmental Protection Agency is currently preparing a water conservation program; and

"Whereas, the proposed water conservation program would require an arbitrary, uniform 15% reduction in water usage by each and every municipal corporation in the United States; and

"Whereas, Municipal corporations that do not reduce water consumption by 15% receive cuts in federal service construction; and

"Whereas, Arbitrary, uniform, mandated conservation measures of this type deny people the benefit of the use of the resource, rather than encourage genuine conservation; and

"Whereas, The implementation of the proposed water conservation program would result in a substantial decrease in the revenues of municipal water supply systems; and

"Whereas, The resulting reduction in municipal water revenues would necessitate a substantial increase in the water rates paid by all customers of municipal water supply systems; and

"Whereas, The increase in water rates resulting from the proposed water conservation program would reduce the competitive position of business and industry in Ohio and the Great Lakes region by preventing these states from fully utilizing their greatest and most abundant resource, water; and

"Whereas, A reduction in water consumption in the Great Lakes region would not and, moreover, could not relieve the acute shortages of water currently being experienced in other regions of the United States; therefore be it

"Resolved, That we, the members of the Senate of the State of Ohio, the members of the House of Representatives concurring, in adopting this Resolution, memorialize the President, the Congress of the United States, and the Administration of the United States Environmental Protection Agency to abandon consideration of any water conservation legislation or program requiring the states or their political subdivisions to reduce water usage by a uniform percentage, that fails to take into account interregional differences in the abundance of the water resource, and that fails to take into account the dependence of commerce and industry in Ohio and the Great Lakes region on its ability to utilize fully its most abundant and versatile natural resource, water; and be it further

"Resolved, That the Secretary of State transmit properly authenticated copies of this Resolution to the President of the United States; the Administrator of the United States Environmental Protection Agency; the President Pro Tempore of the United States Senate; the Speaker of the United States House of Representatives; the two United States Senators from Ohio; and each member of the United States House of Representatives from Ohio."

POM–319. House Joint Memorial No. 2 adopted by the Legislature of the State of Oregon urging the Congress of the United States to pass legislation to provide adequate funding for community water supply improvement to meet the standards imposed pursuant to the federal legislation; to the Committee on Environment and Public Works:

"HOUSE JOINT MEMORIAL 2

"Whereas the standards for drinking water to be imposed upon community water sup-

ply systems pursuant to the [Safe Drinking Water Act of 1974] will greatly increase the cost of providing drinking water without providing to the public commensurate health benefits; and

"Whereas the federal legislation included no funding provision for implementation of these standards at the state level; and

"Whereas no state water quality program has been adopted to implement the federal standards; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is urged to pass legislation that will provide adequate funding for community water supply improvement to meet the standards imposed pursuant to the federal legislation.

"(2) A copy of this memorial shall be sent to the presiding officer of each house of the Congress and to each member of the Oregon Congressional Delegation."

POM-320. House Joint Memorial No. 3 adopted by the Legislature of the State of Oregon memorializing the Congress of the United States to preserve, protect and maintain a social security system for the people of the United States; to the Committee on Finance:

"HOUSE JOINT MEMORIAL 3

"Whereas since the inception of the social security system there has been an increasing necessity for the types of assistance provided by the social security system; and

"Whereas since the inception of the social security system, there has been an increasing reliance on the types of assistance provided by the social security system; and

"Whereas the social security system provides a social benefit to all peoples of the United States; and

"Whereas there is no other socially acceptable and readily available system for providing the benefits in the manner provided for by the social security system; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon:

"(1) The Congress of the United States is memorialized to preserve, protect and maintain a social security system for the people of the United States of America.

"(2) A copy of this memorial shall be transmitted to the Speaker of the House of Representatives of the United States of America, to the President Pro Tempore of the Senate of the United States of America, and to each member of the Oregon Congressional Delegation."

POM-321. Assembly Joint Resolution No. 23 adopted by Legislature of the State of California relative to workers' compensation; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 23

"Whereas, There is considerable national support to maintain and enhance a viable fishing industry in this country; and

"Whereas, National concern has been expressed by legislation to aid the construction of commercial fishing boats and by proposed legislation to provide funds both for commercial fishing boat construction and for onshore commercial processing facilities; and

"Whereas, Recreational boating provides necessary recreational opportunity to millions of Americans; and

"Whereas, Recreational boating is an important industry providing jobs and income through boatyards, boat manufacturers, marinas, and numerous support activities; and

"Whereas, The Department of Labor interpretation of the 1972 amendments to the Longshoremen's and Harbor Workers' Compensation Act extends the coverage of such act to persons engaged in marine activities not previously covered by the Longshoremen's and Harbor Workers' Act; and

"Whereas, This interpretation includes, but is not limited to, the activities of fishhouses and boatyards servicing the fishing industry and recreational boating industry; and

"Whereas, Fish companies and boatyards are now forced to carry, in addition to state workers' compensation insurance, longshoremen's and harbor workers' insurance coverage for their employees; and

"Whereas, Longshoremen's and harbor workers' compensation insurance coverage is either excessively priced or unobtainable; and

"Whereas, The imposition of this coverage has created a severe hardship on fish companies and boatyards; and

"Whereas, Private insurance carriers have canceled the insurance coverage for many fishhouses and boatyards; and

"Whereas, Some boatyards have been forced out of business, not being able to insure employees, while others are going without compensation coverage for employees and others carrying such coverage have been forced to pay rates in excess of 600 percent of 1974 insurance premiums; and

"Whereas, This increased cost of doing business will force boatyards either to go out of business, curtail their services, or pass their increased costs to fishermen and recreational boating, thereby making it exceedingly difficult to have fishing vessels constructed or repaired; and

"Whereas, This increased cost of doing business will force fish companies either to go out of business, curtail their services, or pass their increased costs on, thereby decreasing the price for fish paid to fishermen and increasing the price of fish to the consumer; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the State of California petitions Congress to amend the Longshoremen's and Harbor Workers' Compensation Act immediately to exempt from it the commercial fishing industry, the recreational boating industry, and their respective support activities in those states having mandatory workers' compensation coverage for employees providing a prompt and comprehensive system of compensation for injuries, diseases, or deaths arising from and in the course of employment; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-322. Assembly Joint Resolution No. 32 adopted by the Legislature of the State of California relative to vocational training; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 32

"Whereas, Unemployment and underemployment have caused and continue to cause hardships on individuals and families in our country; and

"Whereas, The youth in America suffer from severe unemployment rates and desperately need skills to secure employment; and

"Whereas, Many employers are willing to hire people who have the requisite skills to perform the jobs offered and those individuals who are unemployed or underemployed could secure employment if they had such skills; and

"Whereas, Many of those unemployed and underemployed do not have the resources to pay for the vocational training needed to obtain employment and they currently are unable to borrow funds to make payments for such training; and

"Whereas, The Comprehensive Employment and Training Act of 1973 provides grants and stipends for those seeking vocational and trade school education to improve their job skills, but does not provide loans to those willing to impove their employment skills by attending an accredited vocational or trade school; and

"Whereas, A revolving fund account providing moneys to those who qualify under current definitions of financially destitute would be beneficial because as people repaid their loans, others would be able to borrow moneys to attend these schools; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Comprehensive Employment and Training Act of 1973 so as to provide federal funding for a loan program to those financially destitute individuals who could effectively upgrade their skills by attending vocational schools and trade schools; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Labor of the United States."

POM-323. Assembly Joint Resolution No. 15 adopted by the Legislature of the State of California relative to bilingual education; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 15

"Whereas, The Congress of the United States is currently rewriting the Billingual Education Act, Title VII of the Elementary and Secondary Education Act (P.L. 90-247); and

"Whereas, The Bilingual Education Act has provided funds for demonstration bilingual instructional programs from its first year of operation, principally at the early grades of the elementary school level; and

"Whereas, Title VII funds have served as a primer and encouraged state legislatures and local school districts to use nonfederal dollars to develop, implement, and improve bilingual instructional programs at the local school district level; and

"Whereas, There exists an extreme shortage of qualified certificated bilingual-crosscultural, biliterate teachers who can teach in English and a language other than English; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to insure continual funding of the Bilingual Education Act of Title VII of the Elementary and Secondary Education Act through the passage of legislation extending its life; and be it further

"Resolved, That the Bilingual Education Act be made an entitlement program to meet the unique educational needs of limited-English-speaking pupils; and be it further

"Resolved, That preference be given to funding bilingual instructional programs for limited-English-speaking pupils that complement state categorical moneys, when available, for bilingual instruction programs; and be it further

"Resolved, That more moneys be provided for bilingual teacher preparation for certificated and noncertificated individuals; and be it further

"Resolved, That moneys be available for research and demonstration in bilingual education; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President pro Tempore of the Senate, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-324. A petition from Brendan T. Byrne, a citizen of Trenton, New Jersey submitting a proposal for consideration to make New Jersey a demonstration state to test the employment and training component of welfare reform; to the Committee on Human Resources.

POM-325. Assembly Joint Resolution No. 8 adopted by the legislature of the State of California relative to incendiary fires; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 8

"Whereas, The number of incendiary fires in the United States is increasing at an alarming rate; and

"Whereas, In 1975 the reported number of incendiary fires in the United States increased by over 25 percent from the reported number of such fires in the previous year; and

"Whereas, Incendiary fires accounted for over 600 million dollars in property losses and more than 1,000 deaths in the United States during 1975, and in California alone property loss approached 10 million dollars with 17 reported deaths; and

"Whereas, Under the jurisdiction of the Federal Bureau of Investigation in the United States Department of Justice, the Uniform Crime Reporting System is maintained to provide a reliable and valid national reporting crime system; and

"Whereas, Nationally required reporting of incendiary fires in the uniform crime statistics and reclassifying incendiary fires under the Uniform Crime Reporting System as a major crime or Part I crime would be of great value in stopping this costly and deadly crime; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Attorney General of the United States and the Director of the Federal Bureau of Investigation to reclassify or declare incendiary fires as a Part I crime under the Uniform Crime Reporting System; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Attorney General of the United States, and to the Director of the Federal Bureau of Investigation."

POM-326. Assembly Joint Resolution No. 39 adopted by the Legislature of the State of California relative to child abduction; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 39

"Whereas, Each year it is estimated that one hundred thousand minor children in the United States are maliciously taken, enticed away, detained or concealed by persons not having a right to their custody from a parent, guardian, or other person having the lawful charge of such child; and

"Whereas, Many of these minor children so maliciously taken, enticed away, detained or concealed are residents of the State of California or transported into the State of California; and

"Whereas, Despite the fact that California and other states have enacted legislation providing for the criminal prosecution of the abductors of such minor children and the return of abducted children to their legal custodian, the jurisdiction limitations of state courts and the cost of locating the abductor in cases of interstate flight are often prohibitive to the effective enforcement of such laws; and

"Whereas, Existing California law has limited application in various situations involving child abduction, such as detainment or concealment of a child without good cause by a person having a right to legal custody with the intent to deprive the other person having legal custody of the right of physical custody; and

"Whereas, Such detainment or concealment from the child's legal custodian is in many instances detrimental to the physical, mental, and emotional welfare of the minor child; and

"Whereas, A federal statute providing for a uniform definition of child abduction, penalties therefor, requiring the return of an abducted child to his or her legal custodian, and providing for enforcement of such provisions on a national basis may be the only effective method of bringing these abductors to trial on a criminal charge before a court of competent jurisdiction while providing for the child's return to the legal custodian; and

"Whereas, The health, safety, and welfare of minor children of the State of California and other states of the United States of America are at stake because of this situation; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to give serious consideration to the problem of child abduction as it exists throughout the country; and be it further

"Resolved, That the Legislature of the State of California hereby expresses its support for the enactment of federal legislation providing for speedy return of an abducted child to his or her legal custodian and criminal prosecution of the abductor; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-327. House Concurrent Resolution No. 44 adopted by the Legislature of the Territory of American Samoa commending Senator Spark Matsunaga of Hawaii for sponsoring a bill to allow American Samoa to join in the Junior Reserve Officers Training Corps in secondary schools; ordered to lie on the table:

"HOUSE CONCURRENT RESOLUTION 44

"Whereas, American Samoa has always been one of the, if not the, leading per capita patriotic jurisdictions of the United States of America when considering military enlistments, and

"Whereas, it seem entirely justified to include our youth in this patriotic and useful endeavor at the secondary school level with entrance into a Junior Reserve Officers' Training Corps.

"Now, therefore, be it resolved by the House of Representatives of the territory of American Samoa, the Senate concurring:

"That, Senator Spark Matsunaga of our sister insular jurisdiction, the Aloha State of Hawaii, is graciously thanked and commends for sponsoring S. 1607 of the 95th Congress which allows U.S. Nationals to participate in the Junior ROTC programs in secondary schools; and

"Be it further resolved, that the Chief Clerk of the House is directed to send copies of this resolution to: the Honorable Spark Matsunaga, U.S. Senate; the Honorable H. Rex Lee, Governor of American Samoa; Mr. Francis R. Valeo, Secretary of the United States Senate; and the Delegate-at-Large to the U.S. Government, A. P. Lutali."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

With an amendment:

S. Res. 271. A resolution to establish a Commission on Domestic and International Hunger and Malnutrition (title amended) (Rept. No. 95-503).

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

With an amendment:

S. 1771. A bill to amend the Foreign Assistance Act of 1961, as amended, and for other purposes (together with minority views) (title amendment) (Rept. No. 95-505).

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

Report of the Committee on Veterans' Affairs pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-506).

By Mr. CANNON, from the Committee on Rules and Administration:

Without amendment:

S. Res. 296. An original resolution to pay a gratuity to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman; and Marilyn Fernandes.

S. Res. 272. A resolution increasing the amount which may be expended by the Select Committee on Small Business for the procurement of the services of individual consultants or organizations thereof (Rept. No. 95-507).

S. Res. 297. An original resolution authorizing supplemental expenditures by the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, and the Committee on Foreign Relations for inquiries and investigations (Rept. No. 95-508).

S. Res. 298. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for routine purposes (Rept. No. 95-509).

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

Without amendment:

S. 2208. A bill to amend the Federal Charter of the Big Brothers of America to include Big Sisters International, Incorporated, and for other purposes (Rept. No. 95-510).

S. Res. 234. A resolution to refer the bill (S. 1953) entitled "A bill for the relief of Rawleigh Moses and Company, Incorporated" to the Chief Commissioner of the U.S. Court of Claims for a report thereon (Rept. No. 95-511).

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

Without amendment:

S. Con. Res. 44. A concurrent resolution to authorize the Secretary of the Interior to accept donations of suitable markers recognizing the contributions of General Thaddeus Kosciuszko (Rept. No. 95-512).

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

Without recommendation:

H.R. 7. An act to authorize a career education program for elementary and secondary schools, and for other purposes (Rept. No. 95-513).

COMMITTEE REPORT SUBMITTED DURING ADJOURNMENT

Mr. ROBERT C. BYRD (for Mr. MCCLELLAN), from the Committee on Appropriations, on October 18, 1977, during the adjournment of the Senate, submitted a report entitled "Allocation to Subcommittees of Budget Totals From the Second Concurrent Resolution for Fiscal Year 1978," which was ordered to be printed (Rept. No. 95-502).

SCHOOL LUNCH AMENDMENTS—H.R. 1139—CONFERENCE REPORT (REPT. NO. 95-504)

Mr. DOLE. Mr. President, on behalf of Senator GEORGE MCGOVERN, I am today filing the report of the committee of conference on H.R. 1139, a bill which makes amendments to the National School Lunch Act and the Child Nutrition Act of 1966.

There is a great interest in the legislation. In order to assure that there are an adequate number of copies of the conference report, I ask unanimous consent that the report be printed as filed in the Senate.

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

GI BILL IMPROVEMENT ACT OF 1977—REPT. NO. 95-468, PART II

Mr. CRANSTON, from the Committee on Veterans' Affairs, submitted a supplemental report to accompany the bill (S. 457) the GI Bill Improvement Act of 1977, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Gillian Martin, Sorenson, of New York; and

Sharon P. Rockefeller, of West Virginia, to be members of the Board of Directors of the Corporation for Public Broadcasting.

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

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

Robert J. Del Tufo, of New Jersey, to be U.S. attorney for the district of New Jersey.

James S. Brady, of Michigan, to be U.S. attorney for the western district of Michigan.

Ronald L. Rencher, of Utah, to be U.S. attorney for the district of Utah.

Robert T. O'Leary, of Montana, to be U.S. attorney for the district of Montana.

Rufus A. Lewis, of Alabama, to be U.S. marshal for the middle district of Alabama.

Richard D. Dutremble, of Maine, to be U.S. marshal for the district of Maine.

Edward D. Schaeffer, of Pennsylvania, to be U.S. marshal for the eastern district of Pennsylvania.

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

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

John F. O'Leary, of New Mexico, to be Deputy Secretary of Energy.

Dale D. Myers, of California, to be Under Secretary of Energy.

Alvin L. Alm, of the District of Columbia, to be an Assistant Secretary of Energy (Policy and Evaluation).

Harry E. Bergold, Jr., of Florida, to be an Assistant Secretary of Energy (International Affairs).

Phillip Samuel Hughes, of Maryland, to be an Assistant Secretary of Energy (Intergovernmental and Institutional Relations).

David J. Bardin, of New Jersey, to be Administrator of the Economic Regulatory Administration.

Charles B. Curtis, of Maryland; Don Sanders Smith, of Arkansas; George R. Hall, of Virginia; Matthew Holden, Jr., of Wisconsin; and Georgiana H. Sheldon, of Virginia, to be members of the Federal Energy Regulatory Commission.

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

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

David D. Newsom, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Philippines.

Theodore M. Hesburgh, of Indiana, for the rank of Ambassador during the tenure of his service as Chairman of the U.S. Delegation to the U.N. Conference on Science and Technology for Development.

John E. Downs, of Missouri, for the rank of minister during the tenure of his service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

O. Rudolph Aggrey, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Barry M. Blechman, of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

(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 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: Rev. Theodore M. Hesburgh, C.S.C.

Post: Head of U.S. Delegation to U.N. Conference on Science, Technology, and Development.

Contributions, amount, date, and donee: (If none, write none)

1. Self, none.
2. Spouse.
3. Children and Spouses Names.
4. Parents Names.
5. Grandparents Names.
6. Brothers and Spouses Names, Mr. and Mrs. James L. Hesburgh—none.

Sisters and Spouses Names, Mrs. Elizabeth O'Neill—none, and Mr. and Mrs. John Jackson—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.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: John E. Downs.

Nominated: Prospective.

Post: Representative-International Civil Aviation Organization.

Contributions, amount, date, and donee:

1. Self, $100.00, July 1976, Jim Symington, United States Senate (Primary) and $100.00, July 1976, Charles Broomfield, United States Congress (Primary) and $50.00. October 1976, Mick Buehler of Carter-Mondale Committee (peanuts for rally)
2. Spouse—Not applicable.
3. Children and Spouses—Not applicable.
4. Parents—Not applicable.
5. Grandparents—Not applicable.
6. Brothers and Spouses—Not applicable.
7. Sisters and Spouses—Not applicable.

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.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: O. Rudolph Aggrey.

Post: Ambassador to Romania.

Contributions, amount, date, and donee:

1. Self—None.
2. Spouse: Francoise Aggrey—None.
3. Children and Spouses Names: Roxane Aggrey—None.
4. Parents Names: Deceased.
5. Grandparents Names: Deceased.
6. Brothers and Spouses Names: Kwegyir and Thelma Aggrey—None.
7. Sisters and Spouses Names: Mrs. S. W. Lancaster and Husband—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.

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: David Dunlop Newsom.

Post: Manila.

Contributions, amount, date, and donee:

1. Self—None.
2. Spouse—None.
3. Children and Spouses Names—None.
4. Parents Names—None.
5. Grandparents Names—None.
6. Brothers and Spouses Names—None.
7. Sisters and Spouses Names—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.

Mr. SPARKMAN. Mr. President, from the Committee on Foreign Relations, I also report favorably sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 30, 1977, at the end of the Senate proceedings.)

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

Eugene H. Nickerson, of New York, to be U.S. district judge for the eastern district of New York.

Damon J. Keith, of Michigan, to be U.S. circuit judge for the sixth circuit.

HOUSE BILLS REFERRED

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

H.R. 5858. An act to amend the Tariff Schedules of the United States to provide for duty-free treatment with respect to certain petroleum imported from Canada if equivalent amounts of domestic or duty-paid foreign petroleum of the same type is exported to Canada; to the Committee on Finance.

H.R. 6966. An act to amend title 10 of the United States Code to provide a more equitable standard for awarding the gold star lapel button; to the Committee on Armed Services.

H.R. 9090. An act to exempt disaster payments made in connection with the 1977 crops of wheat, feed grains, upland cotton, and rice from the payment limitations contained in the Agricultural Act of 1970 and the Agricultural Act of 1949; held at desk.

H.R. 3090. An act for the relief of Fidel Grosso-Padilla; to the Committee on the Judiciary.

H.R. 4401. An act for the relief of Kwi Sok Buckingham (nee Kim); to the Committee on the Judiciary.

H.R. 5643. An act to implement the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

H.R. 9512. An act to amend the Higher Education Act of 1965 to include the Trust Territory of the Pacific Islands in the definition of the term "State" for the purpose of participation in programs authorized by that act; held at desk.

H.R. 8149. An act to provide customs procedural reform, and for other purposes; to the Committee on Finance.

H.R. 8422. An act to amend titles XVIII and XIX of the Social Security Act to provide payment for rural health clinic services, and for other purposes; held at desk.

H.R. 9418. An act to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes; to the Committee on Human Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 19, 1977, he presented to the President of the United States the enrolled bill (S. 2089) to establish within the Department of Justice the position of Associate Attorney General.

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. FORD:

S. 2215. A bill for the relief of Wilhelmina Octavo Lucila; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 2216. A bill to amend the Internal Revenue Code of 1954 to equalize the treatment of charitable contributions and investment tax credits for certain cooperatives and their members; to the Committee on Finance.

By Mr. HEINZ:

S. 2217. A bill for the relief of John Chesney; to the Committee on the Judiciary.

By Mr. STONE (for himself, Mr. ALLEN, Mr. HAYAKAWA, Mr. BENTSEN, Mr. MATSUNAGA, Mr. HUMPHREY, Mr. SPARKMAN, and Mr. TALMADGE):

S. 2218. A bill to establish a national aquaculture policy, assess the status of the aquaculture industry, establish a strategy to promote the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATHAWAY:

S. 2219. A bill directing the Secretary of Energy to take certain actions with respect to home insulation materials; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CANNON:

S. 2220. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on Rules and Administration.

By Mr. HANSEN (for himself and Mr. WALLOP):

S. 2221. A bill to direct the Secretary of the Interior to study means of developing sources for a municipal water supply for the city of Riverton, Wyo.; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself, Mr. JACKSON, Mr. MCCLURE, Mr. MAGNUSON, Mr. HAYAKAWA, Mr. YOUNG, Mr. BENTSEN, Mr. BARTLETT, Mr. STEVENS, Mr. HANSEN, Mr. PACKWOOD, Mr. HATFIELD, Mr. WALLOP, Mr. TOWER, Mr. HATCH, Mr. GARN, Mr. LAXALT, and Mr. SCHMITT):

S.J. Res. 93. A joint resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STONE (for himself, Mr. ALLEN, Mr. BENTSEN, Mr. MATSUNAGA, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. SPARKMAN, and Mr. TALMADGE):

S. 2218. A bill to establish a national acquaculture policy, assess the status of the acquaculture industry, establish a strategy to promote the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. STONE. Mr. President, I am very pleased to introduce a bill entitled the "Aquaculture Policy Act of 1977," legislation that will assist and encourage the Nation's aquaculture industry by establishing a national policy on aquaculture, and by coordinating the various aquaculture activities of the Federal Government.

The need for this legislation is great. Not a day goes by that we do not hear about world hunger, malnutrition, and especially the scarcity of high quality protein. Yet aquaculture—or fish farming—remains undeveloped due to bureaucratic fragmentation and simple neglect.

Mr. President, fish are an excellent source of food protein. Fish also are among the most efficient food converters. A well-managed 1-acre pond will yield 3,000 pounds of catfish every 18 months. However, this resource is not being tapped.

In the United States, fish farming, primarily of trout, catfish, oysters, salmon, and crawfish, account for 73,000 metric tons per year—or about 3 percent of total U.S. fish production. Worldwide, about 10 percent of the total fish production comes from aquaculture.

For example, my home State of Florida contains the first and only full-scale commercial shrimp farming venture that has ever been undertaken in this country. Marifarms, Inc., of Panama City, Fla., covers 3,000 acres and can produce 5 million pounds of shrimp annually. This is equivalent to the catch of 25 to 30 average shrimp trawlers operating year round. This pioneer shrimp farm has shown just how productive aquaculture can be.

Many Members have recognized the potentials of aquaculture and have actively sought ways to encourage its development. Senator EASTLAND has long been a champion of aquaculture. Senator TALMADGE gave new impetus to aquaculture in the farm bill this year.

In March of this year, Senator LLOYD BENTSEN introduced the National Aquaculture Assistance Act of 1977, S. 1043, which is the most far-reaching effort so far. Senator BENTSEN's initiative underscores the need to provide a basic framework for the development and promotion of fish farming. I share this conviction and cosponsored Senator BENTSEN's bill. I have continued to study the way to achieve most effectively our mutual objective of bolstering aquaculture in the United States. I have reached one firm conclusion different from that in S. 1043: That the Department of Agriculture should be designated as the lead agency in aquaculture assistance.

Aquaculture and agriculture are like the left and right hands of food production. Both involve the propagation and husbandry of biological species. Both require careful management, attention to nutrition, reproduction, and disease control. Each faces similar problems in product processing, marketing, and economics. These are areas in which USDA has successfully assisted agricultural producers—the right hand of food production—for more than 100 years. Only minor fine tuning is needed to adapt this knowledge and expertise to acquaculture—our neglected left hand of food production.

In practice, USDA already is the lead agency for aquaculture. In fiscal year 1976, the Soil Conservation Service provided technical assistance for 2,376 feet of fish raceways. The Cooperative State Research Service supported more than 50 aquaculture research projects at State agricultural experiment stations. The Extension Service is actively engaged in fish pond management in 26 States and offers programs on commercial fish farming on marine resources. The Farmer Cooperative Service is providing technical assistance for marketing and cooperative development to acquaculture and fishery groups.

The Farmers Home Administration has loan programs specifically for aquaculture development and the sister agency, the Farm Credit Administration, is actively involved in aquaculture finance.

Moreover, 80 percent of the aquacultural production in the United States is

by aquacultural producers who are also agricultural producers. Fish farming is only a part of the overall farm production activities of these "food" producers. In Louisiana, for example, a large number of rice farmers produce crawfish as a second crop. Most of our "catfish" farmers are also corn, bean, or cotton farmers or cattlemen. A trout "ranch" is very often also a cattle ranch.

The link between USDA and aquaculture is further strengthened by the Food and Agriculture Act of 1977. This act cites aquaculture as a basic function of the Department of Agriculture, underscores the Secretary's authority to conduct aquaculture research and extension and make loans to fish farmers, and authorizes the Secretary to cooperate with Federal, State, and other public agencies and nonprofit organizations in developing plans for the conservation and utilization of water for aquaculture purposes. We must remember that the Department of Agriculture also possesses a unique delivery system in the extension service with field offices in nearly every county of the Nation.

Mr. President, let me underscore my basic reason for introducing this bill. It is to find a way to aid aquaculture. I know that Senator BENTSEN shares this objective and I am very happy that he is a cosponsor of this bill.

Let me briefly discuss the provisions of the Aquaculture Policy Act of 1977.

This legislation builds upon the aquaculture authorities included in the Food and Agriculture Act of 1977. It makes the Department of Agriculture the lead agency for aquaculture and directs the Secretary of Agriculture to effectively conduct an aquaculture assessment. If we are to move forward, we need to know where we are.

This assessment will serve as the basis of a national aquaculture strategy to strengthen and redirect Federal programs for aquaculture. The bill also directs the Secretary to provide fish farmers with advisory, educational, marketing, and technical assistance, and to establish and maintain an aquaculture information system.

The bill establishes a grant program and authorizes the Secretary to enter into contracts with educational institutions and other qualified organizations or individuals for purposes of aquaculture research and development.

Finally, the bill amends the Federal Crop Insurance Act to permit the Secretary to underwrite crop insurance policies on aquaculture operations.

Mr. President, I believe this legislation will initiate a coherent Federal program to make use of a major but underused food source. It is the most logical complement to our existing farm program.

It is in this spirit that I anticipate thorough hearings by the Committee on Agriculture, Nutrition, and Forestry on aquaculture using as vehicles, not only this bill, but also S. 1043.

Mr. ALLEN. Mr. President, I am delighted to cosponsor the Aquaculture Policy Act of 1977, as introduced by my distinguished colleague Mr. STONE.

We have in Alabama at Auburn University, the International Center for Aquaculture. This center came into being, because the Alabama Agricultural Experiment Station has been increasingly involved in aquaculture research since 1934. This research began during the depression of the 1930's when a high percentage of our population was concentrated on farms without refrigeration. In the South, there were long periods, especially during the summer, when there was no meat available to the farmer. The director of the Alabama Agricultural Experiment Station reasoned that a farm pond producing fish on every farm would be a ready source of animal protein and, at the same time, provide family recreation.

The early work in this area concentrated on pond construction and today there are nearly 3 million farm ponds in this Nation that have been constructed using the principles designed by the Alabama Agricultural Experiment Station.

Auburn University today sees the results of their early research being used in the management of some 70 percent of these farm ponds, using a balanced population of predator and prey—bass and sunfish. In recent years, the researchers have turned much of their research attention to the production of fed species that are grown for the purpose of food production. Catfish have received the most attention and these are now being proliferously produced, reaching a volume of some 70 million pounds. These are now being marketed throughout the Central part of the United States as supply permits.

Most recently, Auburn University aquaculture research has been directed to polyculture—the growing of two or more species together. Researchers have found that by stocking ponds with fish having different feeding habits along with the catfish, per acre yield of high quality fish can be increased at least 50 percent.

Not only has Auburn University been a world leader in aquacultural research, this institution has trained, especially at the graduate level, most of the acquaculture scientists in the United States and the world. The work and research at Auburn has shown the world the great potential for aquaculture. Today, over 5 billion tons of fish are produced by aquaculture. Auburn scientists predict this volume will increase rapidly with a strong program of research and education. It is my belief that this will be the case with the Department of Agriculture being the lead agency with regard to aquaculture research and coordination. With the ever-increasing growth in world population, it is imperative that we learn more about harvesting food from our fresh water ponds and from the oceans as well.

By Mr. HATHAWAY:

S. 2219. A bill directing the Secretary of Energy to take certain actions with respect to home insulation materials; to the Committee on Banking, Housing, and Urban Affairs.

MONITORING ALLOCATION OF INSULATION

Mr. HATHAWAY. Mr. President, today I am introducing legislation which is needed throughout this country, but most particularly in the colder areas of the Northern tier.

The bill mandates that the Secretary of Energy monitor the quantity and allocation of insulation supplies. As we all know, home insulation demand has far outstripped existing supplies and future production. I am sure that we have all received letters from our constituents about shortages of insulation.

An editorial from the Bangor Daily News of October 12, 1977, states:

> Just as President Carter's energy program was falling apart in Congress, and the shameful filibuster was taking place in the U.S. Senate, Democratic Majority Leader Robert Byrd of Virginia threw up his hands and asked whether anyone had any suggestions.
>
> Maine has one, Senator Byrd.
>
> Use your influence and leadership position to help retail outlets in Maine obtain some fiberglass insulation.
>
> Few places in the country undergo colder winters than Maine. The Northeast is supposed to have a winter that will be 15% colder this year than last. Thousands of Maine families are trying to help themselves and the country save energy and cost by insulating their homes. And yet there is hardly any fiberglass insulation available in our stores.
>
> Federally assisted programs designed to help Maine's low income people button up their homes with insulation still haven't received insulation shipments promised since last June. What should they do, insulate these homes by laying Federal dollars between the studs, instead of fiberglass? That might get some action.
>
> If there is a production problem for insulation manufacturers and demand is outstripping the supply, why can't Congress divert insulation shipments from less cold climates to the Northeast?
>
> When there's a flood or some other natural disaster, the federal government doesn't hesitate to extend a helping hand.
>
> Under the circumstances of higher and higher fuel prices and the likelihood of a long, cold winter in Maine, the current unavailability of fiberglass rolled insulation is the next thing to a disaster.
>
> If attention at the national level is not forthcoming, and our political-economic system can't resolve such a seemingly simple supply-production problem, how in the world will this country ever truly address the larger energy predicament headon?

Studies by the Department of Commerce have indicated that inadequate supplies and localized tight markets can be expected until at least 1980.

Accordingly, the legislation which I am introducing today also allows the Secretary of Energy limited authority to allocate insulation supplies in event of regional disparities or spot shortages. This is not an authorization for a bureaucratic machine; it is a limited program to solve severe short-term problems.

As my fellow Senators know, the prices of insulation have escalated dramatically. From 1967 to June 1977, the price of insulation materials has increased 236 percent. Limited supply and almost unlimited demand drive prices upward.

The bill I am introducing authorizes the Council on Wage and Price Stability to establish temporary price ceilings on insulation materials. These price ceilings are not being built into perpetuity; the authority even to impose temporary ceil-

ings expires within 12 months of the date of enactment.

We have read newspaper accounts of unsafe insulation and inadequate quality controls on the manufacture of insulation products.

Therefore, I have also included a provision which requires the Consumer Product Safety Commission to publish quality standards for home insulation within 60 days of the date of enactment.

Mr. President, these measures are designed to solve the temporary abberations in the insulation industry which are seriously injuring the Northern tier of this country. They are not designed to inhibit the existing insulation industry or impede its future expansion.

This bill is needed for the short-run. It is essential to the well-being of millions of our citizens. I urge its immediate passage to alleviate hardship on those who are attempting to cut their energy consumption even as snow begins falling.

I ask that certain correspondence with Maine constituents, the Federal Trade Commission, and the White House be included in the RECORD along with the text of the bill.

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

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Energy shall take such action as may be necessary to enable him to establish and carry out a program of monitoring the supply and demand of home insulation materials and the various rationing and other systems utilized by home insulation manufacturing and supply firms in allocating such materials throughout the United States.

(b)(1) The Secretary of Energy shall, within sixty days following the date of the enactment of this Act, promulgate a regulation providing for the allocation to end users of home insulation materials in order to assure that adequate insulation materials are available to meet the demand for home insulation in every region of the United States, especially in those areas which the Secretary determines have the most severe climates and the least supply of home insulation materials at a time when the need therefor is the greatest. In providing for such allocations, the Secretary shall take into account, among other matters—

(A) the severity of climate;

(B) the need to get such materials to areas having the greatest need prior to winter or summer, and the need to get such materials to areas having the most severe climates on a priority basis;

(C) the existing supplies of such materials in an area;

(D) the relative cost of home heating and cooling in such area;

(E) the need to coordinate such allocation with Federal weatherization programs in order to insure low-income families are assisted first.

(2) Such allocation shall be put into effect at such times and for such periods as the Secretary of Energy determines necessary in order to assure a healthful dwelling environment.

(c) The Council on Wage and Price Stability is authorized to establish temporary price ceilings on home insulation materials and, to the extent determined necessary by the Council, to put such ceilings in effect in such manner and for such periods as the Council shall prescribe. The provisions of this subsection shall expire upon the expiration of the twelve month period following the date of the enactment of this Act.

(d) The Consumer Product Safety Commission, within sixty days following the date of the enactment of this Act, is authorized and directed to issue regulations establishing quality standards required to be met by manufacturers of home insulation materials. Such standards shall apply to such materials and shall be in effect for such period or periods as shall be prescribed in such regulations.

(e) As used in this section, the term "home insulation materials" includes items primarily designed to improve the heating or cooling efficiency of a dwelling, such as ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

U.S. SENATE,
Washington, D.C., October 13, 1977.

Hon. JIMMY CARTER,
President of the United States,
White House, Washington, D.C.

DEAR MR. PRESIDENT: I wish to bring to your attention a serious situation bordering on a crisis for many Maine residents. Recent interest in dwelling insulation has caused supply shortages on an already tight market.

Insulation suppliers in Maine tell me that they have been out of some types of insulation materials for months and have been unable to obtain additional supplies. Constitutents are contacting my offices in Maine seeking assistance in what they believe to be an artificial shortage. Northen Maine, the first part of the nation to see the sunrise is also often the first to feel the effects of winter. Snow first fell in Maine by the second week in September. Maine was severely effected last winter by high heating fuel costs and many constitutents have been conscientious in their efforts to act upon your suggestion that they insulate their homes. They are convinced of the benefit of home insulation, but they are increasingly frustrated by the lack of needed materials with which they can do so.

I have been concerned for some time that the increased emphasis on the advantage of home insulation would cause unreasonable demands on a market supply situation which has already been recognized to be inadequate for demands even in the absence of a tax incentive. The Council on Wage and Price Stability prepared a study outlining similar predictions. The fiberglas insulation industry's own trade association, The National Mineral Wool Insulation Association, submitted to the Subcommittee on the Consumer of the Senate Commerce, Science and Transportation Committee that the "mineral fiber industry is operating in a 'sold out' condition due to an unprecedented demand for insulation products both in new construction and retrofitting".

The U.S. Department of Commerce in a survey report on "U.S. Residential Insulation Industrial Capacity and Projections for Retrofitting U.S. Housing Inventory" on August 12, 1977, addressed the question of the insulation industry's capacity to meet the anticipated increase in demand for insulation materials. This study relays that ". . . at present, most manufacturers of fiberglas and rock wool insulation are placing existing customers on allocation, based on past purchases, and are not accepting new customers" and that not until 1981 will there be an adequate supply.

I have been advised by Owens-Corning, one of the major manufacturers of mineral wool (fiberglas) insulation that their nationwide rationing system was working to the detriment of the State of Maine. But that they are bound to the system and are "limited" in what they can do. Not only has there apparently been no input from the private sector into the development of these allocation systems by the industrial manufacturers, there is no way to monitor the allocation systems to determine if Maine or any area or state with extreme cold climate is getting even what the manufacturer's own allotment says it should get.

I request you exercise your authority under the Energy Policy Conservation Act of 1975 and institute a means by which the federal government can assure the Congress and the public that insulation materials are being distributed fairly to areas of the country such as Maine that are most effected by the long, cold winters and high heating fuel costs.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

SEPTEMBER 22, 1977.

Mr. MICHAEL PERTSCHUK,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I have been contacted by several constituents from the State of Maine regarding their inability to obtain insulation materials in the state, and more particularly in northern Maine.

The proposal that there be tax incentives for residential insulation has resulted in several studies as to the adequacy of the insulation market to meet the expected demand. I understand that the industry itself has instituted systems of customers allocation in order to deal with increased demand. In this regard, the allegation has been made that materials are being deliberately withheld from certain areas while there are adequate supplies for other market areas.

The potential for price and market manipulation in this situation is apparent, as was indicated in a June, 1977, study by the Council on Wage and Price Stability. In light of the high heating oil costs in Maine and the long and severe winters, I would appreciate it if you could do an initial investigation as rapidly as possible so that if there is any basis for these allegations, corrective action may be taken in time to supply the insulation market in Maine prior to this winter's severe weather.

I hope that you will be able to give this your prompt attention. If I can provide you with any further information, please do not hesitate to contact my office.

With best regards.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

FEDERAL TRADE COMMISSION,
Washington, D.C., October 11, 1977.

Re: Inability to obtain insulation materials in the State of Maine.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: This is in response to your September 22 letter regarding shortages of insulation materials in Maine, particularly the northern part of the state.

On June 27, 1977, the Commission's Bureau of Competition commenced a formal investigation of the insulation industry. Fear of shortages resulting from stimulated demand for insulation was an important factor leading to the commencement of the investigation.

The staff has determined that approximately 75 percent of the home insulation sold in the United States consists of fiberglass insulation, which is produced by only three companies, Owens-Corning Fibreglas Corporation, Johns-Manville Corporation,

and CertainTeed Corporation. Entry into this industry is difficult due to its sophisticated technology, access to which may be blocked by patents, and its high capital requirements.

Cellulose, or chemically treated macerated paper, is an important competitor of fiberglass for home insulation. Capital and technology barriers to entry into this industry are minimal, and producers number in the hundreds. However, expansion of cellulose insulation production is being severely curtailed by a shortage of boric acid. Boric acid is mixed with cellulose to make it sufficiently noncombustible for use in home insulation. According to the Energy Research and Development Administration, there is no effective substitute for boric acid as a fire-retardant in cellulose insulation. Boric acid is produced in the United States by only three companies, United States Borax and Chemical Corporation, Kerr-McGee Corporation, and Stauffer Chemical Company.

The staff has learned that insulation is generally in short supply throughout the country. A recent survey of the National Association of Homebuilders reported widespread shortages of all major residential insulation products, with three quarters of all respondents on allocation from suppliers. One focus of the Bureau's investigation is to determine whether these shortages have been artificially created by the fiberglass insulation industry and the boric acid producers. The information you have provided regarding conditions in Maine will be quite helpful to the staff in this aspect of the investigation, and will receive careful attention.

Thank you for bringing this matter to our attention. If members of your staff have further information or questions regarding the Bureau's investigation, please have them contact staff attorney Joseph M. Mattingly at 724–1430 or staff attorney Barbara K. Shapiro at 724–1326.

Sincerely,

MICHAEL PERTSCHUK,
Chairman.

[Excerpts from Portland Press Herald, October 14, 1977]

INSULATION CALL WARMS SUPPLIERS

(By Elaine Apostola)

Maine residents are heeding the word of energy officials who have warned them to insulate their homes for the winter ahead.

In fact, they have listened so well there is hardly any insulation left.

Larry Hughes, owner of a Waterville Insulation Co. at Waterville, said in his 10 years in business it is the first year he has had trouble getting insulation. He said he insulates about 200 homes a year within a 75-mile radius of the city.

Hughes said he, too, is having more trouble acquiring fiberglass roll insulation, "probably because more construction workers use it in new homes as well."

Janet Peters, director of a Community Services project called Weatherization, partially funded by the Federal Energy Administration, said the insulation shortage has hit that project, too.

Aroostook County has the worst shortage, she said.

Local project directors in Houlton, Presque Isle and Fort Kent have been waiting since June for 17 truckloads of insulation, she said. They also are having more trouble acquiring roll or bat insulation, she added.

By Mr. CANNON:

S. 2220. A bill to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board; to the Committee on Rules and Administration.

Mr. CANNON. Mr. President, today I am introducing legislation to amend the Library of Congress Trust Fund Board Act. When the Trust Fund Board was established in 1925, the Secretary of the Treasury was designated a member of the Board. No provision was made for the Secretary to designate an alternate to act in his stead should he be unable to attend the meeting.

At the last meeting of the Trust Fund Board, the membership recommended that legislation be sought to remedy this situation. The legislation I have introduced would give the Secretary of the Treasury authority to designate an Assistant Secretary to act in his place on the Board.

By Mr. HANSEN (for himself and Mr. WALLOP):

S. 2221. A bill to direct the Secretary of the Interior to study means of developing sources for a municipal water supply for the City of Riverton, Wyoming; to the Committee on Environment and Public Works.

Mr. HANSEN. Mr. President, over the past few years, water supply problems involving those living in the Wind River Basin of Wyoming have increased dramatically. Despite numerous local efforts to resolve these difficulties, no solutions appear feasible. These difficulties have been aggravated by the drought now gripping the West.

At the present time, the State of Wyoming continues to suffer through one of its worst droughts in history. This past winter, snow pack at many locations was at its lowest level ever, and stream flows were far below normal. According to the Palmer Drought Severity Index, large portions of Wyoming, as late as August, were experiencing moderate to severe to extreme drought conditions.

Prior to the August recess, Congress appropriated for fiscal year 1978, $50,000, in order that the Bureau of Reclamation of the Department of the Interior would be capable of initiating an appraisal investigation into the matter of the Wind River Basin water supply. Upon completion of the study, the Bureau would be in a position to conduct an investigation of the most promising alternatives.

Today, I join with Senator WALLOP in submitting a bill which would authorize the Bureau of Reclamation, upon completion of the appraisal investigation recently funded, to proceed directly into a study of alternative water sources for the Wind River Basin of Wyoming. I believe such a study is essential in order to permit the residents of this portion of Wyoming to plan for the future and to permit them to deal efficiently and effectively with their water needs.

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

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

S. 2221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall make an investigation and study for the purpose of recommending sources for water supply for the Wind River Basin, Wyoming. Such investigation and study shall include—

(1) the practicability, economically and otherwise, of developing underground or surface sources, or both, and

(2) the practicability of a multiple purpose project providing water not only for municipal but also for industrial and agricultural needs in the surrounding area, including but not limited to the Midvale, LeClair and Riverton Valley Irrigation Districts.

SEC. 2. Within two years from the date of the enactment of this Act, the Secretary of the Interior shall submit to the Congress a report containing his findings and recommendations resulting from the study and investigation conducted pursuant to this Act.

SEC. 3. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this Act.

By Mr. DOMENICI (for himself, Mr. JACKSON, Mr. MAGNUSON, Mr. HANSEN, Mr. MCCLURE, Mr. HAYAKAWA, Mr. YOUNG, Mr. BENTSEN, Mr. BARTLETT, Mr. STEVENS, Mr. PACKWOOD, Mr. HATFIELD, Mr. WALLOP, Mr. TOWER, Mr. HATCH, Mr. GARN, Mr. LAXALT, and Mr. SCHMITT):

S.J. Res. 93. A joint resolution relating to the excess land provisions and residency requirements of the Federal reclamation laws, as amended and supplemented; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I send to the desk a joint resolution relating to excess land provisions and residency requirements of Federal reclamation laws. I am pleased to be joined in the introduction of this joint resolution by Senators JACKSON, MCCLURE, HAYAKAWA, YOUNG, BENSEN, BARTLETT, STEVENS, PACKWOOD, HATFIELD, WALLOP, TOWER, HATCH, GARN, SCHMITT, LAXALT, MAGNUSON, and HANSEN.

On August 25, 1977, the Secretary of the Interior published in the Federal Register proposed regulations to establish policies and procedures for the implementation of the Federal laws that define Bureau of Reclamation projects. This is a subject about which there has been a great deal of misinformation and controversy, particularly in recent years, and the proposed regulations have sparked even further controversy and concern.

These proposed regulations are an attempt to achieve what Secretary Andrus understands to have been the primary purpose of Federal reclamation programs—to place small farmers on land served by water from reclamation projects. There is no doubt that reclamation laws have that objective, but the basic law has not been fundamentally altered since 1902, when agricultural and economic conditions were far different than they are today.

President Carter has recognized this reality and he and many other leaders have expressed support for legislative modification to accommodate present-day realities. The President, in fact, has indicated that the administration will prepare and send to the Congress his recommendations for modernization of

the statutory framework of reclamation law.

In addition, Mr. President, there are numerous legislative proposals pending in both Houses intended to deal with some or all of the many complex issues involved. It is fair to say that nearly everyone agrees that the Congress must conduct a thorough and thoughtful review of existing law and modify as required to make the most effective use of our Nation's precious water and land resources. We simply cannot continue to rely on laws intended for times and circumstances far different than exist today.

Such a review and modification process will take a good deal of time, possibly up to a year. There are people and businesses with legitimate interests who are understandably concerned that their interests will be adversely and irrevocably affected by administrative action before the Congress completes its review and modification of the basic law. The proposed regulations mentioned above are cited as a concrete example of this possibility.

Under these circumstances, I am introducing this Senate joint resolution designed to maintain the status quo during the period of 1 year following its adoption, giving the Congress that time to act. This will assure that legitimate private interests are maintained and protected while insuring that valid public purposes are also served while the legislative review is being conducted.

This joint resolution is rather simple. It merely provides for a 1-year moratorium on the termination of water deliveries from reclamation projects or forced sale of excess lands due to questions relating to either the excess land provisions or residency requirements of existing reclamation laws.

The joint resolution further requires that voluntary sales of excess land be likewise suspended for either 1 year or until the regulations now under development have become effective. This particular provision is intended to insure that no present owner of excess land could receive any unforeseen gain or unfair profit from this resolution. This is fully in keeping with the primary objective of the joint resolution—to maintain the status quo without adversely affecting any valid public or private interests and without giving unfair advantage to anyone, while providing time for legislative review of all the proposals, including President Carter's.

Mr. President, for those who are concerned about court action, let me say that, to the best of my knowledge and my belief, this joint resolution is fully consistent with all relevant judicial decisions. The Federal district court decision which generated the present rulemaking procedures by the Bureau of Reclamation, for example, does not require that water deliveries be terminated or excess lands disposed of by any specific date.

In summary, then, Mr. President, let me state again what we intend by this joint resolution and what we do not intend.

We intend to prohibit for the period of 1 year, termination of water deliveries from Federal reclamation projects on account of either the acreage limitation provisions or residency requirements of Federal reclamation law.

We intend to prohibit for the period of 1 year, forced sale of excess lands served by Federal reclamation projects on account of either the acreage limitation provisions or residency requirements of Federal reclamation law.

We intend to suspend voluntary sale of excess lands for either 1 year or until the effective date of the final regulations now under development by the Department of the Interior.

We intend to essentially maintain the status quo so that no one is given any unfair advantage by enactment of the joint resolution.

We do not intend to give any excess landowners or nonresident owners any advantage or benefit not existing under current laws and regulations.

We do not intend to permanently change the basic laws nor relieve the Congress of its duty to review those laws in a timely fashion.

We do not intend to commit the Congress or any Member to a particular position on the major policy and procedural issues involved.

We do not intend to exempt any project area, irrigation district, or any group or individual from application of Federal reclamation law.

Mr. President, it is my hope that we can quickly pass this joint resolution or any similar legislative measure which would achieve the same purpose. I urge my colleagues to give their support, recognizing that it is an honest and genuine attempt to create an atmosphere in which a comprehensive review and responsible modification of existing law can proceed. I ask unanimous consent that the joint resolution be printed at this point in the RECORD.

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

S.J. RES. 93

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of the Interior, during the twelve-month period following the date of the adoption of this joint resolution shall not withhold water deliveries from any beneficiary of a Federal Reclamation Project for the purpose of enforcing the acreage limitation provisions or residency requirements of the Federal reclamation laws as amended and supplemented.

SEC. 2. During the twelve-month period following the date of this joint resolution, neither the Secretary of the Interior nor the Attorney General shall, by his own motion, initiate any legal or administrative proceeding intended to require the sale or other disposition of privately-owned lands within Federal reclamation projects for the purpose of achieving conformity with the acreage limitation provisions or residency requirements of such reclamation laws.

SEC. 3. During the twelve-month period following the date of this joint resolution, the Secretary of the Interior shall not approve the sale of excess lands, unless during such twelve-month period, final regulations developed pursuant to the publication of proposed regulations announced in the Federal Register, dated August 25, 1977 (43 C.F.R. 426), relating to excess land provisions of such reclamation laws, become effective. Owners of excess land whose recordable contracts expire during the period specified in this section shall be given an additional six months after the end of such period to dispose of such lands.

SEC. 4. Nothing in this joint resolution shall be construed to amend, repeal, or extend the effect of the existing provisions of such reclamation laws except as provided herein or to affect any pending litigation or legal decision except to defer Federal action as provided herein.

Mr. CRANSTON. Mr. President, I note that my distinguished colleague from New Mexico, Mr. DOMENICI, and a number of cosponsors have just introduced a Senate joint resolution relating to the excess land provisions and residency requirements of Federal reclamation law, as amended and supplemented.

Senator DOMENICI and I and our respective staffs have spent the last several days attempting to reach agreement on the language of this resolution. Unfortunately, we failed to reach such agreement, and accordingly, I am not a cosponsors of the resolution. I cannot support the resolution in its present form.

The resolution would, for 1 year following the date of enactment, prohibit the Secretary of Interior from withholding water deliveries from any beneficiary of a Federal reclamation project for the purpose of enforcing the acreage limitation and residency requirements of reclamation law. It would also prohibit the Secretary from approving the sale of any excess lands during this moratorium unless final regulations are developed pursuant to the publication of proposed regulations announced in the Federal Register on August 25, 1977 (43 C.F.R. 426). Finally, those owners of excess lands who have signed recordable contracts for the disposition of such lands shall have an additional 6 months if their recordable contract expires during the period of the moratorium.

My basic concern is that if Congress determines it is in the public interest to impose a 1-year moratorium on the enforcement of Federal reclamation law, it must be certain that the opportunity for private gain during the 1-year moratorium is eliminated.

This is not a new controversy. Indeed, in my own State of California, this controversy has existed for decades. It has recently flared up again as the result of several unrelated events: the August 25, 1977, publication of the Department of the Interior's proposed regulations, and the almost simultaneous decision of the Ninth Circuit Court of Appeals that the acreage limitation and residency provisions of Federal reclamation law do apply to the landowners of the Imperial Valley in California. Also related is a similar decision by the ninth circuit that such acreage limitation and residency provisions also apply to the landowners within California's Kings River Water Association.

Mr. President, there is no doubt that there is considerable confusion and misinformation surrounding these events. For this reason, I believe there is merit to the idea of a cooling off period. The responsibility for resolving this controversy

will certainly fall upon the Congress. A number of bills have already been introduced which would amend our Federal reclamation laws. These deserve to be heard in an atmosphere of rational deliberation. A year's delay in the implementation of the proposed regulations could provide the Congress with the time to gather the necessary facts to make an enlightened judgment on this issue.

Unfortunately, by prohibiting the Secretary of Interior from using his only tool of enforcement—the withholding of water deliveries—the joint resolution offered by my friend from New Mexico goes beyond what I think is necessary to provide a period of calm and rational deliberation. I would prefer to delay the effective date of the final regulations, giving the Congress time to determine what, if any, reforms may be necessary for our reclamation laws to operate fairly and effectively. During this period, the Secretary should be prohibited from approving any sales or transfers of excess lands or any subsequent sales or transfers of such lands unless the Secretary finds that such sales or transfers are in compliance with the regulations.

I intend to propose in the next day or so either my own resolution on this issue or an amendment to the Domenici resolution. I believe it will accommodate the concerns of my colleague from New Mexico and others, and I hope that we can reach an agreement at that time.

ADDITIONAL COSPONSORS

S. 753

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Mississippi (Mr. EASTLAND) and the Senator from Massachusetts (Mr. BROOKE) were added as cosponsors of S. 753, disability benefits for the blind.

S. 991

At the request of Mr. RIBICOFF, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 991, to establish a separate Department of Education.

S. 1501

At the request of Mr. GARN, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1501, the Truth in Lending Simplification Act of 1977.

S. 1709

At the request of Mr. TOWER, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1709, to amend the Emergency Petroleum Allocation Act.

S. 1974 AND AMENDMENT NO. 849 TO S. 1974

At the request of Mr. NELSON, the Senator from Georgia (Mr. NUNN), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 1974, the Regulatory Flexibility Act, and amendment No. 849 to S. 1974.

S. 2167

At the request of Mr. DOMENICI, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2167, relating to the price of copper.

S. 2201

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2201, the Alcohol Fuel Incentive Act of 1978.

S. 2204

At the request of Mr. GRAVEL, the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. CASE), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 2204, a bill to amend the Internal Revenue Code.

SENATE JOINT RESOLUTION 29

Mr. BURDICK. Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. LUGAR) be added as a cosponsor of Senate Joint Resolution 29, to authorize the President to issue a proclamation designating that week in November which includes Thanksgiving Day as "National Family Week."

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

Mr. BURDICK. Mr. President, I would like the record to show that Senator LUGAR was a strong supporter of my National Family Week proposal. It was an unfortunate oversight that his name was not added as a cosponsor earlier this year. Just so the record is clear, however, I ask that his name be added as a cosponsor now.

SENATE RESOLUTION 242

At the request of Mr. HATCH, the Senator from Alaska (Mr. STEVENS) was added as cosponsor of Senate Resolution 242, relating to the Internal Revenue Service policy toward fringe benefits.

SENATE RESOLUTION 292

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. LAXALT) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 292, directing the President to urge the Special Representative for Trade Negotiations to negotiate orderly marketing agreements with Japan and with the European Community reducing the export of steel and steel products to the United States.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. CRANSTON, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of Senate Concurrent Resolution 26.

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. JACKSON, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Concurrent Resolution 44, recognizing the contributions of Gen. Thaddeus Kosciuszko.

SENATE CONCURRENT RESOLUTION 51

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. HUMPHREY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Concurrent Resolution 51, relating to Americans Missing in Action.

AMENDMENT NO. 1433

At the request of Mr. DURKIN, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of amendment No. 1433 intended to be proposed to S. 457 to amend section 1662 (a) of title 38, United States Code, to extend the delimiting period for completion for certain veterans and under certain conditions.

SENATE RESOLUTIONS 296, 297, 298—ORIGINAL RESOLUTIONS REPORTED

(Placed on the Calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolutions:

S. RES. 296

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Marjorie Iverson; Eugene Bergstrom; Jack Bergstrom; Lorraine Powers; Robert Bergstrom; Patricia Hurt; Harriett McCollum; Barbara Hickman and Marilyn Fernandes, brothers and sisters of Charles W. Bergstrom, an employee of the Senate at the time of his death, a sum to each equal to one-ninth of one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

S. RES. 297

Resolved, That Section 2 of Senate Resolution 142, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$475,000" and inserting in lieu thereof "$483,700".

SEC. 2. Section 2 of Senate Resolution 158, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$775,000" and inserting in lieu thereof "$797,000".

SEC. 3. Section 2 of Senate Resolution 157, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$858,500" and inserting in lieu thereof "$875,000".

SEC. 4. Section 2 of Senate Resolution 156, 95th Congress, agreed to June 14 (legislative day, May 18), 1977, is amended by striking out "$905,000" and inserting in lieu thereof "$918,100".

S. RES. 298

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, during the 95th Congress, $30,000 in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in Senate Resolution 128, 95th Congress agreed to April 1, 1977.

SENATE CONCURRENT RESOLUTION 59—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO METROLEOS MEXICANOS

(Referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. STEVENSON submitted the following concurrent resolution:

S. CON. RES. 59

To express the sense of the Congress that the Export-Import Bank of the United States should not provide financing to Petroleos Mexicanos, Mexico's government-owned oil and gas agency, unless and until the American public can be assured of obtaining reasonably-priced natural gas imports from development and construction of the proposed Cactus-Monterrey-Reynosa pipeline in Mexico.

Whereas the Export-Import Bank of the United States, pursuant to the requirements of Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, notified the Congress on September 9, 1977, of its intention to provide financing to Petroleos Mexicanos (PEMEX), Mexico's government-owned oil and gas agency, to assist in the purchase of U.S. goods and services to be used in PEMEX operations and in construction of a natural gas pipeline;

Whereas by letter of September 28, 1977 to the Congress, Chairman John L. Moore, Jr. of the Export-Import Bank indicated that, under a tentative price formula contained in a "Memorandum of Intentions" signed August 3, 1977, by PEMEX and the six U.S. gas transmission companies which are prepared to purchase the gas, the price at which gas from the proposed pipeline would be delivered to the U.S. companies would be based on the price of No. 2 fuel oil delivered at New York harbor, yielding a present price at the border of approximately $2.60 per thousand cubic feet of gas;

Whereas, in its negotiations, the Export-Import Bank has failed to give sufficient attention to the amount and price of natural gas imports to the United States that may result from Export-Import Bank financing of this project;

Whereas, the price currently being proposed for U.S. imports of Mexican natural gas to be delivered from the proposed pipeline is significantly greater than prices prevailing for current non-liquefied imports of natural gas and prices permitted for domestically-produced natural gas;

Whereas financing by the Export-Import Bank of the United States of the PEMEX natural gas project at such unreasonable prices for United States energy imports could set a dangerous precedent for prices of other U.S. energy imports—especially those that might be involved in other export financing by the Export-Import Bank;

Whereas, the Secretary of Energy must approve the price at which natural gas from the proposed pipeline may be imported into the United States; and,

Whereas, the American public has a right to be assured that financial resources of the United States are not used to develop and construct foreign energy projects that unwarrantedly increase the cost of U.S. energy imports;

Now, therefore, be it Resolved by the Senate (the House of Representatives concurring),

That it is the sense of the Congress that the Export-Import Bank of the United States not provide financing to Petroleos Mexicanos (PEMEX), to assist in the export of U.S. goods and services involved in the development of PEMEX's operations and construction of a natural gas pipeline, unless and until it is established: first, that substantial natural gas supplies will be made available to U.S. purchasers from the proposed pipeline; second, that the Secretary of Energy has approved the price at which such natural gas supplies may be imported into the U.S.; and third, the Congress is assured of the reasonableness and fairness of such import prices in light of other prices currently prevailing for non-liquefied natural gas imports and prices permitted domestic producers of natural gas supplies within the United States.

Mr. STEVENSON. Mr. President, I am submitting a concurrent resolution expressing the sense of the Congress that the Export-Import Bank of the United States not provide financing to Petroleos Mexicanos—PEMEX—Mexico's Government-owned oil and gas agency, unless and until the American public can be assured of obtaining reasonably priced natural gas imports from construction of the proposed Mexican natural gas pipeline.

As set forth in the resolution, the Eximbank, pursuant to section 2(b)(3) of the Export-Import Bank of 1945, as amended, notified the Congress on September 9, 1977, of its intention to provide almost $600 million worth of credits to PEMEX to assist in the purchase of U.S. goods and services to be used in PEMEX operations and in the construction of a natural gas pipeline.

In reviewing this notification, it seemed clear to me that substantial benefits would accrue to the United States from financing of this project; first, it could have a major effect on increasing exports of U.S. goods and services at a time when our current account deficit is projected to be some $18–$20 billion for 1977; and, second, it would provide the United States with another energy source in a friendly, bordering country, thus reducing our reliance on oil and gas imports from the Middle East and North Africa. The addition of this supply to world energy resources could also have a salutary effect on energy prices. I was, therefore, concerned about the absence of information concerning the price at which natural gas from the proposed pipeline would be transmitted to the United States.

In response to my concerns, Chairman John L. Moore of the Eximbank sent me a letter dated September 28, 1977, describing the pricing arrangements involved in the financing.

After looking further into this matter, I became troubled by a defect in Eximbank's analysis of this proposal. Eximbank appears to have taken a rather narrow banker's view of the project—whether the prices charged for the natural gas developed would be sufficient to retire on schedule the credits extended to PEMEX. The 1974 Amendments to the Eximbank Act established, I feel, a clear congressional direction that the Eximbank shed its pin-stripe banker's suit and look at all Eximbank financing in the broader mantle of the national interest. A key element in such determination about a project such as this is whether it will yield new energy supplies to the United States at a fair and reasonable price. Such a price should not encourage higher world prices—to say the least. But the price formula currently under consideration for U.S. imports of gas from the pipeline is tied to imports of No. 2 fuel oil at New York harbor, resulting in a price of roughly $2.60 per thousand cubic feet. In my judgment, this price is unreasonable. It is higher than present prices for imported natural gas and unregulated domestic gas. I do not believe Eximbank should go ahead with its financing until we are assured of a reasonable price for U.S. imports of gas from the project.

If we let this financing slip by under the current terms, then the gates are wide open for other foreign countries to seek higher prices for exports to the United States of energy supplies. Where, as here, through the Eximbank financing, we have some means of influencing the U.S. import price in return for substantial U.S. credit or development assistance, we should do so. I am disappointed by Eximbank's failure to do so in this case.

The resolution I am submitting thus has two purposes: first, to advise Eximbank that in this and future projects involving the development of energy resources abroad, the Congress will give careful attention to the concommittant energy supplies that may flow to the United States and the price at which those supplies will be made available. Second, the Congress does not believe the Eximbank should go ahead with this particular project until the Secretary of Energy has had an opportunity to approve the price of gas to be imported from this project and until the American public can be assured that it is a fair and reasonable price.

Mr. President, I ask unanimous consent that the letter of September 28 from Mr. Moore be printed in the RECORD.

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

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., September 28, 1977.

DEAR MR. CHAIRMAN: This is in response to certain questions posed by your staff relating to the price of natural gas which would be transmitted to the United States by the proposed Cactus-Monterrey-Reynosa pipeline. Eximbank financing for the U.S. exports to be used in construction of that pipeline has been sought by PEMEX, the Mexican government petroleum corporation.

A tentative price formula is contained in a "Memorandum of Intentions" signed August 3, 1977 by PEMEX and the six U.S. gas transmission companies which are prepared to purchase the gas. The formula is based on the price of No. 2 fuel oil delivered at New York harbor, translated on the basis of heating value (BTU's). At present this formula yields a price at the border of approximately $2.60 per thousand cubic feet of gas.

In our analysis of the PEMEX loan application, Eximbank made calculations of revenues and debt service requirements by PEMEX under various gas prices. Even at the price of $1.75 per thousand cubic feet (the price proposed by the President and presently under consideration by Congress for regulated new U.S. wells) there would be ample funds to cover operating costs of the pipeline and principal and interest payments by PEMEX on the proposed Eximbank loan.

Eximbank is not in a position to predict the final price which will be contained in the contract. However, we have satisfied ourselves that there is serious interest on the part of U.S. buyers and PEMEX to execute definitive contracts, and that their ideas as to price are not far apart. We understand that further negotiations as to price will be taking place in the next few weeks, during which time PEMEX will also negotiate financing for the Mexican costs of the pipeline project. Eximbank would not be disbursing its funds until there is agreement on the gas price because the Eximbank loan agreement will require, as a condition precedent to disbursement, that PEMEX have obtained financing for substantially all of the project costs. The long-term private financing required to cover approximately $800 million of these costs will not be available until there is a gas price agreement.

We are confident that the price negotiations and the negotiations for the balance of the costs of the project will proceed rapidly. We understand that PEMEX itself is similarly confident and is prepared to arrange bridge financing for the initial deliveries of pipe and other equipment as soon as it learns that the Eximbank credit for the pipeline project has been authorized.

As to the impact of the price of Mexican gas on the U.S. consumer, we believe that the availability of gas will be more important than the exact price. Gas from Mexico will be mixed with gas from old and new U.S. wells so its impact on consumer prices will be diluted. The U.S. purchased Mexican gas last winter at $2.25 per thousand cubic feet and will probably do so again this winter. Cana-

dian gas being imported into the U.S. is also supplied at this price.

By being able to bring gas from the Mexican Reforma field, the Cactus-Monterrey-Reynosa pipeline would add a new source of energy to those now utilized by the United States and thus enable this country to be less dependent on oil and gas imported from North Africa and the Middle East.

Sincerely,

JOHN L. MOORE, Jr.

AMENDMENTS SUBMITTED FOR PRINTING

WATERWAY USER CHARGES—H.R. 8309

AMENDMENT NO. 1460

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

Mr. DOMENICI. Mr. President, I send to the desk an amendment to H.R. 8309. This amendment would incorporate into H.R. 8309 language that is virtually identical to provisions adopted by the Senate on June 22 of this year as a part of H.R. 5885. These provisions involve the construction of a new locks and dam 26 on the Mississippi River at Alton, Ill., the implementation of an effective system of waterway user charges, and a variety of unrelated water resources projects.

I recognize that the issues of user charges and locks and dam 26 may by now be tiring ones for many of my colleagues. We thought we had resolved these points last June 22. But our action was shunned by the House, which ignored our request for a conference on the Senate-passed proposal for a comprehensive waterway user charge.

Nothing has changed since June 22. The Army Corps of Engineers is still spending hundreds of millions of dollars yearly as a 100 percent subsidy for the big barge companies. The barge companies continue to moan and groan when it is suggested they pay anything approaching a reasonable or fair share of these costs. And the users of other types of Federal water projects—irrigators, hydropower users, industrial water users—still send in their checks to the Federal Government to pay back their share of the costs of these taxpayer-provided benefits. Only the big barge companies continue on the free ride.

My amendment offers the Senate the opportunity to stand again behind the principle that such luxuries should be partially repaid, while assuring a more balanced national transportation policy.

Specifically, my amendment amends both title I and title III of H.R. 8309, leaving title II untouched, except for a minor, conforming amendment. The language added to titles I and III is essentially identical to what the Senate adopted on June 22, 1977.

First, the amendment authorizes the immediate reconstruction of locks and dam 26, at an estimated cost of $421 million. But the authorization is the language of the Senate-passed bill, with the requirements for a comprehensive Upper Mississippi River master plan.

Second, the amendment authorizes the Secretary of Transportation to develop, subject to congressional veto, a system of waterway user charges to be phased-in, beginning in fiscal year 1980. This is similar to what the Senate passed on June 22, except for one change I shall explain in a moment. The amendment still has a provision saying that no user charge can exceed 1 percent of the value of the commodity shipped, even after the full phase-in. The user charges are phased-in to assure that the barge industry has time to absorb and adjust to these charges. And there are regular studies providing assessments of the impacts.

Let me explain the one difference between this amendment and the amendment we adopted in June. At that time, the Senate approved a 10-year phase-in, beginning in fiscal year 1980. This amendment extends the phase-in by 1 additional year, to an 11-year period, beginning in fiscal year 1980. The extra year is provided by freezing the progression in the user-charge rate during year 2 at the level recovered in year 1. After year 2, the scale of charges moves up in a manner identical to what the Senate approved last June, obtaining full recovery of operation and maintenance costs, and 50 percent recovery of new construction costs in the 11th and final year of phase-in, fiscal year 1990.

As I mentioned, this amendment specifically incorporates the House's fuel-tax proposal. In our June action, the Senate adopted a dollar-for-dollar offset against the level of user charges should a fuel tax be enacted. Now that the fuel tax is a part of this House bill, the fuel tax of 4 cents a gallon—or later 6 cents a gallon—will be credited, on a dollar-for-dollar basis, against the sums owed toward user charge. This assures against double charging. The fuel tax costs come off the top, with DOT establishing the remainder to be due, based on the percentage levels specified in the amendment.

Some of those who opposed this amendment last June argued that the Secretary of DOT should have the flexibility to utilize a fuel tax. Under the amendment I am presenting today, the fuel tax is included. But this amendment also allows for a more flexible charge system, using lockage fees and license fees, the type of fees the DOT studies have shown would have the least adverse impact on the waterway carriers.

The key to this amendment, and the ingredient missing in the House-passed bill, is that recovery must be based on a percentage of expenditures. It must not be independent, as it is in the House bill. Under the House bill, waterway expenditures might balloon to a couple of billion dollars a year, or drop to zero. No matter what they do, under the House bill, the barge companies would continue to chip in a paltry 4 pennies a gallon in taxes. That 4 cents a gallon equals about 6 percent or so of present Corps expenditures on the inland waterways.

If user charges are to be meaningful—as they are on other modes of the transportation, on hydropower, and on water supply—they must be tied to expenditures. Highway taxes are tied directly to expenditures, because gas taxes paid to the trust fund are the only basic source of Federal expenditures. Creation of a waterway fuel tax bearing no relation to expenditures would be a delusion. But if the level of recovery is tied to the level of expenditures, then the waterways industry itself will help to act as a public watchdog against waste, a watchdog against gold plating of projects.

Mr. President, a basic issue of this amendment involves transportation equity. Another basic issue is the need to reduce the tax burden on the American family and halt the free ride given a few favored companies. These issues were resolved last June 22, when the Senate adopted my amendment by a 71 to 20 vote.

What really is at issue now is whether the Senate, as a body, should insist again upon that position, or whether we will allow the House to circumvent our position, to make an end run around our June request for a conference. If we fail to repass this amendment, I believe, we may encourage the House to avoid other tough issues in this manner.

This does not mean, of course, that compromise from my amendment would not be necessary in the eventual conference. Of course it will be. But that is the proper function of a conference. The Senate should not bypass the conference process and our traditions just to please the barge companies.

And there is one final point, Mr. President. The administration has made it clear that President Carter will not sign a bill for the reconstruction of locks and dams 26 unless it is accompanied by a reasonable and "substantial" system of user charges. My amendment provides the assurances we can get a bill the President will sign.

Mr. President, in an effort to explain the details of user charges, I have prepared a comparison between this amendment and the bill adopted by the Senate in June (H.R. 5885). I hope that my colleagues will have an opportunity to study it, as well as portions of the explanation taken from a report filed earlier this year by the Committee on Environment and Public Works. While this report fails to discuss the new 1-percent cap on user charges or the extra year of the 11-year approach, it does discuss the basic rationale for the amendment, although the section notations differ somewhat. Therefore, Mr. President, I ask unanimous consent that the comparison, the amendment, and pertinent portions of that committee report be printed in the order listed at this point in the RECORD.

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

AMENDMENT NO. 1460

On page 1, line 3, delete all through line 17 on page 11, and insert the following:

"TITLE I—INLAND NAVIGATION IMPROVEMENTS

"SEC. 101. This title may be cited as the "Inland Navigation Improvement Act of 1977.

"SEC. 102. (a) The Congress finds that construction of an inland navigational system that imposes no costs on the direct beneficiaries of such system is unfair to the operators and users of competing modes of transportation and creates distortions in transportation usage that are wasteful of the Nation's resources. The Congress further finds that certain improvements, including the reconstruction of locks and dam 26, Mississippi River, Alton, Illinois, are necessary for the effective operation of the Nation's inland waterway system.

"(b) The Congress declares that national economic development requires the maintenance of an adequate inland waterway system but, as a matter of equity and efficiency, that the commercial users of this inland waterways system should contribute a portion of the Federal navigation-related costs involved in building, operating, maintaining, and rehabilitating such waterways.

"(c) It is, therefore, the purpose of this Act both to establish a system of user charges that will promote greater equity and efficiency among all modes and demonstrate the economic feasibility of projects on the inland waterways of the United States, providing a market test for their need, and to authorize the reconstruction of locks and dam 26, Mississippi River, Alton, Illinois, as a way to promote the more efficient operation of the existing waterway system.

"SEC. 103. (a) Not later than ten months after the date of enactment of this Act, the Secretary of Transportation shall, after consultation with the Secretary of the Army, and after conducting public hearings and permitting not less than forty-five days for public comment, publish in the Federal Register preliminary regulations on a proposed system of user charges (including a method of collection) intended to recover that portion of the Federal navigation-related costs of the operation, maintenance, new construction, and rehabilitation of the inland waterways of the United States described in subsection (e) of this section. After receiving comments on the preliminary regulations required by this subsection, the Secretary shall, on January 1, 1979, promulgate final regulations that establish a schedule and method of collection of user charges to be paid by commercial users of the inland waterways of the United States and submit such regulations to the Congress, together with provisions allowing full credit against user charges owed for the tax established under title II of this Act. Notwithstanding any other provision of law, such charges shall become effective on October 1, 1979, unless disapproved under the terms of subsection (b) of this section, and, after they become effective, shall not be modified to any significant degree unless such modification is submitted to Congress under the terms of subsection (b) of this section. In establishing user charges under this section, the Secretary of Transportation is directed to assure that user charges that apply to any particular existing segment of the inland waterways of the United States shall be set at a level so as not to cause serious economic disruption among the commercial users of such segment. The Secretary of Transportation is also required to establish the scale of user charges under this section so that, even after full implementation of this section, no user charge affecting a particular type of shipment exceeds 1 per centum of the value of such shipment, including transportation costs, based on recent average prices.

"(b)(1) The final regulations first submitted to the Congress under subsection (a) of this section shall take effect as provided in such subsection, unless, during the ninety-day period beginning on the date the Secretary of Transportation submits such regulations to the Congress, the Congress adopts a concurrent resolution disapproving such regulations.

"(2) In the event the Congress disapproves such regulations, or any significant modification thereto subsequently submitted to it, the Secretary of Transportation shall, within ninety days after the date of adoption of the concurrent resolution disapproving such regulations or significant modifications, submit revised regulations or significant modifications, as the case may be. Such revised regulations or significant modifications shall take effect one hundred and eighty days after the date they are submitted to the Congress unless, during the first ninety days after the date of such submittal, the Congress adopts a concurrent resolution disapproving such revised regulations or significant modifications.

"(c) The schedule of user charges promulgated under this section shall, to the extent reasonable and equitable, be assessed annually on the basis of (1) the costs of operating, maintaining, constructing, and rehabilitating the inland waterways of the United States, and various segments thereof, during the preceding fiscal year; (2) the volume of traffic; (3) seasonal and other repetitive peak demands for use of the inland waterways of the United States; and any other factors that the Secretary of Transportation finds reasonable and equitable.

"(d) The Secretary of Transportation, in promulgating final regulations under this section, is authorized to utilize, but is not limited to, one or more of the following mechanisms as a way to recover a portion of the Federal navigation-related costs from the users of the systems; (1) license fees; (2) congestion charges; (3) charges based on ton-miles over a given segment; (4) lockage fees; and (5) charges based on the capacity of cargo vessels, loaded and unloaded, over various segments of the inland waterways of the United States. No charge shall be collected from, or imputed to, the use of any inland waterway that is not operated and maintained by the United States.

"(e)(1) Final user charges shall be adequate to recover (A) 100 per centum of the Federal navigation-related expenditures of the Secretary of the Army, acting through the Chief of Engineers, on the operation and maintenance of the inland waterways of the United States in accordance with paragraph (2) of this subsection, and (B) 50 per centum of the Federal navigation-related capital expenditures on new construction and rehabilitation of the inland waterways of the United States in accordance with paragraph (3) of this subsection.

"(2) During the first and second years that user charges established under this section are effective, such charges shall be equal to 20 per centum of the total expenditures described in subparagraph (A) of paragraph (1) of this subsection (provided that a tax of 4 cents a gallon established and collected under Title II of this Act shall be considered as fulfilling the requirements of this paragraph during the first and second years of implementation) and shall be increased by 20 per centum of such total expenditures for each of the succeeding four years until 100 per centum of such total expenditures is reached.

"(3) During the seventh year that user charges established under this section are effective, such charges shall, in addition to the charges in subparagraph (A) of paragraph (1) of this subsection, be equal to 10 per centum of the total expenditures described in subparagraph (B) of paragraph (1) of this subsection, and shall be increased by 10 per centum of such total annual expenditures during each of the succeeding four years until the maximum annual rate of 50 per centum of such total expenditure is reached.

"(f) Revenues collected each year under Title II of this Act, as well as any other Federal tax enacted subsequent to enactment of this Act that may be imposed by the United States, as a tax for the purpose of repayment of the Federal costs of the inland waterway of the United States and imposed exclusively on vessels subject to this section, shall be considered as an offset or deduction against fulfilling the total cost recovery requirements for each year after the second year of implementation of the regulations under this section.

"(g) Funds collected under this section shall be deposited in the general fund of the Treasury.

SEC. 104. Failure to pay any user charges established under this Act shall subject the violator to a forfeiture of not more than $5,000 per day, and prohibit the violator from the use of any lock on the inland waterways of the United States that is operated and maintained by the United States during the period of violation of this Act. Such forfeiture shall be collected by the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 105. No later than three years after the effective date of the regulations established under section 103 of this Act, and each two years thereafter, the Secretary of Transportation, in cooperation with the Secretary of the Army, shall submit to the Congress a report on the implementation of section 103 of this Act. Such report shall describe—

(a) the economic impact of user charges on the commercial users of, and consumers of goods capable of being shipped on the inland waterways of the United States;

(b) the economic impact of user charges on a regional and national basis;

(c) the effectiveness of user charges in establishing a more balanced national transportation system;

(d) the effectiveness of user charges in promoting the more efficient use of public investments in the Nation's system of waterborne transportation and reliance on the privato sector; and

(e) the effectiveness of user charges in providing for the balanced use of the Nation's water resources.

"SEC. 106. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to replace locks and dam 26, Mississippi River, Alton, Illinois and Missouri, by constructing a new dam and a single, one-hundred-and-ten-foot by one-thousand-two-hundred-foot lock at a location approximately two miles downstream from the existing dam, substantially in accordance with the recommendations of the Chief of Engineers in his report on such project dated July 31, 1976, at an estimated cost of $421,000,000.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to replace, at Federal expense as a part of project costs authorized in subsection (a) terrestrial wildlife habitat inundated as a result of the construction of the project on an acre-for-acre basis in the respective States of Missouri and Illinois and to manage such lands as are thus acquired by the Secretary for wildlife mitigation purposes. The Secretary is further authorized to provide project-related recreation development on or in the vicinity of Ellis Island, Missouri, that requires no separable project lands and includes facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach, at an estimated cost of $4,000,000 to be cost shared with the State of Missouri and administered

in accordance with the provisions of the Federal Water Project Recreation Act (Public Law 89–72) and undertaken independently of the navigation features of the project.

"(c) The channel above Cairo, Illinois, on the Mississippi River shall not exceed nine feet, and neither the Secretary of the Army nor any other Federal official shall study the feasibility of deepening the navigation channels in the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; the Mississippi River north of Cairo, Illinois; the Kaskaskia River, Illinois; and the Illinois River and Waterway, Illinois, unless specifically authorized by a future Act of Congress.

"(d) There are authorized to be appropriated to the Secretary of the Army such sums as are necessary to carry out the provisions of subsections (a) and (b) of this section for fiscal year 1978 and succeeding fiscal years. Any funds which have been allocated to a replacement project for locks and dam 26, prior to enactment of this Act, shall be available for the project authorized in this section and shall remain available until expended.

"SEC. 107. (a) There is hereby created an Upper Mississippi River System Council (hereinafter referred to as "Council") consisting of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the President's Council on Environmental Quality, and the Governors of the States of Wisconsin, Minnesota, Iowa, Missouri, and Illinois. The Secretary of the Interior shall serve as Chairman of the Council.

"(b) The Congress hereby authorizes and directs the Council to prepare a comprehensive master plan for the management of the Upper Mississippi River System in cooperation with the appropriate Federal, State, and local officials. A preliminary plan shall be prepared by January 1, 1981. The plan shall be subject to public hearings in each affected State. The Council shall review all comments presented at such hearings and submitted in writing to the Council and shall make any appropriate revisions in the preliminary plan, and shall, by January 1, 1982, submit to the Congress for approval a final master plan. Public participation in the development, revision, and enforcement of said plan shall be provided for, encouraged, and assisted by the Council. The Council shall, within one hundred and fifty days of enactment of this Act, publish final regulations in the Federal Register specifying minimum guidelines for public participation in such processes. Approval of the final master plan shall be granted only by enactment of the Congress. Changes to the master plan proposed by the Council shall require enactment by the Congress to become effective. All related activities inconsistent with the master plan or guidelines shall be deemed unlawful.

"(c) The master plan authorized under subsection (b) of this section shall identify the various economic, recreational, and environmnetal objectives of the Upper Mississippi River System, recommend guide lines to achieve such objectives, and propose methods to assure compliance with such guidelines and coordination of future management decisions affecting the Upper Mississippi River System, and include any legislative proposals which may be necessary to carry out such recommendations and objectives.

"(d) For the purposes of developing the comprehensive master plan, the Council is authorized and directed to conduct such studies as it deems necessary to carry out its responsibilities under this section, with provision that it utilize, to the fullest extent possible, the resources and results of the Upper Mississippi River resources managements (GREAT) study conducted pursuant to section 117 of the Water Resources Development Act of 1976 (Public Law 94–587) and of other ongoing or past studies. The Council shall request appropriate Federal, State, or local agencies to prepare such studies, and any Federal agency so requested is authorized to conduct any such study for the purpose of this section. Studies conducted pursuant to this section shall include, but not be limited to the following:

"(1) The Secretary of the Army shall provide the Secretary of the Interior to undertake a study to determine: (a) the carrying capacity of the Upper Mississippi River System, (b) the long- and short-term systematic ecological impacts of: (1) present and any projected expansion of navigation capacity on the fish and wildlife, water quality, wilderness, and public recreational opportunities of said rivers, (2) present operation and maintenance programs, (3) the means and measures that should be adopted to prevent or minimize loss of or damage to fish and wildlife, and (4) a specific analysis of the immediate and sytematic environmental effects of any second lock at Alton, Illinois, and provide for the mitigation and enhancement of such resources and shall submit his report containing his conclusions and recommendations to the Congress and the Secretary of the Army.

"(2) The Secretary of the Army shall provide for the Secretary of Transportation to undertake studies to determine: (a) the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy, (b) the direct and indirect effects of any expansion of navigational capacity on the Nation's railroads and on shippers dependent upon rail service, and (c) the transportation costs and benefits to the Nation to be derived from any expansion of navigational capacity on said River System. The Council, acting through the Secretary of Transportation, is directed to immediately initiate a specific evaluation of the need for a second lock at Alton, Illinois, and the direct and indirect systemic effects and needs for such a second lock at Alton, Illinois.

"(3) Studies and demonstration programs, including a demonstration program to evaluate the benefits and costs of disposing of dredge spoil material in contained areas located out of the floodplain. Said program shall include, but shall not be limited to, the evaluation of possible uses in the marketplace for the dredge spoil studies and demonstration programs to minimize the environmental effects of channel operation and maintenance activities.

"(4) Development for the Upper Mississippi River System of a computerized analytical inventory and system analysis to facilitate evaluation of the comparative environmental effects of alternative management proposals.

"(e) Guidelines developed pursuant to this section shall include, but not be limited to, guidelines for channel maintenance, minimization of dredging volumes, alternate uses of dredged material, barge fleeting, protection of water quality, fish and wildlife protection and enhancement, wilderness preservation, and management of the wildlife and fish refuges within any contiguous to the Upper Mississippi River System.

"(f) To carry out the provisions of this section, there are authorized to be appropriated to the Council $20,000,000. The Council is authorized to transfer funds to such Federal, State, or local government agencies as it deems necessary to carry out the studies and analysis authorized in this section.

"(g) The Upper Mississippi River System consists of those river reaches containing commercial navigation channels on the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; Black River, Wisconsin; Saint Croix River, Minnesota and Wisconsin; Illinois River and Waterway, Illinois; and Kaskaskia River, Illinois.

"(h) Except for the provisions of section 106 of this Act, and necessary operation and maintenance activities, no replacement, construction, or rehabilitation that expands the navigation capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River System, until the master plan prepared pursuant to this section has been approved by the Congress.

"(i) The lock and dam authorized pursuant to section 106 of this Act shall be designed and constructed to provide for possible future expansion. All other construction activities initiated by the Secretary of the Army on the Upper Mississippi River north of Cairo, Illinois, and on the Illinois River north of Grafton, Illinois, shall be initiated only in accordance with the guidelines set forth in the master plan.

"SEC. 108. The Secretary of the Army, acting through the Chief of Engineers and in consultation with the Secretary of Transportation, shall within one hundred and twenty days of the date of enactment of this Act, promulgate final regulations in the Federal Register implementing nonstructural improvements designed to minimize congestion, and thereby extend the useful economic life of all locking facilities on the Illinois River and Mississippi River. Such improvements shall include, but shall not be limited to, specifications covering tow size and configuration, lockage priorities, traffic scheduling, and lockage aids such as switchboats.

SEC. 109. As used in this Act, the term—

(a) "user charges" means a charge established by the Secretary of Transportation, under the authority of section 103 of this Act, to be paid by the owner or operator of shallow-draft cargo vessels that use the inland waterways of the United States for commercial purposes;

(b) "inland waterway of the United States" means any improved waterway operated and maintained by the United States, the improvements to which are primarily for the use of commercial vessels other than ocean-going vessels, and does not include the Great Lakes, their interconnecting channels, and the Saint Lawrence Seaway; and

(c) "commercial users" means common, contract, or other carriers for hire and owners or operators of private shallow-draft cargo vessels.

On page 13, line 15, beginning with the word "which" delete all through line 18, and insert in lieu thereof the following: "as determined under the definition for the inland waterway of the United States in Section 109(b) of this Act.".

On page 14, beginning on line 13, delete all through line 5 on page 17, and insert in lieu thereof the following:

"TITLE III—WATER RESOURCES PROJECTS

"SEC. 301. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by

the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SOUTH ATLANTIC COASTAL REGION

The project for beach erosion control at Jekyll Island, Glynn County, Georgia: House Document Numbered 94–533, at an estimated cost of $3,399,000.

"The project for navigation for the Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina, authorized by section 101 of the Rivers and Harbors Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document numbered 94–597 with respect to Hobucken, Core Creek, and Fairfield bridges at an estimated cost of $18,700,000.

MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control at Coney Island, Borough of Brooklyn, New York; Final report of the Chief of Engineers, dated August 18, 1976, at an estimated cost of $2,019,000.

RAHWAY RIVER BASIN

The project for flood control on Robinson's Branch at Clark, Scotch Plains, and Rahway, New Jersey: Final report of the Chief of Engineers, dated October 10, 1976, at an estimated cost of $11,702,000.

The project for flood control on the main stem of the Rahway River and Van Winkles Brook, Springfield, New Jersey: Final report of the Chief of Engineers, dated October 24, 1975, at an estimated cost of $7,345,000.

CHEHALIS RIVER BASIN

The project for flood control on the Chehalis River at South Aberdeen and Cosmopolis, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $11,486,000.

KODIAK HARBOR

The project for navigation improvements at Kodiak Harbor, Alaska: Final report of the Chief of Engineers, dated September 7, 1976, at an estimated cost of $7,874,000.

TERRITORY OF GUAM

The project for flood control on the Agana River, Territory of Guam: Final report of the Chief of Engineers, dated Marcn 14, 1977, at an estimated cost of $3,260,000.

SEC. 302. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resources development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers, in the reports hereinafter designated.

CONNECTICUT RIVER BASIN

The project for water supply in Massachusetts, diverting water from the Millers River Basin to Quabbin Reservoir, near Springfield, Massachusetts: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

The project for water supply in Massachusetts, diverting water from the Connecticut River Basin by way of the Northfield Mountain project to Quabbin Reservoir: Final report of the Chief of Engineers, dated September 10, 1976, at an estimated cost of $400,000.

PUGET SOUND

The project for navigation on the Blair and Silcum Waterways, Tacoma Harbor, Washington: Final report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $200,000.

CHEHALIS RIVER BASIN

The project for navigation at Grays Harbor, Washington: In accordance with the final report of the Chief of Engineers, at an estimated cost of $1,000,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

GULFPORT HARBOR

The project for channel deepening for navigation at Gulfport Harbor, Mississippi, in accordance with the final report of the Chief of Engineers, at estimated cost of $1,805,000. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"(b) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsection (a) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a funding by the Chief of Engineers, transmitted to the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modifications which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

"(c) Whenever the Chief of Engineers transmits his recommendations for a water resources development project to the Secretary of the Army for transmittal to the Congress, as authorized in the first section of the Act of December 22, 1944, the Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design of such project if the Chief of Engineers finds and transmits to the Committee on Public Works and Transportation of the House of Representatives and Environment and Public Works of the Senate, that the project is without substantial controversy and justifies further engineering, economic, and environmental investigations. Authorization for such phase I work for a project shall terminate on the date of enactment of the first Water Resources Development Act enacted after the date such work is first authorized. There is authorized to carry out this subsection not to exceed $4,000,000 per fiscal year for each of the fiscal years 1978 and 1979.

"(d) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

"SEC. 303. Section 7 of the River Basin Monetary Authorization and Miscellaneous Civil Works Amendment Act of 1970 (84 Stat. 310), as amended by section 48 of the Water Resources Development Act of 1974 (88 Stat. 12), is further amended to read as follows:

"SEC. 7. (a) The project for Libby Dam, Kootenai River, Montana, is hereby modified to provide that an amount not to exceed $6,500,000 is authorized for mitigation of fish losses attributed to the Libby Dam project, including the reregulating dam and any additional hydropower units that may be installed.

"(b) Funds authorized for mitigation pursuant to subsection (a) shall be transferred to the State of Montana for construction or expansion of fish hatcheries of the State of Montana.".

"SEC. 304. Section 181(a)(2) of the Water Resources Development Act of 1976, approved October 22, 1976 (Public Law 94–587), is amended by striking out "(A)" after "constructed" and the following: ", and (B) unless such construction is not in conflict with the report of the Secretary of the Army, acting through the Chief of Engineers, submitted pursuant to section 85 of the Water Resources Development Act of 1974".

"SEC. 305. Whenever the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, submits a project to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives that can be anticipated to provide benefits, more than 10 per centum of which are produced by an increase in anticipated land value to a single nonpublic corporation or individual, the Secretary of the Army or the Secretary of Agriculture, as appropriate, shall, prior to the construction of such project, require that the local sponsor of such project enter into an agreement with the Secretary of the Army or the Secretary of Agriculture, as appropriate, that provides that the sponsor contributes, either prior to construction or when such benefits are realized, 50 per centum of the project's costs allocated to such benefits.

"SEC. 306. (a) The authorization of phase I engineering and design contained in section 101(a) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2918) for flood protection for Jefferson City on Wears Creek, Missouri, is hereby terminated.

"(b) The project for flood protection for Jefferson City on Wears Creek, Missouri, as described in the report of the Chief of Engineers dated October 21, 1975, is hereby authorized at an estimated cost of $29,110,000.

"SEC. 307. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83–566, as amended, which includes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such possibility of failure or the impact of failure.

SEC. 308. Section 134(a) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2929) is amended by striking "1977" from the last sentence and inserting in lieu thereof "1985".

SEC. 309. The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and recommend remedial measures with respect to flood control, bank stabilization, sedimentation, and related purposes on the Homochitto and Buffalo Rivers, Saint Catherine and Coles Creeks, Bayou Pierre, and other major

tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River in the State of Mississippi.

SEC. 310. (a) There is hereby established a Water Resources Mitigation Advisory Board (hereafter referred to as the "Board"), which is authorized to evaluate complaints of any existing or potential adverse impact of any proposed or existing water resources project undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation.

(b) The Broad shall be comprised of three members. One member shall be a Federal employee serving at the pleasure of the President. Two members shall be appointed by the President from the general public for terms of three years. Such public members, while attending meetings of the Board, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Board.

(c)(1) The Board shall meet at least four times annually to review matters referred to it by any State or local public agency, the Secretary of the Army, the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives. At such meetings, the Board is authorized to review all information relating to any request for mitigation of an authorized project, and to recommend changes in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Board shall include a statement evaluating the equity of the mitigation request; an estimate, if appropriate, of the cost of such alteration and the effect such cost would have on the relation of total project benefits to cost; and an explanation of how the mitigation request meets or fails to meet established national water resources policy. Recommendations by the Board are advisory and not subject to judicial review.

(2) A copy of any recommendation by the Board under paragraph (1) of this subsection shall be transmitted to the Secretary of the Army and to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, as well as any interested State or local public agency. Following a review of any such recommendation, the Secretary of the Army shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Board's recommendation.

(d) For the purposes of this section, "mitigation" means any change in project operations, any construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or any change in requirements for local interests to provide, pay for, or share in the costs of any features of any project undertaken by the Secretary of the Army, acting through the Chief of Engineers.

(e) The Board shall, from time to time, report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army, acting through the Chief of Engineers, that would alleviate such problems in future projects.

(f) The sum of $250,000, beginning in the fiscal year ending September 30, 1978, is authorized to be appropriated each fiscal year to carry out this section.

SEC. 311. (a) The authorization for the Victory Lake project for flood control and other purposes on the Moose River, town of Victory, Essex County, Vermont, contained in the Flood Control Act of 1936 as amended by the Flood Control Acts of 1938 and 1941, is hereby terminated.

(b) The authorization for the Lafayette Dam and Reservoir and the Big Pine Dam and Reservoir on the Wabash River, Indiana, contained in section 204 of the Flood Control Act of 1965 (795 Stat. 1081), is hereby terminated.

(c)(1) The authorization of the Kickapoo River, Wisconsin, flood control project, provided by section 203 of the Flood Control Act of 1962 (76 Stat. 1173, 1190) is hereby terminated.

(2) The Secretary of the Army, acting through the Chief of Engineers, shall immediately undertake such modification and landscaping of the uncompleted project for safety, aesthetic, and ecological purposes as the Secretary deems necessary. Such modification shall include, but shall not be limited to, demolition and removal of the outlet control structure and the right abutment.

(3)(i) The Secretary of the Army, acting through the Chief of Engineers, shall take no action to dispose of works and interests in lands related to the project which are under his jurisdiction for eighteen months following the date of enactment of this Act.

(ii) If Congress, by law, has not otherwise provided for the disposal of the project lands within eighteen months of date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall immediately proceed to dispose of such lands and interests under his jurisdiction pursuant to the applicable provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

SEC. 312. This section may be cited as the "Water Supply Act of 1977".

(a) Because many regions of the Nation confront water shortages that can be expected to continue or to increase, and because such shortages are, in part, aggravated by a lack of any coordinated, national policy for the efficient and productive use and reuse of water, the Congress declares that there is a national interest in the development of new water supplies, on an economical basis, for domestic, municipal, industrial, and other public purposes.

"(b)(1) In carrying out a policy to encourage a more efficient use and supply of water as a way to benefit municipal, industrial, and agricultural development, wetland preservation, fish and wildlife protection, and other national purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to survey, plan, construct, and operate projects for the storage of water needed to meet present and anticipated demand, and for its transportation to regions of the Nation with present or anticipated water shortages: *Provided*, That each such project must be specifically authorized by law enacted subsequent to this Act.

"(2) The costs allocated to water supply in any project constructed as a result of the authority of subsection (a) of this section shall be repayable, with interest, by the water users over a period of not more than fifty years from the date that water is first delivered, pursuant to contracts with municipalities or other public organizations except as provided in subsection (d). Such contracts shall be precedent to the commencement of construction of any unit or stage of the project. The contracting organization shall be responsible for the disposal and sale of water surplus to its requirements, but revenues therefrom shall be used only for payment of operation and maintenance costs, interest, and retirement of the obligation assumed in the contract.

"(c) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue.

"(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized to recommend modified cost-sharing and repayment schedules for that portion of the water supplied under this section to a municipal system serving a rural community, whether incorporated or unincorporated, with a population of less than ten thousand, which is not part of a larger population center.

"SEC. 313. The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 per centum of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through deposition of dredged material.

"SEC. 314. Section 4 of the Act of July 5, 1884 (23 Stat. 147), as amended by the Act of March 3, 1909 (33 U.S.C. 5), is hereby amended to read as follows:

"SEC. 4. The Secretary of the Army, acting through the Chief of Engineers, is authorized to operate, maintain, and keep in repair and rehabilitate any project for the benefit of navigation belonging to the United States or that may be hereafter acquired or constructed: *Provided*, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its reconstruction or replacement is essential to efficient and economical maintenance and operation, as herein provided for, the Secretary may proceed with such work: *Provided further*, That the reconstruction or replacement does not increase the facility's scope or capacity or change the location of an existing facility: *And provided further*, That nothing herein contained shall be held to apply to the Panama Canal.".

"SEC. 315. Notwithstanding the provisions of section 1 of the Act of June 21, 1940, entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes" (54 Stat. 497), as amended, the Port of Houston Authority Bridge over Greens Bayou approximately 2.8 miles upstream of the confluence of Green Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge eligible for replacement under such Act.

"SEC. 316. (a) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

"(b) The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this Act, except in those cases where the authorized project includes periodic beach nourishment in accordance with section 1(c) of the Act approved July 28, 1956.

"SEC. 317. (a) Any resolution previously or hereafter adopted by the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives for review of flood control and river and harbor reports is automatically deauthorized if no funds are expended for such survey within five years following its approval.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to submit to the Congress, within six months of enactment of this section, a list of all existing survey studies that have an inactive or deferred status. All surveys on such list may be deauthorized within ninety days thereafter by resolution of either the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

"SEC. 318. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make a study in cooperation with the government of the Trust Territory of the Pacific Islands for the purpose of providing a plan for the development, utilization, and conservation of water and related land resources of such territory. Such study shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

"SEC. 319. (a) In order to alleviate the critical conditions created by a natural disaster in April 1977, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at full Federal expense, flood control measures including, but not limited to, levees, floodwalls, cut-offs, and other appurtenant facilities, and to provide modifications to existing flood protection structures as appropriate, at or in the vicinity of Pikeville, Kentucky, on the Levisa Fork of the Big Sandy River; Pineville, Kentucky, on the Cumberland River; and Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River, that the Chief of Engineers determines are necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $100,000,000: *Provided*, That non-Federal interests shall hold and save the United States free from damages due to the construction works, and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

"(b) With respect to the works authorized by subsection (a) of this section, an economic analysis of the projects is hereby waived.

"SEC. 320. When submitting any report on a project which includes benefits for recreation, the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, under authority of Public Law 83–566, as amended, shall describe the benefits of other, similar recreational facilities within the general area of the project, and develop a unit value for recreational attendance which is consistent with the unit values used to justify existing recreation facilities.

"SEC. 321. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266), as amended, is hereby further amended by adding "(a)" after "SEC. 208." and adding a new subsection "(b)" as follows:

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

"SEC. 322. (a) The Stamford Harbor, Connecticut navigation project which was adopted by the River and Harbor Act of 1919 is hereby modified to provide that for the upcoming maintenance dredging, only, non-Federal interests shall furnish without cost to the United States an area located between the harbor's East Branch Channel and Kosciszko Park for the disposal of the material dredged and contribute 25 per centum of the costs of constructing a dike to retain the sediments. Non-Federal interests shall also acquire all easements and rights-of-way required for construction at the site and hold the United States free of damages incurred during construction. Immediately following completion of the dredging the dike structure will be conveyed to the city of Stamford for future maintenance.

"(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Connecticut, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the Stamford Harbor area for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

"SEC. 323. The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood South, to remove natural shoals as they occur, at an annual average cost of $200,000, allowing commerce to continue: *Provided*, That responsible local interests furnish assurances satisfactory to the Chief of Engineers that they will (a) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (b) accomplish without cost to the United States such alterations, relocations, and/or rearrangement of facilities as required for dredging and disposal of dredged materials; (c) hold and save the United States free from damages due to the dredging and disposal of dredged materials, excluding damages due to the fault or negligence of the United States or its contractors; (d) comply with the applicable provisions of the United Relocations Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, 84 Stat. 1894); and (e) comply with all other Federal and State laws and regulations applicable to the dredging and disposal of dredged materials.

"SEC. 324. (a) Section 203(e) of the Water Resources Development Act of 1976 (Public Law 94–587, 90 Stat. 2946) is amended to read as follows: "The Secretary is authorized to make expenditures from the fund for the phase I design memorandum stage of advanced engineering and design for any project that meets the requirements of subsection (a)(2) of this section, if appropriate non-Federal public authorities, approved by the Secretary, agree with the Secretary, in writing, to repay the Secretary for all the separable and joint costs of preparing such design memorandum, if such report is favorable and the appropriate non-Federal authorities are able, on the basis of the report, to borrow money to pay such costs based on the security of the project or its revenues. Following the completion of the phase I design memorandum stage of advanced engineering and design under this subsection the Secretary shall not transmit any favorable report to Congress prior to being repaid in full by the appropriate non-Federal public authorities for the costs incurred during such phase I. The Secretary is also authorized to make expenditures from non-Federal funds deposited in the fund (as an advance against construction costs) for costs incurred during such phase I if the Secretary agrees with the appropriate non-Federal authorities to reimburse said costs if the report is not favorable and the appropriate non-Federal authorities are therefore not able to borrow money to pay such costs based on the security of the project or its revenues: *Provided*, That payments by the Secretary under this subsection for phase I reimbursement shall be subject to appropriations Acts.";

"(b) Section 203(g)(1) is amended by striking "anticipated" in the first sentence and by adding at the end of the third sentence ", as determined in the agreement between the Secretary and the non-Federal authorizing";

"(c) Section 203(g)(2) is amended to read as follows:

"(A) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned (1) by acts of God, (2) failure on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design or (3) are otherwise necessary to be paid by the United States to permit operation of the project in accordance with the initial determination of feasibility: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

"(B) Any Federal funds required to complete the project pursuant to subparagraph (A)(3) of subsection (g) shall be repaid to the Treasury with interest by the non-Federal public authorities from revenues received from the sale of power. Payments shall commence following retirement of all bonds issued by the non-Federal public authorities, for the project. Interest payable under this subparagraph shall be at the rate the Federal Government must pay on such obligations at the time of payment pursuant to subparagraph (A)(3) with accural of interest beginning after all prior bonds are retired.";

and

"(d) Section 203(h) is amended by inserting "and (2)" after "(g)(1)" in the first sentence.

"(e) Section 203 of the Water Resources

Development Act of 1976 (Public Law 94-587, 90 Stat. 2946) is amended as follows—

"(1) subsection (a)(1) is amended by striking "in Alaska";

"(2) subsection (b) is amended by striking "Alaska" in the first sentence; and

"(3) subsection (i) is amended by striking "Alaska".

"SEC. 325. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make a study of the possible rehabilitation of the hydroelectric potential at former industrial sites, millraces, or other types of facilities constructed in the past, and the possible conversion of such sites for use as new, small hydroelectric projects that will serve rural areas or communities. The Secretary of the Army, acting through the Chief of Engineers, is further authorized and directed to provide technical assistance to local public agencies or cooperative in any such rehabilitation at sites identified under this section, or that would qualify under the terms of this section.

"SEC. 326. (a) That those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described as follows, are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States:

"All of those tracts or parcels of land lying and being in Craven County, North Carolina, in the city of New Bern between the high water mark of Trent River as it formerly existed, and the bulkhead marking the southern boundary of the lands of the New Bern Redevelopment Commission Project Numbered NCR-71, and more particularly described as follows:

"TRACT ONE

Beginning at a point which lies south 12 degrees 12 minutes west 499.296 feet from the southwest corner of the intersection of Tryon Palace Drive and United States Highway North 70; and running thence along the former high water mark of Trent River, the following courses and distances:

north 79 degrees 07 minutes 24 seconds west 2.65 feet;

north 8 degrees 20 minutes east 12.45 feet;

north 44 degrees 57 minutes west 30.00 feet;

north 89 degrees 45 minutes west 22.00 feet;

south 66 degrees 45 minutes west 35.00 feet;

south 12 degrees 25 minutes west 76.00 feet;

north 76 degrees 35 minutes west 40.00 feet;

north 7 degrees 20 minutes east 54.00 feet;

north 24 degrees 45 minutes east 43.00 feet;

north 24 degrees 45 minutes west 29.00 feet;

north 53 degrees 30 minutes west 26.00 feet;

north 15 degrees 00 minutes east 21.00 feet;

north 77 degrees 15 minutes west 15.00 feet;

north 10 degrees 00 minutes east 19.00 feet;

north 83 degrees 45 minutes west 28.00 feet;

south 37 degrees 55 minutes west 26.00 feet;

south 20 degrees 45 minutes west 26.00 feet;

south 10 degrees 00 minutes west 30.00 feet;

south 49 degrees 45 minutes west 34.00 feet;

north 84 degrees 55 minutes west 24.00 feet;

north 12 degrees 10 minutes east 100.00 feet;

east 7.00 feet; north 11 degrees 00 minutes east 56.00 feet;

north 28 degrees 15 minutes west 34.00 feet;

north 89 degrees 35 minutes west 15.00 feet;

south 17 degrees 40 minutes west 23.00 feet;

south 12 degrees 45 minutes west 44.00 feet;

north 78 degrees 30 minutes west 85.00 feet;

south 11 degrees 00 minutes west 74.00 feet;

south 79 degrees 35 minutes east 9.00 feet;

south 6 degrees 30 minutes west 39.00 feet;

north 84 degrees 35 minutes west 41.00 feet;

north 9 degrees 35 minutes east 124.00 feet;

north 76 degrees 50 minutes west 54.00 feet;

south 11 degrees 00 minutes west 108.00 feet;

south 84 degrees 00 minutes west 32.00 feet;

north 7 degrees 30 minutes east 71.00 feet;

north 72 degrees 00 minutes west 32.00 feet;

north 7 degrees 35 minutes east 39.00 feet;

north 79 degrees 50 minutes west 29.00 feet;

south 13 degrees 20 minutes west 37.00 feet;

south 42 degrees 50 minutes west 22.00 feet;

north 64 degrees 15 minutes west 13.00 feet;

south 57 degrees 20 minutes west 14.00 feet;

north 82 degrees 15 minutes west 60.00 feet;

north 80 degrees 00 minutes west 108.00 feet:

north 52 degrees 30 minutes west 40.00 feet;

north 80 degrees 50 minutes west 32.00 feet;

north 79 degrees 00 minutes west 32.00 feet;

north 9 degrees 30 minutes east 16.00 feet;

north 86 degrees 00 minutes west 17.00 feet;

south 15 degrees 15 minutes west 40.00 feet;

north 77 degrees 00 minutes west 54.00 feet;

south 11 degrees 10 minutes west 157.00 feet;

south 78 degrees 35 minutes east 5.00 feet; and

south 9 degrees 40 minutes west 87.92 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

thence with the outer edge of said bulkhead the following courses and distances:

South 85 degrees 59 minutes 41 seconds east 34.92 feet;

north 48 degrees 37 minutes 43 seconds east 135.44 feet;

south 86 degrees 14 minutes 57 seconds east 574.09 feet;

south 41 degrees 01 minutes 58 seconds east 134.16 feet;

south 86 degrees 11 minutes 18 seconds east 62.96 feet;

north 48 degrees 44 minutes 56 seconds east 124.48 feet and north 79 degrees 07 minutes 24 seconds west 2.99 feet to the place of beginning, containing 2.83 acres.

TRACT TWO

Beginning at a point in the eastern line of Middle Street at its intersection with the former high water mark of Trent River, said place of beginning being south 9 degrees 41 minutes west 702.783 feet along the eastern line of Middle Street from the southeast corner of Middle Street and Tryon Palace Drive, and running thence from this place of beginning along the former high water mark of Trent River north 82 degrees 46 minutes 30 seconds west 12.256 feet;

thence north 9 degrees 48 minutes east 101.36 feet;

thence north 78 degrees 41 minutes west 36.37 feet;

thence south 9 degrees 11 minutes west 110.69 feet to the outer edge of the existing bulkhead of the New Bern Redevelopment Commission;

thence with the outer edge of the existing bulkhead of the Aew Bern Redevelopment Commission south 85 degrees 59 minutes 41 seconds east 120.50 feet to a point where the existing bulkhead intersects the former high water mark of Trent River;

thence north 82 degrees 46 minutes 30 seconds west 72.544 feet along the former high water mark of Trent River, to the place of beginning; containing 0.09 acre.

TRACT THREE

Beginning at a point which is located south 80 degrees 00 minutes east 50 feet, south 9 degrees 50 minutes west 313.31 feet;

south 5 degrees 54 minutes 24 seconds west 155.79 feet;

south 2 degrees 08 minutes east 46.035 feet and south 6 degrees 20 minutes 48 seconds east 1.86 feet from the intersection of the southern line of Tryon Palace Drive and the center line of the Atlantic and North Carolina Railroad; and running thence from this place of beginning with the outer edge of the existing bulkhead of the New Bern Redevelopment Commission the following courses and distances:

south 86 degrees 41 minutes 04 seconds east 18.78 feet;

thence south 41 degrees 08 minutes 50 seconds east 337.44 feet and south 85 degrees 59 minutes 41 seconds east 40.01 feet;

and running thence with the former high water mark of Trent River the following courses and distances:

north 9 degrees 34 minutes east 165.69 feet;

north 79 degrees 25 minutes west 69.00 feet;

north 74 degrees 05 minutes west 73.00 feet;

north 8 degrees 58 minutes east 162.00 feet;

north 47 degrees 30 minutes west 65.00 feet;

south 11 degrees 20 minutes west 101.50 feet;

north 80 degrees 20 minutes west 21.00 feet;

north 9 degrees 50 minutes east 133.00 feet;

north 35 degrees 45 minutes west 33.00 feet;

north 28 degrees 20 minutes west 32.00 feet;

north 59 degrees 28 minutes 42 seconds west 9.76 feet;

south 2 degrees 00 minutes west 69.00 feet;

south 9 degrees 40 minutes west 91.00 feet;

south 89 degrees 10 minutes west 13.00 feet;

south 20 degrees 10 minutes west 39.00 feet;

south 47 degrees 10 minutes west 58.36 feet; and

south 6 degrees 20 minutes 48 seconds east 1.86 feet to the place of beginning; containing 1.20 acres.

"Being that portion of the waters of Trent River which were bulkheaded and filled under permit bearing date January 16, 1970, addressed to the Redevelopment Commission of the City of New Bern, issued by the Wilmington District, Corps of Engineers, by authority of the Secretary of the Army.

"(b) The declaration in subsection (a) of this section shall apply only to portions of the above described area which are either bulkheaded and filled, or occupied by permanent pile-supported structures, plans for such work having been approved by the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 327. Nothing in any prior Act of Congress, committee report, or congressional

document, shall be construed as requiring the State of Tennessee in connection with the mitigation of wildlife losses attributable to the West Tennessee tributaries feature, Mississippi River and tributaries project authorized by the Flood Control Acts of June 30, 1948, November 7, 1966, and March 7, 1974, to furnish assurances that it will hold and save the United States free from any claims for damages resulting from such mitigation.

"SEC. 328. (a) The authorization for the Kaw Lake project, Arkansas River, Oklahoma contained in section 203 of the Flood Control Act of 1962 (Public Law 87–874) is hereby amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to design, construct, and provide treatment facilities and a regional conveyance system of water from Kaw Lake for the ownership, use, operation, and maintenance of non-Federal public members of the Kaw Reservoir Authority at an estimated cost of $82,000,000.

"(b) Non-Federal public members acting through the Kaw Reservoir Authority, who are benefitted by the facilities to be constructed at initial Federal costs under this Act, shall repay such costs and the Federal costs of any interim maintenance of the facilities in accordance with the principles of the Water Supply Act of 1958 (Public Law 85–500): *Provided*, That the allocation and initiation of these repayment requirements shall be scheduled by the Secretary of the Army, as he determines to be equitable, considering factors such as the date of initiation and extent of usage of the facilities.

"SEC. 329. The project for flood control on Beargrass Creek in Jefferson County, Kentucky, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the final report of the Chief of Engineers, at an estimated cost of $2,900,000. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to this project. This shall take effect upon submittal to the Secretary of the Army by the Chief of Engineers and notification to Congress of the approval of the Chief of Engineers.

"SEC. 330. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to prosecute the plan for Trimble Wildlife Area replacement, in substantial accordance with the feasibility report, dated September 1976, with such changes as may be within the discretion of the Chief of Engineers, at an estimated cost of $3,970,000.

"SEC. 331. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to take necessary remedial measures to assure structural integrity and flood control capacity of the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona, constructed under authority of section 304 of Public Law 83–209 (67 Stat. 449) approval August 7, 1953, at an estimated cost of $7,000,000.

"(b) The Secretary of the Army, acting through the Chief of Engineers, shall make a study of such plans as he may deem reasonable and appropriate for the rehabilitation or reconstruction of McMicken Dam in Trilby Wash area at an estimated cost of $250,000.

"(c) All authority of the Secretary of the Air Force over such detention basin and channel is transferred to the Secretary of the Army.

"Sec. 332. The project for the town of Niobrara, Nebraska, as authorized by section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby modified to authorize and direct the Secretary of of the Army, acting through the Chief of Engineers, to relocate existing Nebraska Highway Number 12 through the relocated town of Niobrara, Nebraska, with necessary connections to Nebraska Highway Number 14, at an estimated cost of $1,600,000.

"SEC. 333. The Saint Francis River Basin Project, Arkansas and Missouri, as authorized by the Act of June 15, 1936 (49 Stat. 1508), is modified to require the Secretary of the Army, acting through the Chief of Engineers, to study improvements for flood control purposes in Saint Francis Lake and Floodways in Poinsett County, Arkansas, in accordance with the reconnaissance report thereon by the Corps of Engineers, dated April 15, 1977. Such study shall be transmitted to the Congress ten months after enactment of this Act.

"SEC. 334. (a) Section 8 of the Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin reclamation project in Idaho, and for other purposes" (90 Stat. 1211), approved September 7, 1976, is amended to read as follows:

"SEC. 8. (a) Beginning on December 31, 1977, and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act, listing each amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act. Such report shall not be disclosed to the public in a form which would reveal the names of the claimants and shall be maintained in such a manner as will protect the privacy of such claimants.

"(b) Information acquired by the Secretary from or about claimants under this Act shall (1) be maintained in such a manner as will protect the privacy of such claimants and the confidentiality of information provided by such claimants, and (2) shall not be required to be disclosed under section 552 of title 5, United States Code, but shall be deemed a record which is contained in a system of records for purposes of section 552a of such title.".

"(b) The amendments made by this section shall be effective as if enacted on September 7, 1976.

SEC. 335. The project of Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbor Act of 1950 (Public Law 81–516), is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

"SEC. 336. (a) The water resources development project for Harlan County Lake on the Republican River, Nebraska, authorized by the Act of August 18, 1941 (Public Law 228, Seventy-seventh Congress), as amended, is further amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to replace, renovate, and upgrade the existing Federal facilities of the project, and provide for maintenance and operation of those facilities.

(b) The work authorized by this section shall include purchase of a dredge, dredging channels, construction of breakwaters, replacement and extension of outdated water access facilities, the performance of necessary bank stabilization and appropriate filing activities, and such other items as are identified in connection with these activities located at Gremlin Cove, Patterson Harbor, Hunter Cove, and Methodist Cove/Pheasant Point in the June 1977, report of the Army Corps of Engineers.

(c) All work and activities authorized by this section shall be carried out at Federal expense, at a first cost presently estimated to be $4,811,100.

SEC. 337. The Act entitled 'An Act to authorize construction of the Mississippi River-Gulf Outlet', approved March 29, 1956 (Public Law 84–455, 70 Stat. 65), as amended by section 186 of Public Law 94–587 (90 Stat. 2941), is further amended by deleting all after the colon following the phrase 'cost of $88,000,000' and substituting therefor the following: "Provided, That the same having been found economically justified by obsolescence of the existing industrial canal lock and increased traffic, the replacement and expansion of said lock or the construction of an additional lock in the area of the existing lock is hereby approved, said new lock to have minimum dimensions, of one thousand two hundred feet long, one hundred and fifty feet wide, and fifty feet over sills, with immediate connecting channels, thirty-six feet by five hundred feet except that width may be reduced to not less than three hundred feet between the Mississippi River and Florida Avenue if in the opinion of the Chief of Engineers such reduction is necessary to avoid unacceptably severe relocations, and that in recognition of the importance of this connection to the Nation's economy and defense, the Chief of Engineers will assure beneficial completion at the earliest possible date: Provided further, That the conditions of local cooperation specified in House Document Numbered 245, Eighty-second Congress, shall likewise apply to the construction of said lock and connecting channels, except that the additional costs, as determined by the Chief of Engineers, of lands, easements, and rights-of-way acquisition and relocations of residences, industries and utilities beyond those of the Meraux site shall be borne by the United States: And provided further, That such conditions of local cooperation shall not apply to the relocation, replacement, modification, or construction of bridges or to the substitution of tunnels (at a cost not to exceed $94,500,000) required as a result of the construction of said lock and connecting channels if the Secretary of the Army, after consultation with the Secretary of Transportation, determines prior to the construction of such bridges or to the substitution of tunnels that the Federal Government will not assume the cost of such work in accordance with section 132(a) of the Federal-Aid Highway Act of 1976 (Public Law 94–280); and before construction of the bridges may be initiated the non-Federal public bodies involved shall agree pursuant to section 221 of the Flood Control Act of 1970 (Public Law 91–611) to (a) hold and save the United States free from damages resulting from construction of the bridges or the substitution of tunnels and their approaches, (b) subject to reimbursement as aforesaid, provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the bridges and their approaches, and (c) maintain and operate the bridges or tunnels and their approaches after construction is completed.

SEC. 338. (a) The project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of Representatives dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976, is hereby further modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, and embankments therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Alabama, interstate agency, municipality, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approval plan for the general geographical area of the dredging

activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 339. Section 5 of the Flood Control Act approved August 18, 1941 (33 U.S.C. 701n) is amended by inserting at the end thereof the following: "The Chief of Engineers is also authorized to accomplish advance measures using amounts in the emergency fund, when in his discretion local and State efforts are unable to complete emergency work for control of lava flow, in order to provide the minimum necessary protection to prevent loss of life and serious damages to improved property when such volcanic activity is reasonably imminent.".

SEC. 340. The Secretary of the Army is authorized to transfer funds to the relevant State agencies for the construction of fish hatcheries authorized under the Lower Snake River Fish and Wildlife Compensation Plan authorized under section 102 of Public Law 94–587 (90 Stat. 2971), the Water Resources Development Act of 1976 enacted on October 22, 1976.

SEC. 341. The Mississippi River-Gulf Outlet, as authorized by Public Law 84–455, is hereby redesignated as the "Allen J. Ellender Ship-Channel" and any Federal law, regulation, map, or other document referring to such outlet shall be held to refer to the outlet as the Allen J. Ellender Ship Channel.

TITLE IV—RIVER BASIN MONETARY AUTHORIZATIONS

SEC. 401. In addition to previous authorizations, there is hereby authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

Basin	*Act of Congress*	*Amount*
Alabama-Coosa River Basin	Mar. 2, 1945	$6,000,000
Arkansas River Basin	June 28, 1938	3,000,000
Brazos River Basin	Sept. 3, 1954	31,000,000
Columbia River Basin	May 17, 1950	14,000,000
Mississippi River and Tributaries	May 15, 1928	130,000,000
Missouri River Basin	June 28, 1938	96,000,000
North Branch, Susquehanna River Basin	July 3, 1958	47,000,000
Ohio River Basin	June 22, 1936	28,000,000
Ouachita River Basin	May 17, 1950	1,000,000
San Joaquin River Basin	Dec. 22, 1944	78,000,000
South Platte River Basin	May 17, 1950	9,000,000

SEC. 402. The above authorization for the Columbia River Basin shall include an amount not to exceed $1,000,000, which shall be available for the local flood protection projects authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 180), thereby increasing the total authorization for said local flood protection projects to a sum not to exceed $16,000,000.

SEC. 403. The total amount authorized to be appropriated by this title shall not exceed $443,000,000.

SEC. 404. This title may be cited as the "River Basin Monetary Authorization Act of 1977".

TITLE V—MACROECONOMIC INLAND FREIGHT TRANSPORTATION STUDY

SEC. 501. This title may be cited as "The Comparative Macroeconomic Inland Freight Transportation Study Act of 1977".

SEC. 502. The Congress finds that there is a need to determine the competitive effect of Federal and State subsidies, direct and indirect, and taxes on the different modes of inland freight transportation.

SEC. 503. The Secretary of Transportation is directed to conduct a thorough and complete study regarding the economic impact and competitive effects of taxes, subsidies, user fees, and other similar charges on the different modes of inland freight transportation. Such study shall include an analysis of the amount and competitive effect of Federal and State subsidies, direct and indirect, and taxes on the different modes of inland freight transportation, and the types of user charge, if any, that would be equitable to all modes.

SEC. 504. The Secretary of Transportation shall submit to the President and the Congress a final report containing the results of the study conducted under subsection 503 within eighteen months after the date of enactment of this Act. Such report shall include such recommended legislation and administrative actions as the Secretary deems necessary and appropriate.

SEC. 505. There are authorized to be appropriated not more than $1,000,000 to the Secretary of Transportation to carry out the purposes of this section.

COMPARISON OF THE NEW DOMENICI AMENDMENT TO H.R. 8309 ON WATERWAY USER CHARGES WITH THE BILL ALREADY ADOPTED BY THE SENATE (H.R. 5885)

NEW DOMENICI AMENDMENT	H.R. 5885
Title I:	
(1) Authorizes new Locks and Dam 26, together with requirement for an Upper Mississippi River Master Plan.	(1) Identical.
(2) Creates an 11-year phase-in of a comprehensive waterway user charges as follows:	(2) Established a 10-year phase-in of user charges as follows:
F.Y. 1980: 4¢/gallon tax (in lieu of 20 percent recovery on operations and maintenance costs)	F.Y. 1980: 20 percent of O&M
F.Y. 1981: 4¢/gallon tax (in lieu of 20 percent of O&M)	F.Y. 1981: 40 percent of O&M
F.Y. 1982: 40 percent of O&M (with credit for 6 cents tax)	F.Y. 1982: 60 percent of O&M
F.Y. 1983: 60 percent of O&M (with credit for 6 cents tax)	F.Y. 1983: 80 percent of O&M
F.Y. 1984: 80 percent of O&M (with credit for 6 cents tax)	F.Y. 1984: 100 percent of O&M
F.Y. 1985: 100 percent of O&M (with credit for 6 cents tax)	F.Y. 1985: 100 percent of O&M+10 percent capital
F.Y. 1986: 100 percent of O&M+10 percent of capital (with credit for 6 cents tax)	F.Y. 1986: 100 percent of O&M+20 percent capital
F.Y. 1987: 100 percent of O&M+20 percent of capital (with credit for 6 cents tax)	F.Y. 1987: 100 percent of O&M+30 percent capital
F.Y. 1988: 100 percent of O&M+30 percent of capital (with credit for 6 cents tax)	F.Y. 1988: 100 percent O&M+40 percent capital
F.Y. 1989: 100 percent of O&M+40 percent of capital (with credit for 6 cents tax)	F.Y. 1989 and thereafter: 100 percent O&M+50 percent capital
F.Y. 1990 and thereafter: 100 percent O&M+50 percent of capital (with credit for 6 cents tax)	
(3) Provides for a possible Congressional Veto of user charges prior to implementation.	(3) Identical.
(4) Provides that user charges, even after the full phase-in, can be no more than 1 percent of the value of the delivered price of the commodity.	(4) Identical.
(5) DOT impacts study to Congress in 1982 and every two years thereafter.	(5) Similar, but only provided for a 1982 report.
Title II: Accepts the House's provision for a fuel tax on waterway carriers, starting in F.Y. 1980 at 4 cents a gallon, rising to 6 cents in F.Y. 1982, with dollar for dollar credit against the comprehensive user charges in Title I.	No similar provision.
Title III: Includes various water resources projects, unrelated to Locks and Dam 26.	Identical.
Title IV: Includes additional river basin monetary authorizations.	Identical.
Title V: Includes the Sen. Melcher macroeconomic transportation study.	Identical.

GENERAL STATEMENT

Two of the more controversial issues to come before the Committee on Environment and Public Works are addressed in this bill: authorization of the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Ill., and the imposition of waterway user charges.

It is the view of the Committee that these two issues must be resolved together, because inland waterways are the sole exception to the principle of both water resources and national transportation policy that direct beneficiaries repay a portion of the Federal costs. These issues are, in fact, linked. They are different facets of the same issue: How the Federal Government can best promote an efficient inland navigation system that is equitable to other transportation forms and the Federal taxpayer. The administration has endorsed the linking of these two issues.

The issue of replacement of Locks and Dam 26 is not new to the Committee on Environment and Public Works. The controversy surrounding this proposed project came to the attention of the committee in 1975 when the Federal district court in the District of Columbia ruled against the Secretary of the Army's authorization for replacement.

During the ensuing time, a great deal of discussions were devoted by the Committee to the proposed rehabilitation or replacement of the facility at Alton, Ill. In 1976, the Committee held 5 days of hearings and authorized a replacement lock and dam as recommended by the Secretary of the Army and the Chief of Engineers together with a system of user charges similar to this bill.

The Senate was unable to approve the Committee's recommended legislation on Locks and Dam 26 and user charges during the closing days of the 94th Congress. Following adjournment, the Committee continued to consider proposed alternative methods of providing a safe and efficient lock and dam at this point on the Mississippi River. All recommended alternatives were carefully considered and hearings conducted again this year to obtain additional views of interested parties and those of the new Carter administration.

The proposed replacement of Locks and Dam 26 raised questions regarding policies of the Army Corps of Engineers with respect to repair or replacement of facilities which are no longer structurally sound or economically efficient. Prior to 1975, the corps replaced obsolete facilities under the authority of the act of March 3, 1909. If the Secretary of the Army approved, based on a finding that a reconstruction was essential for continued use and consistent with other proposed improvements for the system, work could go forward without specific authorization, subject only to the appropriation of funds.

This authority was challenged in the courts and the Secretary of the Army has since taken the position that he will request specific authority for projects such as locks and dam 26. This bill provides the authorization for this project.

But the Committee recognizes that the question of Locks and Dam 26 is not an isolated issue. It must be addressed and resolved in the context of an overall inland navigation program, which also addresses the question of who is to pay.

According to calculations of the Corps of Engineers, two-thirds of the annual "benefits" from a rebuilt locks and dam 26 are due to "delay reduction." That is a $53,411,000 annual benefit to barge operators, and it is a taxpayer-provided benefit from just this one project. It is the committee's view that those taxpayer-provided benefits should be, in part, recovered by the Federal Government not simply accrued by the barge operators. A system of waterway user charges achieves this objective.

Since Congress initiated the inland navigation program in 1824, considerable sums of money have been appropriated for improving and maintaining the navigable waterways of the United States. The committee has determined that water transportation continues to have an important and useful role in the national economy and is an integral part of the Nation's transportation system. A viable waterway system is important not only to shippers but also to consumers of goods. It is clearly in the national interest to have an inland waterway network in sufficient repair to move goods economically and efficiently from producer to consumer.

According to a study by the Congressional Budget Office, the inland waterway system users received a Federal subsidy exceeding 40 percent of the industry's revenues. The rail, air, and highway modes received subsidies from the general fund in the range of 1 to 3 percent of industry revenues. In contrast to other modes, waterway users make no contribution to operating and maintaining their rights of way.

Taxpayer-provided improvements to a single mode necessarily create imbalances. Because of this relationship, the committee approved the provision authorizing collection of user charges on the inland waterways. Such charges are to be imposed over a 10-year period and are designed eventually to collect 100 percent of the operation and maintenance costs and 50 percent of the new construction costs for the inland system. The committee believes balanced transportation and fairness require that the commercial users of the federally supported transportation facilities should pay a portion of the costs of developing and maintaining these facilities in the future.

It will be increasingly hard to win taxpayer, and thus political, approval of continued financing for new work on the waterways without some form of user charge. A gradual imposition of a reasonable user charge system meets that problem.

The waterways industry testified that it believed there was need for more study before action was taken to implement a waterway user charge. The committee believes that a number of safe guards are built into this legislation to protect the interests of the waterway industry and the pubic, while creating an action mechanism establishing user charges. Moreover, the bill, based on testimony from concerned waterway interests, provided protection of marginal waterways from economic hardship.

During the period lasting from enactment until January 1, 1979 the Department of Transportation will conduct hearings, issue draft legislations, review comments, and study this issue before issuing final regulations. Once these regulations are sent to Congress, they are subject to a special provision allowing Congress time to reject or amend them.

At the end of fiscal year 1982, 3 years after the effective date of the charges, the administration will report to the Congress and the public on the actual effects, allowing for a possible mid-course correction. The committee believes this is a reasonable approach and one that will protect taxpayers and consumers.

WATERWAY USER CHARGES

Section 303 establishes, for the first time in our Nation's history, a system of user charges to be paid by the commercial cargo vessels that use the 25,000 miles of federally built and maintained inland waterways. Federal waterway expenditures are now a full Federal subsidy to the barge operators with no cost recovery. The schedule of charges in the bill, to be implemented in phases over a decade beginning October 1, 1979, eventually would recover 100 percent of the Federal costs of waterway operations and maintenance and 50 percent of new waterway construction costs, based on the appropriations in the preceding fiscal year. This section applies only to commercial, shallow-draft vessels. It does not apply to recreational vessels, which already pay a fuel tax, nor does it apply to international traffic. Specifically excluded from the charge system are waterways not operated and maintained by the Federal Government, such as the New York State Barge Canal, which is operated by the State of New York.

IMPLEMENTATION

On January 1, 1979, administrative regulations setting a specific user charge schedule will be submitted to the Congress for review. Prior to that time, there is a period of 10 months when the Secretary of Transportation, in consultation with the Secretary of the Army, will study alternatives and publish preliminary user-charge regulations. During that period, not less than 45 days must be allowed for public comment and at least one public hearing must be held on alternatives to allow all interested parties to comment.

General guidance is provided to the Secretary on how to establish user charges that are reasonable and equitable.

The Secretary must consider such factors as traffic volumes and seasonal peaks in setting charges, and he may establish user charges that utilize techniques such as licensing fees, congestion charges, ton-mile charges, lockage fees, capacity fees, or any other equitable system or combination thereof. The Secretary must set the charges so they do not impose any unreasonable economic burden on the users of any specific waterway segment. Thus, while variations in the charges on various segments are permitted, they must be undertaken with care to assure they will not cause the closing of any segment or economic hardship on any particular use. The Secretary could also determine that a nearly uniform system—such as license fees or lockage fees—would be the most effective, practical, and reasonable way of developing a user charge system that recovers a portion of the annual investment of the taxpayers. The committee was impressed by arguments for possible congestion tolls as a way to provide cost recovery while improving waterway efficiency

Following promulgation of final regulations on January 1, 1979, a period of 60 days is provided to give the Congress an opportunity to review the charges and their impact, and to disapprove or pass legislation to amend the regulations by joint resolution. This period of 60 days provides time to examine the actual effects on waterways users and the balance between competing forms of transportation. Such a well-controlled, cautious legislative experiment is preferable to additional theoretical studies in determining what the real economic impact of user charges will be.

The bill includes a procedure for resubmittal and consideration of amended regulations, similar to the timetable in the initial congressional veto procedure. This also extends to any significant changes in the regulations, such as a restructuring that would eliminate or add any maior form of cost recovery, or sharply alter the cost impacts on any waterway segment or group of users. Resubmittal is not necessary for minor, conforming changes that may be needed periodically to assure the efficient and equitable collection of user charges.

On October 1, 1979, if the regulations are not disapproved, the percentage of annual costs noted below will be collected from the commercial users of the inland waterways.

The schedule is based on estimates by the Corps that it spent $140 million for operating and maintaining the inland waterways and $240 million for construction on the inland waterways during fiscal year 1976.

Fiscal year	Operation and maintenance percentage	Construction percentage	Estimated dollar recovery
1978	(1)	----	----------
1979	(1)	----	----------
1980	20	----	$28,000,000
1981	40	----	56,000,000
1982 [2]	60	----	84,000,000
1983	80	----	112,000,000
1984	100	----	140,000,000
1985	100	+10	164,000,000
1986	100	+20	188,000,000
1987	100	+30	212,000,000
1988	100	+40	236,000,000
1989 and thereafter	100	+50	260,000,000

[1] No recovery.
[2] Study due to advise Congress on impact of initial phase-in.

REASONS FOR THE PROVISION

The initial phase of national waterway improvements has been accomplished at full Federal expense: Some $4 billion to build the system, plus approximately an equal sum to operate and maintain it.

While free waterway transportation was a legitimate Federal interest when there was need to find a mode of transportation to compete with the railroad monopolies, partially-free waterways are sound public policy today. The expenses are growing dramatically, major replacements and expansions are contemplated and competing modes are experiencing financial difficulty.

In a real sense, the United States appears ready to embark on a major program to rehabilitate its inland waterways, now consisting of 25,000 miles of improved waterways and 212 navigational locks and dams. Costs estimated at $3.4 billion in lock building remain to complete projects now authorized. Projects valued at billions of dollars more are under consideration. As the Nation enters this second phase—the phase of major reconstruction typified by the authorization in this bill to rebuild locks and dam 26 at Alton, Ill.—the question of who pays for those improvements must be addressed.

The committee believes that participation by the users in the financing of waterway operations and improvements will lead to a more realistic assessment of the needs for improvements, since the users will no longer be asking for something "free." It is expected that users will focus their attention on those new projects that will offer real benefits. Once such an improvement is paid for, even in part, by the users, the Congress can be assured that the expenses are more likely to be in the Nation's interest. A user charge will provide a real-world market test of a proposed project. If the users are willing to repay a portion of the cost of the project, even if spread throughout the system, then the Congress can, with far greater confidence, assume the project is economically viable. By minimizing the current subsidy advantage to the waterway users, the committee also believes it will result in a more rational national approach to transportation policy.

The barge industry has more than doubled its national market share in recent years. If this had been achieved strictly through efficiency, this increase would be commendable. But as important in this growth has been the existence of a free right of way provided to the industry, at the expense of competitors who must either finance their own right of way or pay taxes toward its upkeep.

Complete Federal financing of waterway construction and operation has led to several problems. The traffic delays at Locks and Dam 26 are symptomatic of the larger issues at stake. The capacity problem is a direct function of free funding. As long as a free system is provided, delays and future capacity problems are to be expected.

STUDIES AND ANTICIPATED RESULTS

President Carter is the eighth successive President to support the imposition of waterway user charges. Because of this broad interest, many recent studies have been made of waterway user charges and their possible impact. For example, the 1973 report of the National Water Commission recommended user charges for full recovery of operation, maintenance, and capital costs:

"There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways."

In September 1975, Transportation Secretary Coleman stated in the study of National Transportation Policy:

"Economic efficiency and consideration of equity also lead in the direction of some form of cost sharing. Insofar as it is practicable and administratively feasible, the identifiable beneficiaries of federally improved and maintained waterways should bear some share of development and operating costs through a system of user charges."

A November 1975 report by the General Accounting Office found only minimal impact and many benefits from imposition of user charges to recover operation and maintenance costs.

The Department of Transportation June 1976 study of "Regional Market, Industry and Transportation Impacts of Waterway User Charges" concluded that: "Predictions of substantial, generalized impacts on water carriers as the result of user charges appear unsupported. . . ."

A December 1976 study for the Corps of Engineers "Potential Impacts of Selected Inland Waterway User Charges," found little noticeable effect on most waterways from cost recovery systems.

Probably the most thorough review was the three-volume study issued in March 1977, by the Department of Transportation. "Modal Traffic Impacts of Waterway User Charges."

Among its conclusions:

"It was found that delivered commodity price impacts rarely exceeded 1 or 2 percent for 100 percent recovery of Federal O.M. & R. (operation, maintenance, and repair) expenditures and were more commonly only a fraction of 1 percent. Projected market forces other than user charges were generally found to have a more substantial impact than navigation cost recovery. . . .

"In general, these price and income effects were measured in fractions of 1 percent, although certain commodities may experience slightly larger increases. . . .

"Although segment tolls are relatively high in comparison to other rivers, coal-traffic on the Monongahela, Allegheny, and Kanawha Rivers should not be adversely affected by user charges. Average barge haulage of coal is between 10 and 25 miles on the rivers. Overall impacts of user charges on final delivered price are minimal and less than 5 percent of barge rates.

"A phased implementation of user charges would limit absorption of the tolls by barge and terminal operators by allowing natural traffic growth to offset any traffic diversion caused by the tolls and by permitting the orderly retirement of uneconomic facilities and equipment.

"User charges for the recovery of 100 percent of Federal O.M. & R. expenditures on the inland waterway system would have small impacts on the cost of producing steel in the areas bordering the river system—a fraction of 1 percent of total costs even for the worst case."

The question of impact was the center of the committee's inquiry during its hearings. William Vickerey, professor of political economics at Columbia University and a leading transportation economist, in testimony before the Committee on Environment and Public Works stated:

"User charges are not costs to the society. They are transfers. Any revenue that is obtained by user charges is going to be used in some other way to reduce taxes somewhere else. The net effect is going to be to benefit consumers."

Harry Gobrecht, director of transportation and physical distribution of the U.S. Gypsum Co., which ships both on company-owned barges and by rail, was asked during Committee hearings if user charges would "have a big negative impact on your overall company's transportation costs?" He responded:

"No. I firmly believe, and the reason I am here, is that with the imposition of the user charges, it is going to have the effect of allowing the railroads to compete more equitably throughout the United States. I believe that if this occurs, then there is going to be an advantage in railroad freight rates that will far offset the modest increases in the imposition of the user charges."

In short, Mr. Gobrecht noted the possibility that the cost to consumer of any modest increase in barge rates will be more than offset by improved rail rates in those areas where rail is the only mode of transportation. Accordingly, the consumers of the Nation may actually benefit from the imposition of user charges. When coupled with savings to the taxpayer, user charges become a precondition to sound public policy with respect to inland navigation.

Testimony was received from groups strongly opposing user charges. Robert F. Stauffer, general counsel, National Coal Association testified:

"Such charges would not only impede the orderly development and distribution of this vast, low-cost source of energy, but it would also have extensive adverse impact on the coal industry itself, on industries dependent upon coal, and on America's consumers of energy . . . If user charges are imposed, we certainly see the cost of about 125 million tons of coal going up."

The members considered more likely the arguments involving barged coal costs stated in the March 1977 study of the Department of Transportation:

"Overall impacts of user charges on final delivered price are minimal and less than 5 percent of barge rates . . . Diversion to alternative distribution patterns is unlikely given that average user charges on coal traffic are only 11 cents per ton at 100 percent recovery levels."

Testimony showed that the price of coal had risen 125 percent over the last 3 years, with coal demand still rising. If a 125-percent price increase had not damaged coal usage, the committee is persuaded that the cost impact of waterway user charges, averaging less than 1 percent of the value of coal

after the full decade-long phase-in, is likely to have a negligible adverse impact on the coal industry.

Section 304 makes any commercial user of the inland waterways that fails to pay a required user charge subject to a civil fine of up to $5,000 a day, plus a prohibition against the use of any Federally operated and maintained lock during the period of violation.

Section 305 requires the Secretary of Transportation, in cooperation with the Secretary of Army, to submit to Congress by October 1, 1982, 3 years after the date the user charges become effective, a report on the implementation of section 4 to provide the Congress with the information it would need to make a possible midcourse correction, if appropriate. The Committee believes this is an important section that assures reasonable implementation of user charges.

This examination will cover the impacts, if any, on the commercial users of the waterways and the consumers of goods that are capable of being shipped on the inland waterways, and the impacts, if any, in a regional or national basis. The study will analyze the effectiveness of user charges in fostering a more balanced national transportation system, and the effectiveness of user charges in promoting more efficient public investment, balanced use of water resources, and reliance on the private sector.

Section 306 automatically reduces the user charges collected under this act by the amount of any fuel tax or other special tax imposed on the commercial barge companies using the inland waterway. This would provide automatic assurance against double charges, should the Congress determine at a later date that a fuel tax on barges is appropriate.

LOCKS AND DAM 26

Section 307 authorizes the reconstruction of Locks and Dam 26 on the Mississippi River at Alton, Ill., by replacing it with a new dam and a single, 1,200-foot lock, with contingencies for a second lock, at an estimated cost of $421 million.

The existing Locks and Dam 26 is located about 18 miles upstream from St. Louis, Mo., and serves as a key element in the Nation's inland waterway system. It is situated at a central location in the inland navigation system: All waterborne commerce shipped between the Ohio River, the lower Mississippi River, the Missouri River, and the Gulf Intracoastal Waterway and the upper Mississippi River or the Illinois River must pass through these locks.

The present structure, completed in 1938, has two lock chambers: One 600 feet long and the other 360 feet long. Major problems are currently associated with this structure, centered on its deteriorating conditions and its capacity in relation to future traffic growth on the river. The structure has experienced settlement and some loss of foundation material.

While the facility is not in danger of collapse, the costs of maintenance are growing. River traffic at Locks and Dam 26 reached about 53 million tons in 1974, and is expected, by the Corps of Engineers, to reach the project's estimated physical capacity of 73 million tons in the mid-1980's. Traffic delays are expected to increase significantly as capacity is approached. But the committee believes that reconstruction, which will take 8 to 10 years, can be achieved, if started now, before the capacity of the existing site is reached. The Department of Transportation, assuming a continued trend to larger more efficient barges, and operational improvements, estimates capacity at the present locks "prudently in the range of 75–85 million tons per year * * * It seems likely that the capacity of a single 1,200-lock in the new dam is well in excess of 100 million tons per year."

The Corps of Engineers has reviewed this problem for many years. It studied the option of rehabilitating the existing structure. It examined reconstruction with a variety of sites and locations. The solution recommended by the Chief of Engineers and approved by the committee was chosen over rehabilitation of the existing facility, which utilized a scheme of a canal and new temporary lock on the Missouri shore.

Corps recommended plan

	October 1976 price level
Estimate cost: [1]	
Federal cost	$419,000,000
Non-Federal cost	2,000,000
Total	421,000,000

[1] Rounded.

Project Economics (6⅜ percent October 1976 costs.)

	Federal	Non-Federal	Total
Annual charges:			
Interest and amortization [1]	$34,518,000	$140,000	$34,658,000
Operation and maintenance	924,000	232,000	1,156,000
Replacements	107,000	-------	107,000
Economic losses	130,000	-------	130,000
Total	35,679,000	372,000	36,051,000
Net annual charges [2]	----------	-------	32,179,000

[1] Includes interest during construction.

[2] Gross annual costs less O. & M. costs no longer required at the present facility.

	October 1976 price level
Annual benefits:	
Transportation rate savings	$20,270,000
Delay reduction	53,411,000
Recreation	375,000
Area redevelopment	3,281,000
Total	77,337,000
Benefit-cost ratio	[1] 2.4

[1] Previously stated BCR was 3.9. This was reduced by inclusion of local transportation costs, revision of projections and updated prices. In order to make all costs comparable we have added local haulage of grain to the waters edge which had not been previously included. In addition, projections were revised as part of the review process, for coal and petroleum to reflect the current energy situation.

The committee recognizes that there has been much discussion on what form of corrective action should be undertaken. There was opposition to the 18-foot sill depth of the new proposal, which was viewed as a first step toward a 12-foot channel on the Upper Mississippi. It was argued that this will result in irreparable harm to the Upper Mississippi aquatic environment. The railroad industry has objected to the economics, especially as it applies to the loss of railway traffic. Committee members directed the General Accounting Office to make an independent report on the possibility of rehabilitation in lieu of new construction.

The railroad industry strongly opposed reconstruction of Locks and Dam 26, as leading eventually to an entire reconstruction and expansion of the Upper Mississippi system, and argued that it would potentially divert hundreds of millions of dollars in potential rail revenues to the "free" waterways. Environmentalists argued that Locks and Dam 26 would be the opening wedge not only to a rebuilding of the Upper Mississippi facilities but to its deepening, vastly increasing traffic and pollution on the river, which is currently maintained at a depth of 9 feet.

In a March 1977 report to the Committee on Environment and Public Works, the Department of Transportation said:

"The impact of the proposed single 1200-foot lock on railroad revenues does not appear to be significant. A single 12-foot lock at Alton, Ill., will not cause significant diversion of existing rail traffic to the waterways."

The committee finds that proposals recommended by the Chief of Engineers appear to provide a logical approach to relieve the concerns for increased waterway depth, environmental impacts, and bulk commodity transportation economics. For example, the corps is directed to replace and manage at Federal expense, the wildlife habitat that will be inundated as a result of the construction of the project, on an acre for acre basis, in Missouri and Illinois. The corps is also authorized to provide project-related recreation development at Ellis Island, Mo., and include facilities such as roads, parking lots, walks, picnic areas, a boat launching ramp, and a beach. The estimated cost is $4 million, of which the State of Missouri will provide half the funds. These lands will be administered in accordance with the provisions of the Federal Water Project Recreation Act.

The Mississippi River channel above its confluence with the Illinois River is estab-

lished at no greater than nine feet, and no Federal official is authorized to study the feasibility of deepening the navigation channels in the Minnesota River, the Black River, or the Saint Croix River unless specifically authorized by a future act of Congress.

With these safeguards, the committee believes the immediate reconstruction of Locks and Dam 26 is in the national interest.

DISCLOSURE OF LOBBYING ACTIVITIES—S. 1785

AMENDMENT NO. 1461

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. DOMENICI. Mr. President, I submit an amendment to S. 1785 to prohibit contingent fee contracts with respect to lobbying representatives.

The following States in their statutory provisions presently prohibit contingent fee arrangements with respect to the success or outcome of lobbying efforts. Although not intended to represent an exhaustive compilation, a list of such States includes: Alabama, Alaska, Arizona, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, and Wisconsin.

It should also be noted that Federal law presently prohibits, except in specified circumstances, agreements for payments to agents or other persons which are contingent upon the securing of a Federal Government contract.

The existence or rumor of the existence of contingent lobbying contracts insinuates a payoff for influencing legislation or administrative action. This is a cloud the legislative process can do without. It does no credit to either those responsible for enacting legislation, nor to those engaged in informing and persuading the Congress. Accordingly I offer this amendment to insure that this type of allegation will never attach to any lobby activity or legislative or administrative action.

NOTICES OF HEARINGS

NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Gilbert S. Merritt, of Tennessee, to be U.S. circuit judge for the sixth circuit vice William E. Miller, deceased.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

REORGANIZATION PLAN NO. 2

Mr. RIBICOFF. Mr. President, the Governmental Affairs Committee will hold 1 day of hearings on Tuesday, October 25, 1977, on Reorganization Plan No. 2 of 1977, relating to international communications, educational and cultural activities of the United States. The hearing will commence at 10 a.m. in room 3302 of the Dirksen Senate Office Building. Testimony will be received from both administration and outside witnesses.

NOMINATION OF MICHAEL J. EGAN TO BE ASSOCIATE ATTORNEY GENERAL

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building on Michael J. Egan, of Georgia, Associate Attorney General-designate.

Any persons desiring to offer testimony shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

TECHNICAL CORRECTIONS ACT OF 1977

Mr. HARRY F. BYRD, JR. Mr. President, as chairman of the Subcommittee on Taxes and Debt Management of the Committee on Finance, I announce that hearings will be held on October 26 and October 28, 1977, on H.R. 6715, the Technical Corrections Act of 1977. The hearings will be held in room 2221, Dirksen Senate Office Building.

Hearings on October 26 will begin at 9 a.m. and will be limited to Treasury Department witnesses. Hearings for public witnesses will be held October 28, beginning at 9 a.m. Additional hearings on a subsequent date will be scheduled if necessary.

This bill would generally make technical amendments to the Tax Reform Act of 1976 (Public Law 94-455) intended to clarify and conform various provisions adopted by the 1976 act. The purpose of the bill, in general, is to clarify a list of issues raised by the 1976 Tax Reform Act.

Overall, the provisions of the bill are estimated to result in an aggregate revenue loss of $17 million for fiscal 1978, and losses of $7 million to $8 million a year thereafter.

Several provisions of the bill benefit specific taxpayers. One provision relates to the transitional rule for recapture of possession source losses to correct inadvertent omissions in the 1976 Tax Reform Act. The taxpayer intended to be benefited is PPG, Inc. Budget receipts will be reduced by approximately $2 million in fiscal year 1978. There is possibility that it could decrease budget receipts by up to $10 million after 1980.

Another provision relates to the recapture of gain on disposition of stock in a DISC and will benefit the Evra Corp. by making the 1976 law effective as of December 31, 1976. It is estimated that this provision will reduce budget receipts by less than $1 million per year.

The bill also contains a provision dealing with the foreign tax credit in case of oil extraction income earned pursuant to certain production sharing contracts. The provision is intended to benefit two independent oil producers. Tidewater Marine Inc., and the Reading & Bates Co., by changing inequities for fiscal year taxpayers created as a result of the 1976 act. It is estimated that this provision would decrease budget receipts by $5 million in fiscal year 1978 only.

The bill contains a provision dealing with the source of income received on the liquidation of a foreign corporation. A taxpayer to be benefited is General Electric Co. However, the provision has general application and will benefit other taxpayers as well.

The bill provides that income received on the liquidation of a foreign corporation will be treated as foreign source income provided that the liquidated corporation did most of its business overseas. It is estimated that this provision will result in a revenue loss of less than $5 million annually.

The House-passed legislation is technical and with more provisions than will be digested in these remarks. Senators are encouraged to study the legislation carefully.

NOMINATION OF PIERRE N. LEVAL, OF NEW YORK TO BE DISTRICT JUDGE

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, October 26, 1977, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Pierre N. Leval, of New York, to be U.S. district judge for the southern district of New York vice Donald B. Bonsal, retired.

Any persons desiring to offer testimony in regard to this nomination shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.

ADDITIONAL STATEMENTS

IMPENDING DISTURBANCE IN SOUTH AFRICA

● Mr. CLARK. Mr. President, two recent events in South Africa have stirred considerable controversy: First, the demolition last August of the shanty homes of 10,000 squatters in Cape Town who had the legal right to work in the urban center, but not the legal right to live with their families; and second, the tragic death of Steve Biko.

Biko's death is still surrounded in mystery, because of the failure of the South African Government to disclose the results of the autopsy. On September 16, I sent a letter to Prime Minister B. J. Vorster requesting that an impartial inquiry be made into Biko's death. I have received no reply to this letter. However, the state pathologist in the Biko case has announced that there will be no judicial investigation, simply an inquest which may be indefinitely postponed and which, in any case, would

simply establish the medical explanation of the cause of death, not the full circumstances which led to it.

These events suggest that the authorities in South Africa are either being given the fullest autonomy to act without central direction or control, or that a pattern of increased repression is being deliberately promoted. An American who conducted research in South Africa and who recently returned to the United States has written an article presenting his personal views on the matter. I ask unanimous consent that this article be printed in the RECORD.

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

TORN BY APARTHEID

(By Andrew Silk)

MONTCLAIR, N.J.—During my last months in South Africa, I felt that men there were beginning to lose control of the social order. Unreason engulfed complex problems of blacks and whites, leading the country toward great violence.

On Aug. 11, a squatter camp outside Cape Town was destroyed. In the weeks before bulldozers and mechanical shovels were brought in and the dwellings of 10,000 people were knocked down. I spent many hours talking to men and women in the camp about their lives and country.

They were largely villagers who had come long distances to the city because they could no longer survive on the land. It is easy to have sympathy for the new urban poor, whether in Cape Town, Calcutta, Santiago or any developing city. But what disturbed and moved me so about these people outside Capetown was that most of the men were legally employed but illegally living with their families.

The Government required the women and children to stay up-country, and offered husbands and fathers beds in single-sex dormitories to prevent the increase of Africans in Cape Town and preserve the myth that the country's blacks are only temporary city residents. In defiance, men, determined to keep their families together, built tin shelters on empty land. Finally, they could be moved only by force. Yet even after their community was gone, most still refused to leave Cape Town. Policemen and local officials raided church grounds where some families had taken refuge. At one, women were arrested at 4 A.M.; at another, instead, their tents were confiscated.

As the city and nation were recovering from the impact of the demolition, the young black leader Steve Biko died in detention. I never met him but I knew the feel of the black townships well enough to realize that without his thought and inspiration and the "black consciousness" movement he led, there would be little to direct or contain black frustration and rage.

What was so shattering was not only the loss of a man of courage and firm intellect, not even the statement of the Minister of Police James Kruger that his death "leaves me cold." It was the realization, with the leak of preliminary post-mortem findings, that the country's white leaders had been unable or unwilling to protect an important black leader from fatal beating.

These two events were not unique. Two weeks after the squatter camp was knocked down, a second, smaller one was also flattened. A third was expected to be removed soon. The harassment of the churches continues. Steve Biko was the 21st man in 18 months to die in jail without being charged.

As an observer who counted both Afrikaner nationalists and their bitterest opponents, black and white, as my friends, I was torn by what was happening to a country that I had begun to love. As South African men and women of feeling and reason see their future being determined by the demolition crew and the security police, they respond with anguish and hostility. I was among 2,000 whites and blacks who came together twice in 30 days in the center of Cape Town—first to protest the breakup of homes and families and then to mourn Steve Biko. At these meetings, people spoke of more than moral concern. For many there was a recognition that their country was being torn apart by economic and political forces greater than the Government could comprehend or hold back.

They saw that the refusal for so long to allow Africans to become permanent residents of the cities and to participate fully in the nation's growth had made it impossible now for blacks to satisfy even minimal demands for food, shelter and work. And the refusal to allow blacks to participate fully in the political system has created an arrogant white power that does not negotiate with a black leadership unwilling to compromise integrity.

What frightened these blacks and whites so deeply was the knowledge that, as these crises reached their full intensity, white force would be met by black—a terrorism of control would meet a terrorism of resistance: There are already arsenals in the townships.

These people felt that without fierce external support, the few remaining internal constraints on the unreason could not hold. It was clear to them that if the United States and the West compromised with the white leadership and accepted changes not central to South Africa's political and economic life, these countries would gradually be drawn into South Africa's crises and be forced to condone the terrorism of control.

If, however, they honed their attack, and used all power to protect people like the squatters, and Biko, who resist the bulldozers, the security police and the machinegun—and are thus most vulnerable—it might be possible for these men and women to hold on to reason longer and to live to rebuild their country. ●

GOVERNMENT TREND

Mr. SCOTT. Mr. President, I ask unanimous consent that a copy of our October newsletter reporting to the people of Virginia be printed in the RECORD following my remarks.

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

(See exhibit 1.)

● Mr. SCOTT. Mr. President, this newsletter now being mailed was prepared shortly after the close of the fiscal year on September 30, 1977, and we included a statement on the back page that approximately 60 percent of all funds authorized for use by our office or $408,737.82 were not expended and to the fact that we had also returned $878,272.93 to the Treasury from time of taking office as a Senator through October 31 of last year. This, of course, amounts to considerably over $1 million in authorizations not expended by the Senate office. I am sure the conscientiousness of our staff, which incidentally is well paid, plays a major part in the savings we have been able to make while serving the more than 5,000,000 Virginians.

EXHIBIT 1

GOVERNMENT TREND

Congress is nearing completion of this year's session. Therefore, it may be a good time to reflect upon whether its activities have had a beneficial effect upon citizens generally. Our standard of living, developed over the years, was based upon the nation's vast natural resources, a favorable climate, and a system of government that permits individuals to increase their knowledge, their skills, and to develop their abilities.

American business and industry have also been able to develop within an economic and governmental climate that encouraged growth and production. There came a time, however, around the turn of the century when some business and industrial leaders became indifferent to the general welfare, and limited constraints were necessary to retain the free competitive market and to prevent monopolistic control of our economic system.

It appears, however, that in recent years we have reached the point where government has created burdens of paperwork, regulation, environmental constraints, tax laws that discourage industrial expansion, and other measures that actually reduce our incentive and ability to produce more goods and services.

The thought has been suggested that it is positive rather than negative to be concerned about the huge budget deficits, constant inflation, excessive regulations, a welfare system that is encouraging Americans to choose dependency rather than self-help, energy programs that limit production rather than increase it, government bureaucrats making decisions that could better be made by citizens themselves, demanding more power over our lives and new taxes for unnecessary programs. In other words, isn't it time for Americans to reconsider the proper role of government and while not completely returning to a concept of individualism, finding a comfortable middle course where each, to the extent possible, can care for his own personal welfare and that of his family, participate more fully in private voluntary organizations, and not look to government for more and more solutions of essentially personal problems? This would appear to be the positive and compassionate position for a Senator to take toward constituents who must pay the cost of government. Your comments and suggestions are most welcome.

AIR BAGS

On June 30th the Secretary of Transportation determined that all cars manufactured in the United States should have air bags or passive restraints by the 1984 model year. Lap belts also will continue to be required in new cars. Although intended to protect passengers, this regulation compels purchasers of automobiles to buy the air bags whether or not they want the equipment. Estimated added costs to new cars equipped with air bags range from $100 to $300. An automobile manufacturer estimated the cost of replacing the air bag system, after use, to be more than $600. While Congressional attempts to override the decision failed this year, it is likely the matter will be reconsidered after regulations become effective.

IMMIGRATION

Proposals to curb the rising illegal alien population have been introduced into the House and Senate in recent years. An estimated 6 to 8 million illegal aliens now reside in this country, with perhaps upwards of 3 million holding employment in 1976, according to Justice Department figures. A Senate bill on which hearings were held in 1976 was not enacted, and while the White House sent to Congress a new proposal last week to be introduced as an Administration bill, no further action to come to grips with the flood of job-seeking aliens is expected this year.

And yet we are told that more than 4 million permanent resident aliens and nearly

500,000 nonpermanent resident aliens—the "legal aliens"—live in the U.S. Each year, some 400,000 new legal immigrants enter the country, and some 7 million nonimmigrant visas are issued. Further, some 125,000 aliens annually become naturalized citizens of the United States, and in one decade ending in 1974, 25,000 foreign children were adopted by U.S. parents. These figures add up: 4 million legal immigrants; 2 or 3 million naturalized citizens; millions more visiting on temporary visas; and perhaps as many as 8 million illegal aliens, many of whom are holding jobs and receiving social services and welfare assistance intended for citizens and lawful immigrants.

It is understood that many immigration problems are the result of gaps in the law. For example, while immigration is numerically limited by annual hemispheric and individual country ceilings, the Attorney General can ignore these ceilings though his emergency "parole" authority and bring into the country hundreds of thousands of refugees. Accordingly, I am preparing a measure to limit the Attorney General's parole authority so that those paroled into the United States will be included in the national quota for immigration purposes.

CHILD ABUSE

One of the many concerns of the Congress involves the production, sale and distribution of pornographic films and other literature which feature children of tender age. Extensive hearings on the subject by both Houses of Congress have brought out the widespread use and exploitation of young children for illicit purpose.

Most people, of course, condemn such practices and realize the potential harm to children. Perhaps child pornography is a symptom of the general moral breakdown within our society. While a conference between the House and the Senate will be necessary to determine the final wording of the bill, the major thrust is to forbid the production and distribution of film or literature portraying minors engaging in "sexually explicit conduct". The distributors and retailers also would be violating this criminal statute and be subject to fine or imprisonment.

SOCIAL SECURITY CHANGE

The Administration's Social Security proposals have been considered by the House Ways and Means Committee which has recommended as one phase of its bill that compulsory coverage under Social Security be extended by 1982 to include six to seven million federal, state and local public employees and those employed by nonprofit organizations. In addition, the bill includes tax rate increases and a proposal for automatic loans to the Social Security trust funds from general revenues whenever the assets of the funds drop below a certain level.

The measure provides for further study of methods of combining Social Security coverage for government employees with Civil Service retirement benefits. It contemplates a study by 1980 of ways to combine federal employee retirement systems with Social Security insurance so that benefits will not be reduced nor government employees' contributions increased. While the Senate may not act on Social Security until next year, the Finance Committee is currently considering the subject. Of course government employees will not be immediately affected but some action along these lines could be adopted in future years.

SALT

The interim Strategic Arms Limitation Treaty (SALT) agreement with the Soviet Union expired on October 3, 1977. This agreement limited the ceiling on the number of intercontinental ballistic missiles allowed the Soviet Union and the United States. Before agreeing to an extension, formal or informal, it would appear that Congress should consider in depth whether an extension or new agreement is in our national interest and such specific matters as whether fixed U.S. intercontinental ballistic missiles would survive if attacked by the Soviet Union.

LEGAL ASSISTANCE

One of the measures considered by the Senate several weeks ago related to the government furnishing legal assistance to persons otherwise unable to afford the services of attorneys. A corporation to provide the services, governed by a Board of Directors appointed by the President, was established for a three-year period by an Act of Congress in 1974. It has nine regional offices, provides funds for 300 legal service programs serving the various states and localities. The programs provide for counselling within a wide range of civil controversies but do not ordinarily provide for representation in criminal cases. The Legal Services Corporation was established to replace similar programs administered through the Office of Economic Opportunity which had been subjected to considerable criticism for a variety of reasons, including participation in political matters, demonstrations, and what many believe to be radical activities. The Senate bill originally provided for an extension of the term of the Corporation for a five-year period and authorized $225 million to be appropriated for the current fiscal year, with such annual sums as necessary for the remaining four years of the authorizations. The bill as reported by the committee would have also amended the law to provide that staff attorneys would not be covered by the Hatch Act that limits political activities for government employees during their off-duty hours.

At the present time there are approximately 3,000 full-time lawyers and 1,200 legal assistants to the lawyers employed by the government corporation. After several days of debate, a number of amendments were adopted, one of which would reduce the term of the authorization from five to three years, and a second that would reduce the authorization of expenditures for the current year to $205 million and such sums as may be necessary for each of the two succeeding fiscal years. My comments during the debate are available for distribution should you desire a copy.

Of course we take pride in the impartiality of our courts and, yet, the services of competent attorneys are often necessary to prevent injustices. In the past, and probably at the present time some persons who need legal services do without them because of their inability to pay. On the other hand, lawyers have donated their services to the poor; legal aid societies have provided services to the needy for several generations; bar associations have endeavored to assist those unable to pay; and many individual, charitable and religious groups have attempted to assist. In my judgment, a staff of 3,000 lawyers and 1,200 paralegal assistants paid from Federal funds to assist in civil matters is far too many and especially when it is considered that the government also pays attorneys' fees for indigent people accused of crime.

Authority of Federal judges to appoint attorneys for those accused of violation of Federal offenses has been granted by the Congress, and it is understood that many states, including Virginia, have similar provisions for payment of court-appointed attorneys from public funds. The number and cost of court-appointed attorneys continue to rise, and it would appear that while preserving the right of needy persons to have attorneys provided for them, the public must guard against abuses whereby the government itself may be handicapped in the performance of official functions through challenges by publicly financed attorneys, as well as the bringing of unnecessary suits and reducing incentives of private or volunteer groups to provide necessary legal assistance in worthy cases.

OFFICE EXPENSES

The Senate Disbursing Office has furnished a statistical report for the fiscal year beginning October 1, 1976, and ending September 30, 1977, indicating the amount of funds authorized to be expended by our Senate office; the amount actually spent; and the unexpended balance. These expenditures include the salaries of staff assistants, expenses of both the Richmond and Washington offices, stationery, transportation, telephone, telegrams, and miscellaneous expenses. For all purposes during this 12-month period, we were authorized to expend a total of $683,515.36; we actually spent $274,777.54, and returned $408,737.82, or approximately 60 per cent of all authorized funds to the Treasury this year. As indicated in last year's newsletter, we had returned $878,272.93 or 45.4 per cent, to the Treasury from the time of taking office in the Senate until October 31 of last year, and are pleased that the annual saving this year is greater than any of the first four years. In fairness it should be indicated that having a staff that practices fiscal responsibility makes this savings possible.

CONSTITUENT VIEWS

Our office receives considerable mail and telephone calls from constituents expressing their views on issues confronting the Congress. This is helpful in voting and otherwise representing you. A current issue is the proposed Canal Treaties. On this subject the office has received more than 3,200 letters against ratification of the treaties and fewer than 150 in favor of them.

The letters and phone calls indicate that at this time around 96 per cent of the people are against the treaties and want us to continue ownership and control of the Canal Zone. While it is unlikely that the Senate will act on the treaties before adjourning, there is a good possibility that we will be considering the matter early next year. We welcome all views on the matter and upon request will send you copies of my statements in opposition to the treaties. ●

PANAMA CANAL TREATY CRITICISM

● Mr. HARRY F. BYRD, JR. Mr. President, an editorial from the August 15 edition of the Charleston, S.C., Evening Post has recently come to my attention.

This thoughtful editorial addresses several of the arguments which have been put forward by proponents of the proposed Panama Canal Treaties and puts them in a useful perspective. R. L. Schneadley is editor of the editorial page of the Post.

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

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

THE PANAMA CANAL

The draft treaty with Panama, initialed last week by Ambassador Ellsworth Bunker and Sol Linowitz provides for U.S. surrender of the Panama Canal within 23 years. Brig. Gen. Omar Torrijos Herrera's outrageous demands for tribute have been scaled down somewhat, but the United States will still furnish hundreds of millions in "aid," plus payments of $50 million through the life of the treaty.

What a pity our country did not have such men bargaining for it in 1804. Our small differences with the Barbary pirates could have been smoothed away, and Lt. Stephen De-

catur would have been spared a lot of trouble.

President Jimmy Carter has asked members of Congress to withhold criticism of the draft treaty until they have had the opportunity to study it carefully. "I believe you will be gratified by the results," he said.

The treaty should be studied carefully, and then it should be soundly rejected.

It will guarantee neither the security of the canal nor its neutrality. The best guarantee of that in the future, as in the past, rests in the honor, integrity and power of the United States.

Panama has no valid claim in international law to require the United States to surrender its rights in the Canal Zone. The supposed validity of that claim has been manufactured largely out of whole cloth.

Much is made of the provision in Article 3 of the 1903 Hays-Bunau-Varilla Treaty which grants the United States, in perpetuity, executive, legislative and judicial powers in the Canal Zone AS IF it were sovereign. The "as if" clause is cited as evidence of Panama's retention of "real" or "titular" sovereignty by those anxious to "educate" the Congress and the American people concerning the justice of Panama's case.

The educators are less than honest, however, by almost never quoting the remainder of Article 3, which reads ". . . to the entire exclusion of the exercise by the Republic of Panama of any sovereign rights, power or authority."

They are less than honest, also, in contending that the canal is no longer vital to our "two-ocean" Navy. Four former chiefs of naval operations have publicly disclaimed that, and have argued that the canal is in fact more important to our diminished fleet than at any other time in recent history. Americans do not need to take the admirals' word for it. All they need do is count the number of ships in service and compare the Navy's strength today with what it was five years ago. And ALL the Navy's remaining ships, except for its 13 largest carriers, can still transit the canal.

The educators, finally, are less than honest in describing the canal as a "dwindling asset." In the years that lie immediately ahead, the Panama Canal will become increasingly important as a conduit for Alaskan oil on its way to East Coast refineries.

In one thing only are the educators honest. The continued use and security of the Panama Canal is more important to the United States than the continued ownership of it. And here, fundamental differences exist. Can a leftist Panamanian dictator provide greater security for the canal than the United States can? We have come to a pretty pass in this country when such a question must indeed receive serious consideration.

Thirty-four senators can block the new treaty. We hope they find the courage and wisdom to do so. ●

DO NOT SCRAP A GOOD MINING LAW

Mr. GARN. Mr. President, a number of bills have been introduced in this Congress seriously modifying the 1872 mining law. The proposal which has received the most attention would simply replace the present patent system with a system of leases, under which the Federal Government would retain full control over land being mined by private industry.

A subcommittee of the House Interior Committee has been holding hearings on these bills, and this morning, Gov. Scott Matheson of Utah testified before the subcommittee. Governor Matheson's testimony is extremely interesting, in that he challenges the basic premise of the bills introduced: That the mining law ought to be replaced. Instead, Governor Matheson argues persuasively, there is nothing fundamentally wrong with the present law. It may need some revision, and minor modification, but it has served us well, and can continue to do so in the future.

Mr. President, this issue will soon be before the Senate, and I think in preparation it would be well for Senators to have the benefit of Governor Matheson's testimony. Accordingly I ask unanimous consent that his statement be printed in the RECORD.

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

STATEMENT OF GOV. SCOTT M. MATHESON

I. INTRODUCTION AND OVERVIEW

A. The Congress should be skeptical about any proposal to further expand federal control over hardrock mining. There must be a clear demonstration by advocates of leasing that the current location system cannot continue to bring about mineral exploration and production in an economically and environmentally acceptable manner. The bureaucracy in Washington, D.C. is often assumed to be the disinterested, benevolent guardian of the general welfare, the people best suited to represent a truly national interest. Actually, the advocacy of expanded power by the federal executive branch should be viewed by Congress with the same skepticism with which it examines proposals from any other parochial self-interest. The executive branch's call for laws that expand its powers is as self-serving as industry's advocacy for increased levels of profits. A bureaucracy measures its success by the scope of its power, the number of employees it has, and the size of its budgets.

B. The burden of proof for replacing the location system with a leasing system in hardrock mining rests with those who argue for such sweeping change. These advocates have correctly identified problems with the Mining Law of 1872, but they have not yet demonstrated that abandonment of the general location system is necessary.

II

An examination of the concepts which are used to justify revision of the Mining Law of 1872 in the President's environmental message to Congress on May 23, 1977, suggests that some limited change is called for, but not radical overhaul.

A. A leasing system for publically owned hardrock minerals is the first reform advocated. Title to federal lands can be retained by the federal government under a location system. The land can simply be returned to federal ownership after mining and reclamation of the land have been completed. This approach is in keeping with multiple-use principles. During the period in which exploration and development are under way, mining is the dominant use of the land. After reclamation the land can be utilized for other purposes.

B. The second principle enunciated is explicit Federal discretionary authority over mineral exploration and development on the public lands. As the Governor of a state where approximately two-thirds of the land is already owned and controlled by the Federal Government, I believe that what is called for is more stringent control of federal land management agencies, not greater discretion for them. The Congress would be well-advised to devote a significant amount of time in the coming years to regular, systematic oversight of recently enacted land management regulation. This committee could profitably hold oversight field hearings on a monthly basis as regulations are issued under the Federal Land Policy and Management Act of 1976 and the Surface Mining Control and Reclamation Act of 1977. I think you would find that regulations issued pursuant to those acts are often contrary to congressional intent, and that the land agencies often lack the adequate resources and expertise to administer the laws in a sensible and timely fashion.

A recent study by the Mountain Plains Federal Regional Council, "The Permitting Process for Surface Mining Federal Coal with Recommendations for Improvement" confirms some of the popular complaints about existing federal leasing systems:

"The flow chart for the permitting process is eighteen feet long and that covers only federal permitting, not state, local, private, and Indian reservation requirements.

"No single agency, company, or entity understands the total process.

"Twelve federal agencies are involved in licensing and permitting for surface coal mining.

"The total elapsed time from preliminary exploration to developing a mining plan is 11.8 years.

"Administrative time ranges from 39 percent to 86 percent of the total time."

Additionally, the eight year delay in full scale federal coal leasing raises serious questions about this approach. I believe that similar detailed studies of geothermal, oil and gas, and nuclear leasing programs would produce similar confirmation of the widespread complaints about delays in those federal processes.

Before Congress imposes a leasing system on hard-rock minerals, it should find out why existing programs are ensnared in endless delays and red-tape. This administration's proposal to reform the mining law has potential for significant delays in the prospecting, exploration, and leasing process. The bill allows tremendous discretion and creates real uncertainty, what might be termed the front-end loading of direct and indirect costs. The requirements imposed on the miner range from strict specific acreage limitations to a vague requirement that prospecting activities can cause only minimal disturbance to the environment. The Congress should strictly limit the discretion of the secretary to withhold prospecting permits, exploration licenses, and leases. Consider the impact of just one section of the Administration's proposal. Under Section 106(c) the bill says that the secretary shall issue a lease if he determines that the proposed operation: (1) is compatible with the land use plan for the area, (2) will not violate any applicable laws and regulations; and (3) will have an overall value which, in the Secretary's judgment, exceeds its overall costs. Gentlemen, I ask you for a moment to look at this process from the point of view of the miner, small or large. Would you be willing to invest the time and capital to prospect and explore an area unless you had a reasonable certainty for obtaining a lease? Why would any economically rational operator go to the trouble and expense of prospecting in an area, competitively bid on an exploration license, and then conduct exploration operations on the land, if the Secretary can then withhold a lease? If the Secretary believes that an operation is likely to violate a land use plan, he should state that opinion before prospecting and exploration begins. If the Secretary believes that an operation is likely to be in violation of any existing laws and regulations, then he should state that opinion before prospecting and exploration begin. Once a lease is issued, it should not be subjected to revisions due to future changes in laws and regulation—unless there is an absolutely vital national purpose to be served—not just a policy shift on the part of

Congress or the federal bureaucracy. If in the Secretary's judgment the operation will not have a net social benefit, why should we substitute his judgment for the judgment of the man or company willing to risk time and money to develop the ore body—as long as the operation is carried out in an environmentally sound manner. The genius of the location system is that it operates on the principal of self-initiation, where individual effort and judgment interact with economic forces to form a largely self-governing system. A person or corporation must have a reasonable opportunity to develop and mine a mineral deposit and a reliable surety that mining can take place on terms clearly set before investments of time and capital are made. The mining industry must not be made dependent on the alleged wisdom and benevolence of the federal bureaucracy for its ability to carry out operations. The kind of discretion allowed in Section 106 of this proposal could have a chilling impact on domestic mineral production.

If there is to be any significant revision of the existing systems, Congress should strictly and specifically define the procedures to be followed, impose performance and time limits on the Secretary and carry out close oversight on a continuous basis to make certain that the law is operating in a fair and efficient manner.

C. The third and fourth concepts detailed as justification for the revision of the Mining Law of 1872 are the unquestioned need for strict environmental protection, reclamation of mineral areas, and prior approval of operating and mining plans before commencement of operations. These are goals of environmental protection and can be achieved under existing state and federal legislation. One pattern that has evolved from Congressional policy is that of allowing the states to enforce environmental and reclamation standards on their own lands, if the states' standards are at least as strict as the federal governments. The State of Utah in 1975 enacted a Mined Lands Reclamation Act that requires the operator to have a reclamation plan, to post a bond or surety to guarantee reclamation and to provide surface protection during mining operations. The trend in most of the states in which mining occurs has been laws that impose stringent surface protection and reclamation standards. An integral part of this process in Utah and many other states has been the requirement to file operation and reclamation plans before mining begins.

Perhaps there are some inadequacies in some state laws. But there are existing federal laws and regulations to control the environmental impact of hard-rock mining under the National Park Service Regulations and the Forest Service Regulations. The Bureau of Land Management has issued proposed regulations in regard to surface management, citing Section 302(b) of the BLM Organic Act, and other laws, as sources of authority authorizing these regulations. However, I am not persuaded that these regulations reflect Congressional intent. In the House-Senate Conference on the Organic Act, the conferees adopted language that deleted a requirement for land reclamation as a condition of use. Instead, the more general language of requiring action only where appropriate to prevent unnecessary or undue degradation of the land was adopted. Such actions by the BLM in Utah will not be needed because we have the laws and resources and the political will necessary to protect the land; and I think many, if not most of the Governors could make the same statement in regard to the situation in their respective states.

The key issue here is for the committee to determine the adequacy of state reclamation laws; the burden of proof is on those who assert a need for a federal law in this area. The Congress may finally establish minimum reclamation requirements, but the authority for administering those standards should be left to the states. The cooperative agreements provided for in Section 307 of the BLM Organic Act should not be optional. Within the last year, six Western States (Utah, Wyoming, Montana, Colorado, New Mexico, and North Dakota) have executed cooperative agreements with DOI to enforce coal reclamation laws on federal lands. As long as state laws are as strict as federal reclamation standards, the discretion and flexibility in administration of those laws should be left to the states.

D. The fifth policy stated in the President's message is a requirement for royalties on public lands. Actually the federal, state, and local governments already receive tax revenue from operations carried out on the lands, such as income taxes and sales taxes on equipment used in mining activity. A royalty may make some operations unprofitable and other activities less profitable, so it is not clear that the result would be a net increase in revenue to all levels of government. But a further problem is that royalties are simply an added cost of production that in many cases will be passed on to the consumer in the form of higher prices of final goods made out of mineral resources. The idea that there would be a net increase in the public's welfare from imposition of a royalty approach is not self-evidently true. Here again the burden of proof rests on those who advocate this policy.

E. The final requirement calls for the integration of mining into land use plans being developed for the public lands. The fact is that it is very difficult to balance plans for surface usage with subsurface activities because the occurrence of mineralization is unpredictable. Geology is as much an art as it is a science. The history of the minerals and mining industry in this country is one of constant change and evolution in methodology, technology, and market conditions. Today a geologist may go back and look at an area that was examined in the past and labeled as having little mineral value. New knowledge or new techniques may make it feasible to locate mineralization that was not apparent before, or to develop identified ore bodies that in an earlier period couldn't be economically developed because of inadequate market demand, limited technology, or both.

The official state national policy as enunciated in the Mining and Minerals Policy Act of 1970 and reaffirmed in Section 102(a), subparagraph (12) of the BLM Organic Act is to encourage the development of domestic sources of minerals because it is essential to the nation's welfare. Yet the reality of current prevailing practice is that other laws are enacted and administered to accommodate other desired objectives—such as land use planning, surface reclamation, and environmental protection—and then treat mining, if at all, in such a manner as will not interfere with attainment of primary goals. The emphasis should be to recognize that development of minerals is itself a priority national need and to find means whereby the impact of meeting other objectives will have as few adverse effects on mining as is reasonably possible.

I believe that the Mining Law of 1872 has worked well in achieving the development of domestic supplies of minerals. The location system does not require a bureaucracy to plan and carry out its operation. It is based upon the principle of self-initiation. The small miner, the part-time and weekend prospector can use ingenuity and effort in place of capital in hopes of finding and developing a valuable ore body. Especially in the West the small miner has a crucial role in our mining industry. The small miners themselves feel that transition to a competitive bidding system will, in fact, be anti-competitive because permits, payments, and paperwork involved in a leasing system favor the large organization over individual and small companies. This is very undesirable for developing and mining small but workable deposits of base and precious metals, including the type of uranium deposit that frequently is found in Utah.

There are problems with the law, but it seems they can be handled with some limited but important changes. The diligent development of mining claims can be more effectively encouraged by escalating labor requirements or cash payments in lieu. This is anticipated by the Ruppe Bill, H.B. 5831, in that annual labor requirements would commence at $5.00 per acre and increase $5.00 per acre each five years until after fifteen years $20.00 per acre worth of labor, or cash payment in lieu, would be required each year to hold a mining claim. Additionally, failure to file an affidavit of annual labor or make a payment in lieu of annual labor would cause the claim to be null and void. Material false statements would make the mining claim voidable under the proper discovery proceedings carried out by the U.S. or by a subsequent locator.

One of the greatest problems has been the confusion regarding conflicting and inactive mining claims. This is being more or less ameliorated under the recordation provisions of the BLM Organic Act, Section 314. Failure to comply with Section 314 will constitute conclusive evidence that the claim has been abandoned. There is controversy concerning the recordation regulations put out by the BLM, and there is real question as to whether BLM has adequate resources to handle the job within the given time frame. But existing law provides a mechanism for handling the problem.

What we are left with then is a set of six reasons for changing the Mining Act of 1872, none of which offer a justification for substituting a leasing system for the present location system. I'm afraid that we see another example of direct federal expansion of power into a functioning, basically self-regulating system without an apparent necessary public purpose. The Federal Government seems to distrust any activity that can carry on without federal approval and supervision, and federal land agencies are particularly sensitive to private, state, and local operations carried on basically independent of their control. It is not that private, state, and local interests cannot operate independently on public lands in a manner compatible with national policy and the general welfare—they often have and continue to do so. It is that this relative independence is an affront to the bottom line on bureaucratic self-interest—power and control, and the accompanying by-products of more laws to administer, more peoples' lives to regulate and the expanded staffs and budgets necessary to accomplish the alleged public purpose.

What I am arguing for is some limited modification in the Mining Act of 1872, but retention of the location system of mineral rights. And what is really called for is not more land law revisions from the Congress, but systematic, detailed, continuous oversight and scrutiny of the federal bureaucracy's administration of existing laws and evolving regulations yet to be promulgated under the numerous recent changes made in our laws. That oversight should be aimed at assuring maximum state and local participation in policy formation and execution, and insuring that true concepts of multiple use or pursued.

SENATE RESOLUTION 222—RESOLUTION TO DISAPPROVE THE REORGANIZATION PLAN NO. 1

Mr. HATHAWAY. Mr. President, as all of my colleagues are aware, the President submitted his first reorganization plan to Congress on July 15 of this year.

This plan was submitted pursuant to the provisions of Public Law 95–17, which gives the President authority and discretion to reorganize the programs and departments within the executive branch, if certain conditions and procedures are met, as set forth in the law.

This first plan dealt exclusively with the organization and structure of the White House itself, and the Executive Office of the President. It was intended primarily to strengthen the management of policy issues within that structure. At the same time it reduces the number of personnel and reduces the number of units within the White House and the EOP.

I am in support of these goals and of virtually all of the provisions of the reorganization plan.

There is, however, one provision of the plan regarding which I have very serious reservations and concerns—namely, the provisions abolishing the Office of Drug Abuse Policy within the White House.

I testified before the Senate Committee on Governmental Affairs on this issue on July 26, 1977. In order that my colleagues might understand the basis for my concern over this issue, I ask uanimous consent that my testimony be printed in the RECORD.

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

TESTIMONY OF SENATOR WILLIAM D. HATHAWAY

Mr. Chairman, I appreciate having the opportunity to testify before your committee this morning regarding the President's reorganization proposal which was submitted to Congress on July 15 of this year.

I am pleased that this committee has seen fit to hold these hearings, and intends to scrutinize carefully the President's proposal, as is required by the Reorganization Act of 1977.

Under the terms of that act, the President is authorized to submit to Congress reorganization plans affecting the executive branch of the government. But the act preserves and protects the constitutional duty of the Congress to enact laws affecting the collection and disbursement of federal revenues, the promotion of interestate commerce and so on.

The integrity of Congress in this vital area, as delineated in the constitution, is preserved by allowing either House of Congress to veto reorganization plans by passing a resolution of disapproval within 60 days (of continuous session of Congress). The President may amend his plan within 30 days of submission, and may withdraw it within 45 days.

This structure is a sound one, and I commend the distinguished chairman of this committee for his diligent work as architect of these provisions.

At the outset, I should stress that much of what is contained in the President's proposal is laudable, and is properly outside the direct purview of Congress.

For example, the President's actions with respect to abolishing his domestic council, and establishing a new policy management system in the executive office of the President are matters largely of internal White House management and probably ought not to concern this committee or the Senate as a whole. The provisions of the Reorganization Act of 1977 were not intended to give us jurisdiction or veto power over such matters. In addition, the overall goals of the plan, the reduction of costs for the executive office of the President by $6,000,000 have my support and endorsement.

However, as chairman of the subcommittee on Alcoholism and Drug Abuse, I do feel impelled to comment on one particullar aspect of the proposal, namely the discontinuation of the Office of Drug Abuse Policy, and the transfer of its functions to a single senior advisor in the White House.

I realize that my questioning this proposal would lead some to conclude that I was simply protecting my own legislative turf and prerogatives. I obviously cannot categorically deny this charge. But at the same time, I believe that the legislative history of ODAP yields an inescapble conclusion that the Congress has clearly written this office and its functions squarely into Federal law, for sound reasons. And this office ought not to be discontinued, abolished, transferred, or whatever, unless we are properly convinced that this change of structure is necessary and beneficial, and not simply cosmetic.

Mr. Chairman, it was only a year and a half ago that I met with you and other distinguished members of your committee in joint conference with the House on the amendments to the Drug Abuse and Treatment Act of 1972. In those deliberations we drafted legislation establishing an office of drug abuse policy within the Executive Office of the President.

In this legislation we stipulated a number of attributes for this office, and went into great detail. We required that the Director and Deputy Director of this office be nominated by the President, subject to the advice and consent of the Senate. This legislation stipulated the employment of other officers and employees, and listed the allowable civil service status of these individuals. Consultants were also to be employed.

The functions of the Director, and the office generally, were set forth in detail. Broadly, his function was to coordinate and evaluate all of the efforts of the various departments and agencies of the Federal Government, and to insure that a coherent Presidential policy emerged. An annual report had to be submitted to Congress.

All of these legislative actions were deemed necessary by us at that time to make sure that these matters received appropriate attention at the highest levels of the White House and to coordinate and rationalize the myriad programs in the drug abuse field.

Prior to our action in this regard, these functions had been undertaken by a task force of the Office of Management and Budget, and the special action Office on Drug Abuse Policy was phased out.

This task force was not subject to Senate confirmation, and therefore not accountable to Congress. We were concerned that without a clear, designated, identifiable individual in the White House itself, the most important issues of Drug Abuse Policy would be ignored or given extremely short shrift.

The notion of Drug Abuse Policy necessarily involves the interaction of a great number of Federal departments.

In treatment and prevention, the Department of Health, Education and Welfare comes to mind first, but the Veterans' Administration is also strongly involved, as is the Department of Defense. The Department of Labor is involved in vocational and rehabilitation programs and so on.

On the enforcement side, since drug abuse is in many instances also a crime, the Department of Justice is the most clearly identifiab'e entity. But the Treasury Department and probably others are involved.

Drug abuse is also an international problem, so the State Department is involved. Treaties must be negotiated, and the United Nations is concerned.

Domestically, State and local officials are properly and justifiably concerned with our drug abuse policy, in both enforcement and treatment.

All of these elements make the problem of drug abuse a unique one in our Federal system and point out the need for the structure we established together in the early part of 1976.

President Ford signed this measure into law on March 19, 1976, and since that time ODAP has gotten off to a good start in its extremely difficult and complex task.

President Carter determined to implement this law early on in his administration. He submitted full-funding budget requests of $2 million per year over the next 2 fiscal years.

On March 14 of this year the President issued a memorandum on the activization of ODAP to the Secretaries of State, Treasury, Defense, Labor, HEW, Transportation, the Attorney General, the representative to the U.N., the Director of OMB, the Director of the CIA, and the Administrator of the Veterans' Administration asking for their full cooperation.

In this memorandum, the President set out the role he saw for ODAP:

"The Office of Drug Abuse Policy shall be responsible for carrying out the congressional mandate specified in the law. In addition, and to the maximum extent permitted by law, the Director of ODAP is hereby directed to fulfill the following responsibilities:

"(1) Recommend Government-wide improvements in the organization and management of Federal drug abuse prevention and control functions, and recommend a plan to implement the recommended changes;

"(2) Study and recommend changes in the resource and program priorities among all agencies concerned with drug abuse prevention and control;

"(3) Assume the lead role in studying and proposing changes in the organization and management of Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen Government operations; and

"(4) Provide policy direction and coordination among the law enforcement, international and treatment/prevention programs to assure a cohesive and effective strategy that both responds to immediate issues and provides a framework for longer term resolution of problems."

Dr. Peter Bourne was confirmed as the first Director of ODAP in the late spring of this year. Since that time he has assembled an extremely competent and versatile staff, including, among others, the former counsel of the special action Office on Drug Abuse Policy, who also had experience working with the U.N. in Geneva, and the former police chief of Berkeley, California. Presently, the Office has a staff of 10 individuals.

The staff is in place and is prepared to fulfill the mandate established in Public Law 94–237. Already it has turned out a number of sound studies on the problem. But obviously, there is much more yet to be done.

The law and the accompanying reports clearly imply a strong professional staff which will be directly accountable to the Congress and to the Senate in particular. It also mandates that the Director be an individual with the ear of the President who will work solely on these vital problems.

The President's plan can only be interpreted as substantially undermining, and all but gutting this structure.

The senior adviser to be substituted for the Director would no doubt have many other duties to undertake, and would lack the backup and staff necessary to do the job in drug abuse policy.

I hope that the President will re-examine his proposal in light of the legislative history to which I have alluded and will give strong consideration to amending his proposal.

I am hopeful that at the same time this committee will ask hard questions of the administration when its witnesses appear, regarding savings and goals of this plan.

At this point in time I am not prepared

to say that the President's proposal ought to be disapproved. But rather, based on the evidence presented thus far, it appears to be unwise and contradictory to our recent actions.

Mr. HATHAWAY. Mr. President, I felt at that time and continue to feel that the President's proposal to abolish ODAP is contrary to the best interests of our national drug abuse policy. During the hearings of the Governmental Affairs Committee at which administration witnesses testified I had the further opportunity to ask questions of these witnesses and to submit questions for the record, which were subsequently answered by these witnesses. All of this material is available as part of the hearing transcript.

Throughout this interchange it was my view that the existence of a single identifiable entity within the White House, headed by a director subject to confirmation by the Senate, was critically important to rationalize and coordinate the many different, sometimes competing, Federal departments and agencies involved in programs and policies designed to combat our Nation's very serious drug abuse problem.

For example, in the enforcement area, there are seven Federal departments and eight Federal agencies involved in border management alone. This jurisdictional miasma is but one example of the conditions which called for the establishment of a permanent White House office with the authority and the resources to intervene, assert leadership, and establish priorities.

In the education, treatment, and rehabilitation areas, the dispersal of programs and authority is an equally serious problem.

ODAP was created by statute to fill this coordination role, and under the leadership of Dr. Peter Bourne and a very able and talented staff, it has accomplished a great deal in a very short period of time. The ODAP border management study offers an excellent synopsis and analysis of the reasons drug smuggling and allied activities are so difficult to contain, and sets forth an agenda for greater accountability and improvement. Other studies on treatment and rehabilitation services are forthcoming.

Despite the apparent need for this structure and its record of accomplishment thus far, the President's reorganization plan saw fit to eliminate it.

It is the viewpoint of officials of the Office of Management and Budget, with whom I have discussed these issues in great detail, that the new structure of the White House will, overall, foster, and improve the analysis of drug abuse policy issues and will promote more expeditious and definitive treatment of these issues within this policy structure. Through their responses to my submitted questions and through my personal discussions with them, these officials have reiterated their view that the separate office within the White House, but outside the new policy management structure, could be detrimental to the handling of drug abuse issues.

I appreciate their viewpoint and believe they are sincere in holding it. I further appreciate their willingness to stipulate that Dr. Bourne will continue to be available to testify before Congress and will continue to play a key role in formulating our national policy in this area. In this regard I ask unanimous consent that the text of a letter I recently received from Acting Director of OMB, James T. McIntyre, Jr., be printed in the RECORD at this point:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANGEMENT AND BUDGET,
Washington, D.C., September 28, 1977.

Hon. WILLIAM D. HATHAWAY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATHAWAY: I understand that you are concerned about the disposition of the Office of Drug Abuse Policy (ODAP) in Reorganization Plan No. 1. This letter explains the arrangements we plan to make for handling ODAP functions and answers questions that have been raised about it.

In proposing the abolition of ODAP as a statutory unit, the EOP reorganization group recognized the value of its work and made provision for each of its functions to continue:

ODAP's policy development and coordination functions will be handled within the new policy management system which is to be used for most domestic issues. The basis of the system is the formation of interagency working groups, coordinated by the Domestic Policy Staff, to recommend policy and handle specific problems. The system will link the skills and experience in line agencies with the Presidential perspective in the Executive Office. In the drug abuse area, Domestic Policy Staff members will work with the revitalized Strategy Council on Drug Abuse to make the system a reality. Because of the President's personal commitment to more effective action in the drug abuse area, a White House adviser will continue to provide strong policy guidance.

We anticipate that ODAP's current reorganization work will be completed in January 1978. However, the Office could continue until April 1 if additional time is needed to complete its work. After the Office is terminated, its reorganization responsibilities will be assumed by the President's Reorganization Project, in cooperation with the President's drug and health adviser.

The President's decision on ODAP is in no sense, an attempt to deemphasize drug abuse problems. He has asked Dr. Bourne to take the lead in formulating a comprehensive national drug abuse policy, including planning, enforcement and other critical issues. His August 2, 1977, message to the Congress on drug abuse stressed his continued deep personal concern about the effects of narcotics and the need to act. The President has also assured the Congress that Dr. Bourne will be available to testify as he has been.

In summary, we believe that the new arrangements for carrying out ODAP functions will improve the effectiveness of drug abuse policy development and coordination. The system will place the drug issue in the mainstream of Presidential decision making within the new policy management system and reorganization efforts, thus better integrating it with related concerns. By retaining a visible White House adviser, priority will be given to the issue and coordination will be assured. I hope that you and your colleagues will view the ODAP reorganization in the context of the new arrangements that the President proposes.

Enclosed are answers to commonly asked questions. If I can provide further information, I will be happy to do so.

Sincerely,

JAMES H. MCINTYRE, Jr.,
Acting Director.

Mr. HATHAWAY. Mr. President, while I appreciate these expressions of concern on the part of the administration, I disagree with these conclusions and believe that whatever the alleged internal management benefits which flow from this reorganized structure, they will be ultimately overridden by the concomitant decline in the ability to mobilize effectively a unified administration response to drug abuse throughout the entirety of the Federal Government.

If the reorganization plan before us were amendable I would amend it to continue ODAP. But it is not. The only way to preserve ODAP is to vote down the plan in its entirety, thus barring the President from carrying out the salutary aspects of his reorganization, as well as this questionable one.

This being the case, I will not encourage my colleagues in such a course. I can assure them, however, that I shall give close scrutiny to the new reorganized White House structure as it affects the treatment of all policy issues, but with particular attention to drug abuse.

It is my intention to hold hearings of the Alcoholism and Drug Abuse Subcommittee in the early part of next year to examine closely the accomplishments of ODAP at that point and to determine whether it appears that its statutory mandate could better be met in the new White House structure or whether it ought to be retained and continued further. In the latter event, I shall be prepared to push for new legislation toward that end.

TRIBUTE TO SENATOR HUMPHREY

Mr. DOMENICI. Mr. President, I would like to take this opportunity to pay tribute to my respected and distinguished colleague, the Senator from Minnesota, HUBERT H. HUMPHREY. It is fitting that the Senate has passed a resolution to name the new Department of Health, Education, and Welfare building after such a devoted and generous public servant.

I have known Senator HUMPHREY a relatively short period of time compared to several of my colleagues who have worked with him for many years. Nevertheless, I, too, have always admired him for the enthusiasm and dedication which characterize his Senate career. Although we are on different sides of the political aisle, I cannot help but admire the tenacity with which he clings to his ideals and the boldness with which he attempts to change the established order of things.

It is entirely appropriate that the new HEW building be named after Senator HUMPHREY, since he has been in the forefront of progressive social legislation for decades. The Senate's overwhelming passage of this resolution further attests to the esteem in which Senator HUMPHREY is held by his colleagues and by the American people.

ENERGY

Mr. GRAVEL. Mr. President, I am concerned about some currently circulated misconceptions dealing with the economics underlying the supply and de-

livery of energy in our Nation. The laws of supply and demand cannot be abrogated by congressional fiat. Neither the President, nor Congress—nor the legions of Department of Energy bureaucrats—can guarantee us adequate supplies of energy if we are not willing to pay the market price for that energy.

The free market system has made this country the most powerful economic force in the world. The predominance of our economy has resulted from our reliance on the power of the market to balance supply and demand through the price mechanism. Why then, is the energy market any different from the markets for other essential goods? I submit that it is not, that we cannot control the price of oil or gas at prices below the market—and still expect to have a sufficient supply of either. Those who promise us such false hopes mislead us by implying that there is a more effective system for balancing the supply and demand of energy in our economy. We have had a controlled market for gas since 1954, and for oil since 1973. The controlled market has not worked. Our failure to appreciate the free market system of economics fundamental to this Nation has led us to the energy crisis which some now propose we solve with the same methods of control which have failed us in the past.

Mr. President, we talk of an increase of natural gas prices to $1.75 per Mcf as sufficient to allow "fair" profit to domestic producers, but we are currently signing contracts to import gas from Mexico at $2.62 per Mcf and to ship gas from Algeria at over $4 per Mcf. We are keeping domestic prices down and using that low price to subsidize foreign energy production. We have an energy program before us which would continue to subsidize foreign production of oil and gas.

Mr. President, we are willing to pay $13.50 per barrel for one-half of our domestically produced oil. Where is the sense in that? It is little wonder that our domestic production continues to decline. Not 10 years ago we were a net exporter of oil—now we import one-half of our needs. Is an oil company un-American because it refuses to produce oil at a loss; because it shuts in wells that price controls preclude from operating at a profit? Are we to ask American consumers and the stockholders of American oil companies to continue to subsidize the importation of foreign oil?

We must stop using our domestic oil companies as the whipping boys in this debate over energy supplies. We must stop alleging the existence of excess profits when none exist. If the concern is that oil and gas companies will reap outrageous profits from their reserves if they are allowed world price for their goods, we can solve that problem. We can tax away those profits through an excess profits tax. But, the producers of energy in our country should be allowed to operate within the market system. They should receive market price for their products, and use their income for exploration and development. Then, if they are not reinvesting their earnings, to the extent those earnings are unreasonably high, they should be taxed away. Coupled with deregulation of oil and gas prices, such a tax would provide the incentives for increased production while insuring against excess profits.

Mr. President, I have time and again suggested such a reasonable approach to our energy supply problems. I have done so again this year in the Finance Committee. But the authors of the national energy plan cannot see beyond the short range low prices for energy generated by continuing controls. It does not seem to be important that our choice now is not between low priced and high priced oil and gas, but between high priced oil and gas and none at all.

I have talked with sincere men, professionals in the oil industry, who have come to me with painstakingly compiled data on existing wells showing how, under the existing system and under the President's proposed program, they will be forced to close in wells, some producing as much as 500 barrels of oil per day; and only because the companies cannot break even on those wells. Once those wells are shut in, Mr. President, they cannot be cheaply reopened and there may be a permanent loss of oil. In effect, we are forcing the decline of the only sure supply of domestic oil we have available.

We here in the Senate are working to save the national energy plan. We know that no system of laws and regulations can adequately deal with the complexities of the market. We know that politics and bureaucracies cannot fairly and efficiently price goods or allocate resources. That has been our basic tenet in American policy. Common sense demands that we in the Nation's capital stop trying to mislead Americans into the belief that fundamental economic principles can be suspended. In energy, as in all things there is no "free lunch." It is time we told Americans the truth—that the laws of supply and demand still operate, are operating today, and that the sooner we return to a market economy for energy the sooner the crisis will be over—and the "moral equivalent of war" will be won.

FEEDLOTS VERSUS HUMANITARIANS

Mr. WALLOP. Mr. President, there is a great deal of emotionalism and confusion surrounding the issue of world hunger and the need for food surplus countries to offer different forms of food assistance. One of the proposed means of saving the world from starvation is for the United States and other beef producing countries to turn their beef away from the feedlots so that this grain can be used to feed the world.

This is a simplistic solution to a complex problem that needs to be examined more deeply. Journalistic speculation on solutions to world hunger must be replaced by solid economic and nutritional analysis of the sources of world hunger. Most important of all, each citizen has a responsibility to understand the problems of hunger, and try to separate emotions from fact.

Miss Pam Ware of Sheridan, Wyo. has given me the opportunity to review a paper that she has written on the ill-conceived notion that the world would benefit if the United States would stop feeding grain to cattle. I would like to share this paper with my colleagues in the Senate and extend my thanks to Miss Ware for examining this important area of research.

Mr. President, I ask unanimous consent that the paper be printed in the RECORD.

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

FEEDLOTS VERSUS HUMANITARIANS

(By Pam Ware)

Throughout time, the inhabitants of the earth have led a long and oftentimes unsuccessful struggle for space and nourishment. Man has not been any exception. Thomas Robert Malthus, an English political economist in the late 1700's, wrote the famous "Essay on the Principles of Population." In his essay, Malthus stated what is known as the Malthusian Doctrine. In general the doctrine says that:

"... the increase of population advances at a geometrical, the increase of the means or life at an arithmetical, ratio; that this condition of things renders the condition of the poor more and more hopeless; that unless famine or war interfere to diminish population the means of life will eventually prove inadequate; that discouragement of early and improvident marriages and the cultivation of self restraint must be employed to avert the danger."

Today, in 1977, most nations still have made only feeble attempts to control population, Japan being the only one which has reached total zero population growth. Better average medical care, which slows death rates and raises live birth rates, has helped the total world population to grow at a more alarming rate than ever before. To make matters worse, man has few new frontiers of fertile land to cultivate for more food supplies. Optimists are often quoted as saying that "something will turn up," or "we will reap the wealth of the oceans to feed our population." Optimism, however, will not make anything turn up, nor will it stop the pollution of rivers, seas, and oceans. Conceivably, by the time man has developed the technology to grow food sources in the oceans, they will be too polluted to support those food crops. Many people have suggested many different ways to feed the exploding population, the most recent being elimination of the "wasteful" feedlot production of beef in the United States.

Advocates of this philosophy contend that feedlot beef "consumes" valuable grains which could be better utilized as food sources for humans. This assumption comes from a basic misunderstanding of the feedlot and beef industry. Cathy Kaufman, a free lance writer living in Washington, D.C., is in favor of turning more animals out to pasture to feed on grasses and weeds instead of "expensive grains and concentrates." "Thus," she says, "land now in corn (77% of which goes to animals,') could produce wheat, rice, or other grains designed for human consumption." The only problem with this idea is the fact that grazing land is not unlimited, and land which will grow corn is probably not fit for growing anything else. Suggested conversion to completely grass-fed beef to alleviate worldwide food shortages would have negative long-term effects in economic and nutritional advancements, and is not a logical, feasible approach to the problem.

Advocates of grass-fed beef are admittedly far-sighted, and are working in the best interests of mankind. However, perhaps they are a bit too far-sighted, too idealistic. They see a world of unified nations at a level of zero population growth, and plenty of food to go around. If the world ever achieves this

ideal goal, it won't be in the near future, nor will it come through merely turning United States cattle (and cattlemen) out to pasture. Foresight is wonderful, but only if all factors are considered. For instance, advocates for grass-fed beef apparently have not looked into the economic disruption which could be caused by a major change of this nature. They accuse the rancher-feedlot operator of being "wasteful," and suggest that grass-fed beef is cheaper to produce than feedlot beef. C. W. McMillan, in a speech at the Rockefeller Foundation Conference, had an interesting comment of this. He said,

"This mistaken assumption apparently is based on a lack of understanding of cattle and beef production. There are several reasons not to stop grain feeding altogether in the U.S. One reason is based on simple economics."

The feedlot operation came into existence in the U.S. because of a grain surplus, lowering the price of grain, making it profitable and sensible to feed grain to steers rather than pasturing them. More, better quality beef can be produced more quickly in a feedlot operation. Grass-fed beef has a slower rate of growth, and smaller total meat yield per animal. No one can blame the cattleman for wanting to improve his product so it would bring a better price in the American free-enterprise system. Another aspect is the fact that grazing land is limited. According to C. W. McMillan,

"Grazing capacity is limited, and if all cattle were kept on grass and roughage until they were ready for market, at 2½ to 3 years old, our basic cow herd would have to be cut back, per capita beef supplies probably would be reduced by at least one third, and prices would be higher."

Another misconception is the blame of the feedlot operator for higher grain prices. In a T.V. appearance, former Secretary of Agriculture Earl Butz stated that labor costs account for 40% of a loaf of bread and if the price of grain were to go up one dollar a bushel, the price of a loaf of bread should go up only 1½ cents. Inflationary costs of grain, which may put it out of reach for some people in underdeveloped countries, is caused by monetary inflation, not use of grains in feedlots The blame, if blame must be placed on someone, should be placed on the administrative bureaucracies involved in the processing, shipping, exporting and importing of the grain. Also, a change of this magnitude will come as a great hardship to cattlemen. They have set up their operations as economically as possible according to their own personal situation. A complete change would effectively put many cattlemen out of business. Roy L. Posterman, professor of international law at the University of Washington suggests,

"The private banking industry must help farmers and cattlemen begin projects which would result in reseeding and refertilizing land for more efficient forage crop usage.

"The Federal government would have to give tax breaks to farmers and ranchers cooperating in these projects."

The only future for this solution is dismal at best. First, the conversion itself will cause a drop in production which will cause a rise in the price to the consumer. Second, if banks give special help to farmers and ranchers, other customers may end up paying for it in higher interest rates or service charges. The same could happen on the federal level. Tax breaks for cattle raisers will only mean higher taxes for others. More and more governmental intervention only hampers the free enterprise system, making matters worse instead of better. Clearly, the United States has difficult decisions to make about the future: whether or not it is worth the economic difficulties to try to feed the millions of starving people in the world, and whether or not it is up to us to do so.

Presently the U.S. and Mexico are the only nations which are willing to send cheap or free food aid to starving nations. Other exporters expect hard cash for their products. Consequently, the U.S. is often expected to hand out more food aid than other countries, putting the burden on the American taxpayer. However, a controversy heard more and more often today is the one over the question of whether or not Americans are responsible for virtually feeding the entire world. Frances Moore Lappé, in an article in Harper's Magazine, claims that "spaceship earth is like any other big ship, divided into three sections: rich, not-so-rich, and poor. When the ship goes down, the poor are usually left to drown."

This implies that not only America, but all rich industrialized nations are responsible for feeding those who cannot feed themselves. Nathan Cohn, in an article in Saturday Review, expresses fears of "desensitization" of countries which are capable of helping India's "starving millions." On a recent trip to New Delhi, he witnessed demonstrations by Indian people. "They were protesting lifeboat analogies and the notion that some people have the right to decide whether others should live or die." In a later article, Cohn said, "Two billion hungry people are not going to accept the verdict of the well fed that they must go under in the long-term interests of the species." Problems of lifeboat analogies and two billion hungry people are going to be solved by doing away with the American feedlot? This is doubtful. In the first place, the failure of food relief programs is not the fault of the cattleman, but the fault of those who run those programs. According to Frances Lappé,

". . . 'food aid' is a misleading term because it carries with it the notion that our food is being allocated according to need. In fact, the lions' share goes to buying solicital friends. Of the $1 billion food aid budget, only 20% is destined for the many famine-stricken countries. The rest is going to such countries as South Vietnam, Cambodia, Chile, Jordan, Syria, and Egypt."

Other incidents have been recorded in nations receiving food aid, where the petty officials are the ones who prosper, not the hungry. When handing out the food aid commodities, the officials tend to charge a little extra for the grain, then pocket the profit. Also, market, storage, and shipping facilities are grossly inadequate in most underdeveloped countries. Often the rats are better fed than the people. Another oddity of international affairs is the fact that many richer industrialized nations prefer to import grain rather than grow their own. This makes tough competition for poorer nations. In 1966, the average country in Africa and Latin America grew less food per person than it did ten years before, and many have since become heavy grain importers. Also, between 1960 and 1963, the U.S.S.R. exported grain, but since 1963, they have imported as much wheat as India. Perhaps even if shutting down feedlots made more grain available, it still might not go to those who really need it. Besides, is present food aid really helping? "No," says Dr. Phillip Handler, eminent scientist and president of the National Academy of Sciences. According to Dr. Handler, "Assistance which barely manages to keep people alive and hungry and without hope leaves them in just the state in which there is no incentive for family planning, thereby feeding population growth rather than checking it."

C. W. Cook, in his speech "The World Food and Population Crisis," brought up a valid thought. On the subject of poverty and hunger in the United States, he said, "It is my belief that this country's first obligation is to the U.S. public, all 213 million of us." A random sample of 12,000 men, women, and children in American low-income areas, found seven cases of extremely severe marasmus and kwashiorkor, eighteen of rickets, and evidence of wide-spread goiter. Nearly 17% of the 12,000 were described as "real risks" nutritionally. These astounding facts prove that U.S. "food aid" should be sent to its own people instead of overseas.

Food shortages have reached world-wide proportions, yet "experts" expect cattlemen to alleviate the situation by turning cattle out to pasture. Perhaps a look at the merits and limitations of the cattle industry will help clear up this misconception.

First of all, cattle don't "consume valuable grains." They, through a remarkable four-stomached digestive system, convert grains into a far more efficient protein. David Pimentel, William Dritshcilo, John Kutzman, and John Krummel pooled their talents to write a well researched article in Science. According to their findings,

"Animal proteins are of higher quality than plant proteins because proteins from animal sources are composed of relatively large amounts of the eight essential amino acids required by man. Eggs, milk, and meat, for example, provide all the essential amino acids in a single source of protein food. Also, valuable minerals and vitamins are supplied by these products. . . . For example, proteins provided by rice, wheat, and corn are low in lysine . . . Other nutrients, such as vitamin B12 and some of the essential trace minerals may be lacking in a vegetarian diet. Young children need more than vegetable food sources."

According to the former observations, beef is an extremely important part of any diet. A second misconception is that feedlot beef eats only "valuable grains." This isn't true at all. Feedlots can, and will use anything which is economically feasible, from alfalfa pellets to hydrolyzed chicken feathers. Even treated newspapers have been used on occasion as feed for feedlot cattle. Another fact which is all too often forgotten is the limited supply of arable land on the earth. The Presidential Scientific Advisory Committee has computed the amount of potentially arable land on earth to be 7.86 billion acres. This figure represents only 24% of the total ice-free land area, but is more than triple the area which is actually planted and harvested. However, the term "potentially arable" can be misleading. Actually, almost all land which can be cultivated without major improvements in irrigation and fertilization is being used now. Even presently arable land is rapidly becoming scarce in the United States because of widespread urbanization. Therefore, even if the cattleman wanted to turn his cattle onto pastures, chances are there wouldn't be enough land to go around. Now with increased pressure for more coal, miles of rangeland in Wyoming is being ripped up for the coal underneath, decreasing even more the available pasture land.

In general, a drastic change of this nature, without research by people who are truly knowledgeable in the subject, could be disastrous. The economics of cattle and agricultural planning is seemingly not fully understood by those in influential positions. Washington officials are easily influenced in something they know little about, and often cannot resist the temptation to use grain as a foreign relations handhold. World-wide food shortages are a very real, very current problem and cannot be ignored. The only way to solve these problems is to hang up age-old prejudices and employ some logical thinking.

WOMEN'S RIGHTS HAZE

Mr. LEAHY. Mr. President, many specious arguments have been raised in opposition to the Equal Rights Amendment. Opponents of this very necessary and worthwhile constitutional amendment have argued that ERA is superfluous because laws already exist to guarantee equal rights to women under the law and that the problems which ERA proponents cite to support their position do not affect a real majority of women anyway.

Aside from being self-contradictory, these arguments fly in the face of the facts. The fact is that there are at least 9 or 10 statutes on the books right now that should protect women, but which do not because they are not being enforced. If for no other reason, passage of ERA is needed to put the psychological force of the U.S. Constitution behind this enforcement effort.

Mr. President, an editorial which appeared in the Barre, Vt., Times Argus recently gets right to the heart of the issue, and offers what I believe is a very fair and objective view of this whole question. I ask unanimous consent that a copy of the editorial "Women's Rights Haze," be printed in the RECORD.

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

WOMEN'S RIGHTS HAZE

One of the most difficult challenges still facing women's rights activists at the state and local levels is to convince policy makers, lawmakers, and, in many cases, women themselves, that there is a real problem.

One of the most hollow arguments against the Equal Rights Amendment, often voiced by women, is that there is no real need for a special constitutional amendment for women because: 1) there are already individual laws on the books designed to do the same thing, or 2) problems ERA supporters talk about don't affect a real majority of women.

In believing this, women's rights critics are too often overreacting to the worse of the radical rhetoric in the women's rights movement, and paying too little attention to their own very real problems as women.

Pointed examples of this can be found in the International Women's Year survey conducted in Vermont at the organization's Women's Town Meeting in February, and separate findings just released by the American Bar Association involving the law's discriminatory treatment of female juvenile offenders.

The federally financed International Women's Year survey was answered by 283 of the approximately 1,000 women attending the Montpelier meeting, more than a respectable response rate for a survey of this kind. The findings generally reinforced the belief that women are suffering more personal abuse in silence than they are ever willing to talk about to police authorities or even to their own friends and families, and that an even greater number of women in Vermont have never even attended a meeting specifically addressing women's problems. Of those women responding to the survey, 10 per cent reported having been raped at some time in their lives, 10 per cent said they had been beaten by their spouses, 17 per cent had had abortions, 45 percent said they had never attended a women's meeting before.

Moreover, a full 85 per cent of those responding were 25 years old or older, with the largest percentage—67 per cent—in the volatile 25–44 age category.

Take issue with the scientific accuracy of this sampling if you want to, but also consider this: Never has a survey like this been conducted on a statewide, anonymous basis in Vermont.

Is it any wonder that the public has such a hard time perceiving a women's rights problem in Vermont when so many women are reluctant to report their troubles in public, avoid organizations that might help them talk about their problems, and have never been extensively surveyed on a statewide, anonymous basis about what their problems are?

Given this information gap, it's no wonder either that the more limited surveys that are conducted—such as the International Women's Year Poll—look so much like just the tip of the iceberg.

The information problem is compounded in Vermont by the fact that Governor's Commission on the Status of Women has never had enough financial support to make an extensive survey of this kind in Vermont.

Reinforcing the value of comprehensive surveys, meanwhile, is the American Bar Association's just-released national survey showing judicial discrimination against female juvenile offenders continues unabated in the courts. This survey confirmed earlier findings that a larger proportion of female juveniles than males is likely to be sentenced to confinement for the same juvenile offenses, and that females are more likely to serve their time in a jail rather than in a juvenile rehabilitation program.

Disregard for a minute the stridency and over-blown emotionalism of big-city radical feminists and ask yourself this: How can Vermont view its women's rights problems as minimal when Vermont has never asked enough women what their problems are.

INCOME FIGURES DECEPTIVE

Mr. HELMS. Mr. President, a few weeks ago, a Member of Congress from New Jersey went to North Carolina, ostensibly in his capacity as a Congressman "seeking information" in connection with legislation, but actually on a mission that had every appearance of injecting himself into a North Carolina issue.

The gentleman is entitled to his opinions. Freedom being what it is in this country, he has the right, I suppose, to derogate my section of the country by using questionable characteristics of "working conditions" in North Carolina. In any event, using the taxpayers' funds presumably, he came to my State to conduct "ad hoc hearings" which were so biased and one-sided that they bordered on the absurd.

The political support that the gentleman receives from labor unions is a matter of record. Again, that is his right. On the other hand, it is interesting that the gentleman apparently is not fooling a great many people.

Not long after those ad hoc hearings in my State, I met a man who recently had moved his family from New Jersey to North Carolina. I asked him how he liked North Carolina. I wish the Congressman from New Jersey could have heard the response.

He said:

Senator, we feel like we've moved to Heaven. The climate here, the attitude of the people, the friendliness, the cost of living, the opportunities to enjoy life—it's just great.

Then he discussed at some length the subject of how much more disposable income he has in North Carolina. "Actually," he said, "my income dollar-wise is a little bit less here, but the cost of living is far lower. So we have a disposable income far greater than we did in New Jersey."

All of this came to mind, Mr. President, when I ran across an article published in the Charlotte News sometime back. It was written by John W. Moore. In a very significant way, Mr. Moore rebuts some of the views expressed by the distinguished Congressman from New Jersey.

I think my colleagues might be interested in Mr. Moore's article, 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:

INCOME FIGURES DECEPTIVE, DON'T SUPPORT ARGUMENT FOR MORE UNIONS

(By John W. Moore)

Mr. H. L. Mencken is credited with observing that for every complicated question, there is a simple answer—which never works. And so it is with the question of income levels in North Carolina.

There has been numerous articles in the past several weeks which have addressed themselves to the "cheap" labor in this state. In general, they seem to suggest that the remedy may be to introduce organized labor into the North Carolina industrial community. There is, in fact, ample evidence that such a cure may well be worse than the disease.

For example, in the last five years such union intensive areas as New England have lost some 9 per cent of their manufacturing jobs, and the areas of New York, Pennsylvania and New Jersey have experienced losses of almost 14 per cent. At the same time, the Southwest and Southeast have gained in manufacturing employment by 67 per cent and 43 per cent respectively. To suggest that North Carolina should change its policies and emulate "losers" would seem questionable at the very least.

Much use has been made of the Labor Department figures showing that North Carolina has the lowest manufacturing wage rates in the nation. Indeed, these figures themselves prove deceptive. In February of this year the Charlotte Observer carried a story regarding the fuel shortage which pointed out, ". . . The Southeast and Southwest are doing . . . even better than generally believed, once figures other than raw income are considered . . . once cost of living was considered, 'real earnings' (amount to) 97 per cent of the national average."

A May, 1976, issue of Business Week points out even more graphically the deceptive result of using raw figures. The article shows that while "real income" has increased some 57 to 65 per cent in the East and Midwest over the last five years, in the Southeast such income has increased an impressive 114 per cent.

But possibly the most damaging evidence against using raw figures comes from the First Chicago World Report published in May of this year by Economist Alan Raynolds. According to the study, North Carolina's per capita "real income" after state and local taxes amounts to $3,738. This com-

pares favorably with such union-intensive states as New York with $3,493, Rhode Island with $3,535, and Wisconsin with $3,670. In fact, North Carolina exceeds the average for all the East and Midwest combined ($3,705).

Most people are mainly concerned with spendable income after taxes. And, it would appear that from this point of view, North Carolinians are somewhat better off than the Department of Labor figures would imply. This is even more impressive when consideration is made of the fact that almost half of our manufacturing employment is in textiles and related industries, which are by nature labor-intensive and semi-skilled. In fact, even with today's wages and prices import barriers are required to protect this industry.

A union publication would seem a strange place indeed to find logical reasons for industrial migration to the South. Nevertheless, an article which appeared in American Machinist recently pointed out, "We suspect that the real secret weapon with which the South is attracting industry . . . is the willingness to work and the openness to fresh ideas that characterizes labor in non-industrial areas."

And the article continues, "(up here) when new contracts are being drawn, the battle is usually fought over wages plus new fringe and work rules. Rarely is there any serious effort by management to eliminate any of the old ones." And finally, according to the writer, "This produces a work force that would rather see the employer go out of business than to surrender a single one of those cherished restrictions . . . and unless union members and their leaders learn to accept the need for changes that will keep the plant efficient, both the old industrial areas and the unions they support are as doomed as dinosaurs."

Looking into the matter beyond the superficial facts, it begins to appear that it may not be so much a case of industry moving toward low wages in the South. But, rather that they are in fact moving away from the excesses and irresponsibilities of the big labor union. It would seem that with continuing interest from other areas of this country and that of Western Europe as well, the Southeast is rapidly attaining an enviable position. It is no longer a case of cultivating any kind of industry that can be persuaded to locate here, regardless of how unattractive the skills and wages are. Such things as the contaminating effect of a given plant can now be considered. The increasing number of firms who are wanting to come into the area offers a choice as to which ones would better serve the long-range interest of our people.

The leaders of the Roxboro area obviously recognize this, although it would seem that it has not made itself known to our governor. Wise decisions in this matter would be prudent for North Carolina. It is important also to recognize what Business Week has called, "The Second War Between The States."

The first volley has already been fired in the form of President Careter's administration bill which would change the labor laws. While some writers are soft-peddling the legislation as some minor adjustments in the law to keep management from taking advantage of their workers. U.S. News And World Report has more aptly described it as "legislation to unionize the South."

Leaders of the industrial Northeast and Midwest in tandem with big labor unions are backing the legislation. For the leaders in question, it is a matter of stopping the southern migration of industry by making the Southeast and Southwest as unattractive as they have allowed their own areas to become. For labor, it is a simple matter of more members—more power.

If the South wins, then the leaders of other areas will be forced to get their own houses in order, and the economic future of this nation will be a bright one. If on the other hand the South loses, then the United States will undoubtedly become as non-competitive in world trade as England has.

In short, the economic future of our children may well depend on who wins the "war."

HAROLD STASSEN AT 70: WHAT MIGHT HAVE BEEN

Mr. ANDERSON. Mr. President, for too many years Harold Stassen has been depicted by the media simply as a man who is a perennial candidate for President of the United States.

Those of us from Minnesota, whether we are members of the Democratic-Farmer-Labor Party or the Republican Party, know better.

Harold Stassen was one of Minnesota's most distinguished Governors at an astonishingly young age. He served as president of one of the Nation's greatest universities, the University of Pennsylvania. And he served in President Eisenhower's administration with skill and distinction.

Harold Stassen should be recognized for his long and in many ways remarkable career as a public servant.

I am most pleased that Messrs. Jack Germond and Jules Witcover took time from their noteworthy analysis of contemporary politics to reflect on Governor Stassen's career. Such an appraisal is long overdue. I ask unanimous consent that this excellent article, "Harold Stassen At 70: What Might Have Been" be printed in the RECORD.

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

HAROLD STASSEN AT 70: WHAT MIGHT HAVE BEEN

(By Jack W. Germond and Jules Witcover)

BRETTON WOODS, N.H.—At the annual Republican Governors Conference here the last few days, the air was filled with the usual political cliches. Except for one. Nobody said he wasn't running for president "because I don't want to be another Harold Stassen."

The reason, you see, was that Harold Stassen himself, the perennial presidential candidate, was here. He was one of several former Republican governors invited to justify not holding a conference in a phone booth. There are only 12 Republican governors in office now, and two of them didn't come.

As a matter of fact, Harold Stassen says he doesn't plan to run again in 1980, but of course he may. He has run—or has his name offered as a gag—in most presidential elections since 1948. In that year, he was a serious candidate, winning several primaries but losing out at the party convention in Philadelphia to Thomas E. Dewey.

To their credit, the sitting GOP governors didn't treat the 70-year-old Stassen as a joke. They gave him a seat with them at the conference table and abstained from the funny remarks politicians are wont to make about him when Harold Stassen isn't present. He was, after all, a three-term governor of Minnesota, first elected in 1938 at the age of 31, then the youngest man ever to serve as a state governor.

The thing about this legend in his own time is how good he looks after all these years. He is a big man, well over six feet tall and broad-shouldered, with a large head and features, and he walks ramrod straight, without the slightest trace of approaching old age. A toupee makes him look years younger than 70.

He likes to talk about the time he spoke to a high school class in Texas, and after recalling all his years as a loser in politics, "a boy looked up at me and said, 'How come you're still alive?' " That's a natural question he says, considering that he has been active in politics for nearly 50 years. "Having started out in politics so young," he says, "I guess I seem older than I am."

He knows, of course, how other politicians ridicule him but, he says, "you take all of these things in stride. You keep your sense of humor. You're prepared for that. When I first ran for governor, people said I was leading a diaper brigade. But I was able to make an important contribution in Minnesota."

He says his only "real" race for the Republican presidential nomination was in 1948. Four years later, he says, he ran—and Warren Burger, now the Chief Justice of the Supreme Court, was his campaign manager—and paved the way for the nomination of Dwight D. Eisenhower.

Before Stassen was known as the perennial candidate, he was one of seven U.S representatives to the San Francisco conference at which the United Nations was born. He takes pride in that, as well as in his five years as Eisenhower's director of foreign aid. There was nothing funny about either of those tasks.

And, although it was considered to be a joke at the time, Harold Stassen tried his damnedest in 1956 to get Eisenhower to kick one Richard M. Nixon from his ticket. That attempt created a mild stir at the time, and had Stassen succeeded, Bob Woodward and Carl Bernstein might still be covering fires in suburban Maryland.

You might expect that a politician who has been the butt of so much ridicule would be crowing right now about his foresight concerning Nixon. But, surprisingly, he declines even to discuss what it was about Nixon back then that inspired him to launch the dump-Nixon drive.

He prefers to talk about how he was among the first to oppose the American involvement in Indochina. "In 1964," he says, "I felt that Vietnam war was a deep tragedy. The young generation knew they were not alone in opposing the war."

Now, he says, he is trying to help rebuild the Republican party placing special emphasis on attracting young people. Also, Stassen would like to see the United Nations updated and has prepared a draft of a new charter. Meanwhile he continues to earn a living as a lawyer in Philadelphia dealing in international affairs. He lives with his wife in suburban Valley Forge.

And while most politicians laugh at him, he believes he sets a positive example for young people of the kind the Republican party needs now.

"I don't consider inside me I am a loser," he says. And so, although Harold Stassen says he doesn't plan to run again in 1980, don't bet your grocery money on it.

BING CROSBY

Mr. BAKER. Mr. President, I would like to comment briefly on the death Friday of Bing Crosby.

I did not know Mr. Crosby—but his was a personality that you felt you knew, that you knew you would like. Bing Crosby was one of those very special pub-

lic people for whom you are certain you would have as much affection and respect for the person as you have for the public figure and his talent.

Somehow he represented the very best of our image of America—for what it is and for what we hope it can be. He has been a part of that image for as long as I can remember, and he will stay a part of that image for a very long time.

Over the weekend the Washington Post printed a number of articles on Bing Crosby; I commend them to my colleagues and ask unanimous consent that they be printed in the RECORD.

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

BING CROSBY

Though he was born Harry Lillis Crosby, the millions of people around the world who could instantly recognize that smoooooth baritone knew him by more endearing names. Bing. Der Bingle. The Groaner. Le Bing. And though Bing Crosby died Friday on a golf course in Spain at the age of 73, there lives Bing the Legend: the casual, pipe-smoking, glib-lipped, father-figure in the flamboyant attire.

To today's small children, perhaps, he may be best known as the dad with all that orange juice for his family in the TV ads—or as the name of a golf tournament. His original bub-bub-bub-a-boo, croon-and-whistle renditions of "When the Blue of the Night Meets the Gold of the Day" and other ballads may ring funny in the Age of Rock—too gentle, perhaps, too sentimental for today's young. But the time was when young people fell in love—and people of all ages did their Christmas shopping—to his accompaniment. For a full half century, he was one of those rare, enduring super-entertainers of show business who somehow manage to capture—and hold—entire generations of fans.

The Crosby singing style slid with ease through so many music modes, from his perennials, "Silent Night" and "White Christmas," through the delightful silliness of the "Road" pictures with his pal Bob Hope and Dorothy Lamour and later to stompin' Dixieland fun with Louis Armstrong in "High Society." Just as effortlessly as he seemed to glide into any kind of music, Bing adapted to all the forms that entertainment was to take, from phonograph record sales of more than 300 million through nearly 60 movies (an Oscar for "Going My Way") and on into households via television specials.

Behind his cool, well-now-looky-here demeanor was a hard-working man of many talents. He was a successful business executive, a sportsman-entrepreneur, a father of two families (four children by Dixie Lee, who died in 1952, and three by Kathy Grant). And while he did not make a big fuss about it, he was also apparently a considerable philanthropist.

But most of all, Bing Crosby was your reliable family friend, ever available and able to make everyone around him feel comfortable. That's why you wanted to believe that he'd somehow be around forever—and why, thanks to a rich legacy of recorded performances, we rather think he will be.

LUCKY US, MR. CROSBY

(By Tom Shales)

Bing Crosby's reign outlasted all of the heirs apparent. They came they went, they did or didn't acknowledge what they owed him, but even when Crosby's own popularity softened and his record sales slipped, he remained somehow, somewhere, comfortingly there. He wasn't merely a star, nor merely the greatest star. He was an abiding presence.

You realized what the sound of his voice meant to you when you heard it from a gaudy jukebox in a two-bit bar on that lonely holiday away from home. You heard "White Christmas" and you were home again. You could warm your hands on the sound of his voice.

What was wonderful was the way he could inspire sentimental binges without giving in to sentimentality himself. He kept his dignity even when we went to pieces, and his blitheness and jauntiness became more than just trademarks or habits; they were statements on the advisability of not getting carried away.

"All I do is, I just do the same old thing every time," Bing Crosby told an interviewer in 1975, "except each time it's a different song."

A year later he tried analyzing his style for The London Times. "I wanted to sing conversationally, to reach people with the meaning," he said. "I don't think of a song in terms of notes. I try to think of what it purports to say lyrically. That way it sounds more natural, and anything natural is more listenable."

Crosby was more natural and more listenable than any other singer. This was music blithe as friendly chatter, free of bombast or pose, direct and intimate and personal.

In liberating songs from pretentious artsiness and formal cant, he ironically helped make popular song one of the greatest arts of all, all the greater for its utter accessibility—an art closed to no one. Crosby was a democratizer, an exemplary egalitarian, and he became a singing spokesman as well, a summation of American pop as well as its immaculate practitioner.

In his 50-year career, The London Times noted, Crosby's voice was "heard more often by more people than that of any mortal in history."

Yet he remained the most unassuming of institutions.

When, during a celebration of his 50th anniversary in show business, he took an unfortunate tumble from a tricky stage in Pasadena last spring, photographers besieged the stage and looked down at Crosby, lying injured in a pit below them. They were asked not to take any photographs of him at that time, and they obliged. Bing Crosby was a head of state; he kept his dignity, and we willingly cooperated in the maintenance of this legend.

Crosby was able to triumph at a stroll, to conquer casually and without looking the aspiring conquerer. There is almost no evidence to support wayward suspicions that his breeziness and nonchalance were fakes; there seems genuine modesty in his decision to title an autobiography, "Call Me Lucky."

You would never have caught him clawing his way into gossip columns or elbowing for attention on talk shows. He didn't drag his emotional problems through the newspapers, and he didn't posture when he sang emotional songs. Yet he could trigger an emotional response more deftly and efficiently than some performers with hearts on their sleeves and sobs in their throats.

In the movies, particularly the Road pictures he made with Bob Hope, Crosby showed a genuine comedic gift that was relaxed and spontaneous. In an interview last year, Hope recalled that the clowning on the set was so legitimately jolly that, "Guys used to fight to get to work on the pictures."

Then Hope sighed nostalgically and said, "God it was fun."

There were vague plans to do one more Road picture, to be called "The Road to Tomorrow," but this project never materialized (though Hope said a script had been written), and Crosby once joked that the picture should have been titled "The Road to Oblivion."

Oblivion was and probably always will be quite beyond his grasp.

In "The Country Girl," more than in his priest movies ("Going My Way," "The Bells of St. Mary's"), Crosby proved his abilities as a dramatic actor, though he didn't endanger his acting technique with acting lessons; he hadn't endangered his singing technique with singing lessons either. But in key moments of "Country Girl," as the alcoholic husband of Grace Kelly, Crosby may have called upon his own early bouts with the bottle in making this portrayal, convincing and alarming.

It's easier and more pleasant to remember him romping with Hope, however. This was a public show-biz friendship that remained entertaining and never grew forced or fatuous. In the Road pictures, the jokes were often at Crosby's expense. During one of the films, Hope suddenly hears violins welling up on the soundtrack. He looks into the cameras and says, "Okay folks, you can go out for popcorn now. He's going to sing again."

One respected Crosby particularly for the things about his life that he kept private. Though he played a priest at least three times in the movies, his Catholicism remained something personal; he never really tried to drag God into the act in self-aggrandizing show-biz style. He didn't tell audiences they were "beautiful" nor congratulate us for having the good taste to love him. He preferred to think he was the fortunate one; he was swinging on a star.

In recent years, after a long period of virtual retirement, Crosby stepped softly back into the spotlight. Sometimes he turned up in unlikely places. When one of his favorite subjects, tequila, was discussed in the rock magazine Rolling Stone, Crosby wrote a friendly letter to the editor disputing a few points about that delicacy. It was published and Crosby's signature followed by an editor's note for the disbelieving "This is the real Bing Crosby."

Late last year, Crosby's career was dissected in of all forums The Village Voice, where writer Gary Giddins chastized Crosby somewhat for having forsaken pure jazz in order to occupy the middle-of-the-road and win over his sweeping populist constituency.

Then Giddens suggested that Crosby was not only a troubador but an ombudsman. "He reminds me of a line in an old Carl Reiner-Mel Brooks routine about a pop singer who says of his audience. 'I am them, they are me, we are all singing, I have the mouth.'"

Giddins called Crosby "the ultimate pop icon" and concluded, "He is us, and we are him, only he has the mouth."

There will probably never be another singer as widely popular as Crosby. Part of the fallout of the media explosion is a fractionalized electorate; the great audience has become many audiences. Where Crosby's influence will end we can never know, however. Whenever a singer tries to speak to us individually, and not the mob beneath a pedestal, Bing Crosby's legacy will be perpetuated.

"I'll never have a hit again," Crosby once told The Los Angeles Times. "There's no chance. I'll keep on singing as long as there's a market. I'd just like to do a job well and keep in touch with the industry. It's been my life for 50 years. It's been a long, long pull and I've had great results. I can't complain if it stops tomorrow."

It stopped yesterday. But he is still us, and we are still him, and we will be for many Christmases to come.

BING CROSBY DIES AT 73

(By Jean R. Hailey)

Bing Crosby, the relaxed, easy-going, golden-voiced baritone whose career as a singer and actor spanned five decades, died yesterday of a heart attack after playing golf in Madrid, Spain. He was 73.

He collapsed after finishing 18 holes at La Moraleja golf club in Madrid's suburbs and was rushed to a Red Cross hospital in the city, where he was pronounced dead on arrival.

Crosby had been playing golf with Spanish champions Manuel Pinero, Valentin Barrios and Cesar de Zulueta when he was stricken.

In addition to being a singer with a golden voice, Crosby was also a song-and-dance man, master of the ad lib and an Oscar-winning actor. Radio brought Crosby to national prominence in the 1930s, and he became the most popular show business figure for a generation of people, both in this country and abroad.

The same qualities that propelled him to stardom proved durable, and he became a legendary figure in the world of entertainment.

He also became a millionaire, married two beautiful show business personalities, fathered two families, and made a name for himself in sports.

Dubbed "The Groaner" (which he preferred to crooner), "Der Bingle" (bestowed by the Germans), and plain old "Dad" (imposed by Hope), Crosby was one of the 10 top money-making stars for many years.

An enthusiastic golfer, Crosby had gone to Spain to relax after a tour of Britain that had included a sell-out performance at London's Palladium.

He was to have joined in a partridge hunt today and then had planned to fly to the Spanish island of Majorca on Monday for more golf.

His family was not with him in Spain. His second wife, actress Kathryn Grant, had returned two days earlier from Britain to their home in Hillsborough, Calif., a suburb on the peninsula south of San Francisco.

Trudy Berger, a cook at the Hillsborough home said:

"He had been feeling fine—we were expecting him back in a day or two."

Crosby had suffered a back injury earlier this year in a fall from the stage while taping a television show in Los Angeles to celebrate his 50th year in show business.

Berger said the only family member at home at the time was Crosby's youngest son, Nathaniel.

"We just picked him up from school. He's very distressed naturally," she said. Mrs. Crosby arrived at the home shortly afterward.

Crosby's daughter, Mary Frances, 17, was rehearsing for a part in a Shakesperian play at the American Conservatory Theater in San Francisco and headed home immediately when she heard of his death.

His longtime friend, golf companion and fellow entertainer, comedian Bob Hope, was at the Waldorf Astoria in New York when he was told of Crosby's death.

"I don't believe it. I'm absolutely numb. I saw him a couple of months ago and he seemed fine . . . I can't understand what happened. I guess he was more hurt in that fall than we realized," Hope said.

Hope was scheduled to make a benefit appearance in Morristown, N.J., last night but cancelled it.

"I just can't get funny tonight," he said. "It's just not in me. I'm getting calls from all over the world, but I just can't talk."

Expressions of grief came from other old friends.

"It's a terrible shock to me. He was one of the greatest," said comedian George Burns.

Frank Sinatra, a fellow actor and singer said:

"The death of Bing Crosby is almost more than I can take. He was the father of my career, the idol of my youth and a dear friend of my maturity. Bing leaves a gaping hole in our music and in the lives of everyone who had ever loved him. And that's just about everybody."

First Lady Rosalynn Carter also expressed grief through her press secretary, Mary Hoyt.

"Only yesterday she (Mrs. Carter) sent him a letter asking him to sing some of his wonderful Christmas songs at the traditional Christmas party for the press on Dec. 17," Mrs. Hoyt said.

There were other future plans afoot for the celebrated crooner who was a millionaire many times over but allowed as how "I'll go on singing . . . as long as I'm asked."

Hope said that contract details had been worked out to make a sequel to the famous "Road" pictures with Dorothy Lamour that came on the screen in the 1940s. It was to be called "The Road to the Fountain of Youth."

He added that he and Crosby also had been scheduled to tape an exchange of quips on Oct. 24 for a TV special saluting Hope's 40 years in films.

When he began in films, Crosby did not project the image of a matinee idol.

To compensate for the famous Crosby jug ears, which he refused to have taped back, there were the blue eyes and the winsome smile.

Most of all there was the voice.

It had brought Crosby nationwide popularity by way of radio in 1932. It brought him further fame by way of motion pictures and then carried him into television in the 1950s.

The voice also entered an untold number of homes around the world by way of recordings. By latest count, Crosby record sales had totaled well over the 300 million mark and "White Christmas" and "Silent Night" were still selling.

To what did he attribute his extraordinary success?

"Hard work and Lady Luck," Crosby once replied. He emphasized that in an autobiography, "Call Me Lucky," published in 1953.

If luck played a role, it was in the choice of partners in show business.

This dated back to the 1920s, when Crosby, Al Rinker, and Harry Barris formed the Rhythm Boys and sang with Paul Whiteman's band.

It continued in the 1940s, when he joined with Hope and Lamour in six "Road" films—"Roads to Singapore, Zanibar, Morocco, Utopia, Rio and Bali."

It took him to "Going My Way," a 1944 film in which he costarred with Barry Fitzgerald and won an academy Award for his portrayal of a priest.

Luck remained with him in later years, when he came out of what was never officially a retirement to team with his second family in Christmas television specials and the selling of orange juice.

Crosby also found luck by his side in 1974, when a growth removed by surgery from his lung was found to be nonmalignant, and again this year when he suffered only minor injuries in the concert stage fall.

Born Harry Lillis Crosby in Tacoma, Wash., he was one of seven children of Harry Lowe Crosby, a brewery bookkeeper, and Kate Harrigan Crosby.

The family moved to Spokane while he was a child and he attended grade school and Gonzaga High School there. He also earned the nickname of Bing from his fondness for a comic strip called the Bingville Bugle, featuring a character called Bingo.

Crosby had his first and only singing lessons while in grade school. They ended when his teacher tried to make him do breathing and tone exercises.

Later he took oratory and elocution at the Jesuit high school, which helped him develop the "phrasing" that later made his singing clear and easy to understand.

In his classes he recited many of of Robert W. Service's poems, such as "The Spell of the Yukon" and "The Shooting of Dan McGrew." He did the classic "Horatius at the Bridge" and "Spartacus to the Gladiators." "I took those eloquent lines in my teeth and shook them as a terrier shakes a bone," he wrote later. They also brought him awards.

During his school days, Crosby worked at a number of jobs, delivering newspapers, thinning apples, janitoring at a working man's club and doing topography at a loggers' camp.

"Dad was in shock most of the time," he once explained. "As soon as he finished paying for a sewing machine, he'd buy a victrola, or lawn mower, or one of us would need new clothes. We soon found out there wasn't a lot of money on hand for baseball bats or sodas. Whatever we got, we earned."

Always casual seeming to do things without effort, Crosby often gave the impression of being downright lazy. But it was only a pose. Actually, he was a hard worker.

He entered Gonzaga University in Spokane in 1921, and eventually switched to the study of law, working part-time for a local law firm.

But he also had joined a college band, called the Musicaladers, which played at local dances and private parties. He played drums and sang. Another member of the band was Al Rinker, who played piano.

They decided to quit school and go on the road. Billed as "Two Boys and a Piano," they went to Los Angeles. There Crosby had his first brush with Lady Luck.

It was Rinker's sister, known professionally as Mildred Bailey, who became famous as a jazz and blues singer. She helped them get billings.

They were in Los Angeles when Paul Whiteman heard them and hired them for his band in 1927. They went on to Chicago with him, and the audience liked them.

Then the band hit New York and Crosby and Rinker fell flat. Crosby said later he never did understand why. A short time after that, Whiteman added Harry Barris to his organization and the Rhythm Boys were born.

They made a big hit with "Mississippi Mud," and put together a repertoire of numbers that nobody else was singing. In 1930, they went to Hollywood with the Whiteman band to film "The King of Jazz."

In the meantime, Crosby admitted later, the trio wasn't doing anything about learning new songs. There was a falling out with Whiteman and a parting of ways in Seattle.

It was back to Los Angeles, where they joined Gus Arnheim's band at the cocoanut Grove. It was then that Barris composed the songs for some of Crosby's biggest hit records.

These included "I Surrender Dear," "Just One More Time" and "Wrap Your Troubles in Dreams." Crosby also helped compose a ballad that became his radio theme song.

"When the Blue of the Night Meets the Gold of the Day" left today's grandmothers sighing before their radio sets. So did the boo-boo-boo-booing and whistling that Crosby produced to vary the choruses. He later abandoned that style.

He also appeared in a number of Mack Sennett movie shorts. He went to New York,

where he broadcast for the first time on a nationwide network.

He appeared at the Paramount Theater, where he set a record—a 29-week run singing five and six shows daily. He was an emcee at the Capitol Theater, where he met a young comedian, Bob Hope.

Between theater, radio and recording dates, he also almost managed to ruin his voice. His overworked vocal chords developed nodes and a raspy hoarseness. Two weeks of rest cured his problem but left his voice a permanent tone or so lower.

In the meantime, Crosby had met and married Wilma Winifred Wyatt, better known by her professional name of Dixie Lee. She was an established star of several Broadway musical comedies and a rising screen star.

She had accompanied him to New York, and when they returned to Hollywood in 1932, she decided to give up her budding career and become a homemaker.

Because of his success on radio, it was Crosby's turn to try for film stardom. Paramount Pictures asked him to appear in "The Big Broadcast," a movie featuring prominent radio entertainers.

He reached stardom with Paramount and stayed there, appearing in such hits as "College Humor" with George Burns and Gracie Allen, "Doing Hollywood" with Marion Davies, and "We're Not Dressing" with Carole Lombard.

He also signed a contract with the newly formed Decca Records and produced consistent best sellers. They included such all-time favorites as "Swinging on a Star," "Sweet Leilani" and "Don't Fence Me In."

In 1935, Crosby became the star of the Kraft Music Hall, a weekly radio show that was aired for a decade. The style was relaxed and conversational. His guests include such concert artists as Chaliapin and Piatigorsky.

Later Crosby instituted the taping of his shows. This not only allowed him the freedom to edit, but also to produce shows in advance so he could get away for his three major hobbies.

He was devoted to fishing, hunting and golfing (he mastered all three) next to his now growing family. There were four sons, Gary, named after his friend, Gary Cooper, then the twins Dennis and Phillip, and finally Lindsay.

The boys later tried show business but were never as successful as their famous father.

The Crosbys lived for years in the Toluca Lake district of the San Fernando Valley. When their home there was destroyed by fire, they moved to an estate in Holmby Hills, near Beverly Hills.

They also had homes in Pebble Beach, Calif., where the annual Crosby golf tournament is still held, at Hayden Lake, Idaho, and in Palm Springs, Calif. For years, they spent summers at their huge cattle ranch in Elko, Nev.

After making several other films in the late 1930s, Crosby teamed up with Hope in the first of the very successful "Road" movies.

They were a natural. Both were adept at ad-libbing and frequently departed from the script to come up with their best lines. Glamorous Dorothy Lamour provided much of the incentive.

The "Road" pictures marked the start of Hope and Crosby publicly heckling each other in jest. It spilled over from films and the stage to the golf tournaments in which they often appeared together.

Crosby might refer to Hope "of the non-classic profile and the unlissome midsection." Hope called Crosby "skin-head."

Each comfortable in his own wealth, they could afford to take pot shots at each other's money. Said Hope of Crosby:

"He doesn't pay taxes. He just calls up the Treasury and asks 'em how much they need."

Actually, Crosby once said he gave 30 per cent of his earnings to charity and taxes didn't leave much more.

While making some of the "Road" pictures, Crosby also appeared in a number of other films, "Birth of the Blues," "Holiday Inn" and "Here Come the Waves."

Then in 1944, film director Leo McCarey approached him with a new idea, the role of a young priest opposite an old one to be played by Barry Fitzgerald in "Going My Way."

Crosby balked at first, declaring he didn't think the Catholic Church would stand for that kind of casting. McCarey prevailed and Crosby appeared in what became one of the singers' most highly praised movies. It won him the Oscar.

He repeated his role as a priest a year later in "Bells of St. Mary's" with Ingrid Bergman.

Those films were followed in turn by more musicals—"Anything Goes," "Blue Skies," "A Connecticut Yankee," "Riding High" and "Mr. Music."

Then came "Holiday Inn" with Fred Astaire, and its Irving Berlin song, "White Christmas," which ranked second only to Crosby's "Silent Night" in his parade of best selling records.

In 1954, Crosby portrayed an alcoholic actor in "The Country Girl," in which Grace Kelly won an Oscar. He then left Paramount to free-lance. Later, he made "High Society" with Kelly and Sinatra for MGM. All told, he starred in 57 movies.

In the early part of World War II, he formed Crosby Camp Shows and traveled more than 50,000 miles entertaining troops. In 1944, he made a four-month tour of battlefields in France. The story was told that he actually found himself at one point inside the German lines.

Crosby made his television debut in 1952, when he appeared on a "telethon" with Hope to raise money for the United States Olympic Fund.

A newspaper critic noted that "Bing's relaxed style and easy-going ways were made to order for home viewing."

He continued to appear on television in specials that often teamed him with Hope through the 1950s and '60s, and into the '70s. Many of the performances gave them both a chance to show off not only their wisecracks but the old soft shoe.

Dixie Lee died of cancer on Nov. 1, 1952, three days before her 41st birthday, and the nation mourned with Crosby and their sons.

Three years later, he began a two-year courtship of Olive Kathleen Grandstaff, of Houston, Tex., better known as Kathryn Grant. She was an actress at Paramount, where they met.

The public eagerly followed the courtship. She was almost 30 years younger than he, and five months younger than his oldest son.

Just 10 days after their marriage in 1957, Crosby took his bride to Spokane, where he dedicated a $700,000 library he had given to his old school, Gonzaga University. The school, in turn, awarded him an honorary doctorate of music.

Except for occasional acting, the new Mrs. Crosby gave up her screen career. She became the mother of Crosby's second set of children. Harry Lillis, born in 1958. Mary Frances, born in 1959, and Nathaniel Patrick, born in 1961.

This second family was a closely knit as had been the first. When the children grew a little older the entire family made dozens of television commercials on frozen orange juice. Each year, the family appeared on a Christmas television special.

Crosby's autobiography was written in collaboration with Peter Martin of The Saturday Evening Post. It appeared in eight installments in the magazine and was published in book form by Simon and Schuster.

Later, Kathryn Crosby wrote her own book, "Bing and Other Things."

Family unity had always been important to Crosby. His brother, Everett, became his manager early in his career, and another brother, Larry, handled his public relations.

His father had supervised his fan mail and handled his checking accounts until his death in 1950. Another brother, Bob, became well known as a singer and band leader.

The family was involved in such projects as Bing Crosby Enterprises and the Crosby Research Foundation. They were into everything—oil wells, distribution for frozen orange juice, toy dogs, a luxurious trailer village in Palm Springs, real estate and TV.

Crosby also devoted much of his time and money to sports. He once owned 15 per cent of the Pittsburgh Pirates baseball team and about 5½ per cent of the Detroit Tigers.

He began acquiring race horses in 1955, and formed a racing and training partnership, the Bing-Li stable, with Howard Lindsay, which at one time numbered 21 horses.

In the mid-1930s, Crosby also helped establish and became president of the Del Mar racetrack in San Diego County. He sold his nearly half-million-dollar interest in 1946.

But golf was his greatest avocation. Starting in 1937, he sponsored a pro-amateur golf tournament annually at Del Mar and then at Pebble Beach. He paid all the expenses, including the prize money, with proceeds going to youth recreation centers and other charities.

His exhibition golf matches with Bob Hope raised thousands of dollars for charities. In addition, during World War II they often auctioned off their clubs, golf clothes and other equipment after their matches in an effort to sell war bonds.

Crosby's flamboyant dress often made him the butt of colorful jokes. He said he chose some of the amazing color combinations only because he was color blind. But, there were others who thought he intended a "take-off" on Hollywood fashions.

His wealth also was the subject of frequent jokes. One of the favorite stories told about him involved the fire that destroyed his house in the San Fernando Valley.

Poking through the ashes, it was said, Crosby came up with $2,000 in cash, which he had retrieved from the toe of a sports shoe in his charred dressing room.

Crosby took them all with a grin and came up with an easy-going answer.

"The things I have done are the things I have wanted to do. Doing them was no great sacrifice, and I have been heavily paid for having fun while I did them. So I don't know that my story contains an inspirational point of view. However, it is certainly shot full of another American commodity—luck."

U.S. MIDDLE EAST POLICY

Mr. HARRY F. BYRD, JR. Mr. President, U.S. policy toward the Middle East has remained fairly constant during the past several years with the principles of U.N. Resolutions 242 and 338 forming the basis of that policy.

Suddenly, on October 1, the United States made an announcement which seemed to signal a major change in U.S. policy toward the Middle East and a departure from the principles of U.N. Resolutions 242 and 338.

In a joint statement with the Soviet Union on objectives for a Middle East settlement, the United States appeared to embrace proposals which had consistently been rejected by Israel and which were inconsistent with previous U.S. policy.

In one sudden and unexpected step the Carter administration infuriated Israel, hardened the position of the Arabs, and undermined U.S. credibility as a mediator.

Further, the joint statement reintroduced into the Middle East the influence of the Soviet Union, which down through the years has been a source of discord and belligerence in the region.

The administration policy statement also prompted a roar of protest from a broad range of Americans.

The statement was criticized for conspicuously avoiding mention of U.N. Resolutions 242 and 338 which had been the very cornerstone of U.S. policy with regard to the Middle East.

For myself, I am particularly concerned that it appears to give implicit recognition to the terrorist PLO as the representative of the Palestinian people. Many feel, too, that it implies recognition of the legitimacy of an independent and sovereign Palestinian State. Both of these positions are contrary to past United States policy.

I feel it wrong to attempt to force Israel to negotiate with the PLO, a terrorist organization committed to the destruction of Israel.

On October 4, just 4 days after the joint statement, President Carter reaffirmed the U.S. commitment to the principles of U.N. Resolutions 242 and 338 and indicated that the United States did not intend to impose a settlement on the nations of the Middle East. However, the President did not put to rest the concerns about the seeming recognition of the PLO or the Palestinian State.

On October 10, announcement was made of agreement between the United States and Israel on a "working paper" concerning arrangements for reconvening the Geneva Conference. This had been interpreted by Israel as a sign of U.S. agreement that the PLO will not be officially represented at the Geneva Conference.

The State Department, however, has now publicly disagreed with Israel's interpretation and a State Department spokesman said "the working paper doesn't foreclose anything."

The sum total of all this is that no one knows exactly where the Carter administration stands. Administration policy statements have been erratic, vague and inconsistent and they have meant different things to different people.

The one clear result of all this, however, is that administration actions have clearly strengthened the hand of the Soviet Union in the Middle East. This is most undesirable.

Consider the record of the Soviet Union in the region

In 1955, the Russians initiated the arms buildup in the Middle East. They remain the largest arm supplier in the region.

In 1973, they conspired with Egypt and Syria in the planning of the 1973 Yom Kippur attack on Israel.

At about the same time, they were encouraging the Arab oil embargo against the West.

To give the Soviet Union an enhanced position in the Middle East is to invite repetition of this kind of irresponsible, meddlesome behavior, with potentially tragic consequences.

Clarification—and reexamination—of the administration's position is urgently needed.

SENATOR JAMES PEARSON

Mr. DOLE. Mr. President, over the past weekend, our esteemed colleague, JIM PEARSON, announced that he would not seek reelection to the 96th Congress. When he retires in January 1979, JIM PEARSON will have completed a quarter of a century of service to the people of Kansas and the Nation—as city councilman, a member of the Kansas State Senate, and, for 17 years, a U.S. Senator. Throughout his public career, his has been a reasoned, independent, and respected voice, one who has always put commitment to principle above ambitions for personal advancement.

JIM PEARSON is a Republican. Yet the respect and admiration for him in this Chamber transcends party labels. On every issue he has made his position known, articulated it well, and worked diligently and respectfully with his colleagues on both sides of the aisle.

While I, too, praise his record of public service and look forward to further contributions to the betterment of our State and Nation, it is his friendship I value most. When he leaves the Senate 15 months from now we will lose an outstanding Senator. But I know I join my colleagues in looking forward to his continued friendship for a long, long time to come.

REORGANIZATION TURNS OUT TO BE A TOUGH PROBLEM

Mr. PROXMIRE. Mr. President, the administration's plans for achieving economies through reorganization in the economic development area are "more smoke than substance thus far."

As we all know, this administration has ambitious plans for cutting through the reams of redtape generated by the Federal bureaucracy and reducing the number of Federal agencies.

President Carter deserves high marks for his laudable desire to reduce the burgeoning Federal agency structure, but he is discovering just how tough it is to fight a widespread entrenched bureaucracy. As a consequence, the administration's reorganization efforts to date have been less than impressive.

Let me be specific. A meeting was recently called by the Economic Development Division of the President's reorganization project to explain to key Hill staffers what steps were being taken to review the organization and structure of the major Federal local development programs. There are now dozens of programs scattered throughout the Government affecting local development.

But the review group itself is a study in bureaucratic procedure run amok. A paper passed out at that meeting explained that:

> The day-to-day operation of the project will be the responsibility of the Study Leader, who will be aided by two coordinators, a public awareness staff, and six functional group leaders, each of whom will have responsibility for a core research staff in one of the six major program areas.

Can we expect this cadre of bureaucrats to cut the bureaucracy? The portents are not promising. First, it appears that the group will be spending a majority of its time looking at policy goals, not how to better implement current policy. Of course, they will coordinate their efforts with yet another policy group, a Cabinet-level Task Force on Urban and Regional Policy.

But how about the specific Carter goals of reducing the number of Federal agencies? As the President's representatives said, the group will be "very sensitive" to the need for working with the programs and agencies currently existing. As for cutting the Federal payroll, this is not one of the task force's objectives.

There is another area which badly needs reorganizing and simplifying. Three different agencies now regulate the banking industry—the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency. The first is a seven-person board, an agent of the Congress and independent of the executive branch. The second is a three-person independent regulatory agency which includes the Comptroller of the Currency. The third is in the Treasury Department, and the Comptroller reports to the Secretary of the Treasury.

The result is a Rube Goldberg system of regulation in which each agency competes with the other to see which can be the most lenient for fear of losing its members to the competing agency.

There is more duplication, overlapping, and wasted energy in these three agencies than in any other single area in the Government.

Yet they doggedly resist reorganization, and apparently there has not even been a recommendation to the President to simplify this structure.

HUD itself is a further example. HUD officials are now proposing a modest reorganization which appears to have many good points. The principles seem correct. But will it result in a HUD staffing cutback? Here are the facts:

At the end of fiscal 1976 the Department had 14,942 permanent employees. It is estimated that there were slots for 15,570 permanent civil servants by the end of fiscal 1977. And by the end of the current fiscal year—next September 30—the taxpayers under the Carter plan would be footing the bill for another 420 bureaucrats, or a total of 15,990 employees.

In other words, permanent employment at HUD will have increased by over 1,000 positions at a time when HUD has eliminated more than a dozen categorical grant programs and replaced them with a community development block grant effort which means one-stop shopping for the cities and should mean less effort for HUD.

In fairness to President Carter it should be added that originally HUD had plans to hire an additional 800 people by the end of fiscal 1978, but the administration made a cutback. However, the trend is still up—an employment increase of more than 7 percent in 3 years.

There is now a clear danger that the administration has been captured by the bureaucracy. It may never free itself sufficiently to fulfill those cost cutting reorganization reform promises that were a highlight of the President's election campaign. I wish him well in his continuing fight. But I think it is time to recognize the increasing futility with which it is being waged.

A BIOGRAPHY OF JEFFERSON DAVIS

Mr. BAKER. Mr. President, the Senate joint resolution restoring citizenship to Jefferson Davis, former U.S. Congressman, U.S. Senator, and President of the Confederate States of America, was passed by the Senate on April 27 of this year, and is now pending before the House Judiciary Committee.

In connection with this resolution redressing old wrongs and in the spirit of unity between the North and the South, I would like to call my colleagues' attention to a new biography of Jefferson Davis published by one of my constituents, Herman S. Frey, of Tennessee. Mr. Frey, I might note, has twice been a candidate for the Democratic nomination to represent our State in the Senate.

Mr. Frey's books has been truly a labor of love. As he states in his introduction, Jefferson Davis "has too long been ignored by the historian and the public."

I join him in his hope that the life and career of this remarkable American figure will become better known and appreciated.

ROBERT H. JENNISON

Mr. DOLE. Mr. President, Kansas lost one of its truly outstanding business and political leaders when Bob Jennison passed away Sunday in Denver, Colo. Bob Jennison was one of those rare individuals who combined successful careers in politics, in business, and volunteer service.

During the 1960's he served the Healy area citizens with distinction in the Kansas House of Representatives rising to become Speaker of the Kansas House. Long respected as one of the State's top bankers, he was elected president of the Kansas Bankers Association. And he was officially recognized by the National Weather Service for more than a third of a century as a cooperative weather observer. Bob Jennison was a lifelong resident of Healy, Kans., and was president of banks at Healy, Ransom, and Scott City, Kans.

His State, his city, and his profession will miss Bob Jennison. I join all of Bob's friends and neighbors in expressing my condolences to his wife, Tillie, and his entire family.

MAHATMA GANDHI AND THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, October 2 marked the birthday of Mahatma Gandhi—one of history's greatest warriors for human rights. From the time he completed his education until his assassination in 1948, Gandhi devoted his life to an uncompromising search for the truth. This search eventually led him to the conclusion that a policy of nonviolence, respect for one's adversary, and refusal to accept any compromise of truth is not only morally better but is actually more effective in solving disputes than is the use of force. Armed with the tool of nonviolent protest, Gandhi fought untiringly to end colonial oppression and uphold the rights and respect of minorities.

When India finally gained independence, many of Gandhi's beliefs and convictions found their way into the new constitution, and in its first year of self-rule, this struggling democracy showed the strength of its commitment. In the wake of World War II, India was one of only three nations which approached the United Nations and asked that it address seriously the international problems of genocide.

The Convention that resulted, which the United States took a big role in drafting and which has awaited Senate ratification for the past 28 years, bears out Gandhi's commitment to the truth. The Genocide Convention simply states that, regardless of the reasons or the military force behind it, acts of genocide can never be right. In addition, its signatories agree that the best way to handle the possibility of such acts is not to intervene in each case and take the law into their own hands, but to establish an international standard which states unequivocally how justice is to be achieved.

Mr. President, our U.S. Constitution and judicial system bear witness to the fact that we believe in the rule of law and the peaceful settlement of disputes. I am convinced that our Nation's interests can best be served by helping establish an international framework of laws consistent with these beliefs. Mahatma Gandhi's birthday should serve as a strong reminder that our failure to ratify the Genocide Convention means that we have not taken one of the crucial steps in constructing that framework. I call on my colleagues to correct this tragic situation and ratify the Convention immediately.

ROBERT T. STEVENS RECEIVES THE SYLVANUS THAYER AWARD

Mr. THURMOND. Mr. President, on October 4, 1977, my good friend and one of the Nation's distinguished public servants and leaders, Robert T. Stevens, received the Sylvanus Thayer Award at the U.S. Military Academy.

Bob Stevens' record and achievements as an eminent leader of American industry are well known. His devotion to the U.S. Army began as a soldier in World War I. He served as one of our most capable Secretaries of the Army during the troubling period of the Korean war. As a private citizen, he has maintained a lively interest in Army affairs and has been a sympathetic and knowledgeable spokesman for the Army in the civilian world. The Sylvanus Thayer Award is a fitting tribute to so loyal a citizen-soldier.

On the occasion of receiving the award, Bob Stevens delivered an excellent address on the need to maintain an adequate defense posture. He spoke eloquently of the place the Army occupies in American life.

The Sylvanus Thayer Award has been presented annually since 1958 to an outstanding citizen of the United States whose service and accomplishments in the national interest exemplify personal devotion to the ideals expressed in the West Point motto: "Duty, Honor, Country."

Mr. President, "Duty, Honor, Country" are demanding words to live by. They call for the best in us. That is what Bob Stevens has given, to the enduring benefit of his fellow citizens.

Bob Stevens joins a unique company of eminent and patriotic Americans who have received this honor and his name lends additional prestige to the award. West Point honored itself by honoring this great American who is a true patriot and my good friend.

Mr. President, Bob Stevens has a number of other friends in the Senate and I know they would like to read his acceptance address. Accordingly, Mr. President, I ask unanimous consent that the citation for the 1977 Sylvanus Thayer Award, an explanation of the award, a list of past recipients, a short biography of Robert T. Stevens, a short biography of Sylvanus Thayer, and the text of the acceptance address be printed in the RECORD.

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

1977 SYLVANUS THAYER AWARD: CITATION—ROBERT T. STEVENS

As distinguished public servant and industrial leader, the Honorable Robert T. Stevens has rendered a lifetime of outstanding service to the United States and its citizens. In multiple fields of endeavor and in positions of extraordinary responsibility, Robert T. Stevens has exemplified, through his accomplishments in the national interest and manner of achievement, the ideals of West Point expressed in the motto, "Duty, Honor, Country."

Beginning with military service as a second lieutenant of artillery during World War I, Robert T. Stevens' public and private service has spanned more than a quarter of our nation's history. During that period he was responsible for developing and operating one of the largest and most diversified industrial organizations in the world. He served

on the National Defense Advisory Commission, as Chairman of the Business Council for the Department of Commerce, as Director and Chairman of the Federal Reserve Bank of New York, as Civilian Aide to the Secretary of the Army, as a member of the Board of Visitors to the United States Military Academy and as Secretary of the Army. To each of these important governmental posts, he brought a unique knowledge of American industrial capability and power, a selfless dedication to the welfare of his country and its military forces and a combination of courage and integrity which has become a symbol and example of the finest in public service.

Robert T. Stevens' life and achievements have been especially interrelated with the United States Army. His service to the Army, whether performed on active duty in two wars, as the senior, responsible civilian or as friend, has been marked by an unusually deep concern for the capability of the Army to perform its mission and for the welfare of men and women in uniform. Throughout his life, he has applied his special talents and energy to the promotion of the Army and its people in the national interest.

Through his lifetime of service to his country, Robert T. Stevens has made a significant and lasting contribution to the welfare and security of the United States. His invariable response to the call of duty and his willingness to serve when needed symbolize and reflect the values expressed in the West Point motto. Accordingly, the Association of Graduates of the United States Military Academy hereby awards the 1977 Sylvanus Thayer Award to Robert T. Stevens.

THE SYLVANUS THAYER AWARD

Since 1958, the Association of Graduates of the United States Military Academy has presented the Sylvanus Thayer Award to an outstanding citizen of the United States whose service and accomplishments in the national interest exemplify personal devotion to the ideals expressed in the West Point motto, "Duty, Honor, Country."

The award is named in honor of Sylvanus Thayer, Class of 1808, the 33d graduate of the Academy, who nine years later became its fifth Superintendent. Serving in this capacity until 1833. Thayer instituted at West Point those principles of academic and military education, based upon the integration of character and knowledge, which have remained an essential element of the Military Academy.

Sylvanus Thayer was elected in 1965 to New York University's Hall of Fame for Great Americans as the "Father of Technology in the United States." Under his direction the United States Military Academy became the first technological school in America; and his curriculum, textbooks, and engineer graduates were in great demand among the nation's colleges and scientific institutions as they developed throughout the 19th century.

SYLVANUS THAYER AWARD RECIPIENTS

Dr. Ernest O. Lawrence, 1958.
The Honorable John Foster Dulles, 1959.
The Honorable Henry Cabot Lodge, 1960.
President Dwight D. Eisenhower, 1961.
General of the Army Douglas MacArthur, 1962.
The Honorable John J. McCloy, 1963.
The Honorable Robert A. Lovett, 1964.
Dr. James B. Conant, 1965.
The Honorable Carl Vinson, 1966.
Francis Cardinal Spellman, 1967.
Mr. Bob Hope, 1968.
The Honorable Dean Rusk, 1969.
The Honorable Ellsworth Bunker, 1970.
Mr. Neil A. Armstrong, 1971.
Dr. William F. Graham, 1972.
General of the Army Omar N. Bradley, 1973.
The Honorable Robert D. Murphy, 1974.
Governor W. Averell Harriman, 1975.
The Honorable Gordon Gray, 1976.

ROBERT T. STEVENS

Robert T. Stevens was born in Fanwood, New Jersey. Graduating from Yale in 1921, he entered the textile industry when he joined the family firm of J. P. Stevens & Co., Inc. Following eight years in both manufacturing and merchandising, he was elected President in 1929 upon the death of his father, John P. Stevens, Sr. He served as President from January, 1929, to January, 1942, when he began active duty in the Army. Upon his return from service in 1945 he was elected Chairman of the Board, an office which he held through 1952, when he was designated Secretary of the Army by President-elect Eisenhower. He returned to the textile industry in September, 1955, and was again elected President of J. P. Stevens & Co., Inc. On August 1, 1969, he relinquished the Presidency but retained an active position as Chairman of the Executive Committee. In September, 1971, he completed fifty years service with the Company. During his years in the textile business he has seen J. P. Stevens & Co., Inc. grow to be one of the largest and most diversified textile organizations in the world. He became Director Emeritus as of August 1, 1974.

Mr. Stevens was head of the Textile Section of the National Defense Advisory Commission in 1940. He has been a member of the Business Council for the Department of Commerce since 1941 and served as Chairman in 1951 and 1952. Mr. Stevens served as Director of the Federal Reserve Bank of New York from 1934 to January, 1942. In 1948 he was designated a Director and Chairman of the Bank, a post in which he served until he joined the Eisenhower Administration as Secretary of the Army in January of 1953. He served as Chairman of the Laymen's Committee of Religion in American Life from May, 1957, to August, 1961, and as Chairman of the Non-Sectarian Community Committee of the United Jewish Appeal of Greater New York from 1969–1972. He is a Trustee of the George C. Marshall Research Foundation, a member of the Directors Advisory Council of the Morgan Guaranty Trust Company of New York, Director Emeritus of the General Electric Company and served as a Trustee of the Mutual Life Insurance Company of New York. He is a Director and past President of the American Textile Manufacturer's Institute, Inc. and serves as a Trustee and Vice-President of the Supreme Court Historical Society.

Mr. Stevens' association with the United States Army began in World War I, when he served as a 2nd lieutenant of Field Artillery. In 1941, he attended a special course at the Command and General Staff College, Fort Leavenworth, Kansas, graduating the day before Pearl Harbor. He served as a colonel in the Office of the Quartermaster General in 1942 and from 1943 through 1945 was Deputy Director of Purchases. He was awarded the Legion of Merit and the Distinguished Service Medal. Upon his resignation as Secretary of the Army in July, 1955, he was awarded the Exceptional Civilian Service Medal of the U.S. Air Force, the Navy Distinguished Public Service Award and the Medal of Freedom. He served as Civilian Aide-at-Large to the Secretary of the Army and from 1961 through 1963 as a member of the Board of Visitors to the United States Military Academy. He is a member of the West Point Fund Committee.

In addition to his A.B. and honorary M.A. degrees from Yale, Mr. Stevens holds many other degrees and awards. He was married on October 6, 1923, to Dorothy Goodwin Whitney and they have four sons, Robert T., Jr., Whitney, William G. and Thomas E.

SYLVANUS THAYER OF WEST POINT

Sylvanus Thayer, acknowledged as "The Father of the Military Academy," was born in Braintree, Massachusetts, on June 9, 1785, and died there on September 7, 1872, at the age of 87. He was the son of Nathaniel and Dorcas (Faxon) Thayer, and the 7th generation in direct line from Richard Thayer, a Puritan immigrant who settled in Braintree about 1635. Sylvanus Thayer attended Dartmouth College from 1803 to the early part of 1807, when he entered the United States Military Academy, which had then been in existence five years. Thayer was graduated from the Military Academy in 1808 and commissioned a second lieutenant in the Corps of Engineers. Following the War of 1812, he was sent to Europe by the Secretary of War to study military education and engineering at l'Ecole Polytechnique in France. While in Europe, Thayer gathered together a library of nearly 1,000 volumes on military art, engineering, and mathematics, as well as a large collection of maps of the Napoleonic Campaigns. Most of these books are still preserved in the West Point Library.

On July 28, 1817, Sylvanus Thayer assumed the duties of Superintendent of the United States Military Academy, a position he held until relieved from his duties at his own request on July 1, 1833. At the time of his retirement from the United States Army in 1863, he held the rank of brevet brigadier general; however, he is referred to generally as "Colonel Sylvanus Thayer, The Father of the United States Military Academy."

Following his tour as Superintendent of the Military Academy and until his retirement from the Army in 1863. Thayer was engineer in charge of the construction of fortifications at the entrance to Boston Harbor and of the improvement of harbors along the entire New England coast. After his retirement he established and endowed (in 1867) the Thayer School of Engineering at Dartmouth College and provided funds for a public library in his native town of Braintree, Massachusetts. In his will he left funds for still another school, also to be located in Braintree. This was to become the Thayer Academy of today.

Thayer's major contribution to the nation was the educational system he instituted at the Academy, which was based on absolute honesty and complete integrity, on a curriculum consistent with the demands made on a man in the military profession, and on the principle that every cadet must exercise his intellectual faculties to the utmost. During the 16 years of Thayer's administration, the Academy grew from a disorganized rudimentary school to a recognized permanent school of science, and at the same time a bulwark of defense for a growing nation.

Sylvanus Thayer ranks as one of the greatest educators the country has produced. As a military engineer and as an educator, he has had profound and far-reaching influence on educational standards throughout the United States. The United States Military Academy, founded in 1802 and reorganized by Thayer in 1817, was the first engineering school to be established in this country. The first civilian engineering school founded in the United States, Rensselaer Polytechnic Institute of Troy, New York, was established in 1824 and graduated its first four civil engineers in 1835. The next two civilian schools of this type—Lawrence School of Harvard, founded in 1846 and Sheffield Scientific School of Yale, founded in 1847—chose West Point graduates to fill their chairs of civil engineering: Henry L. Eustis, USMA Class of 1842, at the Law-

rence School, and William A. Norton, Class of 1831, at Sheffield.

As an academic institution, the United States Military Academy today offers a balanced curriculum of the sciences and the humanities leading upon graduation to a Bachelor of Science degree and a commission as an officer in the United States Army.

A key factor in the West Point system of education is the participation of each cadet in each subject at each class session. This system, instituted by Thayer, still stands as the basis of the academic program at the Academy. Thayer also insisted on small classes, a rule still followed, with an average of from 10 to 14 cadets at each class session.

The academic curriculum, which reflects the changing requirements of the military profession and advances in the field of higher education, consists of two complementary parts: a core program which is essentially prescribed, and an elective program. The core program contains the elements of a broad, general education and is designed to give the cadet a fundamental knowledge of the arts and sciences. The elective program enables the cadet to experience a reasonable degree of concentration in areas in which he may have special interests or aptitudes.

The core program and the elective program are, of course, closely linked to one another in the sense that the latter is an extension of the former. Thus, the elective program offers the cadet a number of courses in each of four broad areas which have a substantial basis in the core curriculum. These are the Basic Sciences, the Applied Sciences and Engineering, the Humanities, and National Security and Public Affairs.

Hence, West Point, even as it continues to upgrade its academic and military programs to keep pace with the time, still builds on the time-tested and firm foundation established by Sylvanus Thayer—a system for the development of soldier/leaders based on excellence of character and excellence of knowledge.

ADDRESS BY THE HONORABLE ROBERT T. STEVENS

General Goodpaster, General Saltzman, Mr. Hoffman, Members of the Corps, Distinguished Guests: The Association of Graduates has rendered me a great and memorable honor in this award. Adding my name as the 20th in the distinguished company of such great Americans as former President Dwight Eisenhower, former Secretaries of State John Foster Dulles and Dean Rusk, great Commanders like Douglas MacArthur and Omar Bradley—to name but a few who have been selected for the Sylvanus Thayer Award in the past—is, in itself, an honor very special to me.

And, speaking of honor, I have heard all the talk and read all the papers about the situation that West Point has been going through. My first thought was how Sylvanus Thayer would have reacted to the doomsayers of today. Compared with the chaos he found when he took over as Superintendent in 1817—surely you are aware that he even had to advertise in the newspapers to get cadets to come back to the Academy—he would have thought today's Academy problems quite modest by comparison. So would the rest of us, if we had his perspective.

And that's what I want to talk briefly with you about today—putting today's problems into the proper perspective. It is human nature to assume that one's particular time or era is unique, that the problems you face have never been faced before, that the challenges lying ahead are unparalleled in history.

Take the matter of the divisiveness of the Vietnam war as an example. To many it was the most traumatic experience of their lives, and its effects still linger on. But what would Sylvanus Thayer have to say about that? How it must have torn his heart, when he retired in 1863, to see his former students killing each other on the field of battle. Consider the case of my own grandfather's cousin, Isaac Stevens, who entered the Academy just a year after Sylvanus Thayer stepped down as Superintendent, and who graduated at the top of the Class of 1839.

With him at the Academy were such distinguished soldiers as D. H. Hill, James Longstreet, P. T. G. Beauregard, Braxton Bragg, and many others. All were to become generals and all were destined to wage war against their own classmates. Some, including General Stevens himself, gave their lives in battle, in his case at Chantilly. Imagine, if you will, trying to convince these soldiers of the "divisiveness" of Vietnam.

Or take the matter of "divisiveness" in our Government. Today there are those who would have you think that corruption in Government and abuses of power are something new, and that the only defense is an alert and aggressive media. Sylvanus Thayer knew better, as he, with the help of Secretary of War Calhoun and President Monroe, broke the corrupting influence that some persons in and out of Congress had applied to shield their appointees from academic and disciplinary standards and regulations.

And I found out too when Secretary of the Army. In 1954, when "McCarthyism" was in full flower, it was not the media but the Army that stopped these abuses of the Army in their tracks. That was a tough go but someone in the civilian leadership of the military had to meet the issue. As Secretary of the Army it fell to my lot to take on that difficult mission, and I will never regret doing so or forget how the Army's involvement began.

The first I heard about real trouble was when General Matthew B. Ridgway, the Army's distinguished Chief of Staff at that time, came through the door connecting our two offices in the Pentagon and told me of his great concern over a most serious incident that had happened the day before. Senator McCarthy had dealt contemptuously with a combat-decorated Army officer in a one-man Senate Committee Hearing in New York the previous day. The officer was told he was not fit to wear the uniform. General Ridgway was deeply, and rightfully, concerned as to the possible effects on service morale.

The issue seemed so clear that there could be only one course of action. I took that action and it was only doing my duty as I saw it. Joe Welch, the genial lawyer from Boston who represented the Army in the Hearings, called it "a moment in history." Looking back over the years, it seems clear that our country needed the cleansing effect of that moment.

Another example of perspective is the matter of facing an uncertain future. Again consider the case of General Thayer. In his 55 years active service the Army fought wars with Great Britain, with Mexico, with the Indians in Florida and on the Plains, and was torn apart by the Civil War.

This matter of an uncertain future has also been true in my time. When I was a young man one seeming certainty was that America would never get involved in a European war. President after president had made that a basic tenet of American foreign policy, from George Washington in 1796 to Woodrow Wilson in 1916. The Army flag had some 94 battle streamers—most of them from the Civil War and the Indian Wars. American citizens in general were convinced that was more than enough.

Yet, sixty years ago, on the evening of April 2, 1917, I found myself standing in a crowd outside our National Capitol Building in Washington. Everyone was waiting for the arrival of the President, Woodrow Wilson. Presently, he arrived by car and disappeared inside. He delivered his war speech, which was not long, and then returned to the White House, while Congress went about the business of declaring war. Four days later war was declared.

Eighteen years old, a senior at Andover, which General Stevens had attended as a boy, I still remember a mounted cavalryman calling to one of his buddies, saying, "I wonder what these guys in this crowd are going to look like in uniform." It wasn't long before I found out. I found out again twenty-four years later when returning to active duty in World War II. With volunteer active, though not heroic, service in two world wars and as Secretary of the Army in the latter stages of the Korean War, my purpose as a citizen has been to keep up with Army matters and be helpful when possible.

The surprise of my being appointed Secretary of the Army by President Eisenhower is typical of the unexpected assignments that will come to you members of today's Cadet Corps over the years ahead. I was fortunate, in assuming my duties, to have the opportunity of working closely with General "Lightning Joe" Collins, an Academy graduate, who was Chief of Staff at that time.

Each of us can be proud of the Army's visit to the Vietnam theater in June of 1965, a very crucial time, on the invitation of former distinguished Superintendent of the Academy and Chief of Staff—General (then Ambassador) Maxwell D. Taylor. In his absence from the theater, I was the guest of another good friend—also a former Superintendent of the Academy and Chief of Staff—General William C. Westmoreland. I visited all four Corps areas and, as an Army man at heart, but more importantly, as an American, was very proud of what I saw.

Each of us can be proud of the Army's Vietnam record. The Army went to Vietnam on the orders of its civilian leaders. You should never forget that this is what the American Army exists to do—to express the will of the American people as interpreted by the people's elected representatives in the White House and the Congress.

Unfortunately, there is another problem—part of our heritage—that you should help to overcome and that is unpreparedness for war in time of peace. This was true in Sylvanus Thayer's time and it has been true in my time.

I must say I am not fully happy about our defense capabilities. On the one hand it is not yet clear that we can operate successfully for the long pull with a volunteer Army. Our Reserve forces are widely undermanned right now. On the other hand, the Army is a long way from being adequately modernized and equipped with superior weapons on hand.

If the continuing discussions with the Soviets are not proved clearly productive in the arms limitation field, then, in my opinion, our defense efforts should be stepped up and I am confident such a move would be supported by a large majority of Americans. The security of the United States, which will increasingly involve responsibilities for more and more of you in today's Cadet Corps, must be backed up with firepower consistent with the needs of the time. In the future, as in the past, the country will look to West Point to supply its share of tomorrow's dependable leaders. The long gray line will continue to be a priceless asset of the United States.

In my lifetime the battle streamers on the Army flag have doubled, from 94 to 187, and, far from avoiding military support for Europe, we now have an Army with its primary focus in Europe and with substantial

numbers of its soldiers deployed forward in bases overseas—a situation unthinkable in my youth. We cannot know what the future will hold in your lifetime, but historical perspective warns us of the ever-present likelihood that unpreparedness is apt to be an invitation to war.

I hope these examples have shown that the period in which you live is not all that unique, that big problems and big challenges are nothing new. They are different but are challenges just the same. This is one of the reasons the Sylvanus Thayer Award is so important.

Keeping the spirit of Sylvanus Thayer alive with the award I received today not only honors the man who made the Military Academy what it is—the father of the Academy and the founder of the Nation's first engineering school—it also gives perspective on today's problems. The value of perspective is that you can know that the future, by definition, is unknowable. You can expect the unexpected. Realizing this, you can then prepare yourself to meet the challenges that lie ahead.

Preparation entails the proper mixture of two elements—continuity and change. Continuity means basing your preparation on a bedrock of values and a recognition of the lessons of the past. West Point gives you such a foundation, summed up perfectly in your motto, "Duty, Honor, Country." Without a sense of duty, without honor, without a love of country, you cannot hope to be prepared for the problems of the future.

And West Point also sets you on the road to deal with the second factor-change. The education that you receive here, as well as the invaluable experience of learning how to deal with other human beings, will give you the flexibility and open-mindedness that you must have to deal with tomorrow's problems.

As Sylvanus Thayer would have told you, West Point is just the beginning. The accumulation of knowledge should be a life-long endeavor with you, as it was with him. The same is true of personal honor. Let me say how pleased I am that the Army has reaffirmed the Honor Code at the Military Academy. In this 175th Anniversary Year of West Point the American people look with pride upon the quality of the officers and leaders the Academy has produced in the past and with confidence in the leadership it will produce in the future.

As I reflect on this great honor that has just been bestowed on me, I cannot help but think that Sylvanus Thayer would be proud of the United States of America that he served so well, proud of the part that the Military Academy has played in America's success, and proud of you young men and women in the Corps of Cadets today who carry on the traditions that he began so long ago.

I believe he would think that his life and his service were well spent and none of us could ask for more.

Thank you.

HISTORICAL PRESERVATION

Mr. HOLLINGS. Mr. President, earlier this year my friend and colleague on the Senate Appropriations Committee, PATRICK LEAHY led the effort to increase Federal support for historic preservation. In terms of the potential of historic preservation for enriching the lives of present and future generations of Americans, the impact of Mr. LEAHY's efforts cannot be overstated. I know in my native city of Charleston, S.C., historic preservation is truly a tie that binds our citizens and is the impetus for the current revitalization of the Charleston area.

Recently, Senator LEAHY spoke to the Vermont Labor Council and highlighted one of the most important and least recognized aspects of historic preservation—that it is the most labor-intensive area in the construction industry. I commend his remarks to my Senate colleagues.

Mr. President, I ask unanimous consent that his remarks be printed in the RECORD.

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

SENATOR LEAHY'S SPEECH TO THE VERMONT STATE LABOR COUNCIL ANNUAL CONVENTION

Perhaps my speech tonight should be a "traditional labor speech". Maybe I should reaffirm my support of minimum wage, public works jobs and other familiar legislative goals of organized labor. But you already know that I stand with you on those matters.

Instead, the labor speech I am going to make tonight is on historic preservation, and if you think that topic is better suited to historical societies and garden clubs, you should know that historic preservation projects are between 50 and 100 percent more labor intensive than demolition and new construction.

Historic preservation means many things, preservation of our national heritage, revitalization of our aging towns and cities—but historic preservation also means jobs.

And if we are to find a real solution to what I believe is this country's number one domestic problem—meaningful, permanent jobs, we have to explore all potential avenues, not just the "traditional" job creating methods.

Historic preservation is a program that despite limited funding has proven its capacity for taking the problems of urban decay, resource shortages and unemployment and turning them into a solution.

For many years, preservation was identified as a piecemeal effort to restore individual monuments, landmarks, battlefields and homes associated with figures or events of national importance.

Today, as the result of a tremendous grassroots effort throughout the country, the concept has been greatly expanded to include the restoration of residential neighborhoods such as Capitol Hill in Washington, D.C. and commercial districts like Pioneer Square in Seattle. Older but still sound structures are being adapted to new uses such as Boston's Old City Hall which now houses private offices and a restaurant.

Vermonters have been at the forefront of this movement, and as a result there are many excellent examples of older structures which have been restored or adapted to new uses within the state.

The Village Renaissance Project in Bradford will restore the Low Mansion and Pritchard House to provide senior citizen housing and other community services. The restoration of the downtown commercial district in Rutland will put back into use nearly 40,000 square feet of previously vacant commercial space. The project has generated such local interest and support that two private dollars are being put up for every federal dollar even though the required ratio is only one to one.

In Brattleboro, the old Union Station, which was slated to be torn down to make way for a parking lot, was painstakingly restored through the financial and physical efforts of many local citizens and converted into the community museum and cultural center which the town needed.

Perhaps some of you have eaten at the new Ice House Restaurant down the street. If you are not from Burlington you may not know that that building has been everything from an ice house to a mattress factory. Now it is as nice a restaurant as I have visited. Or perhaps if you had more time you could go to a play at the restored Royall Tyler Theater on the UVM campus. And in Vergennes, the old Stevens House Hotel is being converted into another restaurant and new housing. Those of you from Middlebury are probably familiar with the beautiful job being done on the restoration of the Frog Hollow Mill which will house shops and offices.

The preservation of these structures and others around Vermont is valuable historically, culturally, and socially, but there are side benefits of at least equal importance.

For example, by choosing conservation and rehabilitation over demolition and new construction, those who adapt old buildings to new purposes bring new life to areas previously in decline. This new emphasis on adaptive uses of older historic areas as tourist attractions and shopping and office centers results in more dollars for local treasuries and new, permanent jobs in inner cities. Restoration and preservation can also help meet housing needs while strengthening community ties.

Also, restoration conserves raw materials consumed by new construction, and the energy needs are far less during the restoration process and subsequent operation of the structure.

And that brings us to the bottom line. An analysis by the Advisory Council on Historic Preservation of projects funded under the Economic Development Act found that demolition and new construction yielded an average of 70 jobs per one million dollars expended while renovation, including historic preservation, created 109 jobs per million dollars—half again as many.

The Vermont Office of Historic Preservation has reported even better results from preservation projects funded under the Economic Development Act.

The State office received a grant of one million two hundred thousand dollars. As further witness to the vitality of the preservation movement in Vermont, the state was able to attract over two million dollars in private and local matching funds, nearly twice what the EDA requires under its usual 50/50 matching requirements.

As a result of this 18 month project, which is just now ending, over 400 new jobs will have been created at a cost of just over three million dollars. That is labor intensity approaching 80 percent. I am told that the labor intensity of new construction is usually between 30 and 40 percent.

Furthermore, over 40 percent of the workers on the projects came from the ranks of the previously unemployed.

To cite another example, and another side benefit, the Rutland downtown project which I mentioned earlier required three hundred and fifty thousand dollars to generate 60 new, permanent jobs. However, welfare for those same 60 people would have cost $360,000. In Rutland, therefore, it proved $10,000 cheaper to provide 60 meaningful jobs to individuals than it would have cost to have them sit idle dependent upon unemployment. Which is the better return on your tax dollars?

The regular funding mechanism for historic preservation projects is the National Historic Preservation Trust Fund. This fund's revenues derive from payments made to the Treasury for Outer Continental Shelf mineral leases.

And despite the proven promise of historic preservation, and the fact that a substantial surplus exists in the fund, Congress has appropriated the full authorized amount for historic preservation only twice

since 1966. In fiscal year 1977, despite a backlog of three hundred million dollars in project requests, only 17.5 million dollars was appropriated. And in case anyone questions the sincerity of the 300 million dollar backlog, remember that, as I said earlier, this is a matching funds program and thus the states or local entities, public or private, must put up at least an equal amount of their own money.

Citing that backlog, I was able to persuade my colleagues on the Appropriations Committee and in the full Senate to set the spending level for fiscal year 1978 at eighty million dollars, nearly a fivefold increase over the previous year. Unfortunately, at the insistence of the House of Representatives, whose members have not yet seen the light on preservation, the final level was set at 45 million dollars.

Even that represents a substantial increase, but given the program's potential, the fact that increased funding comes from mineral leases and not the taxes of individuals, and the proven job-creating capacity of this program, it is tragic that we are not spending more.

And that brings me back to my original point. There are programs beyond the usual scope of our job creating efforts that hold great promise for putting all Americans back to work. Historic preservation is just one. There are more. But like historic preservation, their potential is often not fully realized.

That is where you can help, as individuals and as members of the labor movement. I plan to seek full funding for historic preservation next year. Together we might just pull it off. Working alone, I probably cannot do it.

Working on preservation, and all the programs like it, we have an opportunity to take that collection of problems that we face and turn them into a solution.

I look forward to working with you to that end.

Thank you.

J. FLOYD BREEDING

Mr. DOLE. Mr. President, I was deeply saddened to learn of the death of former Kansas Congressman J. Floyd Breeding. Although Floyd and I were political adversaries, we were friends and served together—representing the people of western Kansas—in the U.S. House of Representatives.

Floyd Breeding was an outspoken advocate for the interest of the American farmer during his service on the House Agriculture Committee. And even after he left the Congress in 1963, his interest in American agriculture continued as he toured nearly 70 nations in Europe and Africa promoting U.S. agriculture products at the request of Presidents Kennedy and Johnson.

Floyd Breeding was a credit to his Nation, his State, his congressional district, and his political party. I join with his many friends in southwest Kansas and around the Nation in expressing my condolences to his wife and family.

MORATORIUM NEEDED ON ARMS SALES TO SAUDI ARABIA AND IRAN

Mr. PROXMIRE. Mr. President, it is time that Congress impose a 1-year moratorium on all military sales to Saudi Arabia and Iran.

Both countries have consumed U.S. weaponry at a rate and amount far in excess of their normal defensive requirements. As a result, they will soon become the dominant military powers in the Middle East.

There is a natural rivalry between these two giants, such as over oil deposits in the Persian Gulf. When coupled with the threat Saudi Arabia might pose to long term Israeli security, continued U.S. support of every military request from these two oil cartel giants needs to be reassessed.

From 1972–76 Saudi Arabia entered into agreements to purchase $8.3 billion of U.S. military hardware and services. Nine hundred twelve Defense Department personnel and almost 3,000 contractor personnel are stationed in Saudi Arabia as advisors.

This is more equipment and construction than can be adequately absorbed by the Saudis—thus establishing a long term requirement for U.S. assistance and contractor presence.

The total arms sales to Iran since 1972 total a staggering $16.9 billion. This kind of massive buildup will require the presence of 50,000 to 60,000 Americans by 1980. On top of this will come the $1.4 billion for AWACS in fiscal year 1978 plus a reported $3 bililon-plus sale of new fighter aircraft.

This means that Iran will continue a minimum of $10 billion just in the 2 fiscal years 1977–78.

There are no military conditions that justify this huge expenditure. Iran's goal seems to be to establish an overwhelming military force in the Middle East. Many of the weapons supplied by the United States are of the latest available technology such as the AWACS, DD–963 destroyers, and F–16 fighters. Clearly these weapons have a significant offensive capability in addition to their defensive characteristics.

All this adds up to a wide open arms sales policy by the United States that is not based on military need. U.S. policies are creating an imbalance that could one day erupt into intensive warfare with U.S. weapons being used on both sides.

Before one more military item is sent to either Saudi Arabia or Iran, the Congress should legislate a cooling off period to reassess what the long term effects such huge shipments will have on the political, military, and economic stability of the Middle East.

When an appropriate bill comes before the Congress, I will offer this 1-year moratorium amendment.

STATHY J. VERENES

Mr. THURMOND. Mr. President, South Carolina lost one of its great builders. Stathy J. Verenes had been a member of the State development board for 10½ years and, at the time of his death, was industrial coordinator for the city of Aiken. He had been so successful in attracting industry to his State and community that, just last year, the Aiken City Council voted to name the local industrial park in his honor. It was a tragic hour for South Carolina when, on Wednesday, September 28, a sudden illness cut short his productive life at 63 years.

Stathy Verenes was a man of broad vision. He laid ambitious plans to achieve lofty goals. Underneath his dreams, however, lay the solid foundation of years of experience. He began his business career at the age of 16 when he and his brother, newly orphaned, assumed the control of the family grocery and ice concern. In helping to build this small business into the large and successful Aiken Distributing Co., he learned every aspect, and performed every chore, of commercial enterprise. In short, he knew his way around a stockroom as well as a board room.

Diversity of experience gave 'him a rare understanding of people. The executives of the largest corporations and the proprietors of small-town stores felt equally comfortable dealing with him. They knew that he knew their problems, their needs, and their concerns. His engaging personality added further to his effectiveness as a businessman and negotiator.

Businessmen are sometimes considered to be motivated primarily by self-interest, but Stathy Verenes was a humanitarian if ever there was one. His business prowess yielded significant and continuing benefits to countless thousands in my State. Our increasing prosperity and increasing economic opportunity can be attributed largely to the new business that has come into South Carolina in recent years, and that, in turn, can be attributed largely to the efforts of Stathy Verenes.

Stathy Verenes, I should point out, did not believe in industrialization at any cost. He was vitally concerned with the protection of the environment and the preservation of community values. The industrial development of South Carolina has been accomplished with remarkably little ecological damage or social disruption. That is the way Stathy Verenes wanted it. A man with an acute sense of civic responsibility, he demanded this same quality of his business associates and colleagues.

The people of Aiken county, the friends and neighbors of Stathy Verenes, demonstrated their regard for him on many occasions and in many ways. I have already mentioned Verenes Industrial Park. In addition, the Aiken Chamber of Commerce named him their first "Man of the Year" in 1953. Last fall, his admirers sponsored an appreciation dinner which was attended by businessmen and public officials from throughout the State. As I had the good fortune to be among his friends, I was there. It gives me great pleasure to remember him on that occasion—healthy, vital, and obviously deeply moved by the public display of esteem and affection.

It is hard for many South Carolinians, myself included, to get used to the idea that Stathy Verenes is gone, particularly since his death was so unexpected. I extend my sincere condolences to his widow, Mrs. Ann Major Verenes; his two sons, James L. Verenes and Hugh L. Verenes; his sister, Mrs. Catherine V. Pattis; and his brother, Arthur Verenes. They are a close family and a strong

family, and I know they will be of great help, each to the others, at this time of grief. I hope they will also find consolation in their knowledge of all that Stathy Verenes accomplished in this world. As they travel around their city and county, they will see on every side the evidence of his good works. These good works are a rich and enduring legacy, and will keep his memory alive, and reflect honor on his name, for years to come.

Mr. President, at the time of the death of Stathy Verenes, a number of South Carolina newspapers published accounts of his life and career. In order that my colleagues may have access to the additional information which they contain, I ask unanimous consent that they be printed in the RECORD.

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

[Fom the Augusta Chonicle, Sept. 29, 1977]

S. J. VERENES, CIVIC LEADER, PROMINENT BUSINESSMAN, DIES

AIKEN.—Stathy J. Verenes, 63, prominent Aiken businessman and industrial coordinator for the city of Aiken, died Wednesday at Aiken Community Hospital after a short illness.

Services will be held at 11 a.m. Friday at St. Thaddeus Episcopal Church with Father Howard M. Hickey officiating.

Mr. Verenes devoted his life to industrial development and the creation of jobs for the people of his state and county. Business industrial and governmental leaders have honored him for his ability to attract and bring industry into the state.

He was a member of the State Development Board for ten and a half years. He continued to pursue his interest in industrial development after he left the state board, and turned his attention to his native Aiken.

He is credited with playing a major role in attracting small, clean industry to the city's industrial park. In 1976, Aiken City Council renamed the industrial park, City of Aiken Verenes Industrial Park.

At a dinner last September honoring Mr. Verenes for contributions to the city and county, Sen. Strom Thurmond said he knew of no one "who has taken more interest in building this state, county and city than Stathy Verenes."

"He could have brought a lot more people into the county," Graniteville president Phinizy Timmerman said, "but he's just as outspoken not to bring the wrong industry in. It had to be the right type. It had to be compatible with the kind of people we had."

Mr. Verenes lived all his life in Aiken with the exception of service in World War II and attendance at The Citadel.

The son of James and Xanthe Gregoriaki Verenes, he was orphaned at age 16. He and his brother took over the family business, a wholesale grocery and ice business.

At the time of his death, Mr. Verenes and his brother owned and operated the Aiken Distributing Co.

He was a member of the board of directors for Security Federal Savings & Loan and Bankers Trust, on the board of trustees for Aiken Community Hospital, a member of the Aiken Rotary Club and a member of the First Presbyterian Church of Aiken. He was selected the first "Man of the Year" by the Aiken Chamber of Commerce in 1953.

Surviving are his widow, Mrs. Ann Major Verenes; two sons, James L. Verenes and Hugh L. Verenes of Aiken; a sister, Mrs. Catherine V. Pattis of Aiken, and a brother, Arthur Verenes of Aiken.

Friends may call at the residence at 1023 South Boundary Ave. or the George Funeral Home.

Contributions may be made to the Rotary Student Loan Fund or The Citadel Education Foundation.

[From the Aiken Standard, Sept. 30, 1977]

Although his condition was known to be grave, the death of Stathy J. Verenes this week following surgery is a shock to Aiken Countians and to persons in many parts of the state.

"He can't be replaced," remarked Aiken Mayor H. Odell Weeks, grieving also on the loss of several other outstanding citizens during the past year.

No other person had played so large a role in the industrial development of Aiken County. Mr. Verenes' influence extended far beyond county lines. He served for 10 years on the State Development Board, and he continued his efforts to bring industry to the state long after he left that board.

He was engrossed in an industrial development project from his hospital bed even the day before he underwent surgery.

Mr. Verenes' involvement in civic life has been mentioned elsewhere. It was climaxed by a banquet last year when the city's industrial park was named in his honor. He himself had played a leading role in development of the park, now the home of several thriving industries.

His aim in seeking new industries was to attract companies that would be a credit to the state and that would be compatible with the state, its existing industries and its way of life. Mr. Verenes continued to support those industries and to be concerned for the welfare of their employees long after they settled in South Carolina.

He loved people, and there were few to whom he could say "no." He helped hundreds of persons to find employment and he went to bat for individuals who sought his help with various personal problems.

"He had a heart of gold, and he helped the black and the white, the poor and all," recalled one public official. Integrity, sincerity and loyalty were all qualities that could be identified with Mr. Verenes.

"He could never turn down a request for help," said former State Development Board Director Bonner Manley, a close personal friend. "His good works were never for personal gain. He was a true Southern gentleman."

"Final rites for Mr. Verenes were to be held this morning at St. Thaddeus Episcopal Church, with his old friend, the Rev. Howard Hickey, officiating. Among the hundreds attending—and in any crowd assembled in Aiken—it is probable that a sizable percentage are persons whose residence in Aiken can be attributed to Mr. Verenes' efforts in bringing new industry to the area.

The city, county and state have lost a great citizen. We extend our sympathies to his wife and family and to all who mourn his passing.

[From the Augusta Chronicle, Oct. 1, 1977]

STATHY J. VERENES

Aiken County and this area suffered a decided loss in the death Wednesday of Stathy J. Verenes. He was an outstanding man who filled the duties and responsibilities of good citizenship in the finest sense of their meaning.

Mr. Verenes, an Aiken native, never hesitated to assume those responsibilities. They became evident through his contributions to the industrial development of Aiken County and, in a measure, to South Carolina as a whole. He helped to achieve this not only in his official capacity as a member of the South Carolina Development Board (which he served on for 10 years), but as a private citizen interested in the economic and cultural development of his own state and community.

Stathy Verenes was a personable man who easily won friends and was admired by hundreds of Aiken Countians—and Augustans—who had enjoyed his friendship over the years. He will be sorely missed by all of them.

[From the Columbia State, Sept. 29, 1977]

STATHY J. VERENES, 63, BUSINESS LEADER, DIES

AIKEN.—Stathy J. Verenes, 63, a former member of the S.C. State Development Board, died Wednesday in Aiken Community Hospital.

Mr. Verenes was born in Aiken County, a son of the late James and Xantha Gregoriaki Verenes. He was a World War II veteran and a member of the Aiken Rotary Club.

He was a member of the board of trustees of the old Aiken County Hospital, a member of the board of directors of Bankers Trust, and a member of the Aiken County Chamber of Commerce, of which he was voted man of the year for 1953.

Surviving are his widow, Mrs. Ann Major Verenes; two sons, James L. and Hugh L. Verenes; a sister, Mrs. Katherine V. Pattis; and a brother, Arthur Verenes, all of Aiken.

Services will be 11 a.m. Friday at St. Thaddeus Episcopal Church. Burial will be in Bethany Cemetery.

The family suggests that those who wish may make memorials to the Rotary Club Student Loan Fund or The Citadel Education Foundation.

George Funeral Home is in charge.

[From the Columbia Record, Sept. 29, 1977]

STATHY VERENES SERVICES FRIDAY

AIKEN.—Funeral services for Stathy J. Verenes will be held at 11 a.m. Friday at St. Thaddeus Episcopal Church.

Mr. Verenes, 63, a former member of the S.C. State Development Board, died Wednesday in Aiken Community Hospital.

Mr. Verenes was born in Aiken County, a son of the late James and Xantha Gregoriaki Verenes. He was a World War II veteran and a member of the Aiken Rotary Club.

He was a member of the board of trustees of the old Aiken County Hospital, a member of the board of directors of Bankers Trust, and a member of the Aiken County Chamber of Commerce, of which he was voted Man of the Year for 1953.

Surviving are his wife, Mrs. Ann Major Verenes; two sons, James L. and Hugh L. Verenes; a sister, Mrs. Katherine V. Pattis; and a brother, Arthur Verenes, all of Aiken.

Memorials may be made to the Rotary Club Student Loan Fund or The Citadel Education Foundation.

George Funeral Home is in charge.

[From the Aiken Standard, Sept. 29, 1977]

STATHY J. VERENES, 63, DIES; FUNERAL SERVICES TOMORROW

Stathy J. Verenes, 63, a leading Aiken County businessman and a man who is responsible for helping to industrialize the area, died yesterday afternoon.

Ironically, Mr. Verenes died on the eve of Aiken's Makin', a salute to Aiken County industry which is being sponsored by the Aiken Chamber of Commerce. The majority of those industries participating are the very ones Mr. Verenes helped to locate in the county.

Funeral services for Mr. Verenes will be held at 11 a.m. tomorrow at St. Thaddeus Episcopal Church. The Rev. Howard M. Hickey will officiate.

Mr. Verenes, owner of Aiken Distributing Co., but best known for his efforts to bring industry to Aiken County, has been in intensive care at the Aiken Community Hospital for the past two weeks.

On Friday, Sept. 16, he underwent surgery.

Verenes, a native of Aiken, has been credited with providing the motivating force behind Aiken County's industrial growth. During his 10½ year tenure on the South Carolina Development Board, Verenes was instru-

mental in guiding the overall industrial program for the state.

Verenes' list of accomplishments includes the establishment of the Aiken Industrial Park just outside Aiken. It also consists of several industries brought here under the auspices and encouragement of Verenes.

It wasn't just any industry, though, that Verenes wanted for his home town. It had to be special. In a recent interview, Verenes commented that he very carefully scrutinized every poetential industrial candidate. Verenes said he carefully avoided any industry which would present a pollution danger to the area.

For Verenes, industry hunting, in his own words, was a hobby. A hobby that kept him busy and involved in every heartbeat of Aiken County. Whether it was at his familiar table at the Ramada Inn where he lunched almost daily or somewhere along Aiken's streets—Verenes was promoting the city and county.

Verenes was active in numerous civic organizations and functions. No facet of Aiken's life was overlooked by Verenes.

Among his many honors was a banquet held last fall at which it was announced that the industrial park would be named for him.

The audience of about 250 guests at that banquet included national and state political personalities as well as numerous area civic leaders.

U.S. Sen. Strom Thurmond called Verenes "a practical man, a man who gets the job done." Thurmond also remarks, "Aiken has made progress and no man has done more to make this happen than Stathy."

Long-time friend U.S. Sen. Ernest F. Hollings said, "If we only had more fellows like Stathy, we could do most anything."

Later, at an Aiken City Council meeting, a majority vote confirmed the action to rename the industrial park. At that time, several business leaders reflected about Verenes' contributions to Aiken. Mandel Surasky commented, "Stathy and other took it among themselves to bring industry to Aiken at a time when the town had two crops—cotton and Yankees."

Mr. Verenes lived all of his life in Aiken with the exception of service in World War II and attendance at The Citadel.

He was a son of James and Xanthe Gregoriaki Verenes, but was orphaned at age 16. He and his brother took over the family business, a wholesale grocery and ice business.

Mr. Verenes and his brother owned and operated the Aiken Distributing Co., at the time of his death.

He was a member of the board of directors for Security Federal Savings and Loan and Bankers Trust, on the board of trustees for Aiken Community Hospital, a member of the First Presbyterian Church of Aiken and a member of the Aiken Rotary Club.

Mr. Verenes was selected the first "Man of the Year" by the Aiken Chamber of Commerce in 1953.

Surviving are: his widow, Mrs. Ann Major Verenes; two sons, James L. Verenes and Hugh L. Verenes of Aiken; a sister, Mrs. Catherine V. Pattis of Aiken; and a brother, Arthur Verenes of Aiken.

Friends may call at the residence at 1023 South Boundary Ave. or the George Funeral Home.

Those wishing may make contributions to the Rotary Student Loan Fund or The Citadel Education Foundation.

NOMINATION OF JOHN F. O'LEARY

Mr. JACKSON. Mr. President, yesterday the Committee on Energy and Natural Resources voted to report favorably to the Senate the nomination of John F. O'Leary to be Deputy Secretary of the new Department of Energy.

Earlier this year the Senate approved the President's nomination of Mr. O'Leary as Administrator of the Federal Energy Administration. Prior to his service as FEA's Administrator Mr. O'Leary had held major energy posts with the State of New Mexico and various agencies of the Federal Government including the Department of the Interior, the Federal Power Commission and the Atomic Energy Commission.

While Mr. O'Leary's nomination as Deputy Secretary was pending before the committee, questions were raised about the failure of the Atomic Energy Commission staff in 1973 to notify the Atomic Safety Licensing Board promptly of the discovery of a fault at the North Anna site where four nuclear reactors were being constructed by the Virginia Electric Power Co. Mr. O'Leary was Director of Licensing for the Commission during this period.

It appears that the AEC staff was informed by VEPCO of the discovery of the fault on May 17, 1973, but did not notify the Licensing Board until August 3, 1973. The Nuclear Regulatory Commission, in a 1976 opinion on the issue of whether or not VEPCO made material false statements to the AEC, found the staff's delay in the case "unacceptable" and noted that procedures had been changed to prevent a recurrence of such delay. Mr. O'Leary supported the change in procedures and conceded in testimony before the committee that the Board could have been advised more promptly of the discovery of the fault.

However, there is no evidence that Mr. O'Leary was involved in any effort to conceal the existence of the fault. On the contrary, the testimony of Assistant Attorney General James W. Moorman to Senator, HART's Subcommittee on Nuclear Regulation last Thursday was that the Department of Justice had "no evidence that Mr. O'Leary condoned the conduct of VEPCO or acted in any way that was improper. The evidence we have is that he concurred in a decision to inform the Atomic Safety and Licensing Board of the fault, and that would appear to be proper."

Mr. President, I ask unanimous consent that the statement on this subject submitted to the committee by Mr. O'Leary be printed in the RECORD.

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

STATEMENT OF JOHN F. O'LEARY

It is my understanding that a Department of Justice staff memorandum has raised questions concerning the actions taken by the AEC and in particular the staff of the Directorate of Licensing from the period of May 17, 1973, to August 3, 1973. These questions have surfaced regarding the handling of an investigation concerning the existence of a "fault" at the North Anna site of four nuclear reactors being constructed by VEPCO. Basically, the memorandum raises questions concerning an alleged concealment by the AEC staff of the existence of this fault and further alleges that the failure of the staff to immediately notify the Atomic Safety Licensing Board (ASLB) somehow interfered with the ability of the Department of Justice to prosecute VEPCO under a criminal statute for making false statements to the Government. My information concerning the chronology and actions taken with regard to this matter is as follows:

1. On or about May 17, 1973, a Mr. Ashley Baum from VEPCO made a call to Albert Schwencer, Chief of the Pressurized Water Reactors, Branch No. 4, Directorate of Licensing for the AEC. Notes of that conversation indicate that Mr. Schwencer was told that VEPCO had discovered a "chlorite seam" under the excavation for the North Anna units 3 and 4. Baum also informed Mr. Schwencer that photographs indicated that the seam appeared to be rock folding. He indicated that Dames and Moore, who were the geological experts hired by VEPCO on the project, had been called into evaluate the finding. VEPCO anticipated that they would be ready for a site visit by the AEC staff in about two weeks. Part of the delay was to allow better preparation of the site to expose the extent of the geologic feature.

2. In accordance with this timetable, a site visit was made by AEC officials, including a Geologist from the U.S.G.S. and a Geologist on the AEC staff on June 18, 1973. A summary of that field investigation indicated that the "chlorite seam" showed indications of movement, and therefore, appeared to constitute a fault.

3. A report on this trip was then prepared on June 21, 1973, and filed in the Public Document Room on June 26, 1973.

4. The AEC Geologist Mr. Cardone, was in Europe on a business-related trip from June 21, 1973, to July 5, 1973.

5. In late June or early July, at a periodic bluebook meeting, this matter was probably first brought to my attention and according to the Department of Justice memorandum, I directed the staff to advise the ASLB which was then considering the application for the construction permit on units 3 and 4. I have no firsthand recollection of this matter at this time.

6. Apparently, the staff determined the appropriate method for bringing this to the ASLB's attention was through the filing of an affidavit by the AEC Geologist along with the trip report made in connection with the June 18 field inspection.

7. After returning from Europe, Mr. Cardone initiated drafting of the affidavit which was completed in first draft form on approximately July 18, 1973. This was circulated through the agency to be put into proper legal form on July 20, 1973. The final draft of the affidavit was signed by Mr. Cardone on July 31, 1973, and officially filed with the ASLB on August 3, 1973.

In this period of time the Licensing Directorate had under its jurisdiction some 80 nuclear power plant applications. It was a daily occurrence to receive information by telephone calls or otherwise concerning some aspect of a program which might affect the public health or safety or the performance of a nuclear station. It was general practice at that time for the staff to initiate an inquiry into all such allegations in order to assess the magnitude of any problem presented and reach a tentative conclusion as to a future course of action. Where this initial inquiry established a reasonable likelihood that a problem in fact did exist, the Licensing Directorate would inform the Commission or the applicable Board such as the ASLB and proceed with in-depth staff review and analysis. This is apparently what occurred in this case, although, as indicated in the Department of Justice memorandum, I did believe that the ASLB should be notified.

It was during this period, and partially as a result of the North Anna experience, that this general procedure was modified and thereafter information such as that involved in the North Anna/VEPCO case were to be brought to the ASLB's attention prior to any significant staff investigation being made.

I fully supported this change in procedure, believing that it would enhance the public perception of the agency's conduct of it responsibilities to protect the public health and safety. The fact remains, however, that none of the plants at the North Anna site were due to become operational for a period in excess of two years. Consequently, the existence of a possible fault at the site did not pose an immediate health and safety problem. Further, it was common geological knoweldge that in the Piedmont, there is little likelihood of any "capable" fault, i.e., one capable of further movement within the criteria applied by the AEC. A long and detailed investigation of the fault, including public hearings held during subsequent months, sustained this intial impression.

On the basis of this reconstruction of events and my memory, I can categorically state there was no element of concealment involved in the failure of the Licensing Directorate staff to notify the ASLB earlier of the existence of this potential fault.

As I have previously stated, the trip report was placed in the Public Document Room and steps were taken to prepare an appropriate affidavit to be filed with the Licensing Board fully to apprise it not only of the existence of the fault, but of staff's initial assessment of its significance and the further steps which were being taken to evaluate whether the fault posed a safety threat.

It is difficult for me to understand in what way this delay impeded the ability of the Justice Department successfully to prosecute a case against VEPCO for concealment of a material fact from the AEC. The simple fact is that VEPCO did call to the AEC's attention the potential existence of a fault on May 17, 1973, and this was confirmed by the on-site inspection on June 18, 1973. Whatever the legal significance may have been of subsequent filings by VEPCO which continued to maintain the absence of a fault on the site, it is my understanding that the fact of a delay in bringing the matter to the attention of the ASLB—as opposed to the knowledge of the true facts that previously had been communicated by VEPCO to the AEC staff—was essentially irrelevant to whether this case could be prosecuted. As I have previously said, however, I do believe that staff did not act as quickly as should have been the case and as quickly as they now act in such matters.

The Justice memorandum also criticizes the AEC and the staff for not immediately suspending construction on the site. At this time, construction was 80% complete on units 1 and 2, whereas units 3 and 4 which were the subject of the initial discovery of the fault, were only in the initial excavation stage. Under the then applicable regulations, the applicant had the right to begin site preparation while the application for a construction permit was pending. The hearing record was still open on the application for a construction permit for units 3 and 4, and was to remain open until at least the end of August 1973 while awaiting a water quality permit from the State of Virginia. Consequently, it is simply inaccurate to say that the AEC staff is to be faulted for not seeking to reopen the hearings since they had not been closed in the first place.

Under applicable laws and regulations of the agency, the procedure for halting construction involved issuance of an order to show cause why construction should not be halted. Such action necessitates staff justification as to why construction should be ordered halted in the interest of protecting the public health and safety. It is my opinion, however, that during the time period we are discussing here, i.e., May 17, 1973, through August 3, 1973, there simply was insufficient evidence to justify issuing such an order and in the absence of such an order the construction could not have been ordered stopped despite assertions in the Department of Justice staff memorandum that such action should have been taken immediately

In the fall of 1973, the staff did ask the Licensing Board to consider this fault in conjunction with the still pending application for construction permit for units 3 and 4, and further that the Board direct VEPCO to show cause why construction on units 1 and 2 should not be suspended. Ultimately, construction at the site was allowed to continue on the basis that the fault was not "capable," which judgment was upheld by the 4th Circuit Court of Appeals in subsequent litigation.

In summary, there is no substance to the charge that the AEC staff participated in a concealment with respect to its activities from May 17, 1973, through August 3, 1973. Further, I believe it is inaccurate to suggest simply that this 2½ month period during which the staff investigated the situation and prepared appropriate documents for filing with the ASLB frustrated the ability of the Justice Department to prosecute whatever criminal case might have been presented by the false VEPCO filing, made after the staff had actual knowledge of the matters omitted from that filing. Finally, as noted by the April 1976 decision of the Appeal Board and the November 1976 Order of the Commission, the staff did change its internal operating procedures in order to bring such problems to the attention of the ASLB at an earlier state of its investigations, a move in which I fully concur. I hope that this answers any questions that the Committee has concerning this matter.

SENATOR THURMOND'S LEADERSHIP IN THE PANAMA CANAL ISSUE

Mr. HATCH. Mr. President, the newly proposed treaties with Panama have stirred up a considerable amount of discussion here in the Senate. I am pleased that so many Senators are finally taking a keen interest in this subject. Debate is long overdue.

For many years, our distinguished colleague from South Carolina (Mr. THURMOND) has endeavored to direct the Senate's attention to the crisis that our State Department was creating in Panama. It was Senator THURMOND, for instance, who, in anticipation of these treaties, took the lead in 1975 by introducing Senate Resolution 97, with 38 cosponsors. This legislation, which the State Department chose to ignore, put the State Department on notice that there was widespread opposition in the Senate, and among the American people, to the surrender of the Panama Canal. Many of the difficulties that we now face in Panama could have been avoided, in my judgment, had the State Department heeded the advice of Senator THURMOND.

It was also Senator THURMOND who, in 1974, offered S. 2330, a bill to modernize the operations of the Panama Canal. This creative legislation is based on the unassailable assumption that modernization would not only benefit the Panamanians and all nations which rely on this important waterway, but is, indeed, the best solution to our problems in Panama from an engineering, navigational, political, and military standpoint.

Major modernization of the existing canal, as Senator THURMOND has explained, can and should be done under the existing treaty of 1903. Developed within the Panama Canal organization after World War II, the Terminal Lake-third locks plan would provide a third lane of larger locks for larger vessels, the physical removal of the bottleneck locks at Pedro Miguel, the consolidation of all Pacific locks south of Miraflores, and the creation of a Pacific terminal lake to correspond with the eminently superior layout of the Atlantic end at Gatun. This work would enable uninterrupted summit level navigation from the Atlantic locks to the Pacific locks, and greatly simplify marine operations. Approximately $171 million has already been spent on this project.

In addition to aiding normal commercial shipping and enabling the transit of larger ships and tankers, the completion of the Terminal Lake-third locks plan would also benefit both the United States and Panama with increased employment. It is the least expensive and the most practical alternative to the proposed surrender of the canal and the construction of a new sea-level canal. What is more, it is highly doubtful that this modernization will ever take place if the canal is transferred to the Panamanians.

Reiterating the need for completion of the Terminial Lake-third locks project, Senator THURMOND recently delivered an important address on the Panama Canal Treaties before the U.S. Chamber of Commerce International Policy Committee in Washington, D.C.

Mr. President, I would like to share this address with my colleagues, and I ask unanimous consent that it be printed in the RECORD.

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

REMARKS BY SENATOR STROM THURMOND

It is a distinct honor to be here this morning to present to the Chamber my reasons for opposing the treaties with Panama. I am pleased you recognize the need to participate in this national debate, as oftentimes lack of participation by a group of your stature is misread as a position of acquiescence.

My interest in the Panama Canal is longstanding. Over the years I have introduced several bills to modernize the Panama Canal. In the 94th Congress, I offered a resolution signed by 38 other Senators opposing the surrender of this waterway to Panama. Last August, I visited the Canal Zone for briefings and study to ascertain any changes since my previous visit several years before.

While I recognize the need for some adjustments with Panama concerning the Panama Canal, I see the retention of U.S. control as basic to the protection of our interest.

My 1976 resolution was more than sufficient warning to both the Ford and Carter Administrations relative to the Senate's concern in this matter. The treaties have been signed with great fanfare in an atmosphere of threats and violence by Panama. Panamanian chief negotiator Escobar Bethancourt went so far as to say ". . . This country (Panama) will take a course of violence" if the treaties are not ratified.

At no time in my memory have such threats and pressure been exerted on the Senate as is the case with these treaties. In making our decision, however, we must rationally decide what is in the best interest of our Nation, irrespective of the pressures and threats directed toward us.

Recently, treaty proponents have made a number of arguments to attempt to justify

ratification. I would like to comment on some of these points:

USE VS. CONTROL

The central argument made, as enunciated by Defense Secretary Harold Brown, is that "use of the Canal is more important than ownership."

My position is that only through ownership can we be assured of control over this vital waterway. Once ratification takes place, sovereignty is surrendered. At that time the rights of Panama in Canal affairs will become dominant, as ownership by them means eventual control, which in turns governs use. I do not feel a small nation of 1.7 million people, with a history of 59 government changes since 1903, has the stability or economic strength to manage and finance a waterway of the Panama Canal's complexity.

U.S. RIGHTS OF PASSAGE

Treaty proponents also argue expeditious passage rights for our ships in time of emergencies adequately protects our interests.

Why then did our negotiators and the Defense Department seek "priority passage" during the negotiations? Despite our position as the world power most affected by the use of the Canal, the Panama officials say our ships are not guaranteed a place at the head of the line in emergencies. On this point, Admiral Thomas Moorer, former Joint Chiefs Chairman, declared Monday, "I submit that ownership and control, on one hand, and priority passage and defense, on the other, are synonymous."

INTERVENTION RIGHTS

Treaty proponents argue further that our rights to use the Canal are guaranteed under the Neutrality Treaty because the Treaty itself does not rule out U.S. intervention to assure its availability.

Even Treaty advocates, such as General Maxwell Taylor and Admiral Elmo Zumwalt, described the Treaty provisions on this subject as "ambiguous" and "fuzzy."

Admiral Zumwalt went so far as to suggest we attach a separate Resolution to the Treaty to nail down U.S. rights to step in if Canal movement was impaired.

PANAMA'S GOVERNMENT

Treaty proponents also argue that the Panamanian dictator Torrijos has the support of his people.

Why then have there been no free elections during Torrijos' 9-year reign, which has pushed the national debt from $167 million to over $1.5 billion, and brought economic stagnation to Panama? One might also ask, Does the Panamanian government have the political strength or will to resist outside interference? Once sovereignty is given to Panama, will that government remain friendly to the U.S.? If U.S.-Panama relations are bad, then the only other great power to which they could turn would be the Soviet Union, through its figurehead Castro.

ANOTHER VIETNAM

As I stated earlier, the Treaty has been presented to the Senate under the implied threat that if we do not ratify, we will be inviting another Vietnam.

More likely, if we relinquish control of the Canal, we will have another Cuba to our South. Vietnam was a foreign nation distant from the U.S., while the Canal is in our Hemisphere and we have operated it for the benefit of Panama and the world. The Panama Canal Zone and the Canal are U.S. territory; Vietnam was not.

HUMAN RIGHTS

Treaty proponents also argue our credibility on human rights is involved.

That point raises the question as to why then are we being asked to make a national hero out of the Torrijos government? The respected liberal organization, Freedom House, which the State Department has cited in its annual report to Congress, rates Panama as "not free." It States that, on both civil and political rights, Panama has one of the worst records in the world.

COST OF THE GIVEAWAY

Treaty proponents claim the U.S. should be willing to pay Panama up to $1.5 billion during the process of transferring control since we have paid many other foreign governments billions for base rights.

In other countries where we have base rights, we are merely renting their land. In Panama, we bought the land from the Panama Government, paid all landowners and even squatters, plus paying the French Canal Company and Colombia. In the Wilson v. Shaw case, the U.S. Supreme Court stated the Canal is without doubt U.S. property.

JOINT CHIEFS' POSITION

Proponents argue that the Joint Chiefs of Staff favor the Treaty. This is true, but most retired officers do not support it. Shortly a list of those military leaders opposed to the Treaty will be released, and I assure you it will be a long one.

Furthermore, the Treaty is a political issue, while Canal use is mainly a Navy issue. Four past Navy Chiefs oppose the Treaty. One of this group, Admiral Moorer, served as the past Chairman of the Joint Chiefs. Admiral John McCain, Commander-in-Chief of our Pacific forces during the height of the Vietnam War, has stated, "it is my conviction that U.S. interests are best served by keeping the Canal." This Committee should also note it is significant that to date not one active duty military officer has publicly opposed the Treaty.

COST TO SHIPPERS

Another point, and a key one to businessmen, addresses the claim by Treaty advocates that increased tolls will finance the additional payments to Panama.

They seem to forget that Canal passage costs have increased 45% in the past three years and the Canal is still operating at a deficit. In addition, while the increased use of the Canal to transfer oil from Alaska to the East Coast will mean more business for the Canal, it also means higher tolls to shippers and higher oil costs. The U.S. business community and the American taxpayer will be saddled with that expense. In fact, the Chairman of the Merchant Shipping Council, Mr. W. J. Amoss, Jr., has switched from an advocate of a Treaty to an opponent of this Treaty. He said the increased toll costs will spell "sheer disaster for operators east of the Canal", which incidentally means shippers on the Eastern Seaboard.

The weakness of these nine arguments by Treaty advocates is further compounded when we consider other issues which have been raised.

Six months after ratification of the Treaty, the Canal Zone ceases to exist and about 65 percent of the land and 10 of the 14 U.S. bases are given to Panama. The remaining land adjoining the Canal itself is under limited U.S. control for the purpose of operating the Canal. We then oblige ourselves to begin paying the Panama government huge sums in various ways, totalling up to nearly $1.5 billion over the next 22 years.

NEUTRALITY TREATY AMBIGUOUS

One of my most significant concerns is the *ambiguity* contained in the Neutrality Treaty. This deserves special attention. Ambassador Linowitz and others have maintained that no limits were spelled out in the Treaty, so we will be free to take whatever steps are necessary to protect the neutrality of the Canal. These remarks might be reassuring to the American public, except for the comments made by Chief Negotiator Bethancourt on these provisions to the Panama Assembly on August 19. He stated:

"Those people believe that the right to intervene is granted, but nobody grants the big powers the right to intervene. They intervene wherever they damn well please with or without a pact."

Additionally, in an August 24, 1977 radio broadcast, Mr. Bethancourt is quoted as saying:

"The pact does not established that the United States has the right to intervene in Panama. This word (intervention) was discussed and eliminated . . ."

Later he stated: ". . . the neutrality pact does not provide that the United States will say when neutrality is violated."

Indeed, Articles IV and V of the Neutrality Treaty are so ambiguous as to lend themselves to various interpretations. This reason alone is sufficient to reject the Treaties.

BROAD CONCERNS

These are some of the specific concerns I have relative to these Treaties. There are other broader issues involved. Will our ratification of these treaties be seen as a pattern of withdrawal in view of our retreat in Korea, Southeast Asia and possibly Taiwan? This misguided direction of our foreign policy engenders consternation on the part of our Allies and audacity on the part of our adversaries.

This type of audacity has even been highlighted by the reckless and provocative statements of Mr. Bethancourt and others about violence.

We cannot hope to deal effectively with other Nations as a world leader if we yield to blackmail. That is the only word to describe the threats of violence and sabotage which treaty proponents are broadcasting far and wide, and using as their chief argument for ratification. If the Senate were to ratify a treaty in the face of such threats, it would show the world a new policy alien to our national character and our history and which would invite further exploitation.

POSITIVE ALTERNATIVES

Before closing I wish to make clear I am not opposed to a new arrangement with Panama. In the past, I have supportel the Terminal Lake-Third Lock Modernization Plan. This would provide for approximately $2.5 billion in capital investments over a 5 to 10 year period. Such a major step will provide an opportunity for mutual cooperation and an even greater partnership between the people of the United States and the people of Panama.

Another part of the Treaty with which I find fault is the provision prohibiting our construction of a sea-level canal prior to the year 2000, except in Panama or only with the permission of Panama. In this instance, we have surrendered an option which may be forced upon us.

CANAL GREAT ACHIEVEMENT

The Panama Canal stands as a monument to American foresight, ingenuity, and perseverance. Author David McCullough, who recently published "The Path Between the Seas," a history of the Panama Canal, has written:

"It is the physical expression of a boundless confidence, one which believed tomorrow will be better. If an archaeologist were to come across only the locks and the cuts in that jungle, his conclusion would be: 'What a civilization it must have been to build this!

Adds McCullough:

"Many people feel that by relinquishing the canal we are saying something profound about ourselves, that we have reached a turning point in our growth as a nation. Will we go forward as a people with our skill and great machines, or have we become a people who are pulling in and withdrawing?"

In conclusion, neither our interests nor the interests of the people of Panama are served by the treaties. The only outcome of ratification can be danger ahead.

URBAN POLICY REVISITED

Mr. MOYNIHAN. Mr. President, on Monday, October 17, 1977, I had the opportunity to address a meeting of the Union League Club in New York City. On that occasion I discussed the enduring difficulties of creating a national urban policy.

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

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

URBAN POLICY REVISITED

(Address by Senator DANIEL PATRICK MOYNIHAN)

A fair amount of attention is being paid just now to the question of a national urban policy. In April, 1977, as a candidate for the Presidency, Jimmy Carter pledged that an administration he headed would have a "coordinated urban policy committeed to the development of a partnership with the cities." Just twelve days ago, after touring the South Bronx, President Carter spoke of his commitment to "an overall strategy to improve the quality of life and strengthen the economy base of this nation's cities." He has established an Urban and Regional Policy Group to advise him on this undertaking.

Eight years ago, at an equivalent point in a new administration, it fell to me to carry out a similar exercise. I had been serving as director of the Joint Center for Urban Studies of M.I.T. and Harvard when the newly elected President asked if I would come to Washington as his Assistant for Urban Affairs. I believe it is fair to say that I was asked to do this in a professional capacity, for I had no political connection with the new administration. In that sense, the advice I gave was apolitical, reflecting what I deemed to be the best professional judgment of the time. It might be of some interest, then, to look back at what I proposed eight years ago in terms of what has transpired since.

On the grounds that eleven points were too many and nine too few, I proposed ten general principles.

1. The poverty and social isolation of minority groups in central cities is the single most serious problem of the American city today. It must be attacked with urgency, with a greater commitment of resources, than has heretofore been the case, and with programs designed especially for this purpose.

I would see little reason to change my judgment that this should be our first priority, and I would if anything increase the emphasis on "social isolation". Eight years has, I believe, further enlarged the social distance between the worst off groups in our cities and the population at large. I believe this to be fundamentally an issue of social class, which is not always helped by the seeming compulsion we have to attach ethnic and racial labels to social divisions which really are not of that nature.

I first presented my proposals in the spring of 1969. That summer, in response to this first point, the administration proposed a guaranteed income under the general rubric of welfare reform. This was almost enacted. The present administration has come forward with a comparable proposal. I am in favor of welfare reform and hope to have some part in enacting the President's program. No one, however, should have any illusions that welfare reform will change anything in, let us say, the South Bronx. For the South Bronx and for inner cities generally, the single most important element of a successful urban policy will be the level of male employment. This is a position I have held without any significant change since I served on the task force that developed President Johnson's "war on poverty." I lost then, and have pretty much lost ever since.

2. Economic and social forces in urban areas are not self-balancing. Imbalances in industry, transportation, housing, social services and similar elements of urban life frequently tend to become more rather than less pronounced, and this tendency is often abetted by public policies. The concept of urban balance may be tentatively set forth: a social condition in which forces tending to produce imbalance induce counterforces that simultaneously admit change while maintaining equilibrium. It must be the constant object of federal officials whose programs affect urban areas—and there are few whose do not—to seek such equilibrium.

This is a complicated thought, and grows more so as our ability to examine the economies of political subdivisions grows more sophisticated—and as we learn more about the limits of the economists' art.

In a long and detailed statement this past July, I addressed myself to the economic condition of New York State as a whole and, in particular, sought to examine what might be termed the "balance of payments" between New York and Washington. I found striking evidence of a severe disequilibrium, if one supposes, as I do, that New York should receive a fraction of federal disbursements that corresponds roughly to the share of federal revenues that it supplies. Had that been the case in 1976, New York would have received $7.4 billion more than it actually received: enough, it is fair to say, to entirely alter its fiscal conditions and the prospects of its political subdivisions, notably the City of New York. If we had got back what you might call the "average rate of return" for other states we would have been $17 billion better off. If we had got the California rate of return, we would have received $32 billion more than we did!

We are not yet able to apply such a "balance of payments analysis" to individual cities. But it is now clear to me that we must acquire that ability if we are seriously interested in the equilibrium of which I speak, indeed in understanding the governmental forces that affect our urban condition.

Here I would add perhaps a parochial point. A favorite alibi of those who have presided over the disaster of New York City government over the past decade is that "all urban America" is in a crisis. This is not true. Indeed it attains to the condition of a political life. It may make us feel better to tell this lie to one another, but in the end it is mere self-deception. Our urban problems are not unique, but neither are they general. At most they are Northeastern. They reflect a singular combination of extraordinary local mismanagement and a huge imbalance of payments with the federal fisc.

3. At least part of the relative ineffectiveness of the efforts of urban government to respond to urban problems derives from the fragmented and obsolescent structure of urban government itself. The federal government should constantly encourage and provide incentives for the reorganization of local government in response to the reality of metropolitan conditions. The objective of the federal government should be that local government be stronger and more effective, more visible, accessible, and meaningful to local inhabitants. To this end the federal government should discourage the creation of paragovernments designed to deal with special problems by evading or avoiding the jurisdiction of established local authorities, and should encourage effective decentralization.

We have made some progress, at least with respect to federal policy, in this regard. Increasingly, we seem to be turning back, as I believe we should, to the general purpose governments—cities, towns, counties, and the like—at the local level, rather than contributing to the creation of more "paragovernments".

4. A primary object of federal urban policy must be to restore the fiscal vitality of urban government, with the particular object of ensuring that local governments normally have enough resources on hand or available to make local initiative in public affairs a reality.

The main events in this realm, and quite large events they are, have been the advent of general revenue sharing and of community development block grants. The nation has, I believe, accepted the idea that the federal government can—and should—distribute at least a portion of the funds it gathers to state and local governing units for purposes of their own devising.

I would point out that revenue sharing was proposed in the same Presidential message that proposed welfare reform, and a general return of manpower programs to State management. Whatever else went on in 1969 there was an acceptance of the idea that policy is an interconnected process.

If we are to be criticized, it is for not anticipating the fiscal collapse of New York City. On the other hand, we knew there was a problem that required a national response.

5. Federal urban policy should seek to equalize the provision of public services as among different jurisdictions in metropolitan areas.

I don't see much progress here, partly because we have so little data. I expect that a major issue of the years ahead will be the effort to obtain court orders for the equalization of educational expenditure. The great challenge of this effort will be to bring about equity without greatly increasing the level of educational expenditure which is already very considerable in a City such as New York. This will require a degree of restraint which we are not very good at, and is an area where national data would very much inform a national debate.

6. The federal government must assert a specific interest in the movement of people, displaced by technology or driven by poverty, from rural to urban areas, and also in the movement from densely populated central cities to suburban areas.

In the years since this was written, the growth of the suburbs has continued but the move from South to North, for so long a pattern in American life, has not. In no small part this must be a response to the economic growth of the South, and the economic stagnation of Northern cities.

Yet the point I made bears repetition: these are matters of utmost importance for social policy, and a federal interest must be asserted. None has. There are, of course, federal programs which have an enormous impact on population shifts. Without the availability of VA and FHA mortages, the explosive growth of the suburbs would have been greatly reduced. Likewise, suburbs are possible only when transportation networks make commutation possible. Thus the Interstate Highway Program was essential for the growth of the suburbs. It is possible that history will remember the 1960's as the decade in which we found ourselves with new roads and urban chaos. In this sense, one can say that the federal government has had an unwitting policy, which was to make suburbs grow and cities decline. If this is no longer our goal—or if it never was, and we now recognize it is nonetheless what we are doing—it is time to revamp the programs which lead to this result.

7. State government has an indispensible role in the management of urban affairs, and must be supported and encouraged by the Federal Government in the performance of this role.

Perhaps the one solid change for the better that can be hoped for from New York City's fiscal collapse is that the State government will continue to pay close atten-

tion to the condition of the economy of the City. But there is still no general understanding in New York of the degree to which the City's problems represent derelictions of State responsibilities. I would only offer the thought that the City is itself largely responsible for this, having for generations insisted on retaining to itself functions which elsewhere in the nation have long since become the responsibility of State government.

8. The Federal Government must develop and put into practice far more effective systems than now exist, whereby state and local governments, and private interests can be led to achieve the goals of federal programs.

Just before becoming chairman of the Council of Economic Advisers, Charles Schultze gave the Godkin lectures at Harvard with precisely this theme, so that we may conclude that today, as eight years ago, there is at least one person in the executive branch who believes it. So far, however, no administration has done much in this respect, and this is the fundamental problem of government. If what one hears is true, the Department of Housing and Urban Development is set on just the opposite course.

9. The Federal Government must provide more and better information concerning urban affairs, and should sponsor extensive and sustained research into urban problems.

Little has been done here, which makes one suspicious, for there is not much cost involved. My impression is that research in urban issues has entered a phase where it no longer confirms the conventional wisdom, and so is seen as threatening by governments and pressure groups alike. This of course is good news because it may mean we are going to learn some things we need to know. On the other hand, it will also mean a good deal of bitterness and some dishonesty.

10. The Federal Government, by its own example, and by incentives, should seek the development of a far heightened sense of the finite resources of the natural environment, and the fundamental importance of aesthetics in successful urban growth.

I put this matter last eight years ago, with little expectation that it would be the one area of urban policy where there would be the greatest change in the years that immediately followed. Much of this change has been for the good, but none should fail to observe the almost anti-urban bias of much environmental legislation. Certainly our present Federal regulations make increasingly problematic the economic development of core city areas. If I had any one prediction to make of the President's Urban and Regional Policy Group it is that it will come forward with a batch of proposals for building factories in the South Bronx, as it were, most of which projects will be unable to obtain approval under Federal environmental regulation

And now to one final revision: I have come to the view that eleven points are not, after all, too many, and I offer it herewith.

11. There is nothing the matter with government in American cities that cannot be cured by less of it.

Urban policy must absolutely proceed from the proposition that there is truly a "sickness of over government" in most of our older cities, and the cure cannot be yet more government.

Any day now the administration will be coming forward with its national urban policy. It will be interesting to observe the areas of convergence and divergence with my thoughts, now almost a decade old. For my part, all I ask is that the administration truly think in policy terms. A housing program is not an urban policy. A public service jobs program is not an urban policy. An urban bank is not an urban policy. What is needed is a coherent judgment as to what aspects of urban life really can be affected by government policies, and a common understanding of how government will thereupon behave. There is at present little evidence of this, but then the administration is scarcely a year old.

IRS TAXATION OF FRINGE BENEFITS

Mr. HATCH. Mr. President, I am pleased to announce that TED STEVENS, the distinguished minority whip, has joined in cosponsoring Senate Resolution 242. This resolution expresses the Senate's displeasure toward any policy of the IRS which changes through administrative interpretation longstanding applications of the internal revenue laws. The resolution states that—

It is the sense of the Senate that the IRS refrain from changing long-standing applications of the Internal Revenue laws, including its policy with respect to taxation of benefits (other than cash remuneration) given to employees, without submission to Congress of any such proposed changes.

Mr. President, the distinguished Senator from Alaska, Mr. STEVENS, has written to me that he has "received some comments from Alaskans that Commissioner Kurtz may be overstepping his bounds by proposing to tax fringe benefits as income. Besides adding to the already heavy tax burden that employees must bear, this proposal, by its application, would infringe upon a long-standing policy that such tax changes be submitted to Congress for review." I am certain that all of my colleagues would find this same concern in the minds of their own constituents.

I believe that the Senate should move forward with Senate Resolution 242 before it becomes necessary to prepare legislation to void the higher taxes that the IRS is legislating on our constituents. The IRS has announced its intention of moving forward with the taxation of employee fringe benefits such as free parking spaces, store discounts for retail employees, travel passes for rail and airline employees, and so forth. I pointed out to the Senate on August 4 that employees cannot pay these taxes in kind by turning over part of their parking space to the IRS. They have to pay them in money out of their current income level. The IRS action on fringe benefits is equivalent to raising the tax rates on existing income levels.

Mr. President, this is a nonpartisan resolution. It has union support. It reminds the IRS that revenue measures originate in the Congress. I ask all of my colleagues to join with me and Senators CURTIS, DOMENICI, GARN, GOLDWATER, HAYAKAWA, HELMS, SCHMITT, STEVENS, THURMOND, TOWER, and YOUNG in support of Senate Resolution 242.

NEW TEST FOR PSEUDORABIES

Mr. CLARK. Mr. President, the number of cases of pseudorabies, a disease nearly always fatal to baby pigs, have increased dramatically in the past 2 years. About three times as many cases were confirmed in the first half of this year as in all of 1975. I am therefore happy to report an important advance in control of this disease by scientists of USDA's Agricultural Research Service at Ames, Iowa. They have developed an accurate diagnostic test that is simpler, faster, and less exepensive to perform than the test now in use. Representatives of veterinary diagnostic laboratories were trained in use of the test at Ames on September 20–21. After further evaluation by various laboratories it should contribute significantly to our armament against this costly disease. Mr. President, I ask unanimous consent to have printed in the RECORD a report on the test from FarmWeek published at Bloomington, Ill.

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

DEVELOPS NEW TEST FOR PSEUDORABIES

A new test for diagnosing pseudorabies in swine is accurate and simpler, faster, and less expensive to perform than the test now in use, according to its developers—U.S. Department of Agriculture scientists.

The microimmunodiffusion test (MIDT), detects pseudorabies virus antibodies in blood serum from infected swine. Preliminary results are available in 24 hours, with final reading in 48 hours. The virus neutralization (VN) test now used requires several days for completion, considerable expertise, and a laboratory equipped for tissue culture procedures.

The MIDT was developed at the National Animal Disease Center in Ames, Iowa.

An accurate, rapid, economical diagnostic test is needed for detection, control and eventual eradication of pseudorabies, also known as Aujeszky's disease, the scientists said. Incidence and losses have increased dramatically in the past two years. USDA reports 706 laboratory-confirmed cases in 22 states during the first 6 months of 1977, compared with 714 in 1976, 225 in 1975, and 125 in 1974.

In susceptible suckling pigs, pseudorabies virus infection produces acute inflamation, paralysis, coma, and death within 24 hours of onset.

The researchers compared sensitivity of the MIDT and the VN tests in assaying 2,203 swine serums obtained from 33 herds in Iowa, Indiana, and Nebraska and from Iowa packing plants. An equal percentage of serums was positive in each test—419 serums by VN and 421 by MIDT.

DEPARTMENT OF ENERGY NOMINEES

Mr. JACKSON. Mr. President, yesterday the Committee on Energy and Natural Resources approved six nominees to posts in the new Department of Energy and five nominees to serve on the Federal Energy Regulatory Commission.

The nominations approved were those of John F. O'Leary to be Deputy Secretary of Energy, Dale D. Myers to be Under Secretary of Energy, Alvin L. Alm to be Assistant Secretary of Energy for Policy and Evaluation, Harry E. Bergold, Jr., to be Assistant Secretary of Energy for International Affairs, Phillip Samuel Hughes to be Assistant Secretary of Energy for Intergovernmental and Institutional Relations, David J. Bardin to be Administrator of the Economic Regulatory Administration, and to the Federal Energy Regulatory Commission, Charles B. Curtis, George R. Hall, Georgiana H. Sheldon, Don Sanders Smith, and Matthew Holden, Jr.

I ask unanimous consent that biographical sketches of the nominees and other data be printed in the RECORD.

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

JOHN F. O'LEARY

George Washington University, A.B. (Economics), 1950.

Commodity Industry Analyst, Bureau of Mines, 1950–52, Prepared Mineral Handbook—Zinc; Management Intern, 1951–52; Economist, Senior Staff Economist for Office of Assistant Secretary for Mineral Resources, 1952–62, Interior. From 1962–67 served as Deputy Assistant Secretary of Interior—Mineral Resources (Bureau of Mines, Geological Survey, Minerals and Solid Fuels, Oil and Gas, Oil Import Administration, Coal Research; U.S. Representative OECD Oil/Energy Committees, NATO Oil Committee, Oil Committee of I.L.O.; Federal Oil Shale policy, shelf Leasing policy, etc.).

Chief, Bureau for Natural Gas, Federal Power Commission, March 1967–October 1968 (regulatory issues, utilities and transmission, natural gas, energy, etc. Returned to Department of Interior as Director, Bureau of Mines, 1968–70 (Coal Mine Safety Act, 1969, coal/gas conversion program, oil imports, environmental impacts, R&D). Distinguished Service Awards, Interior and FPC.

Energy Consultant, 1970–73 in petroleum, gas, and coal. Director Licensing, AEC 1972–74 (nuclear plants, safety, environment). In October 1974, became Technical Director, Energy Resources, and Environment Division, MITRE Corporation. In 1975, accepted the position of Energy Administrator for the State of New Mexico. In 1977 appointed as Administrator of the Federal Energy Administration.

BIOGRAPHY

Education

A.B. Economics, George Washington University, 1950.

Honors

Distinguished Service Award, U.S. Department of Interior, 1967.

Distinguished Service Award, Federal Power Commission, 1968.

Employment

February 1977 to Present—Administrator, Federal Energy Administration.

Responsible for administration of the Agency established by the Congress to administer energy related environmental, conservation, developmental and regulatory programs and to assist in the development of National energy policy.

November 1975 to February 1977—Administrator, Energy Resources Board, State of New Mexico.

Responsible for the development and implementation of the State's energy plan.

October 1974 to November 1975—Technical Director, Energy Resources and the Environment Division, MITRE Corporation.

Responsible for the direction and management of work conducted by MITRE in the energy, resources, and environment field.

June 1974 to October 1974—Energy Consultant.

Private consultant working with government agencies and other organizations including the MITRE Corporation, advising on energy matters in general, and the role of nuclear energy in the future in particular.

June 1972 to June 1974—Director of Licensing, U.S. Atomic Energy Commission.

Directed the staff of approximately 500 professionals, with the Atomic Energy Commission responsible for licensing of commercial nuclear generating plants, fuel cycle facilities and nuclear materials. Had responsibility for the timely completion of comprehensive safety, environmental and antitrust reviews. Serve as a principal advisor to the Commission in its activities related to creation of a nuclear generating industry.

March 1970 to June 1972—Energy Consultant.

Self-employed as a consultant in energy matters working with a number of firms in the petroleum, natural gas and coal industries. Provided extensive advice with regard to the overall energy position of the United States and conducted specific studies related to new commercial opportunities including the development of new coal mining capacity; construction of facilities for the production of synthetic natural gas, construction of facilities for production of synthetic coke and development of L&G facilities. Served as a Director to several companies in the energy field. During this period prepared for publication several papers relating to various aspects of the impending energy shortage.

October 1968 to February 1970—Director, Bureau of Mines.

Provided executive direction to program involving annual expenditures of more than $100 million, and approximately 4,500 employees. The Bureau then conducted physical and economic research to the value of approximately $50 million a year. As Director was active in developing and securing passage of the Coal Mining Safety Act of 1969 and obtained authorization for the Bureau to initiate a major coal/gas conversion program. Initiated numerous economic studies relating to the mineral industry including comprehensive analyses of the oil import program and of the physical and social problems associated with mining activities. These included the landpark analyses of post-mining influences in Appalachia and a major study of the environmental impacts of the extractive industries. The initiation of these environmental and social studies marked a departure from past practices of the Bureau. During tenure secured funding support for a major R&D effort aimed at improving coal mining technology to minimize the social and environmental costs traditionally associated with this activity.

March 1967 to October 1968—Chief, Bureau of Natural Gas, Federal Power Commission.

Duties included development of capability within the Bureau of Natural Gas for analysis of complex regulatory issues relating to public utility rates and services of the producing and transmission industries. Position involved direction of activities of highly specialized experts in various fields of natural gas regulation. In addition to program development and supervisory activities, incumbent served as principal adviser and consultant to the Federal Power Commission with respect to natural gas matters, including their relationship to the alternative energy resources and to the national economy. Duties also included extensive consultation and negotiation with representatives of regulated utilities affected by the Natural Gas Act, including companies in interstate commerce and local distributor companies. In the course of this assignment obtained thorough familiarity with the attitudes and methods of doing business utilized by utility companies.

May 1962 to March 1967—Deputy Assistant Secretary—Mineral Resources, U.S. Department of the Interior.

Assisted the Secretary and the Assistant Secretary in exercising direction and supervision over the Bureau of Mines, Geological Survey, Office of Minerals and Solid Fuels, Office of Oil and Gas, Oil Import Administration, and Office of Coal Research. In this position, took substantive responsibility for formulation and implementation of programs related to international petroleum relationships of the United States, serving as U.S. representative to OECD Oil and Energy Committees, NATO Oil Committee and the Oil Committee of the I.L.O. played an active role in development of Federal oil shale policy, coal export policy, formulation of Energy R&D programs within the Department, and related matters.

June 1952 to May 1962—Served as Economist and later as Senior Staff Economist in the Office of the Secretary of the Interior for Mineral Resources.

Conducted and supervised economic studies relating to individual mineral and energy industries, particularly, the non-ferrous minerals industry. Served as one of five international experts on lead and zinc providing guidance to the International Lead/Zinc Study Group. Participated as a U.S. representative at the initial meeting of the International Copper Study Group. Provided economic advice to the Secretary of the Interior with respect to the development of mineral resource programs, including programs related to acquisition and disposition of strategic stockpiles. Served as a departmental representative to the Presidential Advisory Committee on Mineral Policy and prepared final drafts of the recommendations of that group, served as departmental representative on the International Advisory Committee on Export Policy.

July 1951 to May 1952—Management Intern.

Served as management intern in the Department of Interior's third management training program.

July 1950 to July 1951—Commodity Industry Analyst—U.S. Bureau of Mines.

In this capacity prepared the volume "Minerals Handbook—Zinc" and was responsible for preparation of chapters on lead and zinc for inclusion in Bureau of Mines Annual Mineral Yearbook.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $30,000.

Real estate interests—add schedule, $450,000.

Personal property, $60,000.

Life insurance—cash value, $10,000.

Total assets, $550,000.

Liabilities

Notes payable to banks—unsecured, $15,000.

Real estate mortgages payable—add schedule, $144,000.

Total liabilities, $159,000.

Net worth, $391,000.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? Yes—Suing builders for over-runs on new house built in Santa Fe, New Mexico.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Federal audit, either 1956 or 1958. Random audit.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: John Francis O'Leary.

Position to which nominated: Deputy Secretary, Dept. of Energy.

Date of nomination: Sept. 13, 1977.

Date of birth: June 23, 1926.

Place of birth: Reno, Nevada.

Marital status: Married.

Full name of spouse: Patricia Eagleston O'Leary.

Name and ages of children: David, 16; Karena, 12; Marc, 11.

Education: Geo. Washington Univ., 1946–51, A.B.—Economics, 1950.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

7/50–6/52 Community Industry Analyst, U.S. Bureau of Mines.

6/52–5/62 Staff member, Office of Assistant Secretary of the Interior, Mineral Resources, Dept. of the Interior.

5/62–3/67 Deputy Assistant Secretary of the Interior, Mineral Resources, Dept. of the Interior.

3/67–10/68 Chief, Bureau of Natural Gas, Federal Power Commission.

10/68–3/70 Director, U.S. Bureau of Mines.

7/70–7/70 Specialist, Dept. of the Interior, Federal Water Quality.

3/70–6/72 Consultant.

6/72–6/74 Director of Licensing, Atomic Energy Commission.

7/74–10/74 Consultant.

10/74–11/75 Technical Director, Mitre Corporation, McLean, Va.

11/75–2/77 Administrator, Energy Resources Board, State of New Mexico, Santa Fe, New Mexico.

2/77—Present Administrator, Federal Energy Administration.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Distinguished Service Award, Department of the Interior, 1967.

Distinguished Service Award, Federal Power Commission, 1968.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Cosmos Club, 1967 to date.

Chesapeake Bay Foundation, 1970 to date.

Published writings:

A State Energy Plan for New Mexico, University of New Mexico Printing Plant, 1977.

"Coal-Energy of the Past for Future," *The Changing Economics of World Energy*, edited by Bernard J. Abrahamson, Westview Press, 1976.

"Nuclear Energy and Public Policy Issues," *Energy Supply and Government Policy*, edited by Robert J. Kalter and William A. Vogely, Cornell University Press, 1976.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. My present affiliation with FEA will terminate when the Department of Energy is implemented.

2. As far as can be foreseen whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealing with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationship which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any busines relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the possition to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Not applicable.

SCHEDULE FINANCIAL STATEMENT

Shady Oaks Manor, Maryland Residence, Maryland National Bank, Annapolis, Maryland, $34,000.

Santa Fe, New Mexico Residence, Mutual Building and Loan, Santa Fe, New Mexico, $95,000.

Honey Cove, Calvert County, Maryland (Building Lot), Calvert National Bank, Maryland, $15,000.

Total, $144,000.

QUALIFICATIONS STATEMENT

Since my graduation from George Washington University in 1950 (B.A. in Economics), I have been continuously engaged in resource related activities. From 1950 to 1967, I served in various capacities in the Department of the Interior. From 1950 to 1952, I was with the Bureau of Mines and thereafter was Senior Staff Economist for the Office of the Assistant Secretary for Mineral Resources. From 1962 to 1967, I acted as the Deputy Assistant Secretary of Interior—Mineral Resources. During this period with Interior, I acted as the U.S. Representative to the OECD Oil Energy Committees, and was a member of the NATO Oil Committee, the Oil Committee of the ILO, and committees considering Federal Oil Shale Policy, and International Shelf Leasing Policy, and during a portion of this period I was responsible for the day-to-day administration of the Mandatory Oil Import Control Program.

In March 1967, I became Chief, Bureau of Natural Gas, Federal Power Commission, dealing with the production, transmission, and distribution of natural gas and the regulation of natural gas utilities. In October 1968, I returned to the Department of the Interior as Director, Bureau of Mines, and served in that capacity until 1970. During that time I participated in the drafting of the Coal Mine Safety Act of 1969, and was responsible for the energy data, research, environmental and development programs administered by the Bureau.

From 1970 to 1972 I was self-employed as a consultant in energy matters working with a number of firms in the petroleum, natural gas, and coal industries. In this capacity, I provided extensive advice with regard to the overall energy position of the United States and conducted specific studies related to new commercial opportunities including the development of new coal mining capacity.

In June 1972, I became the Director of Licensing of the U.S. Atomic Energy Commission. I directed the professional staff responsible for licensing commercial nuclear generating plants, fuel cycle facilities and nuclear materials, and for the timely completion of comprehensive safety, environmental and antitrust reviews. I also acted as a principal advisor to the Commission in its activities related to the creation of a nuclear generating industry.

From July 1974 to October 1974, I returned to the private sector as an energy consultant working with government agencies and other organizations, including the Mitre Corporation, advising on general energy matters and the role of nuclear energy in the future. In October 1974, I became a Technical Director for Energy Resources and Environmental Division of the Mitre Corporation, a not-for-profit Federal contract research center. I was responsible for the direction and management of work conducted by Mitre in the energy resources and environmental field.

In November 1975, I was nominated to act as the Administrator for the recently created Energy Resources Board of the State of New Mexico. I served in that capacity until February 1977 and was responsible for the development and implementation of the State's comprehensive energy plan.

From February 1977 to the present, I have served as Administrator of the Federal Energy Administration with the responsibility of the energy related environmental, conservation, developmental, and regulatory programs of that Agency. I have also been extensively involved in the development of the National Energy Plan submitted in April by President Carter.

This range of experience has given me an understanding of all the major basic energy sources, including coal, natural gas, oil, and nuclear. Further, I believe that my experience with energy matters at both the State and Federal level, as well as in the private sector, will be of value to the government in reaching decisions which afford a proper balance between the wide range of legitimate concerns which must be considered in the development and implementation of a National Energy Policy.

RESUME

Dale Dehaven Myers, 1109 Palos Verdes Drive West, Palos Verdes Estates, California 90274, A/C 213–375–2611.

1974–Present:

Rockwell International—El Segundo, California, Corporate Vice President and President of the North American Aircraft Operations. Directly responsible for overall technical and administration for six divisions—Atomics International, Los Angeles Division, Columbus Aircraft Division, General Aviation Division, Sabreliner Division and Tulsa Division.

1970–1974—National Aeronautics & Space Administration, Washington, D.C., Associate Administrator for Manned Space Flight. Re-

sponsible for the planning, direction, execution and evaluation of NASA's overall manned space flight program.

1943–1970 — Rockwell International — Southern California.

1969–1970—Vice President and Program Manager, Space Shuttle. Responsible for overall Shuttle program activities.

1964–1969—Vice President and General Manager, CSM Program. Complete responsibility for the Apollo Command and Service Modules activities at North American Rockwell.

1963–1964—Assistant Division Director, Space Division, North American Rockwell.

1957–1963—Vice President and WS–131B Weapon System Manager, North American Aviation, Inc.

1946–1957—Chief Engineer, Missile Development Division of North American Aviation, Inc.

1943–1946—Aeronautical Engineer, North American Aviation, Inc.

EDUCATION

Southwest High School, 1935–1939, Kansas City, Missouri.

Kansas City Junior College, 1939–1940, Kansas City, Missouri.

University of Washington, 1940–1943, BASE, Seattle, Washington.

Whitworth College, 1970, Honorary Ph. D.

MEMBERSHIPS

American Institute of Aeronautics & Astronautics, Fellow.

American Astronautics Society, Fellow.

National Academy of Engineering, Member.

California Chamber of Commerce, Board of Directors.

California Roundtable, Member.

AWARDS AND CERTIFICATIONS

1977—Meritorious Service Award, Compton Schools.

1976—Dedication, Leadership, Achievement Award, Los Angeles City Schools.

1974—NASA Distinguished Service Medal.

1971—NASA Distinguished Service Medal.

1970—Honorary Doctorate, Whitworth College.

1969—NASA Public Service Award.

1969—NASA Certificate of Appreciation.

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Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand in banks, $42,500.

U.S. Government securities—add schedule, bonds, $10,000.

Listed securities—add schedule, $41,050.

Unlisted securities—add schedule, $750,000.

Accounts and notes receivable: $55,000.

Real estate interests—add schedule, $780,050.

Personal property, $40,000.

Life insurance—cash value, $15,000.

Other assets—itemize: Savings plan, $28,000.

Total assets, $1,761,000.

Liabilities

Real estate mortgages payable—add schedule, $276,050.

Total liabilities, $276,050.

Net worth, $1,485,550.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. See Attachment (1).

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Questioned a couple of minor items—answered to their satisfaction.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Dale D. Myers.

Position to which nominated: Under Secretary of Energy.

Date of nomination: September 13, 1977.

Date of birth: 8 Jan. 1922.

Place of birth: Kansas City, Missouri.

Marital status: Married.

Full name of spouse: Marjorie W. Myers.

Name and ages of children: Janet Louise Myers—32 yrs.; Barbara M. Curtis—30 yrs.

Education:

Southwest High School, 1935–1939.

Kansas City Jr. College, 1939–1940.

Univ. of Washington, 1940–1943; B.S. Aero Eng., 1943.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Aerodynamicist, North American Aviation, Los Angeles, Calif. 1943–1946.

Chief Aero and Flt Test, North American Aviation, Los Angeles 1947–1954.

Asst. Dir. Aerophysics Dept., North American Aviation, Los Angeles 1947–1954.

Chief Engineer, Missile Div., NAA 1956–1957.

Program Manager, Hound Dog Missile, Missile Div., NAA 1957–1960.

Vice Pres. and Prog. Mgr., Hound Dog Missile, Missile Div., NAA 1960–1964.

Vice Pres. and Prog. Mgr., Apollo Program, Space Division, North American Rockwell Corp. 1964.

Vice Pres. and Prog. Mgr., CSM Program, Space Div., NA Rockwell Corp. 1964–1969.

Vice Pres. and Prog. Mgr., Space Shuttle, NA Rockwell Corp. 1969–1970.

Assoc. Admin. for Manned Space Flight, NASA 1970–1974.

Pres. North American A/C Oper., Rockwell International 1974–1977.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

NASA Public Service Award, 1969.

NASA Distinguished Service Medal, 1971.

NASA Distinguished Service Medal, 1974.

Honorary Doctors Degree—Whitworth College, Spokane, Wash.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Sigma Alpha Epsilon, President—Wash. Alpha Chapter, 1943.

Presbyterian Church, Elder, 1956—.

Am. Inst. of Astro and Aero, Fellow, 1971.

Am. Astronautical Society, Fellow, 1974.

National Assoc. of Engineers, Member, 1975.

United Way Funding Drive, Division Chairman, 1976.

AIAA, Board Member, 1977.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

Various articles on Space.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet) See Attachment (2).

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes, See Attachment (1).

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.—

Retirement benefits. They are independent of stock value and are based on past salary and years of service. According to law, Secretary of DOE has agreed to my holding retirement life insurance and major medical.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. As of August 31, stock in Rockwell. Stock options. Stock in utilities. All to be sold in the first month of government employment.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated—

From 1964 to 1960, I was Vice President of Rockwell's Space Division and Program Manager of the Apollo Program. From 1970 to 1974, I was Associate Administrator of the National Aeronautics and Space Administration and since 1974, I have been a Vice President of Rockwell International Corporation and President of its North American Aircraft Operations. In these positions, I have been responsib'e for a number of principal aerospace programs and as President of Rockwell's North American Aircraft Operations, my responsibilities included the business of its Atomics International Division. The principal business of Atomics International has been with the Atomic Energy Commission and the Energy Research and Development Administration. While I do not believe these past responsibilities would constitute a conflict of interest, I have agreed in a letter to the President that I will refrain from participating in

any particular matter in which Rockwell had a direct and substantial interest.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy—

I have never been a lobbyist within the meaning of the Federal Regulation of Lobbying Act. However, in the various positions with Rockwell which I have held, I have had contact from time to time with various members of the Senate and the House and with Congressional staff people and frequently with various Executive Department people in connection with Government programs for which I have been responsible.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items—

All Rockwell and utility stocks will be sold within one month after the commencement of my Government employment. As I indicated above, I have agreed in my letter to the President that I will not participate in any particular matter in which Rockwell had a direct and substantial interest.

QUALIFICATIONS

General Manager of major multi-programs activities.

At Rockwell International, I managed the Command and Service Module for Apollo program through Apollo 11.

I was then asked to join NASA as Associate Administrator for Manned Space Flight. I managed Apollo 13 through 17, the Skylab program, and initiated the Apollo-Soyuz program and the Space Shuttle Programs.

I returned to Rockwell International in 1974 where I was a Vice President of the Corporation and President, North American Aircraft Operations. I have had seven divisions reporting to me, including the Los Angeles Aircraft Division, the B–1 Division, the Tulsa Division, the Columbus Aircraft Division, Atomics International, the General Aviation Division and the Sabreliner Division. Sales in 1977 will be $950 million.

During my NASA tenure, I was awarded a Public Service Award and two Distinguished Service Medals.

The B–1 program was awarded the Collier Trophy in 1977 as the outstanding aeronautical achievement of the year.

I have had experience in the energy field through general management of the Atomics International Division.

FINANCIAL STATEMENT FOR DALE D. MYERS AS OF AUGUST 1977 (ADDED SCHEDULES)

Assets

U.S. Government Bonds (approx)	$10,000
Listed securities:	
Rockwell stock (1,100 shrs.) to be liquidated	35,000
Puget Sound P&L (46 shrs.) to be liquidated	750
Kansas City P&L (73 shrs.) to be liquidated	2,000
AT&T (25 shrs.)	1,500
New York Telephone bond	1,000
AT&T bond	800
Total	41,050
Unlisted securities:	
Continental, Inc. (1,240)	750,000
Real Estate Interests:	
Peacock Hill land investment	1,000
Home, 1109 Palos Verdes Blvd., P.V. Ests. CA	500,000
House, 1112 Neptune, Leucadia, CA	105,000
Lot, Captain's Cove, VA	10,000
Summerfield Apts., Seattle	119,250
Viewpark Apts	44,800
Total	780,050

Liabilities

Home, 1109 Palos Verdes Blvd., Mortgages payable	112,000
Summerfield Apts., Seattle	119,250
Viewpoint Apts., Seattle	44,800
Total	276,050

VOEGELIN & BARTON,
Los Angeles, Calif., September 1, 1977.

Mr. DALE D. MYERS,
Palos Verdes Drive West, Palos Verdes Estates, California.

DEAR DALE: Enclosed are copies of correspondence as follows:

(1) Letter of September 1, 1977 from Charles E. Hart to Michael Cardozo;

(2) Letter dated August 29, 1977 from the president of Rockwell International to you; and

(3) Letter dated August 31, 1977 from you in reply.

Particular reference is made to the waiver of your rights under the Rockwell Incentive Compensation Plan described in (1) beginning toward the bottom of page 3.

We have reviewed the enclosures and are satisfied that they reflect the facts and understandings which are set forth in them. We are of the opinion that you are not entitled to, and have waived, any rights you might otherwise have had under the Rockwell Incentive Compensation Plan for the fiscal year ending September 30, 1977. You have advised us that you will be completely retired from Rockwell before you assume any post as an officer or an employee of the Executive Branch of the United States Government, and that upon assumption of that post, you will have no other gainful employment.

Based on the foregoing, we are of the opinion that after your retirement and when you become a government employee, you will not be in violation of the provisions of Section 209 of Title 18 of the United States Code. In particular, we are of the opinion that upon your retirement as above described, you will have no rights to receive any amount under the Rockwell Incentive Compensation Plan described in (3) above. Our opinion in this latter respect is based upon the understandings reflected in the two letters dated August 29 and August 31, 1977 above described. You have effectively waived your rights to any award under the Plan in exchange for the severance payment described in the August 29th letter.

Your sincerely,

ROBERT M. BARTON.

Enclosures.

ROCKWELL INTERNATIONAL,
El Segundo, Calif., September 1, 1977.

MICHAEL CARDOZO, ESQ.,
Associate Counsel to the President, the White House, Washington, D.C.

DEAR MR. CARDOZO: Pursuant to our telephone conversation of August 29, 1977, I am writing to confirm the information which I furnished you with respect to various benefit plans of Rockwell International Corporation in which Mr. Dale D. Myers is a participant.

Mr. Myers will retire under the Rockwell retirement plan applicable to him prior to entering the employment of the Department of Energy. He is 56 years old and it is his present intention to postpone receiving benefits until age 60 in order to avoid the actuarial reduction which would otherwise be made pursuant to that plan. This arrangement is available to all employees age 55 and over who elect early retirement. At age 60 he will be entitled to receive a retirement benefit of approximately $3,200 per month.

Mr. Myers is a participant in the Rockwell Savings Plan. Mr. Myers' contributions to the plan are invested in diversified securities and Rockwell's contributions are invested in Rockwell stock. Following his retirement Mr. Myers will be paid the value of his own contributions in cash and the Rockwell contributions in Rockwell stock. These payments cannot be made until after Mr. Myers retires and, therefore, he will receive them after he has entered the employment of the Department of Energy. Mr. Myers has advised me that he intends to sell such Rockwell stock as soon as the certificates are delivered to him.

Mr. Myers holds options to purchase stock at various prices under Rockwell's Stock Option Plan. Under the terms of that plan, holders of options may exercise them within three months following retirement. Mr. Myers has advised me that he intends to exercise these options immediately following his retirement and to dispose of the Rockwell stock so acquired as soon as the stock certificates are delivered to him. However, the stock certificates will not be received until after he has entered the employment of the Department of Energy.

Mr. Myers is a participant in the Rockwell group life insurance plan. Following his retirement he is eligible to maintain life insurance in the amount of three times the annual salary which he was receiving immediately prior to retirement. An employee who retires early pays a premium until age 65 which is less than the full cost of such insurance to Rockwell. When the retired employee reaches age 65, Rockwell pays the premium for the full amount of insurance for the retired employee but the amount of coverage is reduced by a constant dollar amount each year until his 70th birthday at which time 25% or $50,000 (whichever is less) will be continued for the balance of his life. Any employee who retires early and does not elect to continue participation cannot reinstate participation at a later date. Mr. Myers has advised me that he intends to continue to participate in this plan following his retirement.

Mr. Myers is a participant in the Rockwell group health insurance plan which covers hospital expense, surgical and medical expense, and major medical insurance. He is eligible to continue his participation following his retirement by paying a premium of $15.00 per month which is less than the cost to Rockwell of providing such insurance.

Upon reaching age 65 the entire premium is paid for by Rockwell. Any employee who retires early and does not elect to continue participation cannot reinstate his participation at a later date. Mr. Myers has advised me that he intends to continue to participate in this plan.

The benefits described in the two preceding paragraphs are available to all employees of Rockwell covered by the plans who elect to retire early.

It is my understanding that waivers of the requirements of Section 602 of the Department of Energy Organization Act will be granted Mr. Myers by the Secretary with respect to each matter described above, and I would appreciate it if you would confirm either to me or directly to Mr. Myers that such waivers will be granted.

As I advised you over the telephone, Mr. Myers has agreed to waive all rights to any payments which he might otherwise be entitled to receive under Rockwell's Performance Award Plan.

In addition to the foregoing, Mr. Myers is eligible to receive awards under the Rockwell Incentive Compensation Plan for the fiscal year ending September 30, 1977. Ordinarily, an award with respect to that fiscal year would be made in December, 1977 and paid in January, 1978. Mr. Myers received an award with respect to the Rockwell fiscal year ending September 30, 1976 in the amount of $45,000 which was made in December, 1976 and paid in January, 1977. Based upon the performance of the Company during the first three quarters of fiscal year 1977 I would expect the amount available for awards to eligible employees relating to fiscal year 1977 to be larger than the amount that was available with respect

to fiscal year 1976. You have advised us that it would not be appropriate for Rockwell to make an Incentive Compensation Award to Mr. Myers after he has entered the employment of the Government, even though it related to services rendered to the Company prior to September 30, 1977.

Accordingly, Mr. Myers has waived any right which he may have to be considered for such an award for fiscal year 1977, and Rockwell has agreed to make a severance payment in the amount of $50,000 to Mr. Myers in lieu of the award which he might otherwise have received. The severance payment would be made upon his retirement and prior to assuming his new position with the Department of Energy.

I enclose an exchange of correspondence between Mr. Robert Anderson, President and Chief Executive Officer of Rockwell, and Mr. Myers reflecting this arrangement. As we discussed over the telephone, Mr. Myers' personal counsel, Mr. Robert Barton of the firm of Voegelin & Barton, Los Angeles, California, will provide Mr. Myers with an opinion that the acceptance of this severance payment will not violate Section 209 of Title 18 of the United States Code. A copy of that opinion will be furnished to you. I would appreciate it if you would confirm either to me or directly to Mr. Myers that this severance payment arrangement is acceptable.

I am grateful for your courtesy in taking the time to discuss this matter with me.

Sincerely yours,

CHARLES E. HART.

Enclosures.

ROCKWELL INTERNATIONAL,
Pittsburgh, Pa., August 29, 1977.

Mr. DALE D. MYERS,
Palos Verdes Drive West, Palos Verdes Estates, Calif.

DEAR DALE: You have advised us that you intend to retire on or about October 1, 1977 to accept a position with the Department of Energy. This is to inform you that in such event the Company will make you a severance payment in the sum of $50,000 on the date of your retirement. This payment relates to your past services to the Company and is in recognition of the fact that you will not receive any award under the Company's Incentive Compensation Plan for services performed during the fiscal year ending September 30, 1977.

Sincerely,

R. ANDERSON.

ROCKWELL INTERNATIONAL,
El Segundo, Calif., August 31, 1977.

Mr. ROBERT ANDERSON,
President and Chief Executive Officer, Rockwell International Corp., Corporate Offices, Pittsburgh, Pa.

DEAR BOB: Thank you for your letter of August 29, 1977. In view of the severance payment which will be made by Rockwell, I hereby waive any right which I may have to be considered for an award under the Company's Incentive Compensation Plan for services performed during the fiscal year ending September 30, 1977.

Sincerely,

DALE D. MYERS.

ALVIN L. ALM

Mr. Alm joined the Energy Policy and Planning Staff in January 1977. He has been involved in the development of the President's National Energy Plan and other energy policy matters.

In July 1973, Mr. Alm joined the Environmental Protection Agency as Assistant Administrator for Planning and Management. He was responsible for agency-wide evaluation of programs, standards, regulations, and policies. He was also in charge of resources management (planning, budgeting, grants administration, and progress reporting); overall administration (management and organization, personnel, data systems, support services, contracts management and security); and the office of audit.

From 1970 to 1973, Mr. Alm was Staff Director for Program Development with the Council on Environmental Quality (CEQ), where he supervised most of the professional staff. His responsibilities included staff coordination of legislative and administrative initiatives, preparation of CEQ annual reports, management of study programs, and oversight of impacts on Federal programs.

Prior to that time, he was with the U.S. Bureau of the Budget (now the Office of Management and Budget) for seven years as a budget examiner. From 1961 to 1963, Mr. Alm served as a management intern and contract administrator with the U.S. Atomic Energy Commission.

Mr. Alm was selected to receive the 1975 Arthur S. Fleming award as "One of the Ten Outstanding Young Men and Women in the Federal Service." He received his B.S. from the University of Denver in 1960 and his M.P.A. from Syracuse University in 1961.

Born in 1937, Mr. Alm now resides in Washington, D.C., with his wife, Ronnie, and daughter, Jessica.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement for Completion by Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $3,000.

U.S. Government securities—add schedule, $1,125.

Real estate interests—add schedule, $104,500.

Personal property, $25,000.

Life insurance—cash value, $1,967.

Total assets, $135,592.

Liabilities

Accounts payable, $450.

Real estate mortgages payable—add schedule, $30,000.

Total liabilities, $30,450.

Net worth, $105,142.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes—Routine tax audit for 1972—IRS disallowed one interest item, wanted us to pay $150.00 in additional taxes. Taxes prepared by American Tax Service. We originally filed separate returns—after audit we filed a joint return and received a refund of $500.00.

DETAILED SCHEDULES

	Assets	*Liabilities*
U.S. Government securities: U.S. savings bonds, series E	$1,125.00	
Real estate:		
House current value	100,000.00	
Current mortgage on house		$30,000
Other property	4,500.00	

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Alm, Alvin.

Position to which nominated: Assistant Secretary of Energy (Policy and Evaluation).

Date of nomination: September 13, 1977.

Date of birth: 27, January 1937.

Place of birth: Denver, Colorado.

Marital status: Married.

Full name of spouse: Ronnie Marie Alm.

Name and ages of children: Jessica Alm—age 3.

Education: Institution, dates attended. degrees received, and dates of degrees:

Byers Junior High, 1949–1950.

Smiley Junior High, 1950–1952.

East High School, 1952–1954.

South High School, 1954–1956.

University of Denver, 1956–1960, B.A., 1960.

Syracuse University, 1960–1961, M.P.A., 1961.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

EPA Nominee for the Rockefeller Public Service Award, (1975, 1976).

Arthur S. Fleming Award, as "One of the Ten Most Outstanding Young Men and Women" in the Executive Branch (1975).

Outstanding Senior Man, University of Denver (1960).

Who's Who in America.

Who's Who in Government.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates:

Young Professional Forum, Board of Directors, current.

Municipal Finance Forum of Washington, Treasurer, approximately 1969.

American Society for Public Administration, current.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written:

Extensive involvement in all publications of the Council on Environmental Quality. Responsible for outline and production of all CEQ publications.

Numerous public speeches and seminars, some of which were subsequently published.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: Not applicable.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: Not applicable.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

QUALIFICATIONS FOR POSITION

My experience and qualifications for the position as Assistant Secretary of Energy (Policy and Evaluation) rest on substantive, functional, and general management experience.

Substantively, a number of positions I have held deal directly or indirectly with energy issues. I began my professional career as a Management Intern with the United States Atomic Energy Commission, gaining experience with the nuclear reactor program. From 1966 to 1970, I was the principal Budget Examiner in the Bureau of the Budget for a number of natural resource programs, including the Tennessee Valley Authority, the largest electric utility in the U.S. From 1970 to 1973, as Staff Director for Program Development for the Council on Environmental Quality, I dealt with a wide variety of energy issues. For example, CEQ provided assistance to AEC and the Department of the Interior in preparing environmental impact statements to meet the requirements of the National Environmental Policy Act. From 1973 to 1977, I was Assistant Administrator for Planning and Management of the Environmental Protection Agency. Among other functions, I was the Agency's coordinator for energy policy.

The functional experience during my career is much more closely related to the responsibilities of the Assistant Secretary of Energy (Policy and Evaluation). My years at the Bureau of the Budget gave me experience in budgeting and analysis of program issues. During my years at CEQ, I gained experience in managing a policy organization and developing legislative and administrative initiatives. At EPA, I was responsible for both the Agency's budget and the policy analysis and evaluation functions.

Finally, I have management experience in a number of diverse situations. My chief management experience comes from EPA where I supervised 1,100 employees with functions ranging from audit, budget, program analysis, manpower training and general administration. That position not only provided me an opportunity to gain general management experience, but also to understand the management problems of a large agency with a significant field structure. During my tenure at EPA, I received the Arthur S. Flemming Award as "One of the Ten Outstanding Young Men & Women in the Federal Service."

Finally, my experience at the Office of Energy Policy and Planning has involved me with a wide range of energy policy issues. Beyond gaining substantive knowledge, this experience also has given me an appreciation of data and analytical needs in energy policy development and implementation.

I believe the substantive, functional and management experience outlined above gives me the background to function effectively as the Assistant Secretary of Energy (Policy and Evaluation).

EMPLOYMENT RECORD

January 1977 to present—The White House, Energy Policy and Planning Staff—Washington, D.C.—Responsible for coordinating the development and review of policy initiatives.

July 1973 to January 1977—Assistant Administrator for Planning and Management, Environmental Protection Agency—Washington, D.C.—Responsible for program planning and evaluation, coordination of EPA's energy policy, economic analysis, standards and regulations analysis and coordination, resources management, audit, grants management, and all internal administration. Supervised about 1100 staff in four locations and provided policy guidance to regional management divisions (which report to regional administrators). Administered a budget of about $80 million covering staff costs, contract studies, and agency support activities.

February 1970 to July 1973—Staff Director for Program Development, Council on Environmental Quality—Washington, D.C.—Responsible to the Council for development of program initiatives to improve environmental quality; CEQ publications, including the CEQ Annual Reports; CEQ's study program; and analysis of environmental impacts arising from environmental impact statements. Supervised most of the professional staff and was the principal staff member in charge of developing initiatives for environmental legislation.

March 1966 to February 1970—Supervisory Budget Examiner, U.S. Bureau of the Budget, Natural Resources Programs—Washington, D.C.—Supervised a three-person budget examining unit dealing with the Federal Water Pollution Control Administration, Tennessee Valley Authority, Water Resources Council, Panama Canal Company and Government, Delaware River Basin Commission and interstate compacts. Involved with water pollution legislation and policy throughout this period and served on a number of task forces to develop Presidential initiatives.

June 1963 to March 1966—Budget Examiner, International Programs, U.S. Bureau of the Budget—Washington, D.C.—Member of a unit examining programs of the State Department and other international agencies, with specific responsibilities for parts of the State Department's salaries and expense budget, refugee programs, Arms Control and Disarmament Agency and the Tariff Commission.

March 1963 to June 1963—Budget Analyst, Office of Budget Review, U.S. Bureau of the Budget—Washington, D.C.—Responsible for preparing overall analyses of budget authority, outlays and trends.

July 1961 to March 1963—Management Intern and Contract Negotiator, U.S. Atomic Energy Commission—New York Operations Office—New York, New York—Participated in the Commission's one-year management intern program, which included a number of rotational assignments. After the intern program, negotiated and administered a number of contracts and prepared a handbook for selection of contractors.

HARRY E. BERGOLD, JR.

Date of birth: November 11, 1931.

Place of birth: New York.

Legal residence: 405 North Ocean Boulevard, Pompano Beach, Florida.

Education: Secondary education in New York grammar, junior high, and high schools. B.A.—Yale—1953—History. M.A.—Yale—1957—History.

Professional:

Foreign Service—1957.

1958–59—Economist, Bureau of Economic Affairs, Department of State.

1960–62—Third Secretary, American Embassy, Teguciagalpa, Honduras.

1962–64—Second Secretary, American Embassy, Mexico City.

1964–65—Mexican Desk Office, Department of State.

1965–66—Special Assistant to Under Secretary of State for Economic Affairs.

1966–67—Special Project Officer for Deputy Under Secretary of State for Management.

1967–72—First Secretary and Special Assistant to Ambassador for Political-Military Affairs, American Embassy, Madrid, Spain.

1972—Political Counselor, American Embassy, Panama.

1973–75—Deputy Assistant Secretary (ISA) for European and NATO Affairs, Department of Defense.

1976—Principle Deputy Assistant Secretary (LA) for Congressional Relations, Department of Defense.

1977—International Affairs Advisor, Energy Policy and Planning Staff.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, 5,375.

* Listed securities—add schedule, 6,575.

Personal property, 2,500.

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* 1,315 shares of Keystone K–2 Mutual fund.

Life insurance—cash value, 55,000.
Other assets—itemize,
Total assets, 69,450.

Liabilities

Other debts—itemize: Alimony—$1000.00 per month.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers: None.

2. Are any assets pledged? (Add schedule.) No.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Bergold, Harry Earl, Jr.

Position to which nominated: Assistant Secretary, DOE.

Date of nomination: September 13, 1977.

Date of birth: 11, November 1931.

Place of birth: Olean, New York.

Marital status: Divorced.

Education: Institution, dates attended, degrees received, and dates of degrees:

Yale, 1949–53, BA, June 1953.

Yale, 1953–54.

Yale, 1956–57, MA, June 1957.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1957-Present—Department of State.

1957–59—Economic Officer, Bureau of Economic Affairs, Dept. of State.

1960–62—Economic Officer, American Embassy, Tegucigalpa, Honduras.

1962–64—Political Officer, American Embassy, Mexico.

1964–67—Political and Economic Officer, Bureau of Inter-American Affairs and Office of the Under Secretary for Economic Affairs, Department of State.

1967–72—Political Military Officer, American Embassy, Madrid.

1972—Political Councellor, American Embassy, Panama.

1972–75—Deputy Assistant Secretary (ISA) for European and NATO Affairs Department of Defense.

1976, Principle Deputy Assistant Secretary (LA), Department of Defense.

1977, International Affairs Advisor, Energy Policy and Planning Staff.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable.

3. Has anybody made you a commitment to a job after you leave government: No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: None other than normal and proper activities during my service in 1976 as Principle Deputy Assistant Secretary for Legislative Affairs in the Department of Defense.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

My foreign service career has combined economic and political experience with a heavy emphasis in recent years in political-military issues. I view energy in strategic terms. There is no problem which, if not dealt with effectively, can more surely threaten world peace and stability in the 1980's. I think it important that the Department of Energy's efforts on the international side be directed with those overall international realities at the center of attention.

I found, during my nearly four years at the Department of Defense, as a foreign service officer, that I am well placed to work effectively with the Department of State, other Departments and the Congress in formulating and carrying out policy. It is essential that our international efforts in energy be carefully fashioned, first at the national level and, subsequently, effectively coordinated and carried through internationally either in a multilateral or bilateral framework whichever is more promising. I have extensive experience both in bilateral and multilateral diplomacy and, I think, bring to the job the credentials and ability to get it done.

BIOGRAPHICAL SKETCH OF PHILLIP S. ("SAM") HUGHES

Born: February 26, 1917.

Education: B.A. in Sociology, University of Washington, 1938; Graduate work, University of Washington, 1940.

Military Service: U.S. Army—1943; U.S. Navy—1944–45.

Work Experience: Boeing Aircraft—Seattle, Washington—1946; Veterans Administration, 1946–49; U.S. Bureau of the Budget, 1949–1969; Retired from Bureau of the Budget in 1969 as Deputy Director after 21 years' service; Appointed Acting President of the National Institute of Public Affairs, 1969–1970; Senior Fellow, The Brookings Institution in charge of Public Management Studies Project—1971–72: Appointed Director, Office of Federal Elections, U.S. General Accounting Office, May 1972; Served in that capacity until December 1973; Appointed Assistant Comptroller General, December 1973. Major areas of special interest: Energy, Materials: Shortages, including Food, Congressional Budget; Retired from the General Accounting Office—January 1977; Consultant to Development & Resources Corporation and the Smithsonian Institution.

Marital Status: Married the late Jean Evans Hughes (deceased November 1975), four children: Suzanne Rhodes, Patricia Winters, Shirley Reese, and the late Michael Robert Hughes. Remarried—Aileen R. Hughes, December 1976.

Awards: National Civil Service League Career Service Award; Bureau of the Budget's Award for Exceptional Service; and Rockefeller Public Service Award in the field of Administration.

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FINANCIAL STATEMENT

(Aileen R. and Phillip S. Hughes)

	Value
Real estate:	
Home (purchase price early '77)	$97,500
Less Mortgage	32,500
	65,000
Beach property (estimated value)	75,000
Securities: Aileen R.	
AT&T common	6,100
Nuveen (Tax exempt mutual fund)	5,200
Adams County, Miss	5,000
Other	1,500
Phillip S.	
T. Rowe Price Growth Fund	9.000
GSA Bonds	10,000
Armco Steel	5,000
Other:	
Short term loan to daughter and son-in-law to facilitate house purchase	22,000
Personal Property	50,000
Life Insurance cash value	20,000
Pension or Retirement plans:	
CSC	(30+ years credit)
TIAA–CREF	(nominal)
Cash and Bank Accounts	31,000
Total (Excluding Retirement)	304,800

2. Are any assets pledged? (Add schedule.) None

3. Are you currently a party to any legal action? No

4. Have you ever declared bankruptcy? No

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Charitable contributions audited—No change. Inquiries with respect to estate of wife—matter resolved

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hughes, Phillip Samuel.

Position to which nominated: Assistant Secretary Intergovernmental & Instit. Affairs.

Date of nomination: September 1977.

Date of birth: 26 Feb. 1917.

Place of birth: Chicago, Illinois.

Marital status: Married.

Full name of spouse: Aileen Ritchie Hughes.

Name and ages of children: Suzanne Hughes Rhodes, 37; Patricia Hughes Winters, 36; and Shirley Hughes Reese, 31.

Education: Institution, dates attended, de-

grees received, dates of degrees. University of Washington, 1934–38, BA, 1938; University of Washington (Seattle), 1939; University of Washington, 1947.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. July 1977 to August 1977, Smithsonian Institution, Wash., D.C. Consultant (Senator Henry M. Jackson, Chairman, Audit Review Comm., Board of Regents): June 1977, ERDA Washington, D.C. Consultant (James R. Schlesinger): February 1977 to April 1977, Development & Resources Corp. Iran, Consultant (John Macy, Jr.); December 1973 to January 1977, U.S. GAO-Washington, D.C. Ass't Comptroller (Elmer B. Staats); May 1972 to December 1973, U.S. GAO-Wash. D.C. Director, Office of Federal Elections (Elmer B. Staats); 1971 to 1972, Brookings Institution—Research, 1775 Mass Ave. N.W. Washington, D.C.; 1969 to 1971, Acting Pres., Nat'l Inst. of Public Affairs, 1225 Conn. Ave. N.W. Washington, D.C.; March 1966 to 1969, Bureau of the Budget—Wash. D.C. Deputy Director (Director, Charles J Zwick & Chas. L. Schultz); July 1958 to March 1966, Bureau of the Budget, Wash. D.C. Asst. Director, Legislative Reference (Directors, Maurice Stans, David Bell, Kermit Gordon and Charles Schultze); October 1955 to July 1958, Bureau of the Budget, Wash. D.C. Deputy Asst. Director, Legislative Reference (Roger Jones); March 1949 to October 1955, Bureau of the Budget Wash. D.C. Budget Examiner; March 1946 to March 1949, Veterans Administration, Seattle, Wash.; January 1946 to March 1946, Boeing Aircraft, Seattle, Wash.; December 1945 to January 1946, L. M. Roberson, Seattle, Wash.; May 1944 to December 1945, U.S Navy; August 1943 to May 1944, War Manpower Commission, Seattle, Wash.; March 1943 to July 1943, U.S. Army; January 1940 to March 1943, Wash. State Dept. of Soc. Sec. Olympia, Wash.; October 1930 to January 1940, Washington State Highway Dept. Olympia, Wash.; June 1938 to October 1938, Unemployed.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations. OIC Washington, D.C., board member, 1973 to date; Beacon Press, chairman of board, 1972 to date; Delta Upsilon Fraternity, none, 1935 to date; Unitarian Universalist Assn. of America, none, 1951 to date; American Society for Public Administration, none, 1950 to date; National Academy of Public Administration, none, 1971 to date; ACLU, none, 1960s to date; Wilderness Society, none, 1950s to date; Potomac Appalachian Trail Club, none, 1950s to date.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written: None.

Qualifications: State fully your qualifications to serve in the position to which you have been named: Bureau of Budget work included eight years as Assistant Director for Legislative Reference, and 3½ years as Deputy Director; Deputy Director service included work with Regional Councils and State and local governments; Work as Assistant Comptroller General included significant involvement in energy area.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Not applicable. 2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Not applicable. 3. Has anybody made you a commitment to a job after you leave government? No. 4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: Not applicable. 2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: Not applicable. 4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: Have testified for GAO and Bureau of the Budget in line of duty. 5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: Not applicable.

David Jonas Bardin

David Jonas Bardin was born in New York City in 1933. He is married to the former Livia Goldeen and they have four children: Jacob Eli Bardin, age 15; Matthew Chain Bardin, age 12; Joseph Raphael Bardin, age 10; and, Sarah Adele Bardin, age 6.

Education: Columbia College, 1950 to 1954, A.B. 1954. Columbia University Law School, 1953 to 1956, LL.B., 1956 (converted to J.D. 1969).

Professional Experiences: Soldier, U.S. Army, Transportation Research and Engineering Command, Fort Eustis, Virginia, 1956 to 1958; Lecturer, University of Virginia (Extension), Williamsburg, Virginia, 1958; Trial attorney, Assistant General Counsel, Deputy General Counsel, U.S. Federal Power Commission, Washington, D.C., 1958–1969; Assistant Attorney General of Israel, Jerusalm, Israel, 1970 to 1972. Counsel, Israel National Council for Research & Development, Jerusalem, Israel, 1972 to 1973. Lecturer, Bar-Ilan Law School (Ramat Gan, Israel) and Tel Aviv University Law School (Ramat Aviv, Israel), 1972 to 1974. Counsel, Environmental Protection Service of Israel, Jerusalem, Israel, 1974 to 1974. Self-employed attorney and consultant, Jerusalem, Israel, and Washington, D.C. (c/o Spiegel & McDiarmid), 1972 to 1974. Commissioner, State of New Jersey, Department of Environmental Protection, May 1974 to April 1977. Deputy Administrator, Federal Energy Administration, April 1977 to date.

Memberships: Member American Bar Association, Federal Bar Association, Federal Power Bar Association, District of Columbia Bar Association, Israel Chamber of Advocates, Bar of New York State.

Fellowships and Awards: Harlan Fiske Stone Scholarship (Columbia Law School); New York State Regents Scholarship; National Merit Scholarship (honorary); Younger Federal Lawyer Award (Federal Bar Association); Special Service Awards (FPC); Outstanding Performance Rating (U.S. Civil Service Commission).

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FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $29,700.

U.S. Government securities—Add schedule, $12,025.

Unlisted securities—add schedule, $16,800.

Real estate interests—add schedule, $61,600.

Personal property, $11,900.

Life insurance—cash value, $2,800.

Other assets—itemize: U.S. Govt pension fund, $12,000.

Total assets, $146,825.

Accounts payable, $822.

Real estate mortgages payable—add schedule, $5,030.

Tuition to fall due, $3,048.

Total liabilities, $8,900.

Net worth, $139,075.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

Financial Statement—Schedule (self, wife, four children)

U.S. Government Securities:	
Treasury notes	$12,000
U.S. Savings Bond	25
Total	12,025
Unlisted securities:	
Certificate of deposit N.J. National Bank	13,000
State of Israel Bond	3,750
Bank Leami Bond	50
Total	16,800
Real Estate: Two condominium Apartments Jerusalem, Israel	61,600
Real estate mortgage payable Bank Adanim, Tel Aviv	5,030

2. Are any assets pledged? (Add schedule). None.

3. Are you currently a party to any legal action? No. As a State official, I was involved in court cases as either the plaintiff or the defendant on material related to the New Jersey Department of Environmental Protection's constitutional and statutory responsibilities.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes. No liability.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Bardin, David Jonas.

Position to which nominated: Administrator, Economic Regulatory Administration, Dept. of Energy.

Date of nomination: Sept. 13, 1977.

Date of birth: 2 June 1933.

Place of birth: New York, New York.

Marital status: Married.

Full name of spouse: Livia Goldeen.

Name and ages of children: Jacob Eli Bardin, 15; Matthew Chaim Bardin, 12; Joseph Raphael Bardin, 10; Sara Adele Bardin, 6.

Education: Institution, dates attended, degrees received, dates of degrees. Columbia College, 1950–54, A.B., 1954; Columbia University Law School, 1953–56; LL.B., 1956 (converted to J.D. 1969).

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. Student assistant, Professor Walter Gellhorn, Columbia University Law School, New York, New York 1955; Soldier, U.S. Army, Transportation Research & Engineering Command. Fort Eustis, Virginia 1956–58; Lecturer, University of Virginia (Extension), Williamsburg, Virginia. Trial Attorney; assistant general counsel; deputy general counsel, Federal Power Commission, Washington, D.C. 1958–69; Assistant, Attorney General of Israel, Jerusalem, Israel 1970–72 Counsel, Israel National Council for Research and Development, Jerusalem, Israel 1972–73; Lecturer, Bar-Ilan Law School (Ramat Gan. Israel) and Tel Aviv Univ. Law School (Ramat Aviv, Israel) 1972–74; Counsel, Environmental Protection Service of Israel, Jerusalem, Israel 1973–74; Self-employed attorney and consultant, Jerusalem Israel and Washington, D.C. (c/o Spiegel & McDiarmid); Commissioner, State of New Jersey, Department of Environmental Protection 1974–1977; Deputy Administrator—Federal Energy Administration Washington, D.C.-April 1977-Present.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement: Harlan Fiske Stone Scholarship (Columbia Law School); New York State Regents Scholarship; National Merit Scholarship (honorary); Younger Federal Lawyer Award (Federal Bar Association); Special Service Awards (FPC); Outstanding Performance Rating (U.S. Civil Service Commission).

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations. American Bar Association, Federal Bar Association, Federal Power Bar Association, District of Columbia Bar Association, Israel Chamber of Advocates, Bar of New York State.

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written: "Organization, responsibilities and authority within the Government of Israel respecting environmental quality and protection" in Government Organization for Dealing With the Environment, Advanced Technology Ltd., Tel Aviv, 1973; Materials on Accounting for Lawyers (Hebrew) Law Facility of Bar-Ilan University, Ramat-Gan, 1973 (mimeograph); Bulletin—Energy in Israel. Environmental Protection Service, Jerusalem, 1973; "The Control of Electric Utilities in Israel" in Public Administration in Israel & Abroad 1971. Jerusalem, 1972; "Law and Administration" in Air Pollution in Israel (Hebrew). Israel National Committee on the Biosphere, Jerusalem, 1972; How To Survey Israeli Law (pamphlet). Jerusalem, 1971; Selected articles on energy, environmental law in Bioshera (Hebrew). Jerusalem, 1971–1974.

Qualifications:

State fully your qualifications to serve in the position to which you have been named: Section 206(a) of the Department of Energy Organization Act, P.L. 95–91, provides that: "Such Administrator shall be, by demonstrated ability, background, training, or experience, an individual who is specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy." Most of my career, including federal and state government, and consulting abroad, has involved regulation aimed at striking a fair balance among affected interests.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: N.A.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? N.A. Serves at pleasure of the President.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: As Deputy Administrator of the Federal Energy Administration, I have testified before Congressional Committees in support of Administration energy policies and programs. Before April, 1977, on behalf of the State of New Jersey, I testified before Congressional Committees, communicated with their Chairmen, members and staff, and advised the New Jersey delegation.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items: I anticipate no conflicts. If situations arise that raise a question, I shall abide by the dictates of conscience and advice of the Attorney General or agency general counsel.

CHARLES B. CURTIS

Personal information:

Born: April 27, 1940.

Married: Rochelle E. Bates; one child, Brent Arthur.

Address: Federal Power Commission, 825 N. Capitol, N.E., Washington, D.C. 20426. 9500 Ewing Drive, Bethesda, Maryland 20034.

Telephone: 202/275-4152 (office); XXXX (home).

Professional experience:

August 1977 to present: Chairman, Federal Power Commission.

January 1977 to July 1977: Van Ness, Curtis, Feldman & Sutchliffe.

November 1976 to January 1977: Carter-Mondale Transition Team—Federal. Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce—U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission Special Counsel, Division of Trading and Markets; Chief Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting peronnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces asigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

Education:

Legal: Boston University Law School, 1962–1965, LL.B., *cum laude*, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome scholarship awards. Graduated among top ten in class of 178.

Undergraduate: University of Massachusetts, Amherst, Massachusetts, 1958–1962, A.B., B.S. Elected to Senior Men's Honor Society. Permanent Class Vice President.

Admitted to practice:

Commonwealth of Massachusetts—1965.

District of Columbia—1976.

Professional business references furnished upon request.

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FINANCIAL STATEMENT

(As of September 10, 1977)

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. (Figures are rounded to the nearest dollar.)

ASSETS

Cash on hand and in banks,[1] $35,044.

Real estate interests—add schedule, $87,000.

Personal property,[2] $12,261.

Life insurance—cash value,[3] $450.

Other assets—itemize:

(a) Employee contribution to Government retirement plan, receivable on demand (estimated), $19,000.

(b) Distribution of capital account from law partnership,[4] none.

(c) See Note 5 below.

Total assets,* $153,755.

LIABILITIES

Notes payable to banks—unsecured.[5]

Accounts payable,[6] $1,000.

Real estate mortgages payable—add schedule,[7] $25,000.

Total liabilities, $26,000.

Net worth, $127,655.

(See notes attached.)

NOTES

*Excluding distribution of capital account of law partnership.

[1] Schedule A attached.

[2] Schedule C attached.

[3] Policy number BOS3-11-258-573; Prudential Insurance Company of America—cash surrender value of $260 plus undertermined accumulated dividends estimated to be $190.

[4] Distribution from capital account from severed law partnership cannot be valued at this time. The firm has retained an independent Certified Public Accountant to calculate my distributive share. It is roughly estimated that this distributive share will range between $25,000–$40,000. This accounting will be made within the next thirty days. I intend to file the accounting with the Senate Energy Committee.

[5] Charles B. Curtis is jointly and severally liable on a note in the amount of $8,605.40 plus interest, payable to the National Bank of Washington, due September 20, 1977, which is offset by a note receivable held by the law partnership due and payable on the same date in an equivalent amount. The offsetting obligations will be extinguished as of September 20, 1977.

[6] Outstanding bills payable for current and ordinary household and living expenses.

[7] See Schedule B.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Coincident with my confirmation by the Senate to become Chairman of the Federal Power Commission, I severed all current and future relationships with the firm of Van Ness, Curtis, Feldman & Sutcliffe. The firm has retained an independent Certified Public Accountant to calculate my distributive share in the capital account in the firm occasioned by the severance of my partner relationship. It is roughly estimated that this distributive share will range between $25,000–$40,000. It is not possible at this moment in time, however, to specifically quantify the amount. This accounting will be made within the next thirty days. I intend to file the accounting with the Senate Energy Committee. As a point of emphasis, I should point out that the measuring of the distributive share of the capital account is to be made on the basis of billing outstanding and unbilled-for services of the law firm as they existed up to (but not beyond) my termination date of August 1, 1977.

2. Are any assets pledged? (Add schedule.) Yes; residence (See Schedule B), automobile (See Schedule C).

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

AFFIDAVIT

District of Columbia.

Mr. Charles B. Curtis, being duly sworn, hereby states that he has read and signed the foregoing Financial Statement and that the information provided therein is, to the best of his knowledge and belief, current, accurate, and complete.

CHARLES B. CURTIS.

Subscribe and sworn before me this 19th day of September, 1977.

Jennie P. Shelton, Notary Public.

My Commission Expires August 31, 1979.

Schedule A—Cash on hand and in banks

Checking: Suburban Trust Co., Hyattsville, Md., Acct. 43-1309-8-3101	$3,724.15
Checking: National Bank of Washington, P.O. Box 2844, Washington, D.C., Acct. 3-831-33-7-01	5,101.00
Savings: Wright Patman Congressional, Employees Federal Credit Union, Longworth House Office Building, Washington, D.C. 20515	26,218.74
Total	35,043.89

Schedule B—Real estate interests

Residence 9500 Ewing Drive, Bethesda, Md.:	
Fair market value*	$82,000
Mortgage indebtedness, Interstate Federal Savings Association**	25,000
Equity	57,000
2nd trust, property located at Hollins Drive, Bethesda, Md.: Bethesda, Md.:	
$5,000 at 9% due January 1978	5,000
Fair market value of security*	94,000
1st mortgage**	35,000
Equity security 2nd mortgage	60,000
Total	62,000

*Estimated values.

**Rounded to the nearest $1,000.

Schedule C—Personal property

Automobiles:	
1971 Audi, fair market value*	$1,500
1975 Opel:	
Fair market value*	3,200
Indebtedness (Wright Patman Congressional Employees Credit Union)	2,439
Equity	761
Miscellaneous (unspecified furniture, clothing, etc.)**	10,000
Total	12,261

*Estimated value.

**Current estimated value (replacement cost estimated to be $25,000).

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Curtis, Charles Brent.

Position to which nominated: Chairman, Federal Energy Regulatory Commission.

Date of nomination: September 13, 1977.

Date of birth: April 27, 1940.

Place of birth: Upper Darby, Pennsylvania.

Marital status: Married.

Full name of spouse: Rochelle Elaine Bates Curtis.

Name and ages of children: Brent Arthur-Bates Curtis, Age: 8.

Education: degrees

Boston University Law School, 1962–65, LL.B., cum laude, 1965.

University of Massachusetts, 1958–62, A.B., B.S., 1962.

Belmont High School, September 1955 to June 1958.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Aug. 1977 to Present: Federal Power Commission, Chairman.

Jan. 1977 to July 1977: Van Ness, Curtis, Feldman & Sutcliffe.

Nov. 1976 to Jan. 1977: Carter-Mondale Transition Team.

Federal Energy Administration Liaison Officer.

June 1971 to Nov. 1976: Counsel, Committee on Interstate and Foreign Commerce—U.S. House of Representatives, Washington, D.C. General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safey Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971: Securities and Exchange Commission—Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance). As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Boston University Law School, LL.B, cum laude, Law Review, Member of Editorial Board, P. Dennison Smith, Jr., and Joseph L. Rome Scholarship awards.

University of Massachusetts, Amherst, Massachusetts. Elected to Senior Men's Honor Society, Permanent Class Vice President, Veterans of Foreign Wars and American Legion Scholarship awards.

Letters of commendation: Comptroller of the Currency, U.S. Treasury; Chairman, Securities and Exchange Commission.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

D.C. Bar Association, None, November 1976 to present.

Federal Bar Association, Member, Exec. Council 1975 to present. Securities Law Section, 1975–77.

American Bar Association, None, 1965 to present.

American Judicature Association, None, 1975 to 1976.

St. Luke's House, Inc., Member, Board of Directors, 1975 to present.

Employment History:

Participant in the securities markets.

As Chief of the Branch of Regulation and Inspections, supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw impiementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967: Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of the Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. I have not had direct and sole authorship responsibility for any published articles or reports. However, I have written numerous committee reports in connection with my responsibilities as counsel to U.S. House Committee on Interstate and Foreign Commerce related to energy, securities and consumer safety and other matters. Also, as assistant note editor of the Boston University Law School Law Review, I participated in the writing of several articles for that law review.

Qualifications: State fully your qualifications to serve in the position to which you have been named.

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Such severance will occur by operation of law.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest: 1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None, see note respecting distribution of capital account of law partnership.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an aegnt, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. See attached sheet titled "Potential Conflicts of Interest: Responses to items 3, 4 and 5."

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Same as for 3.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Same as for 3.

GOVERNMENT EXPERIENCE

August 1977 to present: Federal Power Commission, Chairman.

November 1976 to January 1977: Carter-Mondale Transition Team. Federal Energy Administration Liaison Officer.

June 1971 to November 1976:

Counsel, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

General responsibilities with respect to matters committed to the Committee's jurisdiction with special emphasis on energy and securities regulation. Principal staff responsibility in the House of Representatives for a number of recent laws including:

Consumer Product Safety Act.

Motor Vehicle Insurance and Cost Savings Act.

Emergency Petroleum Allocation Act of 1973.

Energy Supply and Environmental Coordination Act of 1974.

Securities Acts Amendments of 1975.

Energy Policy and Conservation Act of 1975.

Energy Conservation and Production Act of 1976.

May 1967 to June 1971:

Securities and Exchange Commission, Special Counsel, Division of Trading and Markets; Chief, Branch of Regulation and Inspections; and Attorney-Advisor (Finance).

As Attorney-Advisor (Finance) responsible for giving legal advice to regional offices, rendering interpretations of provisions of the securities laws and of the rules and regulations of the Commission. Primarily involved in regulation of the national securities exchanges, the National Association of Securities Dealers and broker-dealer participants in the securities markets.

As Chief of the Branch of Regulation and Inspections supervised the work of ten attorney-advisors and three securities analysts as well as supporting personnel.

As Special Counsel, worked directly with the Commission and the Director of the Division. Duties required the preparation of memoranda on various subjects to serve as a basis for Commission policy decisions. Supervised task forces assigned to draw implementing regulations for Commission decisions under the Securities Exchange Act of 1934.

June 1965 to May 1967:

Staff Attorney (later Supervising Staff Attorney) Comptroller of the Currency, Treasury Department.

Answered written and oral inquiries respecting interpretations of Comptroller's regulations and provisions of Federal banking laws. Drafted regulations and administrative opinions of the Comptroller and assisted in the preparation of appellate briefs and motions in cases involving appeals from rulings of the Comptroller in bank merger and branch bank cases. Supervisory responsibilities for the work of seven other attorneys.

June 1964 to September 1964:

Attorney General, Commonwealth of Massachusetts, Law Clerk, Criminal Division.

QUALIFICATIONS

For virtually my entire professional experience, I have been privileged to hold various positions of responsibility for the federal government. I have served within an executive department as a staff attorney for the Comptroller of the Currency of the U.S. Department of Treasury. For four years I was employed by an independent regulatory commission in positions of ascending responsibility. My experience with the Securities and Exchange Commission, well recognized as perhaps the most competent of federal agencies, has been instructive in understanding the dynamics of working with a collegial body charged with the administration of economic policies and regulatory programs. I have been trained in administrative law and have had supervisory experience. That endeavor coupled with my service as counsel to the Interstate and Foreign Commerce Committee of the House of Representatives (which has jurisdictional responsibility for the oversight of many of the independent regulatory agencies) has inbued me with an understanding of the expectancies of the Congress and the legal requirements pertaining to the independence of judgment called for in the generic acts establishing independent regulatory commissions. I know of the full conviction and purpose of the Congress in sheltering these regulatory functions from partisan influence. I pledge to fully honor that commitment in the office for which I have been nominated.

In the past five years the Congress has considered and acted upon several major initatives in the energy field. Specifically, these have included: The Emergency Petroleum Allocation Act of 1973, The Energy Supply and Environmental Coordination Act of 1974, The Energy Policy and Conservation Act of 1975, and the Energy Conservation and Production Act of 1976. In the course of congressional deliberations on these and other legislative matters I have obtained a broad background in energy policy decision-making and an appreciation for the complexity and difficulties which confront government in this most important area.

Most recently I have served as Chairman of the Federal Power Commission. The Federal Energy Regulatory Commission to which I have been nominated will accede to the majority of the current functions and jurisdictional responsibilities of the Federal Power Commission.

POTENTIAL CONFLICTS OF INTEREST: RESPONSES TO ITEMS 3, 4, AND 5

As previously indicated, virtually my entire professional experience has involved government service. From July 1965 to July 1967 I served on the legal staff of the Comptroller of the Currency. In June 1967 I began a four-year stint in various legal capacities with the Securities and Exchange Commission. For the period May 1971 through November 1976, I was engaged as Counsel to the Committee on Interstate and Foreign Commerce, U.S. House of Representatives. From November 1976 through January 20, 1977, I served as

Federal Energy Administration Liaison Officer on the Carter-Mondale Transition Team and, most recently, I have served as Chairman of the Federal Power Commission. I do not believe that my activities in these positions in any way constitute or could result in a possible conflict of interest in the position for which I am being considered. Moreover, I have not engaged in any business relationship, dealing or financial transaction during that period (i.e., July 1965 through January 20, 1977 and from August 1977 to the present) which, in my opinion, could in any way constitute or result in a possible conflict of interest in the position for which I am being considered.

From January 21, 1977 to July 1977, I was engaged in the practice of law as a member of the firm of Van Ness, Curtis, Feldman & Sutcliffe. In this capacity, I established certain client relationships which pose potential conflicts. My responses to items (3), (4) and (5) attempt to describe those client relationships and the manner in which I would propose to resolve any potential conflict of interest. For convenience, my response will consider the questions en bloc.

I would propose to excuse myself, while a member of the Commission, from the consideration of any matter which may come before that Commission which specifically and directly affects that interest of any client of the firm of Van Ness, Feldman & Sutcliffe for a period of one year beginning with August 1977 at which time I severed my relationship with the firm. I would propose to *permanently* disqualify myself from the consideration of any matter which specifically and directly affects a client for which I had principal responsibility while engaged in the practice of law and with respect to which I furnished advice or represented the client before any administrative agency or the Congress.

The following describes these client relationships, the specific activities engaged in on behalf of the client, and the potential conflict of interest, if any, which may attend my discharge of the responsibilities to be vested in me as a member of the Federal Energy Regulatory Commission.

1. American Institute for Certified Public Accountants:

a. Description: General consultative relationship with respect to administering agency actions and legislation affecting the accounting profession including its role and responsibilities with respect to municipal disclosures, illegal or questionable payments by corporate officials, promulgation of accounting standards and principles, relationship with government regulatory bodies and other related matters. Representation included appearances before the Congress and administrative agencies.

b. Specific Activities: I made appearances on behalf of the client before the Congress being duly registered under the Lobby Registration Act in support of modifications to legislation dealing with the role and responsibilities of accountants with respect to questionable and illegal corporate payments and with respect to providers of health services under the Medicaid and Medicare programs. I also made appearances before the Congress in connection with the need for and content of Federal regulation of the accounting profession.

c Potential Conflict of Interest: None perceived.

2. Pacific Gas and Electric Company:

a. Description: General consultative relationship with particular interest in the selection of a system for the transportation of Alaska natural gas to serve California and western states. Relationship involved appearances on behalf of the client before administrative agencies only.

b. Specific Activities: I made appearances before administrative agencies in support of a Presidential decision under the Alaska Natural Gas Transportation Act to authorize the construction of a pipeline system for the transportation of Alaska natural gas which includes direct pipeline delivery facilities for the distribution of a portion of such gas to California and western state markets. I made no appearances on behalf of this client before the Congress nor did I appear on behalf of this client before any administrative agency with respect to any other matter.

c. Potential Conflict of Interest: A question of conflict of interest could be raised with respect to the selection of a system for the transportation of Alaska natural gas to serve California and western state markets, if this decision is not made by the President under the Alaska Natural Gas Act but left to the Federal Energy Regulatory Commission. Accordingly, if this occurs, I would propose to disqualify myself permanently from consideration of any such matter.

3. Central and South West Corporation:

a. Description: Specific consultative relationship with respect to the interconnection of electric utilities in the State of Texas in interstate commerce. Relationship involved appearances on behalf of the client in support of legislation proposed by the President in the National Energy Act to provide a means of fostering such interconnection.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of provisions of the President's bill designed to foster interconnection of electric utilities. The client's interest was specifically confined to the problem which exists in the State of Texas. I made no other appearances on behalf of the client with respect to any other matter nor did I appear before any administrative agency on behalf of this client.

c. Potential Conflict of Interest: I believe there exists a potential conflict of interest with respect to Federal Energy Regulatory Commission consideration of any proposed interconnection of electric utilities in the State of Texas with affiliates of the Central and South West system operating in Oklahoma, Louisiana and Arkansas. Accordingly, I would propose to permanently disqualify myself from consideration of this issue which specifically involves the compelled interconnection of affiliated entities of Central and South West Corporation with electric utilities in the State of Texas.

4. Manufacturing Chemists Association:

a. Description: General consultative relationship with respect to national energy policy. Relationship did not involve or contemplate appearances before the Congress or administrative agencies.

b. Specific Activities: I acted in an advisory and consultative capacity only. I made no appearances before the Congress or administrative agencies.

c. Potential Conflict of Interest: None perceived.

5. American Bakers Association:

a. Description: General consultative relationship concerning national energy policy. Relationship contemplated appearances before the Congress on behalf of the Association (terminated June 17). The relationship did not involve appearances before administrative agencies.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation which proposes to provide emergency allocations and curtailment protection for essential agricultural uses of natural gas. As noted above, I terminated on June 17, the lobby registration on behalf of this client. I continued to serve the client in a consultative capacity. I made no appearances on behalf of this client before administrative agencies.

c. Potential Conflict of Interest: Some potential exists. I would propose to permanently disqualify myself from consideration of any matter which contemplates the creation of a separate priority for the allocation of natural gas to, or the protection from curtailment of, the baking industry or other food processors as a separate class.

6. Wheelabrator-Frye Inc.:

a. Description: General consultative relationship with respect to matters concerning solvent refined coal process technology, resource from waste recovery systems and synthetic gas from coal. Relationship involved appearances before the Congress and administrative agencies.

b. Specific Activities: I made appearances before the Congress being duly registered under the Lobby Registration Act in support of legislation to provide Federal financial assistance for the demonstration of solvent refined coal process technology. I also made appearances concerning the possible modification of proposed amendments to the Clean Air Act to clarify the application of new source performance standards to sources which avail themselves of solvent refined coal process products. I had discussions with members of administrative agencies concerning these matters but made no formal appearances before these agencies.

c. Potential Conflict of Interest: None perceived.

7. Dupont-National Distillers (joint venture):

a. Description: Specific consultative relationship concerning proposed construction order to be issued with respect to syngas facility located in Texas. Relationship contemplated appearance before administrative agency. The matter is now closed and the relationship has been terminated.

b. Specific Activities: I made appearances before the Federal Energy Administration on behalf of this client concerning a notice of intent to issue a construction order under the Energy Supply and Environmental Coordination Act with respect to a proposed syngas facility located in Texas.

c. Potential Conflict of Interest: None perceived.

8. The Business Roundtable:

a. Description: General consultative relationship only concerning national energy policy. No appearances before the Congress or administrative agencies were undertaken or are contemplated.

b. Specific Activities: None engaged in beyond a general advisory and consultative relationship.

c. Potential Conflict of Interest: None perceived.

With respect to the following clients, other members of the firm of Van Ness, Feldman & Sutcliffe had principal responsibility. In no case did I engage in any activity on behalf of such clients for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. I did render advice to the Arctic Slope Regional Corporation concerning their interest in connection with legislation proposed under Section 17(d)(2) of the Alaska Native Claims Settlement Act, and to the Northern Tier Pipeline Company concerning their interest in gaining approval of a proposed pipeline for the distribution of surplus Alaska crude oil from the West Coast to the Northern Tier and Midwestern States. In this latter regard, I also rendered advice to Northern Tier Pipeline Company concerning the prospect of obtaining legislation to expedite the permitting and construction process of such a pipeline system. Also, I rendered advice to Kidder-Peabody and Company concerning the financing of home insulation and conservation programs for residences.

Other client relationships for which other members of the firm had principal client responsibility:

1. Northern Tier Pipeline Company.
2. North Slope Borough.
3. Allstate Insurance.
4. Consumers Action Now.
5. Wolf Trap Foundation.
6. Association of Local Transport Airlines.
7. National Park Concessions, Inc.
8. Republic Geothermal, Inc.
9. Arctic Slope Regional Corporation.
10. Kidder-Peabody & Co.
11. Committee for Consumers No-Fault.
12. Texaco, Inc. (Consultative only respecting coal lands located in alluvial valleys, refinery competition and coal conversion.
13. Seatrain-Alaska Consolidated Shipping, Inc.
14. Montana Power Company.
15. Western Crude Oil, Inc.
16. National Committee for Automobile Crash Protection.

I do not believe that any of the above-listed client relationships pose a true conflict of interest inasmuch as the clients either have no business before the Federal Energy Regulatory Commission or with respect to jurisdictional matters to be assigned to that Commission, or, if they do, it is with respect to issues beyond the firm's existing client relationships. However, in an excess of caution and as noted earlier in this response, I would propose to excuse myself for a period of one year with respect to any matter before the Federal Energy Regulatory Commission which directly and specifically affected the interest of any of these clients, should the issue present itself.

PAST CLIENT RELATIONSHIPS

The law firm of Van Ness, Feldman & Sutcliffe had a brief client relationship with Texas Eastern Transmission Company concerning their interest in an application for waiver under the Jones Act to permit the transportation of LPG in a foreign flag vessel from a port in Texas to facilities in New Jersey during last winter's emergency. This matter does not involve the jurisdiction of the Federal Energy Regulatory Commission and the representation of the client was transitory and limited to this specific purpose. I believe no potential conflict of interest exists although Texas Eastern Transmission Company is regulated by the Commission with respect to other aspects of its business.

GEORGE R. HALL

Dr. George R. Hall received his B.A. Degree from Claremont Men's College and his M.A. and PhD Degrees in Economics from Harvard University. He has a diversity of teaching, research and government experience with the University of Virginia, the Federal Reserve System, RAND, AEC, and the Department of Defense. For eight years, he was senior staff analyst and project leader with RAND Corporation, and prior to his appointment with OSD, he served as an Economic Advisor to the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission. At DOD, he was Deputy Director (Resource Analysis), Office of the Director, Planning and Evaluation.

He, his wife, Florence Fray Hall and their four children, Elizabeth, Margaret, Andrew and George, live in McLean, Virginia.

RÉSUMÉ

Office address: Office of the Director, Planning and Evaluation, Department of Defense, Washington, D.C. 20301 (202) 695-0528.

Home address: 2010 Powhatan Street, Falls Church, Virginia 22043 [redacted]

Education: Claremont Men's College, B.A.; Harvard University, M.A., Ph.D.

Employment: Deputy Director, (Resource Analysis), ODP&E (formerly Deputy Assistant Secretary of Defense Resource Analysis, OASD (PA&E)), Department of Defense, Washington, D.C. 20301, Sept. 1974 to Present.

Economic Advisor, Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545, Jan. 1973 to Sept. 1974.

Senior Economic (formerly Economist), Management Sciences Department, The RAND Corporation, 1700 Main Street, Santa Monica, California 90406, 1964 to Jan. 1973.

Economist, Board of Governors, Federal Reserve System, Washington, D.C., 1963 to 1964.

Assistant Professor of Economics, University of Virginia, Charlottesville, Virginia 1959 to 1963.

PERSONAL DATA

Born 1930, Pasadena, California, married, 4 children.

SELECTED PUBLICATIONS

"Risk and Corporate Rates of Return," (with I. N. Fisher), *Quarterly Journal of Economics*, February 1969. (A reply to a comment on this article by R. E. Caves and B. S. Yamey appeared in the Q.J.E., August 1971.)

"Transfers of United States Aerospace Technology to Japan," (with R. E. Johnson) in R. Veronon, (Ed.), *The Technology Factor in International Trade*, National Bureau of Economic Research, 1970.

"Defense Procurement and Public Utility Regulation," *Land Economics*, May 1968.

"Strategy and Organization in Public Land Policy," *Natural Resources Journal*, April 1967.

"Bank Holding Company Regulation," *Southern Economic Journal*, April 1965.

"Good Faith, Discrimination and Market Organization," (with Charles F. Phillips, Jr.), *Southern Economic Journal*, October 1963.

"The Salk Vaccine Case: Parallelism, Conspiracy and Other Hypotheses," (with Almarin Phillips), *Virginia Law Review*, Spring 1962.

"Anticompetitive Impacts of Expanded Bank Service Lines," p-4594, The RAND Corporation, 1971 (prepared for President's Commission on Financial Structure and Regulation).

Case Studies in Educational Performance Contracting, (with others, R-900-HEW), The RAND Corporation, December 1971.

Change in Education (with P. Carpenter-Huffman and G. C. Sumner) Ballinger Publishing Co., Cambridge, Mass. 1974.

"Are There Unusually Effective Schools" (with Robert E. Klitgaard), *The Journal of Human Resources*, Vol. X, 1974.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. George Hall and Florence F. Hall, June 10, 1977.

Assets

Cash on hand and in banks, $7,700.
Listed securities—add schedule* $6,192.
Real estate interests—residence, $100,000.
Personal property, $25,000.
Partnership in undeveloped land (acquisition cost), $9,872.
Total assets, $148,764.

Liabilities

Real estate mortgages payable—add schedule (residence), $59,000.
Amount payable on land partnership, $7,922.
Total liabilities, $66,922.
Net worth, $81,842.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm membership or from former employers, clients, and customers. None.

2. Are any assets pledged? (Add schedule.) None, except for residence which is mortgaged and undeveloped land in which I am a partner.

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Hall, George Robert.
Position to which nominated: Member, Federal Energy Regulatory Commission.
Date of nomination: September 13, 1977.
Date of birth: September 9, 1930.
Place of birth: Pasadena, California.
Marital status: Married.
Full name of spouse: Florence Ann Fray Hall.
Names and ages of children: Elizabeth Ellen, 15, George John, 10, Margaret Jackson, 13, Andrew Fray, 10.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees:
Claremont Men's College, 1948–1951, B.A., 1951.
Harvard University, 1951–1953, M.A., 1953.
Harvard University, 1957–1959, Ph.D., 1960.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates. See attachment 2.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement. Distinguished Civilian Service Medal—U.S. Department of Defense.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates.

American Economic Association, none, 1954–present.

PUBLISHED WRITINGS

List the titles, publishers and dates of any books, articles, or reports you have written. See attachment 3.

QUALIFICATIONS

State fully your qualifications to serve in the position to which you have been named. (attach sheet) See attachment 4.

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*See Attachment 1.

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Yes.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. None.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated. Union Carbide Corporation, Central Telephone and Utilities.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None. Other than as an employee, my dealings with the Federal Government have been as researcher or research director for the RAND Corporation, which is a Governmental contractor.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items. Will sell stock listed in item 2, page 6, or any other stock judged to be a potential conflict of interest.

ATTACHMENT 1—STOCK OWNED BY GEORGE R. AND/OR FLORENCE F. HALL

	Estimated Market Value
Central Telephone and Utilities (64 shares)	200.00
Titan Group (100 shares)	200.00
Union Carbide (25 shares)	1,275.00
TI Corp. (11 shares)	190.00
Bullock Fund (about 250 shares)	2,013.00
Greyhound Corp. (44 shares)	594.00
Total	6,912.00

ATTACHMENT 3—BIBLICGRAPHY: GEORGE R. HALL

Articles and books

"Transfers of United States Aerospace Technology to Japan" in R. Vernon, (Ed.), *The Technology Factor in International Trade*. National Bureau of Economic Research, 1970.

"Risk and Corporate Rates of Return," (with I. N. Fisher), *Quarterly Journal of Economics*, February 1969.

"Defense Procurement and Public Utility Regulation," *Land Economics*, May 1968.

"Strategy and Organization in Public Land Policy," *National Resources Journal*, April 1967.

"Bank Holding Company Regulation," *Southern Economics Journal*, April 1965.

"Antimerger Criteria: Power, Concentration, Foreclosure and Size," (with C. F. Phillips, Jr.), *Villanova Law Review*, Winter 1966.

"Research into Banking Structure and Competition," with R. C. Holland and others), *Federal Reserve Bulletin*, November 1964.

"Product Quality and Public Land Management," *Land Economics*, February 1964.

"Good Faith, Discrimination and Market Organization," (with Charles F. Phillips, Jr.), *Southern Economic Journal*, October 1963.

"The Myth and Reality of Multiple Use Forestry," *Natural Resources Journal*, October 1963.

"Fundamental Aspects of Cheap Power," *Public Utilities Fortnightly*, August 1, 1963.

"Market Definition and Antitrust Policy," *Washington and Lee Law Review*, Spring 1963.

"Recreation and Economic Development," *Decisions for Progress*, Agricultural Policy Institute, N.C. State, Raleigh, N.C., Spring 1963.

"Suolo, citta e governo," *Rivista di diritto finanziario a scienze delle finanze*, June 1962.

"The Economics of Slavery and the Coming of the Civil War," *The Bulletin of the Loudon County (Va.) Historical Society*, Vol. 3, 1962.

"Public Policy for the Great Outdoors," *Challenge*, July 1961.

"Conservation as a Public Policy Goal," *Yale Review*, Spring 1962.

Merger Litigation, 1951–1960," (with C.F. Phillips, Jr.) *Antitrust Bulletin*, January-February 1961.

"The Case for a Department of Natural Resources," *Natural Resources Journal*, November 1961, (with others under pseudonym of Mister Z).

"The Salk-Vaccine Case: Parallelism, Conspiracy and Other Hypotheses," (with Almarin Phillips), *Virginia Law Review*, 1960.

Case Studies in Education Performance Contracting, (with others, R-900-HEW, The Rand Corporation), December 1971.

Change in Education (with P. Carpenter-Huffman and G. C. Sumner) Ballinger Publishing Co., Cambridge, Mass. 1974.

Are There Unusually Effective Schools," (with Robert E. Klitgaard), *The Journal of Human Resources*, Vol. X, 1974.

"A Statistical Search for Unusually Effective Schools" (with Robert E. Klitgaard) in Farley and Mosteller (eds) *Statistic and Public Policy*. Addison-Wesley Publishing Company, Reading, Mass. 1977.

RAND PUBLICATIONS

RM-4500-PR, "A Review of Air Force Procurement, 1962-1964, (with R. E. Johnson), May 1965.

RM-4570, "Public Policy Toward Subcontracting," (with R. E. Johnson), May 1965.

P-3403, "Strategy and Organization in Public Land Policy," June 1966.

P-3475, "Land Use Information," November 1966.

P-3508, "Defense Procurement and Public Utility Regulation," January 1967.

P-3567, "Measures of Banking Competition and Convenience: Problems Real and Unreal," March 1967.

R-450-PR, "Aircraft Co-Production and Procurement Strategy," (with R. E. Johnson), May 1967.

P-3725, "Risk and Corporate Rates of Return," (with I. N. Fisher), November 1967.

RM-5439-PR, "Recent Air Force Procurement," (with G. Brunner), April 1968.

RM-5440-PR, "Risk and the Aerospace Rate of Return," (with I. N. Fisher), November 1967.

P-3796, "Competition in the Procurement of Military Hard Goods," (with R. E. Johnson), February 1968.

RM-5991-PR, "Development Strategies for the FX," (with G. K. Smith, R. E. Erickson, R. L. Perry), May 1968.

P-3796-1, "Competition in the Procurement of Military Hard Goods" (with R. E. Johnson), June 1968.

P-3875, "Transfers of United States Aerospace Technology to Japan," (with R. E. Johnson), June 1968.

RM-5610-PR, "Defense Profit Policy in the United States and the United Kingdom," (with I. N. Fisher), September 17, 1968.

P-4085, "Some Impacts of One-Bank Holding Companies," May 1969.

P-4105, "Interaction of Procurement Decisions in Weapon System Acquisition Projects," June 1969.

RM-6072-PR, "System Acquisition Experience," (R. Perry, D. DiSalvo, A. Harman, G. Levenson, G. Smith, J. Stucker), November 1969.

RM-6183-PR, "The Impact on Defense Contract Fees of the Weighted Guidelines Profit System," January 1970.

P-4558, "The Rand/HEW Study of Performance Contracting in Education," February 1971.

P-4559, "Risk and Corporate Rates of Return: Reply," March 1971.

P-4594, "Anticompetitive Impacts of Expanded Bank Service Lines," March 1971.

R-699-HEW, "The Performance Contracting Concept in Education," The Rand Corporation, May 1971 (Co-authored).

R-900-HEW, "Case Studies in Educational Performance Contracting," The Rand Corporation, December 1971, (co-authored).

MISCELLANEOUS

Testimony for Senate Subcommittee on Antitrust and Monopoly in U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Antitrust and Monopoly, Competition in Defense Procurement, 90th Congress, 2nd Session, 1969.

"Economic and Legal Aspects of Merger Litigation, 1951–1962" (with Charles F. Phillips, Jr.), Business Review, University of Houston, Fall, 1963.

ATTACHMENT 2—EMPLOYMENT RECORD: GEORGE R. HALL

1. Special Assistant to Mr. James R. Schlesinger, Office of Energy Policy and Planning, Executive Office of the President, Washington, D.C. January 1977—Present.

Participated in the development of the National Energy Plan and the National Energy Act of 1977. Had special responsibilities in the areas of public utilities, competition, energy information and coal policy.

2. Deputy Director (Resource Analysis), Office of Director, Planning and Evaluation, U.S. Department of Defense. (This portion was at one time designated Deputy Assistant Secretary of Defense (Resource Analysis) in the Office of the Assistant Secretary of Defense Program Analysis and Evaluation) September 1974—January 1977.

Directed research, analysis and cost estimates for the defense program. Was responsible for major inputs to the Department of Defense planning and programming activities.

3. Economic Advisor to the Atomic Safety and Licensing Board, U.S. Atomic Energy Commission, Washington, D.C. January 1973–September 1974.

Served as a member of hearing boards adjudicating antitrust complaints in the electric utility industry in connection with applications for licenses to construct nuclear power plants. Also had administrative responsibilities with the ASLBP functions in the area. Participated in a study of possible reorganization of Federal energy regulations.

4. Senior Economist (Formerly Economist), RAND Corporation, Santa Monica, California, September 1964–January 1973.

Organized, directed and conducted systems analyses and policy research in a number of areas including regulation of Federal procurements, security markets and education. Also had administrative responsibilities.

During this period of my own time, I occasionally served as an expert witness and advisor to the Antitrust Division of the U.S.

Department of Justice. I was also, on occasion, a consultant to several governmental organizations and a private law firm.

5. Economist, Banking Markets Units Board of Governors, U.S. Federal Reserve System. July 1963–September 1964.

Conducted research on banking markets, regulation, and the application of the antitrust laws to banking.

6. Assistant Professor of Economics, University of Virginia, Charlottesville, Virginia, July 1959–August 1963.

Taught graduate and undergraduate courses in industrial organization, government regulation of business and natural resource economics and policy. Directed dissertations and conducted research in these areas.

7. Teaching Fellow in Economics, Harvard University, January 1957–June 1959.

Assisted in various undergraduate courses in economics.

8. Acting Deputy as Supply Officer, U.S. Naval Reserve, October 1953–January 1957.

Served on ships of the Pacific Fleet.

QUALIFICATION STATEMENT OF GEORGE R. HALL

I believe that my professional training and experience qualify me to be a member of the Federal Energy Regulatory Commission (FERC). My studies for the Ph.D. in economics concentrated in the area of industrial organization. My dissertation analyzed a topic in the economics of natural resource conservation.

As a teacher, I instructed graduate and undergraduate university courses in public utility economics, industrial organization, and the economics of natural resources. My research activities centered in the same fields.

My research and administrative responsibilities at the Federal Reserve Board and the Rand Corporation concerned a variety of regulatory problems. A central concern of this work was the development of innovative methods of government regulation of prices and profits. I also believe that my activities during this period as an antitrust consultant and witness for the Justice Department provide useful background.

My service on the Atomic Safety and Licensing Board Panel (ASLBP) of the Atomic Energy Commission provided experiences that I think will be extremely useful as a member of the FERC. Substantively, I had to deal with many of basic wholesale electric power issues that will also concern the FERC. I was especially concerned with problems of competition, the relationship between public and private power entities, pooling, interconnections and wheeling. Service on the ASLB panel also provided important background in the issues of power siting, environmental concerns, nuclear safety and safeguards, and the economics of nuclear power and other fuels. Procedurally, service on hearing boards provided experience in the requirements for due process, judicial conduct, and methods of conducting rule making and quasi judicial proceedings.

My Department of Defense experience was not directly related to energy or utility regulation. However, it provided training in long-range planning, budgeting and civil service administration that could be useful to the FERC.

Finally, as member of the Office of Energy Policy and Planning, I gained very valuable experience that should contribute to the FERC's activities. As one of the participants in the development of the National Energy Plan, I have had an unusual opportunity to acquire an understanding of the nation's energy situation, including oil and gas problems, and the options for improving our energy situation. I have been particularly concerned with public policy towards utilities and have gained a new appreciation of policy issues in this area. I have also been extensively involved with the issue of utility rate modernization with which the FERC will be involved. Another pertinent area, with which I have had particular responsibility is synthetic natural gas.

Finally, I believe that service as a FERC commissioner will require not only professional competence, but an independence of mind, a willingness to insist that all pertinent facts involved in a decision be placed upon the public record, and a commitment to insure that regulatory decisions be made in a fair and just manner. I believe that I have the personal qualities of character to meet such high standards.

GEORGIANA SHELDON

Synopsis: Twenty-five years of successful achievement in academic, business, and intergovernmental affairs, federal personnel management; legislative as well as executive competence.

Employment history: March 1976 to June 15, 1977: Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415.

Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976.

As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees.

Acting Chairman, February 1, 1977, to June 15, 1977. Line management authority for 7,000 employees of the Civil Service Commission. Appeared before House Appropriations Committee in defense of seven billion dollar budget.

1975–1976: Director, Office of Foreign Disaster Relief and Deputy Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423.

Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. Government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long-range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1939–1975: Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301.

Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/state agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

1969: Special Recruiter, the Peace Corps, Washington, D.C.

Temporary assignment—Talent search for the Agency.

1953–1969: Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515.

Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arose; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

1961–1962: Executive Secretary, Foundation for Specialized Group Housing Washington, D.C.

Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

1961: Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C.

Responsible for securing public relations and advertising accounts for newly established agency. Account executive.

1956–1961: Assistant to Special Assistant to Chairman, Republican National Committee. Washington, D.C. 20006.

Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interviewed all job applicants and party officials. Traveled extensively. Handled press and public relations for Republican Chairman in Virginia.

1954–1956: Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida.

Supervision of all applications for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

1953–1954: Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida.

Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

GENERAL INFORMATION

Education: Avon High School, Avon, New York; Keuka College, Keuka Park, New York, B.A. 1945; Cornell University, M.S. 1949; Federal Executive Institute, Charlottesville, Virginia, 1972.

Recognitions: Fellowship to Cornell University, Alumni Award for Professionalism, Keuka College, Consultant, Personnel Publications, The Brookings Institution, Who's Who in America, Who's Who in Government, Who's Who in American Women, Department of Defense Distinguished Civilian Service Medal by Secretary Laird, 1973, Bronze Palm added to the Department of Defense Distinguished Civilian Service Medal by Secretary Schlesinger, 1976.

Boards and Committees: Board of Trustees, Keuka College, Board of Trustees, Federal Woman's Award, Inc., Representative on Employee-Management Relations Commission of the Foreign Service Board, Member, President's Commission on Personnel Interchange, Member, Federal Committee on Ecology, Co-Chairperson, Department of Defense International Women's Year Committee, 1975.

Memberships—Professional: International Personnel Management Association, Executive Women in Government.

Personal: The Capitol Hill Club.

Personal Data: Excellent health, single, free to travel.

References: Hon. Melvin R. Laird, Vice President, Reader's Digest, 5703 Kirkwood Drive, Washington, D.C. 20016.

Hon. Hadlai Hull (Former Assistant Secretary of the Army for Financial Management). 5001 Rockwood Parkway, N.W., Washington, D.C. 20016.

Hon. I. Lee Potter, Chairman of the Board, Jelleff's, 3120 North Wakefield Street, Arlington, VA 22207.

Hon. John E. Davis (Former Governor of North Dakota), 404 Apollo Avenue, Bismarck, North Dakota.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $6,323.73.

U.S. Government securities—add schedule, $3,000.00.

Addenda A: Listed securities—add schedule, $2,752.00.

Personal property, $50,000.00.

Teachers Retirement (Beneficiary), $211.56.

Civil Service Retirement, $24,696.00.

Total assets, $86,983.29.

Addenda A: Listed Securities 44 shares AT&T $2,752.00.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. None.

Liabilities

None.

Net worth, $86,983.29.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Sheldon, Georgiana H.

Position to which nominated: Member, Federal Energy Regulatory Commission.

Date of nomination: September 13, 1977.

Date of birth: December 2, 1923.

Place of birth: Lawrenceville, Pennsylvania.

Marital status: Single.

EDUCATION

Institution, dates attended, degrees received, and dates of degrees

Avon High School, 1937–1941, Academic, June 1941.

Keuka College, 1941–1945, B.A. Degree, June 1949.

Cornell University, 1948–1949, M.S. Degree, June 1949.

Federal Executive Institute, 1972, No Degree.

EMPLOYMENT RECORD

See "Employment History."

HONORS AND AWARDS

Fellowship to Cornell University.

Alumni Award for Professionalism, Keuka College.

Who's Who in America, Government and American Women.

Department of Defense Distinguished Civilian Service Medal, 1973, Sec. Laird.

Bronze Palm added to above award by Sec. Schlesinger—1976.

MEMBERSHIPS

Organization and dates

International Personal Mgt. Ass'n., Present.

Executive Women in Gov't., Present.

Board of Trustees, Keuka College, 1976– .

QUALIFICATIONS

See "Qualifications."

FUTURE EMPLOYMENT RELATIONSHIPS

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate. Such severance will occur by operation of law.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization. No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

POTENTIAL CONFLICTS OF INTEREST

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealing with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated. None.

2. List any investments, obligations, liabilities, or other other relationships which might involve potential conflicts of interest with the position to which you have been nominated. None.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated. None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy. Only that which was necessitated by my previous Federal positions.

EMPLOYMENT HISTORY

August 1977 to Present: Member, Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Confirmed by the U.S. Senate on August 4, 1977 and sworn in as Member on August 11, 1977.

March 1976–June 1977: Acting Chairman and Vice Chairman, U.S. Civil Service Commission, Washington, D.C. 20415. Confirmed by the U.S. Senate on February 26 and sworn in as Vice Chairman on March 1, 1976. As Vice Chairman of the Commission, second ranking policy official in the Federal Government in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal civilian employees. Acting Chairman, February 1, 1977 to present. Line management authority for 7,000 employees of the Civil Service Commission.

Director, Office of Foreign Disaster Relief and Deputy, Coordinator for International Disaster Assistance, Agency for International Development, Washington, D.C. 20423. Formulated government policy for the evolving U.S. role in international disaster assistance, directed U.S. foreign emergency relief efforts and world-wide disaster preparedness. Relief efforts required coordination of U.S. government response with major elements of the U.S. public and private foreign disaster relief community. Developed and implemented immediate and long range plans for disaster preparedness and prevention, seeking the support and cooperation of the world's foreign disaster relief community.

1975–1976: Deputy Director, Defense Civil Preparedness Agency, the Pentagon, Washington, D.C. 20301. Responsible to the Director, DCPA, for overall policy formulation, direction, coordination, control and administration of nationwide defense civil preparedness programs. Liaison with Congress, Department of Defense, and other Federal/State agencies and private institutions. Responsible for advice and assistance to NATO and other nations for development and improvement of internal and international emergency preparedness programs. Principal advisor for internal management of DCPA with direct responsibility for personnel management programs, public information and education programs. Served as Co-Chairperson, DoD Committee for the International Women's Year Program (world-wide DoD program). Served as Acting Director in Director's absence. Position required ability to: effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside of government; analyze complex problems, and make sound, difficult decisions; and communicate effectively with individuals, small and large groups.

Special Recruiter, the Peace Corps, Washington, D.C. Temporary assignment, talent search for the agency.

Executive Secretary and Personal Assistant, Honorable Rogers C. B. Morton, M.C., U.S. House of Representatives, Washington, D.C. 20515. Served as executive and personal assistant to Member of Congress (MC). Responsible for schedule and time management (personal and professional invitations, speeches and engagements); supervise Congressional mail and personal correspondence; design brochures for campaign. Responsible for constituent relations as they directly affected MC; field work in community as necessity arise; media contacts in Washington, D.C. and his district. Required full knowledge of and participation in work of MC and ability to deal with all levels and types of individuals as well as special interest groups.

Executive Secretary, Foundation for Specialized Group Housing, Washington, D.C. Organization primarily for housing for the elderly. Position involved research, public relations, knowledge and application of Federal Housing Act as it related to housing for the elderly; as well as management of the office. Wrote and edited presentations for clients for the Federal Government.

Vice President, Sorin-Hall, Inc., 1725 K Street, N.W., Washington, D.C. 20006. Re-

sponsible for securing public relations and advertising accounts for newly established agency. Account executive.

Assistant to Special Assistant to Chairman, Republican National Committee, Washington, D.C. 20006. Duties primarily administrative; complete authority in absence of the Assistant in political matters and community relations affecting the twelve Southern States; liaison with governmental agencies and offices on the Hill; interview all job applicants and party officials. Travelled extensively. Handled press and public relations for Republican Chairman in Virginia.

Registrar and Director of Admissions, Stetson University College of Law, St. Petersburg, Florida 33707. Supervision of all applicants for admission, records on all students in residence, general administration of the curriculum and academic problems in instructional area. Liaison between University and press, radio and television.

Personnel Director, Boca Raton Hotel and Club, Boca Raton, Florida 33432. Responsible for personnel relations and personnel policy for seven hundred employees; in addition, part of the time was spent in convention sales for all Schine Hotels; planned events for conventions.

QUALIFICATIONS

The Federal Energy Regulatory Commission is an independent regulatory agency which was established by Title IV of the Department of Energy Organization Act.

At present and for the past several weeks I have served as a Member of the Federal Power Commission. Prior to that time I served as Vice Chairman of the Civil Service Commission, I was the second ranking policy official in matters pertaining to the employment utilization, performance and rights of approximately 2.8 million Federal employees.

As Acting Chairman of the Commission, I had line management authority for 7,000 employees of the Civil Service Commission.

As Deputy Director of the Defense Civil Preparedness Agency it was necessary to be able to effectively manage a complex and geographically dispersed agency; meet and deal with various levels and types of officials within and outside Government; analyze complex problems, and make difficult decisions.

During the past twenty-five years my experience in the academic world, business and government has given me the background needed to bring objectivity and openmindedness to this position. My credentials are a recently acquired exposure to energy regulation, experience in the Administration of both regulatory law and legislative mandates and a willingness to apply this experience to the complicated questions the Commission will have to address.

While more direct experience could be advantageous, I believe my background does not limit me to one point of view. I am confident I will be able to bring openness, candor and objectivity to the Federal Energy Regulatory Commission.

BIOGRAPHY: DON S. SMITH, COMMISSIONER

Sworn Into Office: December 13, 1973.

Term Expires: June 22, 1978.

Don S. Smith, of Little Rock, Arkansas, was born October 9, 1937, in Ouchita County, Arkansas. He grew up and attended public schools in Stephens, Arkansas. He attended the University of New Mexico and received his B.A. in 1960, majoring in Economics, from the University of Arkansas. He received his LL.B. in 1962 from the University of Arkansas School of Law where he was Editor-in-Chief of the Arkansas Law Review. During 1962–1963, he was a teaching Fellow at the University of Illinois School of Law.

From 1963 to 1967, Mr. Smith was Assistant Professor, then Associate Professor, of Law at the Emory University School of Law in Atlanta, Georgia. He was the Arkansas Securities Commissioner from 1967 to 1969. From 1969 until he joined the Federal Power Commission, Mr. Smith served as a member of the Arkansas Public Service Commission.

Mr. Smith has served as Arkansas Member and Chairman of the Southern Interstate Nuclear Board; Chairman of the Laws and Regulations Committee of the Southern Governors' Conference Task Force on Nuclear Power Policy; and, Arkansas Member of the Steering Committee of the Southern Regional Environmental Conservation Council.

President Nixon named Mr. Smith to the FPC on October 30, 1973, and his nomination was confirmed by the U.S. Senate on November 28, 1973. He served as Vice Chairman for the Calendar Year 1975, and was reelected Vice Chairman for the latter half of 1977.

He is a member of the Arkansas Bar Association, a member of the Executive Committee of the National Association of Regulatory Utility Commissioners and designated official FPC Observer on the Interstate Oil Compact Commission.

Mr. Smith is married to the former Sue Jobe of Sikeston, Missouri, and the couple has three children, Gordon, Perry, and Matthew. The family resides in Chevy Chase, Maryland.

INFORMATION REQUESTED OF PRESIDENTIAL NOMINEES

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

FINANCIAL STATEMENT

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $10,145.91.

Real estate interests—add schedule, $73,000.

Personal property, $15,000.

Life insurance—cash value, $9,000.

College Retirement Fund, 70 accumulation units, $3,000.

(Claimed 1976 tax refund; $3,138).

Total assets, $110,145.91.

Liabilities

Notes payable to banks—secured, $14,500.90.

Notes payable to others, $510.04

Accounts payable, $4,400.

Total liabilities, $19,410.94.

Net worth, $90,734.97.

(No immediate members of my family have independent assets which cumulate over $1,500.)

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers: None.

2. Are any assets pledged? (Add schedule.)

Savings account of $1,071.05 pledged against loan of $8,132.49, Union National Bank of Little Rock.

Savings account of $3,078.46 pledged against loan of $3,800, 1st State Bank & Trust, Conway, Ark.

Passbook savings account of $3,578.97 pledged against loan of $2,568.41, Decatur Federal Savings & Loan, Atlanta, Ga.

3. Are you currently a party to any legal action? In my official capacity as a member of the Federal Power Commission, I am nominally a party to a number of proceedings.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? No.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Smith, Don Sanders.

Position to which nominated: Commissioner, Federal Energy Regulatory Commission.

Date of nomination: September 28, 1977.

Date of birth: October 9, 1939.

Place of birth: Camden, Arkansas.

Marital status: Married.

Full name of spouse: Former Dorothy Sue Jobe.

Name and ages of children: Gordon (13), Perry (12), and Matthew (8).

Education: Institution, dates attended, degrees received, and dates of degrees:

University of New Mexico, 1955–57.

University of Arkansas, 1957–59, B.A., 1959.

University of Arkansas, College of Law, 1959–62, LL.B., 1962.

University of Illinois, College of Law, 1962–63, (Graduate Fellow).

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

1963–67—Emory University School of Law; Atlanta, Georgia; Assistant, then Associate, Professor of Law.

1967–69—Arkansas Securities Commissioner, Savings & Loan Supervisor, Credit Union Supervisor; Arkansas Bank Department; Little Rock, Arkansas.

1969–73—Arkansas Public Service Commission; Little Rock, Arkansas; Commissioner.

1973–Present—Federal Power Commission; Washington, D.C.; Commissioner, Vice Chairman of Commission.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement:

Naval ROTC Scholarship, University of New Mexico.

University of Arkansas Student Senate; Delta Theta Pi Scholarship Award, University of Arkansas College of Law.

Editor-In-Chief, Arkansas Law Review.

Research Grant, State Securities Law Study.

Teaching Fellowship, University of Illinois College of Law.

Research Fellowship, University of Illinois College of Law.

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization, office held (if any), and dates:

Arkansas Bar Association, 1962–present.

Southern Interstate Nuclear Board, Chairman (1973), 1970–1973.

National Association of Regulatory Utility Commissioners, member, Executive Committee, present.

Interstate Oil Compact, FPC Observer, present.

Legal Aid Bureau of Pulaski County, Arkansas, member, Board of Directors, 1967–1969.

Published writing: List the titles, publishers and dates of any books, articles, or reports you have written:

Numerous Law Review Articles and Notes including:

1. Battery in Medical Torts. Cleveland-Marshall Law Review, 16:22, January 1967.

2. Long Needed Revision in the Law of Negligence. Journal of the Bar Association of the State of Kansas, 39:13, Summer 1970.

A Federal Regulator's View. American Gas Association Monthly, Volume 57, February 1975.

U.S. Congress, Senate Committee on Commerce. Hearings, 93rd Congress, 1st Session, on nomination of Don S. Smith to be a member of the Federal Power Commission, September-December 1973.

U.S. Congress, House Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations. Hearings, 94th Congress, 1st & 2nd Sessions, on Natural Gas Supplies, June 1975-January 1976.

U.S. Congress, House Committee on Interstate and Foreign Commerce, Subcommittee on Energy and Power. Hearings 94th Congress, 2nd Session, on Long-term Natural Gas Legislation, January-February 1976.

The Goals of President Carter's Administration before the Financial Analysts Federation, June 29–30, 1977, published in The Wall Street Transcript, Volume LVII, Number 6, August 8, 1977. Innumerable Regulatory Opinions and Orders.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: Will continue as an official of the United States Government.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: No.

3. Has anybody made you a commitment to a job after you leave government? No.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any finanial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated:

As a member of the Arkansas Public Service Commission (1969–73), I appeared before the Federal Power Commission in several cases representing the Arkansas Commission and the State of Arkansas. It is possible that one docket (a curtailment case) is still alive and might survive transfer into the Federal Energy Regulatory Commission.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy:

I have participated extensively in the legislative process during the past 10 years, by testifying before Congress and State Legislatures, responding informally and formally to inquiries from members of the House and Senate, and drafted and commented on legislation. All such activities stemmed from my official duties as Arkansas Securities Commissioner, Arkansas Public Service Commission, or as Commissioner, Federal Power Commission.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items:

See (3) above I would continue to abstain from participation in the case.

MATTHEW HOLDEN, JR.

[VITA (Detail)]

Born: Mound Bayou, Mississippi—September 12, 1931.

Married, 2 children.

Education:

Public Schools, Mississippi and Chicago, Illinois (to 1946).

University of Chicago, 1946–50.

Roosevelt University, 1950–52, B.A., Political Science; History minor.

Northwestern University, 1953–55, M.A., Political Science.

Northwestern University, 1958–61, Ph. D., Political Science; Anthropology minor.

Present position:

Commissioner, Public Service Commission of Wisconsin, May 1975 (term expires March 1981).

(a) Commission Liaison Representative to Nuclear Regulatory Commission, September 1976– .

(b) Member, Ad Hoc Committee on National Energy Policy, National Association of Regulatory Officials, (appointed 1975).

(c) Member, Gas Committee, National Association of Regulatory Utility Commissioners (appointed 1975).

(d) Secretary-Treasurer-Elect, Midwest Association of Railroad and Utilities Commissioners (elected 1976).

Previous positions:

Organization/Institution, period, and position:

Ohio Legislative Service, Commission, Columbus, O., Summer 1954, Summer 1955, Research Associate.

U.S. Army, 1955–57, Artillery (Korea, 1956–57).

Cleveland Metropolitan Services Commission (METRO), 1957–58, Research Assistant.

Cuyahoga County Charter Commission, Cleveland, O., 1959 (Jan.–Oct.) Staff Consultant.

University of Illinois, Oct. 1959–Jan. 1961, Research Associate, Institute of Government & Public Affairs.

Northwestern University, Feb.–June 1961, Lecturer, Political Science, Evening Division.

Wayne State University, June 1961–63, 1936–69, Instructor, Assistant Professor, Associate Professor, Professor.

University of Vermont, Summer 1963, Visiting Assistant Professor.

University of Pittsburgh, 1963–66, Assistant Professor.

University of Wisconsin, 1969–to date, Professor:

(a) Sometime Research Associate, Institute for Research on Poverty.

(b) Leonardo Scholar, 1973.

(c) On Leave, Public Service Commission, June 1975–to date.

Public and community activities:

Pittsburgh Urban League:

Committee on Education and Youth Incentives, Member, 1964–66.

Board of Directors, Member, 1965–66.

Pennsylvania Negro Democratic Committee, Charter Member, 1965–66.

Bagley Community Council, Detroit, Michigan:

Member, Board of Directors, 1967–69.

President, 1968–69.

Wayne County, Michigan:

Committee of Ninety-Nine on County Home Rule, 1966–67.

Member (and Vice-Chairman, Subcommittee on Intergovernmental Relations).

Southeast Michigan Council of Governments.

Advisory Council on Regional Planning, 1968–69.

National Urban League:

Education Advisory Committee, Member, 1968–.

Member, National Delegate Assembly, 1971, 1972, 1973.

Madison Urban League:

Board of Directors, 1971–74.

Chairman, Nominating Committee, 1974.

U.S. Air Quality Advisory Board, 1971–74.

State of Wisconsin, Bureau of Personnel sometime member of oral examinations boards, 1972 and 1973.

State of Wisconsin: Citizens' Study Committee on Metropolitan Problems (by appointment of Governor), 1971–73.

Professional associations and societies:

American Political Science Association:

Committee on Professional Ethics.

Committee on Finance.

Section Chairman, Public Policy and Administration, Annual Meeting, 1972.

Council, 1972–74.

Chairman, Election Committee, 1974.

Vice-President (elected 1976).

Midwest Political Science Association: Council, 1972–75.

Policy Studies Organization: Council, 1973–75.

Inter-University Consortium for Political Research: Council, 1974–75.

Social Science Research Council: Board of Directors, 1969–72.

American Society for Public Administration.

Wisconsin Capital Chapter:

Advisory Council, 1973.

Chairman, Committee on Bylaws, 1973–74.

Editorial boards or editorial advisory boards:

American Behavioral Scientist.

American Politics Quarterly.

Ethnicity.

Policy Analysis.

Consultation:

Ford Foundation (re social science analysis in urban conflict).

Greater Cleveland Associated Foundation.

National Council of Churches.

National Committee of Negro Churchmen.

New Detroit, Inc.

Resources for the Future, Inc.

U.S. Public Health Service.

U.S. Senate Subcommittee on Employment, Manpower, and Poverty.

Urban Institute, and other public and private agencies.

Visiting committees:

Social and Behavioral Sciences, Case Western Reserve University, 1972–74.

Political Science Department, City College of New York, 1974.

University governance activity:

University of Pittsburgh:

Social Science Seminar Committee, 1964–66.

Chairman, Social Science Seminar Committee, 1965–66.

Dean's Committee on Social Science Research Institute, 1965.

Wayne State University:

Political Science Department:

Graduate Committee, 1966–67.

Personnel Committee, 1966–69.

Chairman, Committee on Department Chairmanship Selection, 1967–68.

Chairman, Faculty Seminar on Graduate Curriculum, 1967.

Center for Urban Studies:

Chairman, Ad Hoc Research Committee, 1967.

Directorship Search Committee, 1968.

Management Committee, 1969 (member without portfolio at rank of associate director).

General:

University Committee on African Studies, 1969.

Committee on Student Publications, 1962–63.

University of Wisconsin-Madison:

Committee on Studies and Instruction in Race Relations.

Contemporary Trends Course Committee, College of Letters of Science, 1969.

High School Relations Committee, College of Letters and Science, 1969.

Evaluation Committee to prepare the three-year report on Department of Afro-American Studies, 1973–74.

Executive Committee, Department of Afro-American Studies, by Appointment of the Dean, with many of the normal duties of a department chairman.

Chairman, Advanced Opportunity Fellowships Committee (served fall term of '73 only and resigned due to workload).

Political Science Department, Committee on Future of Graduate Program, 1971.

Chairman, Public Administration Field Committee, Political Science Department.

University of Wisconsin System: Chairman, Search and Screen Committee for Provost for University Outreach, November 1973–May 1974.

Bibliography (Author):

"Achieving Order and Stability: The Future of Black-White Relations," in Harvey S. Perloff (ed.), *The Future of the U.S. Government: Toward the Year 2000*, New York: George Braziller, 1971, 78–99.

"Black Politics and the New Urban Politics," *Review of Black Political Economy*, (Winter 1972).

"Committee Politics Under Primitive Uncertainty," *Midwest Journal of Political Science*, 9:3 (August, 1965), 235–253.

County Government in Ohio, Cleveland: Cleveland Metropolitan Services Commission, 1958.

"Decision-Making on a Metropolitan Government Proposition," In Scott A. Greer et al. (eds.), *The New Urbanization*, New York: St. Martin's Press, 315–338.

The Divisible Republic, New York: Abelard-Schuman, 1973 (Hardcover combined edition of *Politics of Black "Nation" and White Man's Burden*).

"Ethnic Accommodation in a Historical Case," *Comparative Studies in Society and History*, 8:2 (January, 1966), 1968–180.

"The Governance of the Metropolis as a Problem in Diplomacy, *Journal of Politics*, 26:3 (August, 1964), 627–647.

"'Imperialism' in Bureaucracy," *American Political Science Review*, 70:4 (December 1966), 943–951.

Inter-Governmental Agreements in Cleveland Metropolitan Area, Cleveland: Metropolitan Services Commission, 1958.

"Judgment and 'the Right questions,'" *American Politics Quarterly*, April 1973.

"Law and Order in the Metropolitan Area," Pittsburgh: University of Pittsburgh, University-Urban Interface Program.

"Litigation and the Political Order," *Western Political Quarterly*, 16:4 (December, 1963), 771–781.

"Maintaining Order in Urban Areas," *Proceedings of the 1967 Urban Policy Conference*, Iowa City: Institute of Public Affairs, University of Iowa, 1968, 5–12.

"The Modernization of Urban Law and Order," (Review Essay), *Urban Affairs Quarterly*, December, 1966, pp. 92–101.

"On the Misunderstanding of Important Phenomena," *Urban Affairs Quarterly*, September, 1968, pp. 111–129.

"On Strategies of Pedagogic Reform," *Graduate Comment*, 9:4 (1966), 253–259.

"Party Politics and Ethnic Politics," in Clyde J. Wingfield (ed.), *Political Science—Some New Perspectives*, El Paso: University of Texas at El Paso—Texas Western Press, 1967, 117——

"The Politics of Urbanization," *Urban Affairs Annual Review*, Harlan Hahn, (ed.), Beverely Hills: Sage Publications, Inc., pp. 557–600.

"Politics and Voluntary Social Action: Some Rules of Thumb, *Journal of Voluntary Action Research* 2:1 (January 1973), 48–59.

"Politics and Weather Modification," in W.R.D. Sewell, et al *Modifying the Weather*, Victoria, B.C., Canada: Western Geographical Series No. 9, 1973, 261–322.

The Politics of the Black "Nation", New York: Intext, 1974.

"Politics, Public Order, and Pluralism," in James R. Klonos and Robert I. Mendelsohn (eds.), *The Politics of Local Justice*, Boston: Little, Brown and Company, 1970, pp. 238–255.

Pollution Control as a Bargaining Process, Ithaca: Cornell University, Water Resources Center, October, 1966, (Publication No. 9).

"Public Policy Implications (Discussion)," in Morris E. Garnsey and James R. Hibbs (eds.), *Social Sciences and the Environment: Conference on the Present and Potential Contribution of the Social Sciences to Research and Policy Formulation in the Quality of the Physical Environment*, Boulder: University of Colorado Press, 1967, 93–97.

"The Quality of Urban Order," in Henry J. Schmandt (ed.), *The Quality of Urban Life*, Los Angeles: Sage Publications, Inc., 1969, 431–455.

"The Republic in Crisis: Reflections on Race and Politics," In Reza Rezazedeh (ed.), *Symposium on Civil Rights*, Platteville, Wisconsin: Wisconsin State University, 1965, 24–51.

The White Man's Burden, New York: Intext, 1974.

"Policy Content and the Regulatory Process," American Behavioral Scientist, September-October 1975.

Varieties of Political Conservatism, Beverly Hills: Sage Publications, 1974 (originally published as a number of American Behavioral Scientist, 1973).

(With Dennis L. Dresang), *What Government Does*, Beverly Hills: Sage Publications, Inc., 1974.

Information Requested of Presidential Nominees

Rule 9 of the Rules of the U.S. Senate Committee on Energy and Natural Resources requires that each Presidential nominee considered by the Committee shall submit a financial statement sworn to by the nominee as to its completeness and accuracy. Under the rule all such statements must be made public by the Committee unless the Committee in executive session determines that special circumstances necessitate a full or partial exception to this requirement. Rule 9 also provides that at any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any member, any other witness shall be under oath.

In order to assist the Committee in its consideration of nominations, each nominee is requested to complete the attached Financial Statement and Statement For Completion By Presidential Nominees.

The original and twenty (20) copies of the requested information should be made available to Honorable Henry M. Jackson, Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510 (Attn: Staff Director) as soon as possible.

Financial Statement

Provide a complete, current financial net worth statement which itemizes all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) and all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

Assets

Cash on hand and in banks, $1,183.77.

Unlisted securities—add schedule, $500.

Accounts and notes receivable: Due from others, $500.

Real estate interests—add schedule, $61,700.

Personal property, $9,550.

Life insurance—cash value, Other assets—itemize: Wisconsin pension rights if divested, $9,200.

Total assets, $82,633.77.

Liabilities

Notes payable to others, $2,400.

Accounts payable, $4,760.14.

Real estate mortgages payable—add schedule, $29,505.66.

Other debts—itemize: Univ. of Wis. Cred. Un., $6,423.33.

Total liabilities, $43,089.13.

Net worth, $39,544.64.

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers.

None. However, exactness requires that two items be mentioned that do not have any other clearly specific place on this form. I have royalty rights in three books under contract with Thomas Y. Crowell Co. So long as these remain in print, they will produce approximately $200 to $500 per annum. Moreover, unless otherwise specifically required, I do intend to retain my rights as a tenure professor, which will enable me to return at the end of my term, to the University of Wisconsin-Madison.

Addendum to Financial Statement

Question 1

Assets

Unlisted securities: $500.00 is the nominal value of five shares in the Nakoma Golf Club, Inc., and would be sold if I resigned from the Club. I indicate them for the sake of completeness, though they are not securities in the sense of being traded.

Real estate interests: The amount shown equals the 1977 assessed valuation of my residence, and is $9,000.00 greater than the amount originally reported to the Executive Office of the President. The difference is that a property reassessment occurred in the interval.

Wisconsin pension rights: If I were required to resign *in toto*, then I would have the right to withdraw this amount from the retirement system, if I choose to do so. Ordinarily, this would not be preferable.

Liabilities

Accounts payable: The amount shown is the sum of all outstanding accounts (credit cards, department stores, household purchases, etc.) by me and/or my wife, if we were obliged to pay off in full as of today's date. As of today's date, $2,103.66 of that is susceptible to revolving charges or other arrangements and would not normally be paid off as of today's date.

Real estate mortgages, etc: The real estate mortgage in the amount of $29,505.66 is held by First Wisconsin National Bank, Madison, Wisconsin. This is the mortgage on the property listed under "Assets."

2. Are any assets pledged? (Add schedule.) Except as indicated in Item 1, "no."

3. Are you currently a party to any legal action? No.

4. Have you ever declared bankruptcy? No.

5. Has the Internal Revenue Service ever audited your Federal tax return? Is so, what resulted from the audit? 1962: Disallowed claim of dependent status for my mother, whose home I was then providing for, due to inadequate showing in view of the fact that she and my father were still married, though in separate residences. No other audits by IRS.

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Holden, Matthews, Jr.

Position to which nominated: Member, Federal Energy Regulatory Commission.

Date of nomination: September 1977.

Date of birth: September 12, 1931.

Place of birth: Mound Bayou, Mississippi.

Marital status: Married.

Full name of spouse: Dorothy Amanda (Howard) Holden.

Name and ages of children: Paul Christopher Hendricks (stepson): 21 and John Matthew Alexander Holden: 13:

Education: Institution, dates attended, degrees received, and dates of degrees:

University of Chicago, 1946–50.

Roosevelt University, 1950–52, B.A., 1952.

Northwestern University, 1953–55, M.A., 1956.

Northwestern University, 1958–61, Ph. D., 1961.

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates:

Research Associate, Ohio Legislative Service Commission, Columbus, Ohio (Summer 1954; Summer 1955).

Research Assistant, Cleveland Metropolitan Services Commission, Cleveland, Ohio, 1957–58.

Staff Consultant, Cuyahoga County Charter Commission, Cleveland, Ohio, 1959.

Research Associate, Institute of Government and Public Affairs, University of Illinois, 1959–1961.

Lecturer (part-time), Northwestern University, 1961.

Assistant Professor, Wayne State University, 1961–63.

Assistant Professor, University of Pittsburgh, 1963–66.

Associate Professor (then Professor), Wayne State University, 1966–69.

Professor, University of Wisconsin, 1969–to date.

Commissioner, Public Service Commission of Wisconsin, 1975–to date (on leave from University).

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations:

Organization, office held (if any), and dates:

American Political Science Assn., Ethics Comm., 1969–70; Finance Comm., 1971; Section Chair., 1972; Council, 1972–74; Election Chmn., 1974; and Vice President, 1977.

Midwest Pol. Sci. Assn., Council, 1972–75.

Policy Studies Organization, Council, 1973–75.

Inter-University Consortium for Political Research, Council, 1974–75.

Social Science Research Council, Director, 1969–72.

Amer. Soc. for Public Admin., Wisconsin Capital Chap., Council, 1973, and Chmn., Bylaws Com., 1973–74.

ADDENDUM TO MEMBERSHIPS

Organization, office held (if any), and dates:

Bagley Community Council (Detroit, Michigan). President, 1968–69.

National Association for the Advancement of Colored People (intermittent since about 1946).

President, University of Chicago College Chapter, circa 1948.

Executive Committee, Madison (Wis.) Branch, 1970.

National Urban League, Education Committee, circa 1969–72.

Pittsburgh Urban League, Education Committee Board 1964–65 and 1965–66.

Madison Urban League, Board, 1971–74.

Pennsylvania Negro Democratic Committee (Founding member), circa 1964.

Democratic Party of Wisconsin.

St. Andrew's Episcopal Church, Madison, Wisconsin.

Russwurm Institute, President, 1963 ca. [Note: This was a not-for-profit corporated, chartered under the laws of the State of Michigan, which never functioned at all.]

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written:

(1) "Achieving Order and Stability: The Future of Black-White Relations," in Harvey S. Perloff (ed.), *The Future of the U.S. Government: Toward The Year 2000*, New York: Braziller, 1971, 78–99.

(2) "Black Politics and the New Urban Politics," *Review of Black Political Economy* (Winter, 1972).

(3) "Committee Politics Under Primitive Uncertainty," *Midwest Journal of Political Science*, 9:3 (August 1965) 235–253.

(4) "Decision-Making on a Metropolitan Government Proposition," in Scott A. Greer (et. al. (eds.)), *The New Urbanization*, New York: St. Martin's Press, 1965, 315–338.

(5) *The Divisible Republic*, New York: Abelard-Schuman, 1973.

(6) "Ethnic Accommodation in a Historical Case," *Comparative Studies in Society and History*, 8:2 (1966), 1968–180.

(7) "The Governance of the Metropolis as a Problem in Diplomacy," *Journal of Politics* 26:2 (1964), 627–617.

(8) "'Imperlism' in Bureaucracy," *American Political Science Review* (70:4) (1966), 943–951.

(9) *Inter-Governmental Agreements in the Cleveland Metropolitan Area*, Cleveland: Cleveland Metropolitan Services Commission, 1958.

(10) "Judgment and 'The Right Questions,'" American Politics Quarterly 1:1 (1973).

(11) "Law and Order in the Cleveland Metropolitan Area," Pittsburgh: University of Pittsburgh, University-Urban Interface Program, 1971.

(12) "Litigation and the Political Order," *Western Political Quarterly* 16:4 (1963), 771–781.

(13) "Maintaining Order in Urban Areas," *Proceedings of the 1976 Urban Policy Conference*, Iowa City: Institute of Public Affairs, University of Iowa, 1968, 5–12.

(14) "The Modernization of Urban Law and Order," (Review Essay), *Urban Affairs Quarterly* (1966), 92–101.

(15) "On the Misunderstanding of Important Phenomena," *Urban Affairs Quarterly* (1968), 111–129.

(16) "On Strategies of Pedagogic Reform," *Graduate Curriculum* (Wayne State University), 9:6 (1966), 253–259.

(17) "Party Politics and Ethnic Politics, in Clyde J. Wingfield (ed.), *Political Science—Some New Perspectives*, El Paso: University of Texas at El Paso-Texas Western Press, 1967, 117–131.

(18) "The Politics of Urbanization," *Urban Affairs Annual Review*, Harlan Hahn (ed.), Beverly Hills: Sage Publications, Inc., 1972, 557–600.

(19) "Politics and Voluntary Social Action: Some Rules of Thumb," *Journal of Voluntary Action Research* 2:1 (1973), 48–59.

(20) "Politics and Weather Modification," in W.R.D. Sewell (ed.), *Modifying the Weather*, Victoria, B.C.: Western Geographical Series No. 9, 1973, 261–322.

(21) "Politics, Public Order, and Pluralism," in James R. Klonoski and Robert I. Mendelsohn (eds.), *The Politics of Local Justice*, Boston: Little, Brown and Company, 1970, 238–255.

(22) *Pollution Control As A Bargaining Process*, Ithaca: Cornell University, Water Resources Center (Publication No. 9), 1966. Mimeo.

(23) "Public Policy Implications (Discussion)," in Morris E. Garnsey and James R. Hibbs (eds.), *Social Sciences and the Environment*, Boulder: University of Colorado Press, 1967, 93–97.

(24) "The Quality of Urban Order," in Henry J. Schmandt (ed.), *The Quality of Urban Life*, Los Angeles: Sage Publications, Inc., 1969, 431–455.

(25) "The Republic in Crisis," in Reza Rezazadeh (ed.), *Symposium on Civil Rights*, Platteville, Wisconsin: Wisconsin State University, 1965, 24–51.

(26) (Editor), "Policy Content and the Regulatory Process," *American Behavioral Scientist*, September-October 1975 issue.

(27) (Contributor with Wesley Foell, Paul G. Hays, James MacDonald, Van R. Potter and Jan Vansina), *Resources and Decisions*, Lexington: Duxbury Press, 1975.

(28) (Editor), *Varieties of Political Conservatism*, Beverly Hills: Sage Publications, Inc., 1974. (This volume was originally published as a number of the *American Behavorial Scientists*.)

(29) (Editor, with Dennis L. Dresang), *What Government Does*, Beverly Hills: Sage Publications, Inc., 1974.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (Attach sheet.)

Future employment relationships: 1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate: If necessary, in the judgment of the Committee, I would resign from the University of Wisconsin-Madison, which is the only relationship to which the question applies, in my circumstances.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization: Yes. My understanding is that, under the policies of my Department, leave is granted and will normally be renewed for a faculty member.

3. Has anybody made you a commitment to a job after you leave government? No. No such commitment or possibility has even been discused, except tangentially in relation to the answer given in Question #2.

4. Do you expect to serve the full term for which you have been appointed? Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates,

clients or customers who will be affected by policies which you will influence in the position to which you have been nominated: None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated: None.

Qualifications: I should feel somewhat modest about declaring claims of qualifications, since those judgments must be made by others. However, for the information of the Committee I should appreciate the opportunity to make the following points.

1. As a general proposition, I have studied and taught American government for the past sixteen years, with a strong emphasis on public administration and the regulatory process, and achieving desirable public results out of that process.

2. For the past decade or a little more, starting with a temporary assignment with Resources for the Future, Inc., in 1965, a part of my professional effort has been to study the relationships between resources, environmental and energy issues in the interest of balanced policies.

3. My most specific qualifications related to the present position arise specifically from my service on the Public Service Commission of Wisconsin. In the Wisconsin commission—as, to judge from contacts with my counterparts in other states, is the case elsewhere—we have substantial experience in operating as delegated bodies, exercising a power granted to us by statute and subject to judicial review. At the same time, we have the obligation to consider how wisely to exercise such delegated power in a constructive manner to achieve signficant policy goals.

4. In addition to the generic problems of regulation, the state utilities commissions (with one exception) have been strongly impacted by the energy crisis and the need to react constructively to that crisis at the state level, and within the basic principles of the Federal state relationship. In particular, the state commissions have the experience of being immediately and directly exposed to consumer concerns about prices, to the need to make judgments about what financial aspects of the regulated utilities are in the public interest, and about such matters as how to administer in detail available gas supply under conditions of constraint.

5. I would be glad to respond in further detail as the Committee might desire, but my general response is that I trust immediately preceding experience as a regulator, as one with immediate experience of the impacts of energy decisions on the end consumer, and as one with some appreciation of the Federal-state interface problems would allow me to make a contribution in the public interest.

ADDENDUM: FUTURE EMPLOYMENT RELATIONSHIPS

Question No. 1: My initial interpretation is that this would not be necessary, unless the Committee so adjudges, since my tenure appointment (acquired at the time of my going to the University of Wisconsin in 1969) is in no way contingent on my performance of duty while in the state regulatory commission, and would—on the face of it—have no closer relationship to performance of duty in a Federal regulatory agency. I have always viewed my public service as something after which I would return to my normal scholarly pursuits.

Question No. 2: Absent by reason of state government service or Federal government service.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated: None.

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy: I am not clear as to the scope of the question and will indicate that I have, from time to time, written to Members of Congress on my own motion as a private citizen. The only specific activity, apart from that as a part of my present job, was that in 1969, I participated as a volunteer member of the Education Committee of the National Urban League in explaining some of our educational policy concerns to some members of the House Education Committee and to the then Assistant to the President for Domestic Affairs.

As a state commissioner I have been in frequent contact with Federal agencies and officials for the purpose of conveying an understanding of energy problems as perceived and experienced in a relatively small state with no significant energy resources of its own.

In particular, this has meant some contact with the Administrator of FEA as a member of the NARUC Ad Hoc Energy Policy Committee, contact with various officials on question of electric planning and electricity demand, and with the Federal Power Commission on natural gas policy (especially curtailment procedures). More recently, this has meant some contact with the Energy Policy and Planning staff in regard to potential financial issues in Alaskan gas transportation, at the invitation of that staff. It has also meant a good deal of effort, on my own initiative, in trying to understand both Congressional and Executive approaches to conservation, since the Wisconsin Public Service Commission has been considering and acting on a major insulation problem that has to take the Federal parameters as given.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items:

The relevance appears to me to be to question 2, as to future employment prospects, and I would abide the judgment of the Committee as to whether my preference is compatible with the office.

Apart from that, I can only say that it is my rule to follow the dictates and duties of whatever situation I occupy, and it is apparent that as a Federal official, I could have no commitment to any interest except that of the United States.

I would repeat that the question seems to me to arise, however, chiefly as a matter of conflict with private rights and interest in on-going decision-making, and this seems to me not in prospect in my case.

SUBVERTING THE LAW ON MINUTEMAN III

Mr. GARN. Mr. President, on October 17, I stated for the RECORD that the Carter administration was subverting the law on B–1 by disregarding the explicit terms of the Impoundment Control Act of 1974. Under this act, the President is obligated to resume the expenditure of any funds withheld from obligation during such 45-day period, unless the Congress within such period, enacted legislation approving the rescission of funds. Despite the provisions of the act and the House Appropriations Committee recommendation that no congressional action be taken to rescind the funds previously appropriated for the B–1, President Carter has failed in authorizing the Air Force and Rockwell back into active production.

Mr. President, the Chief Executive Officer of the Federal Government continues to subvert the law under the Impoundment Control Act by his failure to obligate funds for yet another national defense program, Minuteman III missiles. On October 15, the 45-day waiting period expired under the Budget Act's provisions, but prompt action in the expenditure of funds, including "start work" orders, has not been forthcoming. Dilatory tactics employed by the Carter administration are costing the taxpayers of this country $500,000 per day in "start up" costs.

Continuous congressional interest has been demonstrated in urging the President to avoid violating either the spirit or the intent of the law, as noted in the following telegram of September 28, 1977:

SEPTEMBER 28, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Today the House Appropriations Committee voted to reject the rescission of $105 million of previously appropriated funds for procurement of additional Minuteman III missiles.

We urge you to direct the Secretary of Defense to immediately issue a "start work" order. Prompt action to resume work on this vital national defense program will save millions of taxpayer dollars in "startup" costs and reemploy thousands of defense workers.

Sincerely,

Howard Baker, Orrin G. Hatch, Strom Thurmond, Barry Goldwater, John Tower, S. I. Hayakawa.

Robert C. Byrd, Jake Garn, Dewey Bartlett, Henry M. Jackson, Howard W. Cannon, Warren G. Magnuson.

On October 18, 1977, the Secretary of Defense directed that the Department of Defense respond:

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., October 18, 1977.

Hon. JAKE GARN,
U.S. Senate.

DEAR SENATOR GARN: Knowing of your concern regarding the Minuteman III FY 1977 production program, this is to advise you of current activities in this program.

When the President proposed rescission of $105 million in connection with termination of the FY 1977 Minuteman III production program, these funds were placed in reserve by the Office of Management and Budget. In accordance with the procedures of the Impoundment Control Act of 1974, these funds have been released to the Air Force for obligation.

The Secretary of the Air Force has been asked to examine the actions required to initiate production of Minuteman III missiles and components with the FY 1977 funds. All necessary steps will be taken to obligate these funds in the most efficient manner possible.

We hope this information will be useful. If we can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely,

CHARLES C. BLANTON,
Major General, USAF Director,
Legislative Liaison.

Unfortunately, this response reflects the same "holding status" and dilatory tactics displayed in the stall on B–1 funds. that is confirmation that: First, the $105 million rejected for rescission

was made available by the Office of Management and Budget for obligation; second, the Secretary of Defense has taken steps to utilize this budget authority in the Minuteman program; third, the Secretary of Defense requested the Secretary of the Air Force to "examine the actions required to initiate production of Minuteman III missiles and components and; fourth, "all necessary steps will be taken to obligate—in the most efficient manner."

In urging President Carter to obligate the $105 million without further delay, a telegram was sent to him on October 18, 1977, which reads as follows:

OCTOBER 18, 1977.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Under the provisions of the Impoundment Control Act of 1974, the $105 million of previously appropriated funds for procurement of additional Minuteman III missiles should be obligated without further delay. This requirement follows the expiration of the prescribed 45-day waiting period and the rejection of the Minuteman III rescission by the House Appropriations Committee.

As the Chief Executive Officer of the Federal Government, we urge that you immediately make available for obligation the funds previously appropriated and, as the Commander-in-Chief, ensure that the Secretary of Defense issues at once the "start work" orders for this vital national defense program. Your prompt action will save the taxpayers of this country millions of dollars in "start-up" costs and reemploy nearly eight thousand defense workers.

Sincerely,

Clifford P. Case, S. I. Hayakawa, James A. McClure, Jake Garn, Orrin G. Hatch, Paul Laxalt, Dewey F. Eartlett.

Mr. President, I believe it important that each of my distinguished colleagues be made aware of the growing concern in President Carter's subverting the law, and the pattern of deliberate intent. I therefore ask unanimous consent that these facts be printed in the RECORD.

SAVINGS AND EFFICIENCY IN GOVERNMENT PRINTING PROGRAM

Mr. CANNON. Mr. President, as chairman of the Joint Committee on Printing, I should like to call attention to a recently initiated program of the committee that already is saving taxpayer money and improving efficiency in some aspects of the Government printing program.

In a memorandum to all departments and agencies in the Federal Establishment, the heads of those departments and agencies were informed about the savings possible by converting certain computer output material to microform. At the same time, I requested departments and agencies to "fully evaluate the potential for even greater savings in conversion of conventionally printed matter to microform, wherever possible and practicable."

An example of how well that is beginning to work is shown from a report from just one agency, the U.S. Postal Service. In a letter, October 5, 1977, Postmaster General Benjamin F. Bailar states, in part:

This will supplement my letter of September 15 concerning the conversion of U.S. Postal Service internal publications to microform.

We have converted the publication of our last two rate hearings, briefs and decisions to microfiche. The previous two hearings were typeset and published in perfect bound volumes at a cost of $398,000. The last two rate cases, which were about the same bulk, cost only $6,000, a savings of $392,000. The microfiche decks are sold by the Public Printer in lieu of hard copy. . . .

Another, somewhat related program of the Joint Committee on Printing, implemented in the last month or so, authorizes and encourages the use of micrographics technology in the nationwide depository library program. Already, 550 titles have been converted to microfiche, resulting in more than a quarter million distribution of Government documents in microfiche rather than printed form. Savings on these conversions are expected, initially, to exceed $50,000 a month.

Additional hardcopy conversions are being planned for the depository library program which is expected to reduce the conventional printing costs by approximately $500,000 a year.

OKLAHOMA PAGE ON TV TEAM

Mr. BELLMON. Mr. President, a team of students from the Capitol Page School is competing in the quarterfinals of the NBC–TV quiz show, "It's Academic."

The team, representing the smallest school ever to participate in the nationally televised high school competition, advanced to the quarterfinals by defeating two other teams last Saturday, October 15. A total of 81 schools were involved in the first round.

Mr. President, I am proud to call attention to the fact that one member of the team, Jennifer Gay of Ponca City, Okla., is serving as a Senate page under my sponsorship. The other members are Tom Daniels, the team captain, and Peter Neil, both of whom are House pages. The alternates are Holly Glenn, Chris Clark, and Noreen Beatley, who also are House pages.

It should be noted that Jennifer is the only Senate page in this group of exceptional students. She is ably qualified to represent the Senate pages in this highly competitive test of knowledge. At the completion of her sophomore year at Ponca City High School last spring, Jennifer had a 3.47 grade point average. She has participated in numerous scholastic competitions at Oklahoma State University and Northern Oklahoma College and won many awards for her knowledge of American and world history.

As a delegate to the annual Mock United National Forum sponsored by Oklahoma State University, Jennifer shared an award for one of the best and most active delegations. Last February she won third place in the American Legion Oratorical Contest for her speech on "The Constitution of the United States."

Jennifer, who is the daughter of Mrs. Richard L. Gay, has been active in the Ponca City High School band and orchestra, served on the staff of her high school newspaper, and was president of the Ponca City Teen-Age Republicans.

Mr. President, Jennifer Gay and her young colleagues, as well as their coach, Leo Balducci of the Page School faculty, are to be congratulated for the honor they have brought to themselves and to the Congress. I invite my fellow Members of the Senate to watch "It's Academic" at 11 a.m. Sunday, November 20 on channel 4 in Washington, and to join in wishing the Capitol Page School the best of luck in the remaining rounds of competition.

CONCERNING INTERPRETATION OF PROVISIONS OF THE PANAMA CANAL TREATIES

Mr. SPARKMAN. Mr. President, the Committee on Foreign Relations resumed its consideration of the proposed Panama Canal agreements this morning by taking additional testimony from conegotiators Ellsworth Bunker and Sol Linowitz.

Our purpose in asking the conegotiators to come back at this point was to give the members an opportunity to discuss with them the clarifying statement pertaining to the neutrality agreement which the White House released Friday, October 14, following General Torrijos' brief return visit to this country.

This morning, the committee devoted 2 full hours to examining the "Statement of Understanding" and discussing its meaning with Messrs. Bunker and Linowitz. This was a very positive and useful meeting and as chairman of the committee I want to say that, so far as I am concerned, it served to clarify all of the major, as well as some of the minor, differences of interpretation that have surfaced since the signing of the agreements. As a result, I am hopeful that Senators will be satisfied after examining the statement and the discussion of it this morning that there are now no differences of interpretation between the United States and Panama. I think this morning's hearing record makes it quite clear that we are all on the same wave length.

For the information of the Senate, I ask unanimous consent that a copy of the "Statement of Understanding," along with a copy of the transcript of a press conference held October 18 by Panamanian negotiator Romulo Escobar Bethancourt, be printed in the RECORD. I ask my colleagues to study this material very carefully because I believe it will serve to answer many of the questions that have arisen about the interpretation of the proposed Panama Canal pacts.

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

STATEMENT OF UNDERSTANDING

Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and con-

sequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.

PANAMA: ESCOBAR TELLS PRESS OF CARTER-TORRIJOS MEETING

(Opening remarks by Panamanian negotiator Romulo Escobar Bethancourt at news conference held at journalists house.)

Good afternoon, distinguished journalists. We have called this news conference on instructions from General Torrijos and the national government, the purpose being to provide information on the meeting held in Washington between President Carter and General Torrijos.

While General Torrijos was on his tour of Israel and West Europe, he was invited by President Carter to stop over in Washington on his return trip to have a talk. President Carter was interested in two things: First, to exchange views with General Torrijos on his tour of Israel and West Europe, and to obtain the reaction of those countries or their rulers regarding the treaties signed between Panama and the United States. The second point was for the two heads of state to meet to clarify some matters which were causing confusion in Panama as well as in the United States. Specifically, this referred to two points, both of which are part of the Canal Neutrality Treaty.

In Washington, the two heads of state first held a private meeting during which they discussed the general's trip to Israel and Europe. Subsequently, they held a broader meeting between President Carter and his adviser and General Torrijos and his advisers. The following matters arose at this meeting: President Carter pointed out that, in spite of the fact that both he and General Torrijos clearly understood the points concerning the Neutrality Treaty, the following had occurred: The U.S. Senate Foreign Affairs Committee was interpreting Articles IV and VI of the Neutrality Treaty in a manner different or contrary to the way it was being interpreted in Panama by us, the government's spokesmen, and that this was causing confusion in both countries.

General Torrijos expressed the same view and said he was very pleased to hold this meeting, because if a concrete interpretation was to be forthcoming on these problems, he wanted the interpretation to be made before 23 October, the date of the plebiscite in Panama. The two heads of state, with the participation of their respective advisers, continued the meeting and went right into the items in question.

The first of these topics was Article IV of the Neutrality Treaty, which states that both Panama and the United States pledge to maintain the neutrality (of the canal—FRIS) so that the canal may remain open peacefully and in a nondiscriminatory manner to all ships. This language had been perfectly understood by the negotiators and the rulers of both countries, but the confusion arose with regard to the following: Whether or not the United States had the clear and indisputable right to defend the canal in order to keep it open to the world's ships, on the one hand, and whether, on the other hand, this involved the right to intervene in the domestic affairs of the Republic of Panama.

Why did the problem arise? Because some Senators in the United States maintained that the language used in Article IV effectively gave the United States the right of defense against attacks on the Panama Canal in violation of the Neutrality Treaty. They extended this to mean that, as a consequence of this right of defense, they had the right to intervene in the Republic of Panama.

On the other hand, ever since the first public and official explanation in our country on 19 August, to the assembly of Corregimento Representatives, we said that the intent of article IV was to point out that, in effect, Panama and the United States had the right to defend the canal against attack in order to keep it open for transit by all the world's nations, but that the scope of this right of defense at no time could be extended to mean the right to intervene within the Republic of Panama.

After the two heads of State managed to define these basic facts, we were able to divide the problem in such a way as to be able to clarify it. The objections being made in the Foreign Relations Committee of the U.S. Senate, on the one hand, and the objections in Panama, on the other, would have no reason to exist once the two heads of state managed to develop this thinking and this common interpretation.

During the talks between President Carter and General Torrijos and at the meeting, the U.S. President reiterated that at no time had his country interpreted article IV to mean the right of intervention in Panama's internal affairs: that it had always interpreted this as a right of defense against any attacks on the canal in violation of the neutrality treaty; and that the U.S. interest was fundamentally based on the fact and need that the canal must remain peaceful and permanently open to traffic by all ships of all nations of the world. In this sense the Panama Canal constitutes an interoceanic waterway that is vital not only to U.S. commerce and shipping, but to many countries of the world as well.

Therefore, this was President Carter's reasoning. In addition, he very wisely pointed out that his country was not currently in a position to engage in intervention, because it already has had experience with intervention in the internal affairs of other countries. General Torrijos recognized in President Carter a very moral stance regarding the political conduct of his government and of the United States, based precisely on the criterion that, although his country is a great power, it is turning away from the type of intervention that it carried out in the past in Vietnam, Santo Domingo and a number of other places in the world.

We honestly believe that the two heads of State developed a stronger understanding at this meeting, not only in regard to settling the negotiation and treaty issue, but also in regard to the political conception of the new relations that must prevail between our two countries and between the United States and the other countries of the American continent.

A single interpretation was then agreed upon so that no conflicting interpretation or standard would be expressed in the United States and Panama regarding article IV. The two heads of state agree that the correct interpretation of article IV is based on two facts: That attacks or acts of aggression against the Panama Canal grant to Panama and to the United States the right to defend it, in order to prevent such attacks, and so that the canal may remain neutral, open and peaceful for all nations. In addition, at no time does such defense involve, refer to or grant to the United States the right to intervene in Panama's internal affairs.

On the initiative of General Torrijos and President Carter to clarify the concept further, it was even pointed out that, in addition, any action taken by the United States to maintain the canal being open to all nations would never be an action aimed against the territorial integrity or the political independence of the Republic of Panama. We believe that in this way, through the unification of this stand, a real separation is made between the problem of the canal's defense against attacks and acts of aggression, and the act of intervention which we Panamanians have always rejected and which we have said was never embodied in the neutrality treaty. This position has now been strengthened with the unified interpretation by the two heads of state on this problem.

In this regard this becomes specific, since President Carter said this textually. What I am going to do here is repeat how this stand was reached to prevent continued confusion in Panama and in the United States with regard to the scope of article IV of the neutrality treaty.

According to the treaty on permanent neutrality and the operation of the Panama Canal—in parentheses, the neutrality treaty—Panama and the United States have the responsibility of insuring that the canal will remain secure and open to ships of all nations. The correct interpretation of this principle is that each of the two countries, according to its respective constitutional procedures, will defend the canal against any threat to its neutrality and consequently will have the right to act in case of aggression or threat directed against the canal or against the peaceful transit of ships through the canal.

You can see that this first part specifically states the right to defend the canal by Panama and by the United States, specifically to keep the canal open, and to prevent any obstruction of the transit of ships. The unified interpretation continues in the following manner: It does not mean and will not be interpreted as meaning a U.S. right to intervene in Panama's internal affairs. Any action by the United States will be directed at insuring that the canal remains open, secure and accessible, and will never be directed against the territorial integrity or political independence of Panama.

You can see that in this specific case, the two heads of state managed to unify their stands regarding the true scope of Article IV: That is, to defend the Canal against attacks or aggression directed at closing it or at obstructing the passage of ships. The actions which Panama or the United States could take are directed toward this specific purpose. But in the case of the United States, no action can ever be directed toward the territorial integrity or political independence of Panama, which is precisely what we Panamanians are defending and have been maintaining since the signing of the Torrijos-Carter treaty.

On the second point—in this case related to Article VI of the neutrality treaty—the transit of U.S. and Panamanian warships in an expeditious manner through the canal, the two heads of State clearly stated what exactly was meant by expeditious passage through the canal by U.S. and Panamanian warships. They discussed this problem and pointed out that, fundamentally, expeditious passage means quick transit, without obstacles with the least possible processing. In addition, it was pointed out that in case of an emergency or necessity, in such specific cases expeditious passage would permit the warships of both countries—but naturally primarily those of the United States, because

we do not yet have warships—to go to the head of the line of ships awaiting transit, the purpose being to go through the Canal quickly.

General Torrijos said yes, he did consider this necessary and appropriate because one of the things we did not agree with was that the warships should spend too much time in Panamanian territorial waters, much less in cases of emergencies or necessity.

Why? Because a prolonged delay could make that ship an object of reprisal within our territorial waters. Therefore, the sooner it left, the more secure our country would be. Second, warships which would remain for a long time in our country's territorial waters would have negative social consequences, because they generally carry large crews and a large number of soldiers, and a prolonged stay would disrupt normal life in our cities.

Those who are old enough to remember what occurred in Panama during World War II will understand exactly what kind of problem is caused by a prolonged presence of foreign troops in our territory—social problems, problems of disrespect for women, drunkenness, fights, scandals and so forth. Therefore, in the case of necessity or in the event of war, having warships go through the Canal quickly not only fulfills an aspiration of the United States—which, naturally, in an emergency wants its ships to transit the Canal quickly—but also is to the advantage of Panama, which does not want such ships to remain in its territorial waters. On this basis, therefore, a uniform interpretation of the true meaning of expeditious passage through the Canal was achieved.

It is unified in the following manner: The neutrality treaty provides that U.S. and Panamanian warships and auxiliary vessels will have the right to transit the Canal in an expeditious manner. The intention is, and it will be so interpreted, to insure the transit of those ships through the Canal as quickly as possible, without obstacles, with simplified processing and in case of necessity or emergency, to go to the head of the line in order to transit the Canal quickly.

This is therefore the meaning which the two rulers have now accepted as the single interpretation of the expeditious transit of warships of the United States and Panama. Besides,—and this is most important—since the general was returning from his tour of Israel and West European states, he consulted the various chiefs of state on the scope of this problem of expeditious passage and how it could affect these nations support of the neutrality treaty. In this respect, ,those whom he consulted told him that they were not concerned about this; that the problem would arise only if the Canal were closed: that having U.S. warships pass first was no problem; that the serious problem, they reiterated, was if the Canal were closed; because a large percentage of those nations economies are based on the transit of their vessels through the Panama Canal; and that one of the reasons why they congratulated Panama and the United States for having reached a peaceful settlement was not merely because of their solidarity with our country's just cause, but also because of their great concern that the Canal remain permanently open, as their economies would be seriously affected otherwise.

Consequently, we can tell this distinguished group of journalists that as a result of the meeting between President Carter and General Torrijos in Washington, we have made it possible for the contents of Article IV of the neutrality treaty to be specifically interpreted by the two chiefs of Government who signed the treaties.

I believe an important step has been taken in really clarifying what had become cause for great concern to us Panamanians and the U.S. Senators. To us, the vital part is clearly explained and reiterated by President Carter: that the article neither had been interpreted, nor would be interpreted, and cannot be interpreted, as a U.S. right of intervention in our internal affairs, and that U.S. actions cannot affect our territorial integrity and political independence.

Later I am going to distribute this same sheet, although you already know its contents since it was published recently in the papers. I wanted to hold this news conference to explain to you how this unification of positions was reached and, in addition, to answer any questions you may want to ask.

Question. My question is very brief. Is it a fact, as U.S. news agencies have reported, that a joint communique had been signed?

Answer. No, there was no joint communique. What I am reading to you is an interpretation reached by the two chiefs of state. It is, however, an interpretation which neither one signed because it was not deemed necessary since they had signed the treaty. As signatories of the treaty and as chiefs of state, they were merely giving their interpretation of two articles of the neutrality treaty. When General Torrijos said he had not signed a single autograph, he meant just that, since no document was signed. In these negotiations there is nothing that is secret. If they had signed something, such a signed document would have been released immediately to the Panamanian press for publication.

When we speak of an interpretation by the two signatories of the treaty we merely mean that the two chiefs of government are saying: What we signed means this. They do not have to sign a statement saying we interpret it in this manner simply because the document which includes the text of the articles was signed by them. In fact, it is just as President Carter had said previously, that when the United States says it can defend the canal against attacks and aggressions and when Panama says that this did not mean the right of intervention, they are both actually speaking about the same thing (as heard) as being certain. What they did was meet for him to confirm to his Senate, his people, and we, to our people, the interpretation of what they had signed.

Question. Some Senators are asking that the interpretation be included as part of the treaty, as they consider it important to understanding the scope of the text. Would Panama accept this 5 days before the plebiscite?

Answer. That would be a decision for the general (Torrijos—PPIS) to make. However, we cannot abide by what the Senators want because they have their own problems and procedures there, their own legal system. In fact, I believe they have already concluded the period of hearings. Nevertheless, we cannot adapt our procedures to that of the U.S. Senate. Each country has its own procedure, and ours is through a plebiscite which is scheduled to be held on 23 October. When General Torrijos met with President Carter on this specific issue, they were not adding anything at all to the treaty; they were merely confirming an interpretation which the two countries had already made in article 4 of the neutrality treaty but which, in both countries, did not seem to be very clear.

Question. Latin America is a region of political instability. Article 4 of the neutrality treaty guarantees the defense of canal by Panama and the United States. However, if a government should emerge which is hostile toward the United States as a result of the canal, dc you believe that the United States would intervene in Panama to put down the violent nature of such a government?

Answer. No. That is precisely why the interpretation points out the political independence, that this will not affect the political independence. This means that the Republic of Panama could have governments which are friendly or hostile toward the United States in the future, which we cannot know. But the commitment of Panama as a state with regard to the United States and in relation to all the other countries of the world and those that adhere (to the neutrality treaty—ERIS) is to keep the canal open. It does not mean to be friendly toward any particular country. It means that it must keep the canal open even if it is an enemy of that country. This is the real meaning of the concept of neutrality. Therefore, regardless of the kind of political regime which emerges in Panama, it can never close the canal, not just in the case of the United States, it cannot close the canal to any of the other countries. I would say that it cannot close the canal even if it wanted to since Panama's necessity in the case of the canal is precisely that it remain open. Otherwise, the ships would not transit the canal and would not pay tolls.

Therefore, one cannot make the neutrality treaty dependent on the type of political regime that may exist in Panama or in the United States. The regimen of neutrality demands that the canal remain open not only to the U.S. flag, but to all flags of the world, without discrimination.

Question. (In English) you told us about how you thought Panamanians would vote in the plebiscite. I would like your opinion on whether you think the U.S. Senate will ratify the treaty, and I also want to know if you still feel the way you felt in August, when you said that if it does not ratify the treaty, Panama will take a course of violence, a road to violence.

Answer. When I am asked questions connected with the negotiations, I like them to be asked in Spanish.

(Unidentified person in English) Ann Susie, Ann Susie, would you be so kind to say that in Spanish, please?

(Question in English) I can't. (Words indistinct).

(Unidentified person in English) If you make that question a little shorter, I will try.

(Questioner repeats question, unidentified person in the group translates into Spanish).

Answer. Regarding your question about whether The U.S. Senate will or will not ratify the treaty, Susie, I cannot answer that because I am not a Senator, and since I am not a Senator, I cannot determine what the U.S. Senate's decision will be. I do believe that President Carter's Administration, several Senators, as well as various civic and labor organizations in the United States are making a major effort to convince the Senators of the advisability of reaching a "negotiated solution with Panama in connection" with the treaty.

Regarding your question about whether Panama will choose the path of violence if the Senate does not ratify the treaty, I cannot answer that either for a very simple reason: one cannot predict the future. One does not know what the fate of the people is. We do know that the Panamanian people want to be liberated, but we also know that the Panamanian people and government have always sought the peaceful path in this process of liberation. They have always used peaceful means. They have always tried to reach an agreement that is mutually acceptable to our two countries. We cannot say that Panama will choose the path of violence because if we did we would be guessing. We believe that in this new relationship, it is more feasible to seek the path of negotiations than the path of violence.

Question. Dr. Bethancourt, I would simply like to get this clear: Has the test of the articles which motivated the meeting between Carter and Torrijos been in any way altered after their talks?

Answer. Which articles?

Question. Article IV of the Neutrality Treaty.

Answer. Oh, I see. No, no they have not been altered in any way. Those articles have not been touched, those articles retain their

wording, those articles are including in the Neutrality Treaty. The problem were regarding what you have asked is that, in connection with articles IV and VI, the two leaders have said: This article IV and this article VI mean the following . . . in other words, the method of interpretation of the articles, not their alteration.

Furthermore, what they have said is what has been said all along, the only difference is that now they got together to say it in order to unify the interpretation of the two articles in both countries.

Question. Dr. Bethancourt, there is great concern—concern which I share with all Panamanians—regarding which country in the future will interpret or decide if neutrality has been violated or has been or is being threatened, particularly because of the interventionist nature of the United States in the past, a history of intervention which Panama itself has suffered from, as we are an occupied country. Only today the newspaper La Republica reported that U.S. troops and advisers are in Nicaragua fighting the Sandinst Front guerrillas. We would like to know if there are any mechanisms or if there will be any method of consultation between the two countries in such an event. In other words, has this been foreseen, has this been discussed, or is this written down anywhere in the treaty?

Answer. There is no exact method of interpretation on how violations of the neutrality treaty will be determined. Generally, in these treaties one cannot go into a multitude of juridical details. In this case they would be procedural details concerned with juridical procedures. If one did this, one would never conclude a treaty. One would have to draft several codes.

Therefore, it cannot be specifically indicated in the neutrality treaty that the method of interpretation will be this way or that. The general treaty includes an article which states that in case of a discrepancy between the two sides concerning the interpretation of an article, they will reach an agreement between themselves or, if necessary, they will appoint an arbiter to decide the issue. This is the general way these situations are handled.

On this basis Panama concluded a treaty with the United States, after that unilateral declaration, a treaty which reiterates the maintenance of neutrality. But this is not an ambiguous neutrality. It is the neutrality specifically mentioned there. Therefore, if something were to occur in Darien, for example, this would have nothing to do with the canal. Thousands of things could occur on the Isthmus of Panama, as in all other countries of the world. The neutrality treaty indicates a specific situation. It applies to the canal. So as to make it possible for ships to transit. If, for example, in Darien or in some part of the country the government of the Republic of Panama should stop a ship for A, B or C reasons, this is something which has absolutely nothing to do with the Panama Canal. What Panama will not do, under the neutrality treaty, is prevent a ship that is coming exclusively to transit the canal from doing so. This is the meaning (of the neutrality treaty—FBIS).

Therefore, in order to discuss violations of the concept of neutrality established in this treaty one has to look directly at the objective on which the treaty is based: That is, to keep the canal from being closed, thus preventing the passage of ships, and to prevent any hindrances to the passage of ships which come to transit the canal. This is the key to how the scope of the concept of neutrality is measured. But this is not outlined in the treaty concerning the canal. If we used the method you mentioned, we would have to add to each article the procedure by which the article would be implemented. This would be highly impossible. This is not done even in codes. You see, for example, that the penal code lists the crimes, the criminals and the subjects. It is another code, the judicial code, which indicates what procedures are used to judge those crimes and apply the corresponding punishment. If the penal code, in addition to defining crimes and criminals, were to include the procedures, it would not be a functional code.

The same thing applies to treaties. Treaties indicate the points of agreement—the subject, the substance of this subject. The procedure (interrupts sentence—FBIS). For example, here in these treaties you will see that many of these things are developed by different procedures: For example, procedures to be developed by the commission which will administer the Panama Canal, procedures to be developed by the Joint Board for the Defense of Canal. But these procedures are not specifically outlined. What the treaties gives is the subject matter which is being agreed upon by the two countries and the clause which I mentioned to you concerning what procedures are followed for (sentence left unfinished—FBIS).

(Question indistinct.)

Answer. Those are different problems. One thing has nothing to do with the other. As far as the expiration date is concerned. It is clearly established. It is known to be 31 December 1999, and noon, Panama time. There is an article which states this and which cannot be disputed.

The other article concerns the date of expiration on which the canal is returned to Panama, with no cost, except as agreed upon by the two parties. (Sentence as heard—FBIS) why (the phrase—FBIS) except as agreed upon by the two parties? Because, let us suppose that in 1996 or in 1999, with 1 or 2 years remaining before the treaty between Panama and the United States expires—this is a hypothetical case—that is, 2 years before the treaty expires, there should be the need to make an investment for X, Y, or Z reasons related to the functioning of the canal. Then the United States could say to Panama: Well, 1 year remains before our administration ends, but in this year it will be necessary to invest, let us say $5 million and we believe that to make such an investment now, when we have 1 year to go, is absurd from the point of view of our economy. Panama could then decide to say: Go ahead and invest the $5 billion and when you turn over the Canal, we will recognize this debt of $5 milion. This is a hypothetical case. That is why one says except as agreed upon by the two parties, because the matter is not closed, because one does not know what contingencies may occur. However, one says except as agreed upon by the two parties because if they do not agree on anything, then the canal has to be returned free of costs to the Republic of Panama. If Panama were to say: "No, do not make the investment, or if you do it will be at your expense because we are not going to recognize this sum, then there would be no agreement. When one stipulates except as agreed upon by the two parties, this means the two parties must reach an agreement in this regard.

But this was nothing to do with the treaty termination date. Because as to the treaty termination date, if it were not a fixed date or if it were a fixed date but with the possiility of extension, this would appear in this article and it would say 31 December 1999, except for whatever the parties might otherwise agree upon. It would say so there, but it does not say so because the termination of U.S. control is emphatic with regard to U.S. presence here in Panama: At noon on 31 December 1999, Panama time period, nothing else is said.

The other refers rather to a problem of an economic nature, a problem of some investment that might have to be made at the last minute when there is only a short time left before Panama recovers the canal. In this case the two parties will have to agree on whether Panama agrees to assume the debt or not. That would be a problem between the two countries. However, about wanting to take what one article states and give it a meaning in another article, this does not make sense. This does not make sense because they are different subjects and each article contains what one wants it to contain. When that article is related to another article, it is so stated. You can see this in the treaty. When administration or defense is mentioned, reference is made to the schedules. You have to refer to the schedules because the articles state that these schedules will expand on the contents of that article. When one article is related to another, it is stated that the article is related to another article.

In law practice we cannot prevent attempts at all kinds of interpretations. This cannot be prevented. Furthermore, the lawyer always has a tendency to do this. This is why we have courts where, when a prisoner is being tried, one lawyer is accusing him and another is defending him over the same issue.

However, there is another matter, which is commonsense. Commonsense is superior to law. Commonsense is what tells you when something is clear. Commonsense cannot be twisted or changed no matter how much you argue against it. For example, if you hit an egg with a hammer and the egg breaks, there is no lawyer in the world who can deny it. Nevertheless, commonsense will tell you that if you hit it with a hammer, the egg will break.

Therefore, this problem must be clear with regard to the fact that these documents are open to many interpretations. However, we do have commonsense and this indicates to you that there is a termination date in this treaty. It is clearly stated in one of its article which is devoted to, and even has as its title, the termination date. This article says that it expires on 31 December 1999 at noon Panama time and nothing else. It does not say that it is related to another article, or that one has to look in an annex for more information, or that one has to seek an exchange of notes to explain it, or that one has to seek a subsequent agreement or a subsequent interpretation. This article shows that it can stand on its own, that it does not need interpolations or another article to indicate whether or not it applies.

What is occurring now is an attempt to seek interpretations in order to create uncertainty—to create uncertainty with regard to this problem, so that people will think: Is it true or not that it expires on December 31, 1999? That is the aim, because we are 3 or 4 days away from the plebiscite. There are lawyers who have said that the Hay-Bunau-Varilla treaty is better than this one. They have said this, but they have not taken the Hay-Bunau-Varilla Treaty and read it to the people article by article. They have not done this. They have said the Hay-Bunau-Varilla Treaty is better than this. Let us keep that one. Moreover, this is degrading, but they have gone that far. And worse things will happen.

However, one thing is being forgotten. They are forgetting—in an attempt to think of themselves as very intelligent, or in believing that one can play with all kinds of ideas—one important thing, which is the common man. The common man is used to living with commonsense daily, and he cannot be deceived. He cannot be asked the kind of question which Plato asked in attacking sophists, such as, tell me the meaning of a man who is not a man, who is sitting in a tree which is not a tree and hitting the tree with a stone which is not a stone. This is for the sophists, this is not for the common man.

Question. My question refers to next Sunday's plebiscite. What percentage of the people will vote yes, in the opinion of the government?

Answer. I cannot answer that because I have not consulted the government concerning such a percentage. However, based on my very personal opinion, starting with the fact that everyone who votes yes will be voting for a new treaty and that everyone who votes no will be voting for keeping the Hay-Bunau-Varilla treaty, I believe that a large percentage of our people will vote yes. Naturally, I am not a prophet and cannot tell you exactly what that percentage will be.

Question. Comrade, I would like to know why the Republic of Panama in Article VII says: The Republic of Panama will adopt the measures necessary to insure that no other use of the land and water of the canal basin will exhaust the supply of water necessary for the continuous and efficient management, functioning and maintenance of the canal and will not interfere with the U.S. rights to use the waters of the canal basin. Panama needs water for its people to live. The Panamanian pays for his water. The Panamanian needs electricity. Why does Panama subsidize a country, which I respect but which is the world's largest economic power, and why do we give it our water?

Answer. I am going to divide your question into two parts, the one about the Panamanian people needing water and the other concerning why we took the decision not to deforest or not to interfere with the waters for use in the canal. First of all, the two points are not contradictory because the maintenance of the hydrographic basin is import to provide water for our people and for the operation of the canal. Second, we must protect the hydrographic basin in this case, in relation to the canal, because otherwise we would have to close it. If there is not water, the canal must be closed. That is a great truth. And it is not a question of subsidizing the United States in that respect. The fact is that the canal constitutes, according to our geographic position, one of our resources, part of our wealth, to develop our country. That is why we are struggling to put a termination date on the treaty with the United States, so that the canal will become our property. This is also the reason why during the 23-year-period we have agreed with the United States to receive approximately $80 milion a year instead of the present ridiculous sum of $2.6 million.

Since it is an economic resource, we must first maintain that economic resource, take care of that economic resource, and obtain the greatest possible benefit for our country and our people. If, according to your theory, we deforest the hydrographic basin, that would be tantamount to Venezuela setting fire to its oil wells. If Venezuela sets fire to its oil wells, it would destroy one of the principal sources of its wealth.

That measure is directed at conserving sufficient water for the operation of the canal, not just now that the United States has it, but also after it is turned over to us. Furthermore, it would be absurd for us to deforest the hydrographic basin, for us to alter the water situation, or not to try to better the water situation because then we would not only have no water for the canal, but we would not have water for our country.

For instance, take the case of Panama, so as not to talk about other countries. What has happened in certain regions of our country? Indiscriminate deforestation, the felling of trees, the turning of places which years ago had abundant vegetation into barren areas has resulted in diminished rainwater reserves and a decrease in our water levels. It has resulted in an alteration of our annual rain levels to the point that last year we had one of our country's worst droughts.

By protecting our hydrographic basin, we are not engaging in anything blasphemous or doing this because the gringos have such pretty faces. We are not interested in having the canal close down. We are interested in seeing it function and in having the canal. . . .

Question. But then why do they not pay for the water? It says here that they will use the water free of charge. How come we have to pay for it?

Answer. We pay for its consumption.

Question. That should be free of charge because they consume it, too.

Answer. For its consumption, we pay for its consumption. The water. . . .

Question. They consume it, too . . .

Answer. Enough!

SOUTH AFRICA ORDERS ARRESTS; SHUTS TWO BLACK NEWSPAPERS

Mr. CASE. Mr. President, the South African Government's shutdown of at least three newspapers—including two leading black newspapers is a deplorable action and a cause for deep concern.

The unrest and police actions following the death in prison last month of Steve Biko, a young black leader, have been a source of increasing dismay to those of us who support a peaceful resolution of the conflicts in southern Africa.

I am particularly worried that the South African Government may be so taken up with the concept that the outbreaks of unrest are orchestrated in some way that it continues to fail to adequately recognize and meet the legitimate concerns of the nonwhite population.

As one who has urged the State Department to keep open the Rhodesian Information Office in Washington and opposed attempts to use UNESCO to curb press freedom, I am deeply concerned about the actions taken against South African publications and journalists as well as other organizations and individuals. I hope the South African Government will reconsider its actions and take steps to lessen rather than widen the tensions.

I ask unanimous consent to have printed in the RECORD an article from today's Washington Star on the developments in South Africa.

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

SOUTH AFRICA ORDERS ARRESTS, SHUTS 2 BLACK NEWSPAPERS

JOHANNESBURG.—The South African government today banned 18 black and interracial organizations, shut down the country's two leading black newspapers and arrested the editor of one of the papers.

Raiding security police arrested at least 10 other prominent black leaders in the biggest crackdown since the early 1960s.

Among them was Dr. Nthato Motlana, chairman of an ad hoc group trying to bring black rule to troubled Soweto township. Police in Durban and Cape Town, South Africa's other two major cities, also raided the homes and offices of students, lawyers, priests and scholars.

Justice and Prisons Minister James T. Kruger charged that the banded organizations and papers were working to create a "revolutionary climate" among South Africa's voteless black majority.

The newspapers banned were the World, published in Johannesburg, and its Sunday counterpart, the Weekend World. They are the first major newspapers to be shut down by the government. The World has a circulation of 150,000, the second largest in the country, but it is estimated to have at least 1 million readers.

Plainclothesmen arrested the editor of the daily paper, Percy Qoboza, shortly after noon. A secretary who witnessed Qoboza's arrest said, "They dragged him away as if he had killed somebody. I'll never forget it. It was too much."

Sources said Qoboza was detained under a section of the Internal Security act that permits police to hold suspects indefinitely without trial.

The last editions of The World to hit the street carried a front-page story demanding the release of three of its reporters who have been in jail without trial for up to 232 days.

The banned organizations included the Black People's Convention, whose honorary president, Steve Biko, died in jail Sept. 12, setting off a new wave of black anti-government feeling and an international outcry.

Others were the all-black South African Students Organization, which Biko founded; the interdenominational, multi-racial Christian Institute, the Black Women's Federation, the Soweto Students' Representative Council, the Union of Black Journalists, the Black Parents' Association, the National Youth Organization and other black youth and student organizations.

All militant black political organizations already are banned in white-ruled South Africa.

Rene de Villiers, a former editor of the Johannesburg Star and opponent of the government who is retiring from parliament, said the banning of the papers was a "the beginning of the end of press freedom in South Africa."

The government's leading opponent in parliament, Helen Suzman, said the sweeping bans were a "complete admission by the government that it is unable to govern the country without resorting to absolute despotism."

Suzman said instead of doing what they were doing legally, the banned organizations would turn into underground movements that would be far more dangerous to the government.

SENATOR HUMPHREY TESTIFIES BEFORE HOUSE SUBCOMMITTEE ON FAMILY FARMS, RURAL DEVELOPMENT, AND SPECIAL STUDIES

Mr. ANDERSON. Mr. President, last weekend, Minnesota Congressman, RICK NOLAN, held field hearings in Marshall, Minn., on behalf of the House Subcommittee on Family Farms, Rural Development, and Special Studies. Our distinguished senior Senator, HUBERT H. HUMPHREY, submitted a detailed statement on the plight of the family farmer which I believe should be required reading for all those concerned with American agriculture.

For 30 years Senator HUMPHREY has been a leader in the struggle to keep the family farm the strong centerpiece of rural America. He has accomplished much, but knows that much more remains to be done. Most importantly, Senator HUMPHREY emphasized the need for Congress to consider promptly S. 598 which he and I introduced last February.

This is the Family Farm Security Act which can help assure that young farmers will be able to survive the ordeals that confront all farmers, but especially those who are just beginning to work a farm of their own. As Senator HUMPHREY points out, Minnesota enacted a similar bill during my term as Governor. Our experience with the law has been favorable, and it is time we expanded the

program by calling on the great resources of the Federal Government.

Mr. President, I ask unanimous consent that the text of Senator HUMPHREY's statement be printed in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I would like to begin my comments by complimenting your distinguished leadership on the issue of family farms.

There are several forces that threaten the institution of the family farm.

Family farms are a cherished part of American life, important to the economy of rural America and to the social fabric of this nation. Unfortunately, the future of family farms is in jeopardy. Saving the integrity of the family farm unit will take the full attention of both rural Americans and key policy makers.

Mr. Chairman, you know the full value of what we call the family farm. You have fought a number of forces which have threatened its existence, the Ag-Land Trust being the most recent which comes to mind. Those of us who care about rural America owe you a debt of gratitude for your efforts to head off the invasion of banking conglomerates into American agriculture. This battle, I note, is just one of your important efforts for family farmers.

The next few years will mark an important turning point in the battle of family farms against a number of threats, including nonfarm corporations, those who seek to enter farming for tax shelter or real estate purposes, and those forces fostering vertical integration.

Mr. Chairman, I was proud to join forces with you during Conference consideration of the Food and Agriculture Act of 1977, to direct the Secretary of Agriculture to do a study of farm support payments to nonfarm corporations, to tenants of land held by nonfarm corporations, and to analyze the impact of eliminating these payments.

The Administration is required to report to the Congress with this study no later than January 1, 1979. It is vitally important that Congress immediately review this study to determine what courses are available to the legislative branch in further reducing incentives for destruction of family farms.

It is indeed appropriate that the first segment of these hearings are held in Minnesota, Mr. Chairman. As you know, the "Land of 10,000 Lakes" has seen a sharp and worrisome decline in the number of family farm operations. This is particularly true in the dairy industry. In 1968, Minnesota farmers were milking 1,031,000 cows. almost two hundred thousand more than they are milking today—865,000 cows.

The reason, Mr. Chairman, that Minnesotans are milking less cows is because more than a fifth of our dairy farmers have been driven out of agriculture in just the past ten years. It is true that part of this decline has been offset in increased production per cow, but it is equally true that a large number of dairymen have left this field because of the entry of mammoth operations—one well known case being a 5,000 cow herd in Arizona. And this size of herd is becoming less exceptional. I understand that there is at least six dairy operations in Florida that have a minimum of 3,000 cows each!

This leads to an interesting problem. All of these large dairy operations are, in a sense, family farming operations. They are family farms in that they are managed by single families. However, the "real" farming obviously has to be done by hired hands.

While I have not fully decided on what constitutes a family farming operation, these multi-thousand cow herds clearly are not. In fact, these huge operations undermine the family farmers of the Upper Midwest by denying them profitable markets in the South and West.

I am not the only one who knows more what a family farm is not, than what it is. Apparently there is considerable doubt throughout the government. For example, the Internal Revenue Service and Census Bureau use different definitions in terms of acreage, gross income and percentage of income derived from farming.

As you know Mr. Chairman, the Congress and the Census Bureau have been debating just this issue for quite some time. Since 1959, the Census Bureau has defined a farm as any place that had agricultural sales of $250 or which contained at least 10 acres and had annual agricultural sales of $50 or more. Using this criteria, we have 2.8 million farms.

Census is now talking about a new definition. The new definition would include farms with not less than $1,000 of annual sales in agricultural products. If this definition is established, then we would count at least 500,000 less farms in America.

The fact is that there are a large number of small farms left in this country. In fact, 63 percent of the farms in this nation earn $20,000 or less in annual sales. While there is a large number of small farms, these farm units have a very small percentage of farm income. In fact, farms with $20,000 annual sales or less account for only 16 percent of farm income.

It is very difficult to talk about a standard size for American farms. There is nothing monolithic about American agriculture. Our agriculture is amazingly diverse, ranging from almond groves in Western California to sugar beet farms in Minnesota to tobacco operations in North Carolina. All of these growers, I am sure, have a different opinion about what constitutes a family farm in their particular area.

It is this very diversity which makes the formulation of family farms policy particularly difficult. While this is an enormous problem, there are some avenues which we should explore. There are things we can do to encourage individuals to enter or remain in farming. Also, there are probably some policies which we should watch very closely for possible adverse impact on the family farm.

One of the most significant factors driving the small farmer out of existence is our land tax policies. In many regions of the country farmers are now being assessed for the potential rather than actual use of their land. In areas close to cities, this has had a severe impact. Taxes become an outrageous expense for many areas, even to the point of forcing small operators to sell their land.

Another potential problem has to do with our system of target prices. The USDA reports that our target prices under the farm bill recently signed into law will cover something close to the cost of production and land. To the large, rich land owner, this will mean an excess of revenue over the cost of production.

What will these rich farmers do with this excess revenue? Some economists are predicting that they will use it to buy even more land. Who will they be buying it from? From the young or middle-aged farmer who does not have the advantages of economies of scale that large operators have? For this unfortunate farmer, these new target prices are simply not enough.

One concept that has been discussed in some circles may warrant attention. Some economists are suggesting that family farmers receive a larger target price payment than large farmers. Both the legal and economic aspects of such a proposal have to be explored. It is not clear if we in the Congress could adopt such a plan at this point in time.

Congress has taken a number of steps in recent years which would strengthen the hand of family farmers. Congress has passed strong conservation measures which have helped us create the agricultural productivity we have today. The recently revamped storage facility loan program is a step in the right direction, and our disaster aid program should soon be greatly improved.

There is, though, much more to be done. A recent effort by Senator Anderson and myself is an important step. On February 3 of this year, we introduced S. 598, the Family Farm Security Act.

This effort, modeled on the plan enacted by the State of Minnesota, would create a new loan guarantee program to individuals who wish to purchase farms but who are unable to do so without Federal assistance.

S. 598 has yet to be considered by the Senate, primarily because of its involvement with the farm bill. I am hopeful that we can receive favorable consideration of this legislation sometime in early 1978.

Mr. Chairman, I would again like to commend your leadership in calling this hearing. We have a long way to go to develop the type of family farm policy that we should have. I believe that you are on the right track. Accomplishing this task will be difficult, but the price will be worth the objective, to enhance the economic and social fabric of what I hope we can once again proudly call Rural America.

THE ADMINISTRATION'S VIEWS ON WATERWAY USER CHARGES

Mr. DOMENICI. Mr. President, I believe that all Members of the Senate have today received a letter from Brock Adams, the Secretary of Transportation, giving the administration's views on the issue of a waterway user charge and its relation to a new locks and dam 26.

I believe it is fair to state that Mr. Adams and the administration have stated their strong support for the amendment to H.R. 8309 that I submitted earlier today.

Because of the importance of this letter to the debate we will have on the user charge issue, I ask unanimous consent that the letter be printed in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 18, 1977.

DEAR SENATOR: I reported to you earlier of the President's firm intention to disapprove any bill authorizing construction of a new locks and dam facility at site 26 in Alton, Illinois, if the bill does not contain a provision establishing waterway user charges along the inland waterway system. Recent events require me to clarify the Administration's position on this issue.

As you know, we supported the waterway user charge legislation that the Senate passed. This bill would phase in a substantial user fee over a ten-year period. The House of Representatives has passed waterway user charge legislation which differs markedly from the Senate version. The House would authorize a six cent fuel tax on inland waterway commercial vessels. The House version would recover only a relatively small portion of operation and maintenance costs and new construction costs.

Because of the closed rule on the House bill and in order to insure Congressional action on this issue, on September 28, 1977, I wrote to Members of the House of Representatives indicating that the Administration would support the bill in the House, but that the Administration would work in the

Senate for a higher recovery of waterway operation and construction costs. The user charge and level of recovery contained in the House bill is inadequate. In order to bring the necessary degree of equity to Federal government policy concerning the inland waterway system, legislation should be enacted which authorizes substantial waterway user charges.

Because this matter is so important to the development of a comprehensive transportation policy, I think that the Congress should be aware of the President's intention not to sign any bill authorizing a new Locks and Dam 26 which does not provide for waterway user charges that will recover a substantial portion of the operation and maintenance and new construction costs.

Sincerely,

BROCK ADAMS.

INITIATIVE

Mr. GRAVEL. Mr. President, the Baltimore Sun published an article concerning the national initiative amendment (S.J. Res. 67), which I have sponsored along with Senators HATFIELD and ABOUREZK.

This article gives a very good account of some of the history behind the initiative process, as well as an account of the effort that is at present being spent on this amendment.

Considering the great promise that the initiative process holds for giving the citizens of the United States a true voice in their Government, I feel this article is particularly relevant to Congress today. I would hope that my colleagues will share my view of the importance of this reform of our constitutional Government.

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

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

A WAY TO LET THE PEOPLE MAKE SOME OF THE LAWS

(By Michael Nelson)

The greatest paradox of modern American politics is that despite our history of ever-expanding democratic rights—to vote, to speak freely, to choose officials and so on—Americans feel less in control of their government than perhaps ever before.

Evidence for this is all too abundant. Each of the three presidents who preceded Jimmy Carter lost the people's trust and support; garbagemen actually came to outrank the White House in public confidence, according to polls by Louis Harris. Only once in the history of modern survey research has popular approval of Congress gone over 50 per cent. Federal court decisions have been openly defied in some regions of the country. Voter turnout has been dangerously low—fewer than 2 in 5 cast ballots in the last congressional election. At the heart of all this, pollsters inform us, many people feel politically powerless and distrust those who are powerful.

A group called Initiative America thinks it has at least a partial solution to this problem: a constitutional amendment that would introduce an element of direct democracy into the federal government. The amendment would allow citizens to initiate federal laws themselves, and enact them through their votes in national elections. Senator James Abourezk (D., S.D.) recently introduced it in Congress. Here is how it would work:

Citizens initiating a new law would have 18 months to collect petitions with valid signatures equal in number to 3 per cent of the votes cast in the preceding presidential election—at present that would be 2.45 million The Justice Department would then check the signatures for validity. If it certified them within 120 days of the next national election, the proposed initiative would go on the ballot right away, otherwise, it would have to wait two years until the next election.

The initiative, if passed by a simple majority of voters, would become law 30 days after the election. Like any other legislation, it would be subject to judicial review and congressional override, though the latter would require a two-thirds vote of each house of Congress and presidential concurrence. Finally, initiatives could not be used to declare war, call up troops, or propose constitutional amendments.

Although Senator Abourezk's amendment is the first to propose that initiatives be incorporated into national politics, there is nothing new or radical about the idea. Since South Dakota first adopted the process into its state constitution in 1898, 22 states (Maryland is not one of them) have followed its lead. In fact, Mr. Abourezk's political career began with a successful initiative drive he led in defense of South Dakota's rural electrification system. Switzerland has used the practice since the early 19th Century, and some trace it back to the plebiscitums of the ancient Roman republic.

Roger Telschow and Bill Harrington, leaders of Initiative America, feel that these years of experience with the initiative attest to its benefits. "The great advantage of the initiative," says Mr. Telschow, "is that it gives citizens a last resort against special-interest groups. These groups have an unequal voice in Congress because they can afford to hire full-time lobbyists. Sometimes they are able to paralyze the legislative process. The initiative gives people a way of busting up those logjams when they develop."

Mr. Harrington points to several examples of how this has worked in the states: a tough retail credit law in Washington, the unicameral legislature plan in Nebraska, and the Missouri Plan for selecting judges.

Critics of the amendment argue that if it were passed, election ballots would become long and unwieldy, that the process would be dominated by ideological extremists, and that citizens are not qualified to decide issues of public policy.

Some of these fears appear to be undercut by the 3 per cent requirement, which, according to Kevin Murray of Senator Abourezk's staff, realistically means that proponents of an initiative would have to collect 5 million signatures in order to be assured of having the necessary 2.45 million valid ones. The magnitude of the effort would thwart extremists and hold down the number of initiatives on a ballot to one or two in each election, he estimates. Again, Mr. Murray points to the experience of the states as evidence.

The strongest objection to the idea of citizen-initiated legislation, however, is in essence an objection to democracy itself. The idea that people are too ignorant or selfish to be trusted with complex political decisions is enjoying a grand revival today. Scholars as varied and distinguished as Arnold Toynbee, Robert Heilbroner, and Samuel Huntington have suggested that the business of government has become too complex and its resources too scarce to be trusted to an avaricious, unenlightened electorate.

To say that public policy is complex is one thing, but to say that it cannot be discussed intelligibly by leaders and decided intelligently by the people is something else again. In a sense, the initiative is simply another check in our systems of checks and balances; instead of one branch of the government being a check against another, the initiative is a final check against the institutions by the people on whose authority those institutions rest.

Prospects for passage of Senator Abourezk's amendment in the 95th Congress are dim, and his impending retirement means that some other sponsor will have to be found. The possibility that a more ambitious plan for referendum democracy will be enacted in the foreseeable future is dimmer still.

But it is important that we at least think about these and other possibilities for reforming our system. The critical need to resolve the great paradox of American politics—that people feel less in control of their government even as they have acquired more democratic rights—requires this. Perhaps the source of this feeling lies in the fact that most of those rights—primaries, direct election of senators, extended suffrage to blacks, women, and the young and so on—though they have added popular control over the selection of elected officials, have made the elected members of our government less important and the unelected bureaucracy more important. Thus democratic reforms have broadened control over people who are less in control themselves. This being the case, the time for seeking fundamental solutions is at hand.

FEC REGULATIONS RE INDEPENDENT EXPENDITURES

Mr. CANNON. Mr. President, the Federal Election Commission has recently requested public comment on its regulations governing the making of independent expenditures in support of Federal candidates. The deadline for comment to the Commission is November 30, 1977.

I ask unanimous consent that the Request for Comments which appeared in the October 18, 1977 Federal Register be printed in the RECORD.

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

REQUEST FOR COMMENTS

Agency: Federal Election Commission.

Action: Proposed regulations.

Summary: This notice contains a request for public comment regarding the regulations on independent expenditures. This action is taken to implement the provisions of the Federal Election Campaign Act of 1971.

Dates: Close of comment period is November 30, 1977.

Address: Send comments to Federal Election Commission, Office of General Counsel, 1325 K Street NW., Washington, D.C. 20463.

For further information contact: Walter Moore at 202-523-4102.

Supplementary information: The Commission requests public comment regarding the regulations governing the making of independent expenditures in support of federal candidates. Pertinent existing regulations appear at Title 11 of the Code of Federal Regulations, Part 109. See also 2 U.S.C., Section 431(p), and 2 U.S.C., Section 441a (a)(7)(B)(i).

The period for receipt of written comments will close November 30, 1977. Submissions should be made to the Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Wash., D.C. 20463, and will be made available to the public in the Office of Public Records.

The United States Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1, 46-47, n. 53 (January 30, 1976), noted that 18 U.S.C. Section 608(c)(2)(B) of the Federal Election Campaign Act Amendments of 1974 (current version at 2 U.S.C. Section 441a(b)(2)(B)(1976)) provided that certain expenditures which were "authorized or requested by the

candidate, an authorized committee of the candidate, or an agent of the candidate" were to be treated as contributions by the expender and were therefore subject to the contribution limits of the Act. The Court's test for determining when individual expenditures were contributions rather than independent expenditures was whether the expenditures were "placed in cooperation with or without the consent of a candidate, his agents, or an authorized committee of the candidate * * *"

In interpreting the Act's provisions regarding independent expenditures, in light of the language in *Buckley*, the Commission has stressed the relationship of and contacts between the spender and the candidate (or committee or agent) in support of whom the expenditure is made. The Commission's present regulation Part 109.1(b)(4)(i) describes two factual situations where this relationship or contact gives rise to a presumption that an expenditure is not independent (and thus is treated as a contribution-in-kind to the candidate). The situations are those where the expenditure in question is:

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate committee or agent.

The focus of the proposed discussion regarding the regulations or independent expenditures concerns the question of whether there might be other specific sets of facts which indicate a relationship between expender and candidate such that cooperation with or consent of the candidate is presumed to exist. Public response must be precise in describing the circumstances surrounding this presumption of cooperation and consent and must bear in mind the constitutional protection given by the First Amendment to the spending of money for political speech.

The Commission invites public comment on all aspects of the subject of independent expenditures, as well as responses to the specific questions set forth below:

(1) Do the present regulations offer sufficient guidance to a person who wishes to know whether a contemplated expenditure is independent?

(2) The statute defines an "independent expenditure" as an expenditure "expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate."

What types of expenditures constitute express advocacy of the election or defeat of a clearly identified candidate?

(3) The evidentiary device of a presumption is currently utilized in regulating independent expenditures. Should the factual situations which give rise to a presumption that an expenditure is not independent include those where:

(a) There has been substantial or significant contact between the expending person and the candidate, committee, or agents; or

(b) an individual in a decision-making position within a committee which makes an expenditure, or an individual making an expenditure, has actively participated in or at the time of the expenditure is actively participating in the financing or management of that candidate's campaign?

(4) The present regulations do not distinguish independent expenditures made by committees from those made by individuals. Are there constitutional or other considerations which require or allow different treatment?

(5) Should the definition of "agent" as set forth in regulation 109.1(b)(5) be expanded (or narrowed)? If it should be expanded, should it include any person who is an agent under the common law of agency, including an employee or an independent contractor?

Dated: October 11, 1977.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

[FR Doc 77-30300 Filed 10-17-77;8:45 am]

JOHN WAYNE AND THE PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of correspondence he has received from John Wayne to which this statement makes reference, be printed in the RECORD.

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

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

STATEMENT BY SENATOR HUMPHREY

Last week, I received a letter from John Wayne and his statement reviewing the Panama Canal Treaties. Since Mr. Wayne has had close ties to the Republic of Panama going back to the 1940's, I think his views on the discussions now focusing on the Panama Canal Treaties deserve our attention.

While I would urge my colleagues to give close attention to Mr. Wayne's statement, I would like to call their attention to his conclusion:

"The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country."

I found Mr. Wayne's analysis of the new treaties particularly thoughtful. He is a man of impressive integrity and patriotism for his country. Therefore, his views are most relevant.

BEVERLY HILLS, CALIF., *October 11, 1977*

Senator HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Enclosed is a statement regarding the Panama Canal Treaty.

As usual, our dear provocative press misquoted me. This has increased my mail by letters from people who are concerned about my reaction to the Treaty. The enclosed is the answer that I am sending to them.

I would appreciate it if you would read the enclosed review which I have made. Through friends and a few years of experience, I have had the opportunity to know a little about the situation down there. I might add that I have friends on both sides of the political spectrum. They are all still living the same life in the same manner as they were before the Torrijos change of government eight or so years ago. Their personal liberties do not seem too badly interfered with. None of them are in jail, and they have perhaps a little more respect for the law.

At any rate, the statement enclosed is a point of view that I think is worthy of your attention.

Sincerely,

JOHN WAYNE.

Enclosure.

STATEMENT REGARDING PANAMA CANAL TREATY

My interest in Panama goes back to the 40's. I have friends on both sides of their political spectrum. As a matter of fact, my first introduction to the Panamanian situation was in the 30's when Harmodio Arias was president. He was probably the best liked figure in all of South America and one of the very few presidents who has ever completed a term up to and since that time. His wife and his son Tito, then about 12 years old, visited me in California. Another son Tony was Godfather to one of my daughters. I am only going into these personal things to show you that I have had reasons to give attention to our relationships down there.

I have followed the Panamanian situation since the time the State Department insured us losing good relationships with Panama by changing their policy and charging extremely high prices for tuition for the children of several Panamanian families to go to Canal Zone schools. These families were continually involved in the leadership and administration in Panama. I think it would have been quite obvious with their children attending our schools that they would have our point of view. I wrote a letter to our Administration at that time to apprise them of this situation. Nothing was done.

You say that it is a blow to you to learn from the press that I favor the surrender of the Panama Canal. I certainly did not. I was appalled when General Eisenhower did just that and gave the sovereignty of the Canal away by allowing the Panamanian flag to fly there; but at that time, neither Congress, nor the press, nor the conservatives uttered any kind of cry. I did, but it was a voice in the wilderness.

In checking to find the reason for President Eisenhower's actions, I found out that although we had the rights to the ownership and jurisdiction of the Canal that Panama had not surrendered sovereignty of same. I also found out that the United States in the Arias-Roosevelt Treaty of 1936, ratified by our Congress in 1939, recognized the sovereignty of Panama in the Canal Zone as it was originally stated in the 1903 agreement.

Under negotiations during the Kennedy Administration, it was further agreed that any place within the civil area that the American flag flew, there must be a Panamanian flag raised.

Our people in the Zone tried to avoid this by removing flag poles. This started irrational actions by both sides. During those student riots which took place in 1964, our then president, Lyndon B. Johnson told the world that there would be a gradual return of the Canal to Panamanian possession. There were still no outcries from the people who are now complaining, but the above acts plus common decency to the dignity of Panama demanded a re-evaluation of our Treaty.

Now, let's take the Treaty for what it is. We do not give up one active military installation for the next quarter of a century. We do transfer to Panama in the civil Canal area such governmental activities as police and fire protection, civil administration, post offices, courts, customs, garbage collection, and maintenance of certain areas which are not necessary to manage the Canal. The Canal will continue to be run by an American agency. The Board of Directors of that entity will be comprised of nine members—five members of the Board, American—and four Panamanians who will be selected by the United States from a list proposed by Panama. This Board of Directors will not have any authority on our military bases which we will have there for a quarter of a century to insure this Treaty.

The Treaty insures all American citizens working in the Canal their continuing jobs to retirement and the continued uses of their rented homes at the present rate which averages around $150 per month including all their utilities, garbage collection, sewerage, upkeep of the grounds and maintenance in-

cluding gardening lawns and painting of buildings. This is guaranteed to each until retirement or completion of their contracts.

When the Canal Company transfers these responsibilities to Panama, they will also transfer $10,000,000 a year of the toll charges to take care of them. I doubt if this will cover the costs. So does our government. Therefore, this United States Canal Company Agency which will still be running the Canal for the next 20 years will be instructed to raise the toll charges 30 cents per ton or about 1/100 of a cent and a half per pound to be given to Panama to cover such contingencies as inflation and to insure the above responsibilities plus rental for the 120,000 acres which these United States will continue to hold for its military installations and also the use of a 4,000 square kilometer water shed as a water reservoir to take care of our civil and military needs in the area. This added toll charge could amount to $40,000,000 in the years to come; but not one cent of it will come out of our pockets.

None of this will cost the American taxpayer one cent. We will not be required to pay $1 to Panama when this Treaty is put into effect.

I explained to the press when I was interrogated that I am only one of 200,000,000 private citizens of the United States and that I am not presuming to establish our foreign policy. I suggested that perhaps the facts as I have presented them to you might be put in a more enlightening manner to our citizens.

Regarding Communism, quite obviously, there are some Communists in General Torrijos' administration as there have been and probably still are in ours. Back in the days of McCarthy, it was proven that a great number of people in our government were Communists. For his high-handed manner with the use of the Committee, he was censored; but the truth of his findings were never questioned.

There will always be accusations and counter-accusations in this area. General Torrijos has never followed the Marxist line. Even in his speech when he visited Cuba, he stated that Castro had insured schooling and developed a system of feeding his people but at a high social cost. Because of this he stated that what was aspirin for Cuba was not necessarily the right medicine for Panama which is putting it about as plainly as possible when you are visiting in a foreign country that you are not agreeing with their methods.

Such rumors and accusations mushroom to a degree that it is hard for anyone to defend themselves. General Torrijos' government has not followed the Marxist line. He does have his Escobar Bethancourt as we have our Andrew Young, neither of whom were elected by either populus. A quarter of a century from now—when and if this agreement is carried out to the letter of the law—and we decide that it is proper to remove military installations, Escobar Bethancourt will be an old and forgotten character; and Young will probably be relegated to some posh job in our civil service from which he cannot be fired or taken care of by some liberal foundation as was Hiss.

I hope that the pragmatic view that I have of this sitaution is understandable. I have carefully studied the Treaty, and I support it based on my belief that America looks always to the future and that our people have demonstrated qualities of justice and reason for 200 years. That attitude has made our country a great Nation. The new Treaty modernizes an outmoded relation with a friendly and hospitable country. It also solves an international question with our other Latin American neighbors, and finally the Treaty protects and legitimates fundamental interests and desires of our Country.

KING COAL

Mr. PERCY. Mr. President, I think it is universally recognized that coal is a vitally important source of energy that has not been fully utilized. It is a great resource if it is used in an environmentally sound way. Encouraging conversion to coal, which is in abundant supply throughout the United States would help dramatically reduce our dependence on foreign oil.

On October 2, 1977, the Chicago Sun-Times printed an article by Charles N. Wheeler III about the coal industry and the importance of coal conversion to Illinois, the source of the largest supply of high-energy coal in the country. The article discusses the problems as well as the benefits of greater use of coal. I ask unanimous consent for Charles Wheeler's article to be printed in the RECORD.

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

KING COAL: COMEBACK IN CARDS FOR AN ENERGY GIANT

(By Charles N. Wheeler III)

SPRINGFIELD, ILL.—Sooty, grimy King Coal is poised for a comeback, courted by an energy-hungry nation remembering last winter's shortages. And Illinois, blessed with the largest supply of high-energy coal of any state, has a vital stake in an industry resurgence.

Signs of a renaissance abound:

Coal forms the keystone of President Carter's energy program.

Demand for Illinois coal will increase more than 50 per cent by 1985, with increased use in the South and the Southeast, one state study concluded.

In the next decade, electric utilities in Illinois plan to add coal-fired generating capacity equal to some 40 per cent of Commonwealth Edison's current net generating capability. Most of the new equipment will use Illinois coal.

Some half-dozen industrial concerns, including Caterpillar Tractor and A. E. Staley Manufacturing, are contemplating switching back to coal to heat and power their plants.

Twenty-two new coal mines are under construction in the state, and billions of tons of coal reserves have been purchased by energy companies in recent months.

The state has available some $70 million to underwrite research into coal gasification and other new technologies.

There are major hurdles, however, before Illinois coal's bright future can be realized.

Most formidable is Illinois coal's high-sulphur content. That makes it difficult, although not impossible, to burn and still meet federal and state air-pollution regulations.

Illinois coal faces stiff competition from low-sulphur, but also low-energy, Western coal and from nuclear power.

Coal lies under about 65 percent of Illinois appearing in all or parts of 86 counties (though none closer to Chicago than some 50 miles to the southwest).

The state's total estimated reserves of some 162 billion tons of bituminous coal contain an energy-producing potential equal to one-sixth of the national total from coal.

Of total production, estimated at some 57 million tons this year, some 82 per cent goes for electrical power generation, with industry using an additional 10 per cent. Most of the rest is converted into coke for steel-making.

Spokesmen for the coal industry and for the public utilities that are its largest customers complain that strict air-pollution regulations have throttled development of the state's coal resources.

"We can't comply with the environmental regulations," said Otis J. Gibson, president of the Illinois Coal Operators Assn. The association contends the regulations have cost the state's economy thousands of jobs and millions of dollars.

The state's environmental officials, however, argue Illinois can have clean air and burn its coal, too.

The chief culprit is sulphur dioxide, a compound formed when sulphur-containing coal is burned. It has been associated with throat and lung irritation and increased acidity in rainfall.

Unfortunately, most of Illinois' coal reserves are high-sulphur, containing an average of 3.5 per cent sulphur. Some sulphur can be removed by washing the coal, but not enough. To meet emission standards, state enforcement agencies have been pushing the use of scrubbers to remove sulphur from smokestack gases. But scrubbers are expensive and industry experts claim they are not effective.

One new coal-fired plant that won't have scrubbers, an Illinois Power Co. facility at Havana, Ill., will use low-sulphur Western coal, which also fuels most coal-fired power plants in metropolitan areas.

Though low in sulphur, the Western coal does not burn as hot as Illinois coal; so greater quantities are needed to produce a given amount of energy.

Future power plants will have to install scrubbers regardless of the sulphur content of the coal they burn under federal legislation signed last month by Carter.

Another looming environmental problem is posed by recently enacted federal strip-mine regulations.

The state now has one of the best reclamation programs in the nation, Illinois Mines Director Brad Evilsizer noted, but the far-reaching requirements of the new federal statute could hamper production from Illinois strip mines, which last year produced almost half the coal mined here.

Besides environmental concerns, some industry experts also worry whether enough skilled manpower will be available to meet ambitious goals for increased production.

The 22 new mines now under construction will require about 5,500 new miners to operate them, for example, and the miners will have to be highly trained.

To help produce trained personnel, three community colleges in coal-producing areas of the state are offering coal-mining technique courses in cooperation with the industry and the state Department of Mines and Minerals.

Despite the problems, state officials, industry spokesmen and energy experts share a strong faith in a bright future for Illinois coal.

Various processes are now being developed to convert coal into synthetic gaseous or liquid fuels. Though its impact probably is a decade away, most experts believe, the new technology is certain to increase the demand for Illinois coal.

"If you're optimistic about this country meeting its energy demands, then you have to be optimistic about the future of coal," declared Jack S. Simon, chief of the Illinois State Geological Survey.

"And Illinois has the coal."

THE PRESIDENT'S REORGANIZATION PLAN NO. 1

Mr. HOLLINGS. Mr. President, at midnight on October 19, Reorganization Plan No. 1 of 1977, relating to the Execu-

tive Office of the President, will go into effect. Consistent with President Carter's campaign promise to reorganize and streamline the executive branch of Government, this plan is the first of a number of plans which the President intends to propose to the Congress. Understandably, it is a difficult task to attempt to reorganize functions of Government. It would be virtually impossible to expect that such a reorganization effort would, when completed, please everyone. However, with respect to this first reorganization plan, I have had serious reservations from the beginning with respect to its proposed elimination of the Office of Telecommunications Policy within the Executive Office of the President and the transfer of the functions, chiefly to the Department of Commerce but also within the Executive Office, to the domestic policy staff and the Office of Management and Budget.

We all fully recognize that the Office of Telecommunications Policy has not had a shining history. It has been fraught with problems, and it has been criticized by many in and out of Government as not having lived up to its expectations or potentials. However, the problems which have confronted the Office of Telecommunications Policy have not been a function of its location within the White House, but rather a result of a concerted effort by the Nixon administration to turn broadcast communications to its own political purposes. That effort would have taken place regardless of whether OTP had been located in the White House or elsewhere, evidence similar activities at that time within various agencies of the executive branch also manipulated by White House personnel. The broadcast effort was not successful and subsequent activities by OTP were beginning to establish OTP's substantive credibility and capability.

The problems which the House Government Operations Committee is currently having in delineating on its own how policy formulation will be carried out illustrates the difficulty that one has in carving up a function such as telecommunications policy, and attempting, as it were to render unto Caesar what is Caesar's. In House Report 95–661, on Reorganization Plan No. 1, at page 12, the committee expresses its concern over the possibility of duplication and its concern over having a single voice in the executive branch responsible for making communications policy. Parenthetically, I must note, however, that I disagree completely with the conclusion of the House committee that the policy voice should be in the White House because their interpretation ignores the clear language of the reorganization plan and because the one voice on communications policy should be the head of the reorganized communications policy effort; namely the now-to-be Assistant Secretary for Telecommunications within the Commerce Department, not an individual beyond our ability to call before us during our oversight activities. Further, I predict a myriad of difficulties caused by new, competing entities entering the scene, for example, with respect to spectrum allocation, difficulties between OMB and Commerce caused by reserving, necessarily, appellate jurisdiction within OMB. Other conflicts will arise in procurement, national defense, and other significant policy areas, as various entities in the White House and elsewhere jockey for stature and recognition.

Despite my misgivings as to the appropriateness, the advisability, or the feasibility of transferring communications policy to the Commerce Department, in deference to the President who should be able to control the structure of his own office, I did not oppose the proposal to remove OTP from the White House. However, in the ensuing discussions of how this removal should take place, I repeatedly expressed my caution that in order for communications policy not to suffer in the process of transfer, certain safeguards should be contained in the reorganization plan and accompanying documents.

For many years, I have been involved in energy policy within the Congress, and I see many similarities between energy policy and communications policy. In both cases, the policy implications and the effects thereof are all-pervasive. In both cases, the need for overall policy has been long ignored. In both cases, policy formulation should be centralized in an entity which enjoys visibility, coherence, and sufficient political credibility to be able to accomplish its goals of policy formulation and implementation. No one would ever suggest that energy policy should be formulated by an Assistant Secretary at the Department of the Interior.

Yet, here in the area of communications, just as important in the long run to this country, just as all-pervasive and just as fraught with political, practical and technological consequences, we are proposing to delegate communications policy to an Assistant Secretary of Commerce.

If communications functions are to be transferred out of the White House and into a line agency, then I think it is essential that the person to whom the responsibilities will be transferred have sufficient visibility and stature to be able to carry out his mandate. To this end, I had proposed the establishment within the Commerce Department of an Administration for Telecommunications Policy to be headed by an Administrator.

Over the years, the Commerce Committee has had the opportunity of working with NOAA, an administration within the Commerce Department charged with formulating and implementing oceans policy. We have seen the advantages associated with an entity so organized. It may seem like a subtle distinction between an Assistant Secretary and an Administrator, but those wise in the ways of Washington and its bureaucratic labryrinths will quickly discern that it is an important and significant distinction. One perceives an Administrator as having a higher stature than an assistant secretary. One treats him as having a bigger voice. Consequently, his pronouncements are given more attention by those who should attend. An entity called an Administration is treated as a coherent entity and has a sense of identity, a sense of purpose, which facilitates its carrying out its functions. As the office of an Assistant Secretary, one shares legal talent, budget staff, and so forth with the rest of the Department. Unlike many of our European allies, we have long ignored the realities of communications policy. In many countries, such as Great Britain and Sweden, the individual charged with formulating communications policy enjoys a Cabinet-level position.

We have voiced our concerns and offered our insights with respects to reorganization, but apparently they have fallen on the deaf ears of a group charged only with accomplishing a paper reorganization, not with living with the consequences of that reorganization. We fear that the group charged with reorganization responsibility has had little experience with communications issues, manifests no sensitivities to or interest in what is at stake, and will move on to other endeavors leaving in their wake the shambles of communications policy.

Even if one assumes a certain degree of political stubbornness that once having proposed an Assistant Secretary, one is unwilling to back down from that proposal regardless of the merits of the alternative of an Administrator, it would still be possible at least to strengthen the hand of the new Assistant Secretary. First, one could allow the Secretary of Commerce to create an Administration under the Assistant Secretary, just as has been done in the past for the Assistant Secretary for Maritime Affairs, who heads up the Maritime Administration. However, we are told indirectly that OMB "opposes" such an effort as being an unnecessary increase in bureaucracy. One can only wonder at the naivete which leads to that sort of a judgment. The OMB could also have strengthened the Assistant Secretary's hand by allowing the transfer of adequate staff slots and by encouraging the preparation of a fiscal year 1979 budget which would enable the new Assistant Secretary to bring a few new people into the reorganized effort in order to begin to build a decent organization.

As it stands at the present time, OTP consists of 41 people. As insisted upon by OMB, nine of those slots will remain within the Executive Office of the President—three in the domestic policy staff, three in the central support staff, and three going to OMB to handle spectrum allocation appeals. Of the remaining 32 individuals, only 19 will be transferred to the Department of Commerce. The Commerce Department has urged OMB to reconsider this position at least to the extent of transferring the additional 13 positions, which otherwise would be eliminated. But thus far OMB has remained intransigent. In addition, and even assuming the transfer of all 32 positions, the proposed budget for fiscal year 1979 contemplates no increase in personnel within the new communications

policy function in the Commerce Department.

The practical consequence of these budget allocation decisions is that the new Assistant Secretary will be hired, and there will be no staff vacancies other than those created by natural attrition with which he can build an organization attuned to his perception of how the functions delegated to him should be carried out.

Another essential safeguard which should have been contained in the reorganization plan and its attendant executive order is a clear delineation of policymaking functions of the head of the new communications policy entity within the Commerce Department. We were promised by the reorganization staff a draft executive order to be delivered to us in August so that we would be confident that the new Assistant Secretary would have clearly delineated functions and responsibilities. Two months later and on the eve of the effective date of the reorganization plan, we have yet to see the approved executive order. In drafts which have been sporadically shared with us, we see that OMB will be given policy responsibility in the procurement field.

Such a situation is totally inconsistent with the responsibilities which OMB enjoys in other areas. At no time has it been contemplated that OMB should have a line responsibility, yet the reorganization plan contemplates that the Director of OMB will have responsibility for standard-setting and policy directive formulation in the area of procurement and management with the Assistant Secretary participating in the process. We continue to be reassured by OMB that nothing is contemplated by this other than what OMB has been responsible for doing in the past with respect to all agencies. Given the history of OMB indifference to congressional interests during prior administrations and given the attitude and the actions of present OMB staff, one can have less than strong confidence in these assurances.

The net result of the actions taken by OMB and by other groups involved in formulating and implementing the reorganization plan causes me to conclude that communications policy will suffer unless their attitudes and resultant course of action change. Under those circumstances, I voice my opposition to the reorganization plan. I fear for this new Assistant Secretary, for he will be given a thankless task: Charged with formulating a communications policy, but with questionable ability and breadth to develop policy, with no staff of his own choosing with which to implement the policy, with OMB unwilling to give him budget freedom, with various entities jockeying to nip at his heels, with OMB and others unwilling to accord him a stature commensurate with the responsibilities he is undertaking, and unwilling to give him even a coherent administration with which to attempt to carry out his responsibilities. There are dark days ahead for meaningful communications policy, and we will see the consequences manifest themselves from international conference tables to board rooms to American homes—and we will be the lesser for it.

Mr. President, I had asked my staff to prepare a memorandum delineating to some extent the types of problems and issues which will be confronting us in the communications area in the next few years. I have shared this memorandum with members of OMB and the White House policy staff, as well as with our own Government Operations Committee. I ask unanimous consent to have printed in the RECORD a copy of that memorandum. In addition, Mr. President, I would like to thank the chairman of the Senate Governmental Affairs Committee, Senator RIBICOFF, and his staff for their consideration of our concerns during the pendency of the reorganization plan. In no way do I intend my remarks here today to reflect upon their good efforts to assist us. Senator RIBICOFF and his staff have demonstrated a genuine perception of the issues involved and have attempted to support us in every way that they could. We do appreciate that very much.

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

MEMORANDUM FROM THE SENATE COMMUNICATIONS SUBCOMMITTEE STAFF ON THE NEED FOR AN EXECUTIVE AGENCY TO COORDINATE A NATIONAL TELECOMMUNICATIONS POLICY

This memorandum concerns the need to consolidate the fragmented and often overlapping efforts of Federal agencies involved in telecommunications functions. At last count there were at least 13 separate agencies doing telecommunications research,[1] and one estimate ascribes general involvement in the field to a total of 40 separate entities within the Federal government.[2] While this separation of efforts has in some cases been justified by specialized needs of the departments involved, the lack of coordination has often led to duplication of projects with more general application. Moreover, the scatteration of expertise has left the Executive branch without a strong, authoritative voice in the formulation of communications policy.

The Federal Communications Commission has done an adequate job in some areas, notably common carrier regulation, but in others it has displayed vacillation and confusion. Much of the blame should be placed not on the Commission itself but on the Congress and the Executive, which have failed to provide adequate guidance to the FCC in its policy deliberations. No rational citizen would consider delegating the entire task of formulating transportation policy to the ICC and the CAB, yet to a large extent we have left the FCC unaided in its efforts to develop a national communications policy.

The consequences of failure in this area would be more serious for the United States than for any other nation, because we are the first country in history to find more than half of its work force engaged not in farming or manufacturing but in the processing of information. Many see the transition as our century's sequel to the Industrial Revolution: Some call it the Information Revolution, others, the Post-Industrial Society, but whatever the terminology they use, all agree that electronic communication will be the engine of change.[3]

The purpose of this memorandum is threefold: (1) To delineate some of the issues which the rapid and accelerating pace of communications technology will be pressing upon government policy makers in the years ahead. (2) To describe ways in which the Executive branch, together with the Congress, can supplement and guide the efforts of the FCC in shaping an American communications policy. (3) To examine the specific organizational alternatives available to the Executive as it seeks to rationalize and consolidate its involvement in electronic information services.

FORTHCOMING ISSUES IN COMMUNICATIONS

New technologies will have a major impact on telecommunications in the coming decade, not only by offering new and more efficient services, but also by posing a competitive and possibly disruptive threat to existing systems. As the discussion below reveals, all raise issues which extend far beyond the competence of the FCC or any other single government agency.

Electronic Mail. One century ago, when the delivery of mail was already routine, Alexander Bell produced an electronic miracle—a device which could transmit the spoken word by wire. Today the situation is reversed: Telephone calls are routine, but the delivery of a letter on time at a reasonable cost is regarded by many as a minor miracle.

The change in roles can largely be attributed to the differential impact of technology. Of all the costs incurred by the U.S. Postal Service, 85 percent is related to human labor. Since its main activity involves the physical movement of items, it is also sensitive to energy costs, which have risen steeply in recent years. Telephone companies, on the other hand, are capital-intensive enterprises which have benefited from recent advances in electronic technology.

Electronics will eventually provide a solution to the problem of mail delivery as well, but in the short run it could pose a severe threat to the Postal Service. The difficulty is essentially as follows: Residential mail, especially for rural areas, is presently being subsidized by high-volume, pre-sorted business mail. Telecommunications technologies are being developed which will siphon business mail away from the Postal Service by providing a more rapid and, in many cases, less expensive means of delivering such messages.

While the overall volume of mail declines—one projection sees a 30 percent fall in the next decade—the number of separate delivery points served by the Postal Service will continue to increase.[4] The result will be rapidly increasing unit costs for parcel and letter deliveries.

A resolution to the dilemma is by no means clear, and there is at present no Federal agency leading a combined effort to find it. Electronic funds transfer networks are being planned by the Federal Reserve Board and the Treasury without regard for U.S. Postal Service research in facsimile letter transmissions. Meanwhile, the FCC is authorizing digital data networks for a variety of private carriers. This lush profusion of initiatives will bring great benefit to business, but in the short run it could mean higher costs and diminished service for ordinary users of the Postal Service. The complex process of transition should be managed not by chance but by a coordinating Executive agency.

Direct Broadcast Satellites. Transmission of television signals from satellites directly to rooftop antennas offers the possibility of unparalleled diversity in nationally broadcast programing, but some say it could also destroy our present system of local television stations. The opportunity and the danger are not subjects of concern for the remote future; they are upon us now, as the following items demonstrate:

Item 1: In January of 1978 the government of Japan will activate a satellite capable of broadcasting two channels to receivers throughout mainland Japan. The signals can be picked up by parabolic antennas

Footnotes at end of article.

measuring 1.6 meters in diameter and, together with associated electronics, costing less than $200 in mass production. Initial developmental costs were high, but the General Electric Corporation has indicated to Congressional staff that it is now capable of manufacturing additional satellites at a unit cost of $12 million, each capable of blanketing a United States time zone.

Item 2: The World Administrative Radio Conference, meeting in February of this year, allocated frequency space for broadcasting-satellite service in Regions 1 and 3 of the International Telecommunications Union (Europe, Africa, Asia and the Pacific area.) The June 20 issue of Broadcasting magazine reports that U.S. negotiators were "successful" in postponing implementation of a similar plan for Region 2 (North and South America), although an analogous plan for that area is due not later than 1982.

So far the FCC has taken no initiatives to investigate the issues presented by direct satellite broadcasting. Such inaction may be due to simple inertia, but a more likely explanation could be a perception by the Commission that we are facing a momentous issue, one which may be beyond the purview of it or any other small group of specialists. Balancing the benefits of local television stations against those of national programming diversity is not a matter of expert opinion; it is in the highest sense a political issue, a question of national will, which should be addressed by the people through their elected representatives.

As an adjudicatory agency, the FCC has been purposely insulated from the democratic process; it could well be seven years before the new administration has an opportunity to fill the Commission with appointees reflecting the latest electoral mandate. In the meantime, Congress and the Executive should not shirk their responsibility to examine the risks and potential benefits of issues like those posed by direct satellite broadcasting. A strong Executive agency should be created to bring such problems into focus for public consideration and public decision.

Fiber Optics. Optical fiber is a kind of glass filament which will eventually enable telephone companies to deliver color TV as well as voice signals to subscribers' homes. In addition to two-way videophone service, it will make feasible the establishment of local videotape and video disc libraries, with movies and electronic books accessible on demand. With the exception of mobile radio, it could render obsolete almost every local telecommunications service in use today, including broadcasting stations, cable TV, and the existing telephone plant.

Needless to say, the new technology will encounter ferocious resistance from entrenched business interests. AT&T may emphasize its use for overloaded trunk lines but downplay its application to subscriber loops. One reason is as transparent as the fiber itself: The telephone giant has invested more than $123 billion in existing plant and financed much of it on the assumption that it will remain intact for decades to come; it may determine that it cannot afford simply to junk its existing equipment and start all over.

Obviously, the solution to the problem is not simply to require the telephone companies to switch to fiber. Even when fiber's cost falls below that of copper wires, the public interest would not be served by an instantaneous conversion. Since telephone companies are allowed to set their charges on a rate-of-return basis, the general public would be called upon to absorb the cost of writing off the old equipment as well as installing the new fiber systems.

An analogy from the transportation industry illustrates the complexity of the problem: Railroad companies were not allowed to enter the trucking business, much less receive trucking monopolies, for fear that they would impede the rate of innovation in order to protect their existing investment. Yet the policies which were adopted have led to chaos in the railroad industry. The present policy, or lack of it, toward optical fiber could protect the financial integrity of AT&T, yet it could also leave us years behind other countries in applying the new technology.

There is no simple solution to the problem. The answer can only come after the Executive has assembled a staff with sufficient mandate and competence to address such issues.

Spectrum Allocation. In the early days of radio, spectrum space was allocated in much the same way that land was allocated to frontier settlers under the Homesteaders Act: It was simply given away or licensed to anyone who demonstrated an intent to use it. Like land, unused spectrum space is becoming scarce, yet we are still parceling it out in the same old way, with no clear guidelines for distinguishing among competing applicants.

Many economists have suggested that spectrum space, especially spectrum used for purposes other than broadcast television or radio stations, be allocated by market mechanisms, that is, auctioned off to the highest bidders. Electronic engineers, however, insist that there is in fact plenty of spectrum space available for all of us, if we would only use it more efficiently.

Government, they say, should not confine itself to the passive role of handing out spectrum to applicants; it should aggressively pursue research and development of new, spectrum-efficient radio systems. Research alone is not the complete answer, however; it must develop means of effectuating the transition away from older, less efficient equipment while minimizing the economic damage to its owners. Such a role cannot be filled by an adjudicatory and rulemaking body like the FCC; it demands a strong and activist Executive agency.

Land Mobile Radio. The problems in this area stem in large part from our overcrowded spectrum, yet their solution could come in the form of highly sophisticated technologies which do far more than simply minimize the amount of radio bandwidth used. For example, the Advanced Research Projects Agency (ARPA) has been doing defense-related research into the possibility of establishing radio telephone networks with the following characteristics:

(1) They would transmit their messages in digital form, thereby making them usable by computers and encodable for confidential conversations.

(2) They would allow the simultaneous use of bandwidth by many users, following many of the techniques which enable computers to communicate simultaneously with large numbers of terminals.

(3) They would use low-power transceiving stations grouped in separate cells, with mobile users being "handed" from one cell to the next while moving through a city.

Applied to civilian uses, such systems might well eliminate the frequency congestion problems associated with traditional technology. Because of their high quality of voice reproduction, they could also have an important side effect: Eliminating any need for our present wire-bound telephone system. Equipped with portable telephones which could be carried about like transistor radios, citizens would have little need for hardwired, house-bound instruments.

That in turn raises a question which was addressed earlier in our discussion of fiber optics: What impact will this have on the telephone industry?

Privacy. Computers and digital data networks have vastly improved the efficiency with which information is collected and disseminated, but they also create new opportunities for purposeful or unthinking invasions of privacy. Experts believe that cryptographic standards can be developed to foil all but the most expensive wiretapping techniques for digital data flows; the main problem, they say, is the use of information by authorized personnel. As the cost of data storage and transmission has declined, there has been a natural tendency on the part of government and business bureaucracies to request more and more information from their clients. Protection of privacy in the electronic age will require more than effective technical standards for message coding; it demands continued vigilance by a responsible oversight agency to ensure that unnecessary personal information is never requested and never entered into the data networks. The FCC can play a limited role through its jurisdiction over the private sector, but it is not empowered to control the actions of Executive branch departments. A strong Executive agency role is needed.

Rural Communications. In 1952 the FCC made a decision which had a critical impact on rural television viewers: It rejected a proposal by the now-defunct Dumont Television Network that it adopt a policy of authorizing, in as many areas as possible, four strong, regional VHF television stations. Instead, the Commission decided to allocate as many localized, low-powered frequencies as possible. One result was the demise of the fourth network; another was enforced scarcity for rural areas.

The 1952 plan called for about 2,000 stations serving some 1,300 communities, but in many rural areas the advertising base proved too small to support the authorized stations. Fewer than half of the planned stations actually went on the air, and the affected communities were forced to go without. As late as 1974, a study found that 1.2 million U.S. households were not receiving adequate television service on any channel; 2.4 million received only one channel, and another 2.2 million picked up two stations.[5]

Various solutions have been proposed but none yet implemented. They include: subsidized cable television, broadcast repeater stations (referred to as "translators" by the cognoscenti), and direct broadcast satellites. At this late date, it is clear that mere regulatory actions will not provide an effective remedy to the problem. A comprehensive plan needs to be mapped out and pursued with the same vigor which was necessary to bring electricity and telephone service to America's open spaces. Only the Executive is capable of implementing such a program.

Cable Television. A former FCC chairman once described the Commission's cable rules as "the most complex set of regulations ever devised by the mind of man." Although an explanation may arguably be found in the fertile imagination of the agency's legal staff, the rules are in large part a reflection of complex issues with uncertain answers. No one really knows, for example, how many signals a cable can import from distant cities without inflicting substantial damage on local brodcasters. No one knows the extent to which cable growth would be depressed if Congress were to require owners to lease channels to outside parties at regulated rates. The Commission's pay cable rules, recently struck down by the District of Columbia Court of Appeals,[6] seem destined for review by the Supreme Court, but still no one knows how many sports events could be siphoned away from broadcasters by pay systems.

Objective answers to those questions cannot come from advocacy proceedings before the Commission, and complete answers cannot come from Congress's own small staff. The cable controversies amply demonstrate that communications, no less than energy or

Footnotes at end of article.

transportation or securities regulation, demands a strong working relationship between Congress and an activist Executive.

International Communications. No area illustrates more starkly the problems which can be created by fragmentation of authority in communications. Most foreign telecommunications systems are government-owned and are authorized to appear as sole national representatives at the negotiating table. In contrast, the American side of the table at, say, a session on transatlantic cables, will include representatives from the FCC, OTP, the State Department, and each of the private U.S. carriers. In March of 1976 the unwieldy negotiating machinery broke down, and the European governments refused to activate further circuits on the largest transatlantic cable until one of the issues at stake was resolved. The boycott continued through June of 1976.

In most negotiations with foreign governments the State Department acts as our country's representative, but its personnel are career diplomats with no special knowledge or expertise in telecommunications. Today the competing advantages of satellites and cables are creating especially complex issues. Other nations have for too long faced a disorganized and uncoordinated America in communications negotiations. The President should take the necessary actions to ensure that we will have a knowledgeable and authoritative voice at future conferences.

WHAT THE EXECUTIVE BRANCH CAN DO TO SHAPE COMMUNICATIONS POLICY

As the above discussion illustrates, there are some major issues in communications policy which do not fall within the competence of the FCC. Even for those problems which are technically within the Commission's jurisdiction, the Carter administration should not simply defer to the agency's collegial opinions. It should instead equip itself to take initiatives in several areas:

(1) Government procurement. The Executive branch can most directly affect policy by the means in which it uses telecommunications systems for its own purposes. Thus, for example, the Federal government can exert major influence through considered exercise of its own massive purchasing power, which now approximates $10 billion a year in the procurement of communications and electronic systems and services.[7] Such purchases can play a major role in the development of new technologies.

Fiber optics illustrates the principle. A member of the Senate Communications Subcommittee staff addressed an inquiry to Dr. Charles Kao, the physicist whose seminal article in the 1960's first outlined the theoretical potential of fiber and thereby stimulated massive investments in basic research by companies like AT & T, Corning Glass, and ITT. Kao responded as follows: "You asked if there were any technological breakthroughs on the horizon which could lower prices by an order of magnitude. The answer is that you don't need a technological breakthrough to lower prices by an order of magnitude. All you need is mass production."

Thus, a coordinated procurement policy by the Federal government could dramatically lower the cost of new technologies like fiber optics and thereby hasten their availability to the general public.

(2) Government research. A coordinated program of research could reveal broader applications for communications technologies outside the specialized uses for which they have originally been developed by discrete agencies. Thus, for example, the Department of Treasury's work in electronic funds transfer could have direct application to the Postal Service's efforts to develop electronic mailing systems. DOD's research in fiber optics and satellite communications could be used for many civilian purposes.

(3) Advising the FCC. The administration should undertake policy research to advise the Commission on the probable impact of its broader rulemaking procedures. Today the FCC is largely dependent on studies prepared by the industries it regulates. Last year, for example, the House Subcommittee on Oversight and Investigations asked Chairman Wiley what studies the Commission had in its possession showing that cable television would significantly injure broadcast television at the time it promulgated rules restricting cable's importation of signals from distant cities. Mr. Wiley responded by providing a list of 11 studies, 8 of which were prepared by or under contract to broadcasters, and 2 of which were prepared under contract to a broadcast law firm.[8]

One possible solution would be to increase the FCC's research budget, but the courtroom atmosphere of the Commission's advocacy proceedings may be ill-suited to independent, objective analysis. Economics and similar disciplines would seem to provide a better paradigm for long-range policy planning, an activity which can best be conducted in an agency removed from the immediate distractions of rulemakings and adjudications.

(4) Advising the Congress. Electronic mail, satellite broadcasting, cable television, and other major developments will call for legislative initiatives in the years ahead. All raise complex issues which cannot be fully explored by Congress alone. In energy and in other fields the present administration can bring together the nation's most brilliant intellects in formulating legislation; it should not hesitate to apply this boldness and imagination in dealing with communications. The Congress expects as much, and the American people, plunging at light speed into a new era of electronic information technology, deserve no less.

ORGANIZATIONAL ALTERNATIVES

In implementing his decision to remove OTP from the Executive Office, the President must address a serious potential danger: that the new agency responsible for formulating a national communications policy will find its voice muffled by layers of bureaucracy. It must be able to get through to the President, but more important, it must be given sufficient stature that it will be able to get through to the public.

New communications technologies in the years ahead will have the technical potential to transform many aspects of our culture for the better, but those changes could be delayed and in some cases entirely stifled by vested interests. In other cases change could benefit the few while taking away from many. The process of finding the distinction between the two should be made in the full glare of publicity, not only to ensure the integrity of the process, but also to stimulate a genuine process of choice by the people themselves. Experts can tell us what we will gain and what we will lose by change; only the people can tell us whether the gains are worthwhile.

For that reason any new communications agency should in no case be located below the sub-cabinet level. We specifically recommend that, should OTP be removed from the Executive Office and relocated in the Commerce Department, it be reconstituted as a National Telecommunications Administration. In light of its longstanding role in providing technical support to OTP, the Commerce Department's existing Office of Telecommunications (OT) should also be merged into the Administration. The newly formed NTA should at a minimum be conferred the same powers granted to OTP in Executive Order No. 11556 and Reorganization Plan No. 1 of 1970, together with the responsibilities assigned to OT under Department Organization Order 30–5A. With the staffs of OTP and OT as a core, the new agency should be able to make at least a beginning in its new role as a coordinator of American communications policy. This agency could easily be located within the Commerce Department, if that is deemed the best administrative arrangement, and in such a case would be comparable to NOAA.

FOOTNOTES

[1] *Hearings on Executive Office of the President Before the Subcommittee on the Treasury, Postal Service, and General Government Appropriations of the Committee on Appropriations*, 95th Cong., 1st Sess. 424. The Office of Telecommunications Policy supplied the following list of agencies, described as engaging in telecommunications policy research activities in fiscal year 1975 (est.):

Office of Telecommunications Policy	$2,400,000
Research budget	(1,200)
Policy Support Division	(1,200)
Department of Commerce	460,000
Department of Defense	13,050,000
Advanced Research Projects Agency	(13,000)
Defense Communications Agency	(50)
Department of Health, Education, and Welfare	2,140,000
Department of Housing and Urban Development	40,000
Department of Justice	45,000
Department of State	400,000
Department of Transportation	50,000
Federal Communications Commission	750,000
Federal Energy Administration	500,000
National Endowment for the Humanities	75,000
National Aeronautics and Space Administration	14,700,000
Communications satellite program	(11,700)
Technical consultation and support studies	(3,000)
National Science Foundation	4,000,000
Office of Technology Assessment	40,000
U.S. Information Agency	150,000
U.S. Postal Service	120,000

[2] House Subcommittee on Communications of the Committee on Interstate and Foreign Commerce, *Options Papers*, H.R. Comm. Print 95–13, 95th Cong., 1st Sess. 618. No list is contained in the House report, but lists obtained from other sources show an aggregate total exceeding forty different agencies and offices involved in telecommunications, after accounting for agencies contained in more than one list. Appendix A below, compiled by the White House, shows 32 offices; Appendix B reproduces a list compiled by the Comptroller General of the United States in September of 1976 in response to a request from the House Communications Subcommittee. It shows that a total of 18 Federal organizations funded some aspect of cable television. Appendix C contains lists supplied to the Senate Communications Subcommittee by the Cable Communications Resource Center, a minority-oriented public interest organization in Washington, D.C.

[3] A good brief summary of issues arising in the communications revolution is provided in David Burnham, "Nation Facing Crucial Decisions Over Policies on Communications," *The New York Times*, July 8, 1977, page 1. The article is reproduced below in Appendix D.

[4] Arthur D. Little, Inc., *Telecommunications and Society, 1976–1991*, Report to the Office of Telecommunications Policy, Executive of the President (June 22, 1976), p. 17.

[5] Denver Research Institute, *Broadband Communications in Rural Areas: National Cost Estimates and Case Study* (Denver: University of Denver, 1974), cited in Paul W. MacAvoy (ed.) Deregulation of Cable

Television (Washington: American Enterprise Institute for Public Policy Research, 1977), p. 4 n. 10.

[6] Home Box Office v. Federal Communications Commission, 40 RR 2d 283 (D.C. Cir. 1977).

[7] Paul Milich (project coordinator), *Outline for a National Telecommunications Policy Statement*, working paper of the Policy Research Division, Office of Telecommunications, Department of Commerce, September 22, 1976, p. 6.

[8] *Hearings Before the Subcommitee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce*, 94th Cong., 2d Sess., ser. 94-84, vol. V, at 425-426 (1976).

APPENDIX A: THE WHITE HOUSE LIST

FEDERAL AGENCIES INVOLVED IN COMMUNICATIONS POLICY AND MAJOR APPOINTMENTS

Some positions not listed in the "Plum Book" (Policy and Supporting Positions, House Post Office and Civil Service Committee Print, November 8, 1976) are included, when it is known they normally change with Administrations. These are marked with an asterisk.

The following is a survey of federal agencies and policy and supporting positions subject to direct Presidential appointment or appointee selection excepted from the competitive civil service* that have important functions in directing national policy in the telecommunications field. The listing is developed from sources such as the "Plum Book" and the U.S. Government Organizational Manual under four headings:

1. Executive Office of the President
2. Executive Branch Agencies
3. Independent Federal Agencies and Commissions
4. Quasi-Governmental Agencies with Presidential Appointees

Telecommunications functions and key positions, compensation level, and present incumbents are listed under each heading. Attached to this memorandum are charts breaking down these agency functions into regulatory, grant making, consumer participation support and other sub-categories.

A. Executive Office of the President (EOP)

(1) (Office of Telecommunications Policy) (OTP)

Telecommunications Functions: Establishes executive branch policies, including proposals for regulation or spectrum management to FCC, legislation to Congress, coordinates federal portion of spectrum (one-half) and federal research and development.

Key positions:

Director (Level III)—William J. Thaler (Acting).

Deputy Director (Level IV)—Vacant.

*General Counsel—Robert Ross.

(2) Domestic Council.

Telecommunications Functions: Coordinates and integrates telecommunications with other domestic policy recommendations to President, reviews telecommunications policies as integrated with other domestic programs.

(3) Office of Management and Budget (OMB).

Telecommunications Functions: Reviews and approves budget, including mission by mission personnel requirements, of FCC and other independent regulatory agencies with telecommunications functions, as well as Executive Branch agencies with such functions; clears and coordinates federal agency comments on telecommunications legislation FCC wishes to propose to Congress.

Key positions.

Associate Director, Economics and Government Division (Level IV)—Daniel P. Kearney.

*Deputy Associate Director, Economics and Government Division—Joyce Walker.

B. Executive branch agencies.

(1) Department of Commerce.

Telecommunications Functions: Has Office of Telecommunications (OT) that provides technical staff support to OTP, conducts research on telecommunications; Office of Minority Business Enterprise (OMBE) could more actively stimulate minority purchase of broadcast, cable outlets.

Key positions.

Assistant Secretary for Science and Technology—Betsy Ancher-Johnson.

Director, Office of Telecommunications (GS-18)—John M. Richardson.

Director, Office of Minority Business Enterprise (GS-18)—Alex M. Armendaris.

(2) Department of Health, Education, and Welfare (HEW).

Telecommunications Functions:

(a) Office of Telecommunications Policy: This office, within the Office of the HEW Secretary, is the HEW spokesperson on communications policy.

Key positions.

Assistant Secretary for Planning and Evaluation (Level IV)—William A. Morrill.

Director, Office of Telecommunications Policy—Howard Hupe (Acting).

(b) Office of Assistant Secretary for Education Supervises the Office of Education, which supervises the Educational Broadcast Facilities Act of 1962, providing substantial grants to allow public television and radio stations to begin operations and/or make substantial upgrading in equipment. (Has been urged to provide preference to minority nonprofit applicants), withhold grant funds to discriminating public stations. Now has added authority to conduct satellite/other new technology demonstration projects with 1962 Act funds. OE also provides substantial grants for production of broadcast programs (e.g., Sesame Street) and public service announcements for both commercial and public broadcasting (recent emphasis on bilingual programming and programming to ease implementation of desegregation in schools.)

Key positions.

Assistant Secretary for Education (Level IV)—Virginia Y. Trotter.

Deputy Assistant Secretary for Education (GS-18)—Robert P. Hanrahan.

Commissioner of Education (Level V)—Joe Maldonado.

Director, Office of Library and Learning Resources—Dick W. Hays.

Branch Chief, Educational Broadcasting Facilities Branch—John Cameron.

(c) Office of Civil Rights (OCR): Has authority to enforce Title VI of the Civil Rights Act as to HEW grantees, including public broadcasters, as well as broadcast or cable programs grantees of National Foundation on the Arts and Humanities (by delegation).

Key positions.

Director, Office of Civil Rights (GS-18)—Martin H. Gerry, IV.

(d) Office of Consumer Affairs: Consumer education programs should include consumers of broadcast and common carrier services, but does not at present (hopefully to be transferred to separate Consumer Protection Agency).

(e) National Institutes (National Institutes of Education, Health, Mental Health, Drug Abuse, Alcoholism)—Fund research on positive or negative role of broadcast media in their subject areas, such as Surgeon's General's Report on Violence.

(3) Department of State.

Telecommunications Functions: Leadership in international telecommunications issues such as allocation of the electromagnetic spectrum and use of direct broadcast satellites for international programming; Educational and Cultural Affairs office also sponsors International Exchange Program that includes many foreign media visitors.

Key positions.

Assistant Secretary for Economic and Business Affairs (Level IV)—Joseph A. Greenwald.

Deputy Assistant Secretary, Transportation and Telecommunications ($37,000)—Julius Katz.

(Most independent commentators have called for an upgrading of this mission and creation of an Assistant Secretary for International Telecommunications.)

Assistant Secretary for Educational and Cultural Affairs (Level IV)—Joe Duffey.

International Organizations and Advisory Commissions: The State Department also designates delegates to the UN International Telecommunications Union (Designated each UN session) and to its World Administrative Radio Conferences (WARC's).

(4) Department of Justice.

Telecommunications Functions.

(a) Antitrust Division: Brings antimonopoly suits against common carriers (AT&T), television networks; intervenes at FCC and court on competition matters (cable competition with broadcasting, newspaper-television crossownership); represents FCC in court on appeals of FCC policy decisions (and can and does take adverse positions to FCC); testifies before Congress on competitive effects of FCC actions.

Key positions.

Assistant Attorney General (Antitrust Division (Level IV)—Donald I. Baker.

Deputy Assistant (GS-18)—Vacant.

Deputy Assistant (GS-17)—Jonathan C. Rose.

(b) Civil Rights Division: Interprets application of Title VI of Civil Rights Act of 1964 as applied to public broadcasting HEW and CPB grantees, and enforces in court.

Key positions.

Assistant Attorney General (Civil Rights Division) (Level IV)—J. Stanley Pottinger.

Deputy Assistant Attorney General (GS-18)—James P. Turner.

Deputy Assistant Attorney General (GS-17)—Frank M. Dunbaugh, III.

(c) Solicitor General's Office: Passes on Justice Department Position in appeals of FCC decisions.

Key positions.

Solicitor General (Level III)—

(d) Community Relations Service (CRS): Formerly active in assisting in on-site resolution of minority community group/broadcaster disputes.

Key positions.

Director (Level IV)—Benjamin F. Holman.

(5) Department of Labor.

Telecommunications Mission.

Office of Federal Contract Compliance Programs (OFCC): Has authority to monitor and cut off federal contract privileges of broadcast/cable/common carrier companies that discriminate in employment.

Key positions.

Director OFCC (GS-16)—Lawrence Z. Lorber.

(6) Department of Defense.

Telecommunications Mission: DOD coordinates all worldwide telecommunications systems used for defense, conducts extensive advanced R. & D. in telecommunications technology, and uses much of the spectrum. DOD also intervenes before FCC in common carrier matters as a major customer.

Key positions.

Director, Telecommunications and Command and Control Systems—

Principal Deputy Director (GS-18)—John P. Stenbit.

Deputy Director (GS-18)—William Wisman.

(7) Department of Agriculture:

Telecommunications Functions: Rural Electrification Administration (REA) has

authority to make loans and give management and technical assistance for provisions of telephone service to rural areas, through loans from the Rural Electrification and Telephone Revolving Fund; REA is being urged, to expand program to include subsidy of rural cable development to insure rural access to broadband services.

Key positions.

Assistant Secretary for Rural Development (Level IV)—William H. Walker, III.

(8) Department of Housing and Urban Development.

Telecommunications Functions: Under Housing and Community Development Act of 1974, HUD makes community development block grants for improvement of public services. This program could provide the urban counterpart to the REA to stimulate inner-city cable service development. New Communities Program provides guarantees to allow developers to raise capital for new communities, which in some instances have included cable from the outset as a basic public utility.

Key positions.

Assistant Secretary for Community Planning and Development (Level IV)—David O. Meeker.

General Manager, Community Development Corporation (Level IV)—Vacant.

Administrator, New Communities Administration (GS–16)—James F. Dausch.

Assistant Secretary for Consumer Affairs and Regulatory Functions (Level IV)—Constance B. Newman.

(9) General Services Administration (GSA).

Telecommunications Functions: GSA operates the Federal Supply Service and the Automated Data and Telecommunications Service which operates the Federal Telecommunications Service (FTS), including both a voice and data transmission network and provides consultation to other federal agency telecommunications procurement in these areas.

Key positions.

Administrator (Level III)—Jack Eckerd.

*Director, Office of Automatic Data Processing Management.

*Commissioner, Automated Data and Telecommunications Service.

(10) National Aeronautics and Space Administration (NASA).

Telecommunications Functions: Major telecommunications research and development, launches satellites.

Key positions.

Director of Communications Program ($37,800)—Richard B. Marsten.

Director, Network Systems Development Programs ($37,800)—Federal B. Bryant.

Director, Network Operations and Communications Programs ($37,800)—Charles A. Taylor.

(11) United States Information Agency (USIA).

Telecommunications Functions: To promote a better understanding of the United States abroad through use of radio, television, print and movies. Operates Voice of America (VOA) broadcasting facilities to analyze American and foreign news, present cultural image of U.S. Utilizes commercial and public broadcasting programs when made available.

Key positions.

Director (Level II).

Deputy Director (Level IV)—Eugene Kopp.

Assistant Director, Broadcasting (GS–18)—Kenneth R. Giddens.

Assistant Director, Motion Picture and Television Service (GS–18)—Robert S. Scott.

General Counsel (GS–18)—George Haley.

C. Independent Agencies and Governmentally Appointed Commissions.

(1) Federal Communications Commission (FCC).

Telecommunications Functions: Regulation of private corporations providing the public with services on the nongovernmental half of the electromagnetic spectrum (radio and television), through cable and wire, and via satellite (linked with or replacing existing broadcast, cable, or common carrier services). Combines judicial, legislative, and administrative functions under Communications Act of 1934 mandate to regulate broadcasting in the "public interest" (FCC regulates cable as "ancillary" thereto, by Supreme Court interpretation) and to regulate common carriers to see that they provide adequate service at reasonable rates.

Key positions.

Chairman (Level III)—Richard E. Wiley (term expires June 30, 1977).

Six Commissioners (Level IV)—Vacancies: Benjamin L. Hooks (by June 30, 1977); Margita E. White (June 30, 1978).

General Counsel (GS–18)—Werner K. Hartenberger.

Deputy General Counsel (GS–17)—Lawrence Secrest.

Chief, Office of Plans & Policy (GS–16)—Dale N. Hatfield.

Chief, Broadcast Bureau (GS–18)—Wallace E. Johnson.

*Deputy Chief, Broadcast Bureau—Paul W. Putney.

*Chief, Common Carrier Bureau—Walter R. Hinchman.

*Deputy Chief, Common Carrier Bureau—Joe Marino.

*Chief, Cable Bureau—James Hodgson.

*Deputy Chief, Cable Bureau—Jerrold L. Jacobs.

*Executive Director—Richard D. Lichtwardt.

(2) Federal Trade Commission (FTC).

Telecommunications Functions: Prevention of deceptive trade practices via broadcast advertising (active in advertising directed to children, FCC fairness doctrine rulemakings); promotion of competition in the marketplace (advocate before FCC and Congress of cable deregulation).

Key positions.

Chairman (Level III)—Calvin Collier (term expires 1982).

Four Commissioners (Level IV)—One Vacancy now, no more until 1980.

General Counsel (GS–18)—Robert Lewis.

Director, Office of Policy Planning and Evaluation (GS–17)—Vacant.

*Director, Bureau of Consumer Protection—Margery Waxman Smith (Acting).

*Deputy Director, Bureau of Consumer Protection—Margery Waxman Smith.

*Director, Bureau of Competition—Owen M. Johnson, Jr.

(3) Equal Employment Opportunity Commission (EEOC).

Telecommunications Functions: Enforces Title VII of the Civil Rights Act of 1964 against private and public telecommunications entities. Has been active participant in FCC proceedings and appeals therefrom (notably AT&T consent agreement, some broadcast renewals).

Key positions.

Chairman (Level III)—Vacant (term expiring July, 1978).

Vice Chairman (Level IV)—Ethel Bent Walsh (term expires 1980).

Three Commissioners (Level IV)—Vacancy; Colston A. Lewis (R) (term expires July 1, 1977).

General Counsel (Level V)—Abner W. Sibal.

Executive Director (GS–17)—Vacant.

(4) Commission on Civil Rights.

Telecommunications Functions: Investigation and publication of reports on effectiveness of federal agency civil rights enforcement efforts, addressed to Executive Branch and Congress; has conducted several investigations of FCC, HEW, and other telecommunications agencies; participate in FCC rulemakings on EEO.

Key positions.

Chairman (without compensation) Arthur S. Flemming (R) (no fixed term).

Five Members ($153.46 per diem)—One vacancy plus Frankie M. Freeman (D); J. Stephen Horn (R); Manuel Ruiz (R); Murray Saltzman (D) (no fixed term).

Staff Director (Level V)—John A. Buggs.

(5) Administrative Conference of the United States.

Telecommunications Functions: Studies general federal agency practices and recommends changes in agency rulemakings and adjudication procedures.

Key positions.

Chairman (Level II)—Robert Anthony. (5 year term expiring August, 1979).

Executive Secretary (GS–18)—Richard K. Berg.

Executive Director (GS–17)—Emmett J. Gavin.

10 Council Members: Appointed by President for three year terms (no more than one-half to be Federal officials) without compensation.

72 Conference Members (36 agency or department heads, 36 private attorneys, law professors, members of public appointed by Conference Chairman, with Council approval, for two year terms.

(6) National Science Foundation (NSF).

Telecommunications Functions: Funds technological and social science research in areas relevant to telecommunications regulation and policy development.

Key positions.

Director (Level II)—Vacant (6 year term).

Deputy Director (Level III)—Richard C. Atkinson (term ends June, 1980).

National Science Board (16 members, including Chairman and Vice Chairman)—$100 per diem—no term expire until May, 1978.

(7) National Foundation on the Arts and the Humanities.

Telecommunications Functions: Funds substantial public broadcasting programing on both national and state/local levels.

Key personnel.

(a) National Endowment for the Humanities.

Chairman (Level III).

Deputy Chairman (GS–18)—Robert J. Kingston.

Director, Division of Public Programs (GS–16)—John H. Barcroft.

25 National Council Members ($135 per diem)—6 year terms, 8 expiring January, 1978.

(b) National Endowment for the Arts.

Chairman (Level III)—Nancy Hanks (4 year term expires October, 1977).

Deputy Chairman (GS–18)—Michael W. Straight.

Director, Public Media Programs (GS–15)—Vacant.

25 National Council Members ($135 per diem)—6 year terms, 8 expired in September, 1976, awaiting appointments.

(8) National Commission on Electronic Funds Transfers.

Telecommunications Functions: To investigate and report to Congress and the Executive on the interface of banking and new electronic technology: how it should be regulated (federal or state); voluntary or involuntary system; preservation of competition. To complete report in 1977.

Key positions.

13 Commissioners ($150 per diem).

Executive Director ($37,500)—John B. Benton.

Research Director ($37,800)—Wayne I. Boucher.

(9) Commission on Postal Service.

Telecommunications Functions: To investigate the effect on mail volume of electronic funds transfers system (EFTS) and the feasibility of Post Office operation of such system. To report by March 15, 1977.

Key positions.

7 Commissioners—3 appointed by President, 2 by Senate, 2 by House.

(10) Privacy Protection Study Commission.

Telecommunications Functions: Investigate and report on privacy impact of existing and new technology.

Key positions.

Three Commissioners ($145.36 per diem)

Executive Director (GS–18)—Carole W. Parsons.

General Counsel (GS–17)—Ronald L. Plesser.

(All appointments expire July 1977).

D. Private Entities With Presidential Appointees.

(1) Corporation for Public Broadcasting (CPB).

Telecommunications Functions: Created under the Public Broadcasting Act of 1967 production of local and national public broadcasting programming, the operation of a national interconnection network of local public broadcasting stations, and conduct of research, demonstration, and training (including minority and women's training) programs directed to improvement of public broadcasting. Cannot itself operate stations, produce programs, or operate network (does latter through Public Broadcasting Service (PBS)). Designed to act as buffer between government and independent public stations.

Key positions.

15 Board members ($100 per day plus governmental per diem—6 year terms).

Terms Expired April 1, 1976 (serving until successors named):

Robert Benjamin (D)—Chairman.

Thomas More (R)—Vice Chairman.

Virginia Duncan (D).

Terms Expiring April, 1978:

Amos Hostetter (I).

Michael Gammino (D).

Gloria Anderson (D).

Joseph Hughes (R).

Louis Terrazas (R).

All other executive and staff positions appointed by CPB Board.

(2) Communications Satellite Corporation (COMSAT).

Telecommunications Functions: For profit corporation designated U.S. representative to INTELSAT (International Satellite Consortium); operates INTELSAT under contract; enters through subsidiary, COMSAT General, into domestic satellite carrier activities such as COMSTAR (AT&T), MARISAT (Navy), AEROSAT (civil Mobile aviation), and SBS (AETNA–IBM).

Key positions.

3 Members of 15-Person Board of Directors are appointed by President for 3 year terms:

George Meany—sits until 1978.

Vacancy in term until 1979.

Vacancy in term until 1980.

APPENDIX B: LIST FROM INFORMATION REPORTED BY FEDERAL ORGANIZATIONS ON THE PURPOSE, DURATION, AND COST ASSOCIATED WITH CABLE TELEVISION, REPORT OF THE COMPTROLLER GENERAL TO THE HOUSE COMMUNICATIONS SUBCOMMITTEE, SEPT. 15, 1976

SUMMARY OF FEDERAL ORGANIZATIONS IDENTIFIED AS FUNDING CABLE TELEVISION

Federal organizations	Type of funding	Amount
Department of Housing and Urban Development	Contracts	$494, 200
Corporation for Public Broadcasting	Contracts	85, 400
Office of Telecommunications Policy	Contracts	398, 406
National Science Foundation	Grants	4, 584, 666
Department of Health, Education, and Welfare	Grants	1, 370, 522
	Contracts	1, 755, 976
National Foundation on the Arts and the Humanities	Grants	550, 103
Federal Communications Commission	Contracts	52, 084
Department of Commerce	Contracts	1, 927, 721
	Grants	2, 000
Bureau of Indian Affairs	Grants	40, 000
Department of Defense		
Department of Labor		
General Services Administration		
Department of Transportation	None	None
Veterans' Administration		
Environmental Protection Agency		
United States Postal Service		
Total funding for contracts and grants		11, 261, 078
Small Business Administration	Guaranteed loans	9, 542, 900
Department of Agriculture	Guaranteed loans	190, 000
Total funding for guaranteed loans		9, 732, 900

APPENDIX C: LISTS SUPPLIED BY THE CABLE COMMUNICATIONS RESOURCE CENTER OF THE BOOKER T. WASHINGTON FOUNDATION, WASHINGTON, D.C.

FEDERAL INVOLVEMENT IN TELECOMMUNICATIONS ACTIVITIES

Federal agency	Regulation	Development of public policy	R & A	Funds, R. & D.	Operating projects	Funds, programing	EEO
Executive Office of the President:							
Office of Telecommunications Policy		X	X	X			
Domestic Council		X					
Office of Management and Budget		X					
Special Assistant to the President for Consumer Affairs							
Executive Branch Agencies:							
Department of Commerce		X	X	X	X		X
Department of Health, Education, and Welfare:							
Office of Telecommunications		X	X	X		X	X
Office of Telecommunications Policy		X		X			
Office of Education		X		X	X	X	
Office of Civil Rights	X	X	X			X	
Office of Consumer Affairs							
Deputy Assistant Secretary, Transportation and Telecommunications	X	X	X				
U.N. International Telecommunications Union							
Department of Justice		X	X	X	X		X
Department of Labor							X
Department of Defense	X	X	X	X	X	X	
Department of the Treasury	X	X					
Assistant Secretary for Rural Development		X	X		X		
Rural Electrification Administration (REA) head			X	X			
Department of Housing and Urban Development (HUD)		X	X	X	X		
Independent Agencies:							
Federal Communications Commission	X	X	X				X
Federal Trade Commission (FTC)	X	X	X				
Equal Employment Opportunity Commission (EEOC)		X					X
Commission on Civil Rights		X					X
Administrative Conference of the United States							
National Science Foundation		X	X	X	X		X
National Foundation on the Arts and Humanities		X	X	X	X	X	
General Services Administration (GSA)		X	X				
Small Business Administration (SBA)		X			X		
National Aeronautics and Space Administration (NASA)		X	X	X	X		
Department of State		X	X	X	X	X	
Board of International Broadcasting							
Civil Service Commission		X					X
National Commission on Electronic Funds Transfers		X	X				
Smithsonian Institution						X	
Privacy Protection Study Commission		X	X				
Private Entities with Presidential Appointees:							
Corporation for Public Broadcasting (CPB)		X	X	X	X	X	X
Communications Satellite Corporation			X	X	X		
Legal Services Corporation		X	X				X

AGENCY	TELECOMMUNICATIONS INVOLVEMENT	MINORITY ISSUES
Executive Office of the President		
Office of Telecommunications Policy	Overview of all telecommunications policy establishes Executive telecommunications policy.	Agency in best position to establish and effectuate policies to produce tangible results for minority communities.
Domestic Council	Coordinates and integrates telecommunications policy with other domestic policy recommendations to President.	Office best situated to view telecommunications.
Office of Management and Budget	Reviews and approves budget of all independent and Executive agencies with telecommunication functions.	Critical control point in gaining access to federal budget.
Special Assistant to the President for Consumer Affairs	Extensive potential involvement but limited activity in past.	Limited minority orientation.
Executive Branch Agencies		
Department of Commerce, OMBE	Coordinates federal programs to benefit minority entrepreneurs.	Resources and capability to achieve effective results are too limited.
Office of Telecommunications, Department of Health, Education & Welfare	Research and technical support function.	Limited minority orientation.
Office of Telecommunications	Research and technical support function.	Limited minority orientation.
Office of Telecommunications Policy	Telecommunication policy for HEW.	Limited minority orientation.
Office of Education	Makes grants for broadcast and satellite educational uses.	Limited minority orientation.
Office of Civil Rights	Has enforcement authority for Title VI of Civil Rights Act for HEW.	Have done some useful things.
Office of Consumer Affairs	Limited past involvement in telecommunications.	Have done some useful things.
Deputy Assistant Secretary, Transportation & Telecommunications	Key policy position on international telecommunications issues.	Important to Third World issues.
UN International Telecommunications Union		No apparent minority input.
Department of Justice	One of the most important positions for determining national and international issues relating to telecommunications development.	Important in opening up minority ownership opportunities in established industries.
Department of Labor	Broad EEO authority and manpower training grants for telecommunications industries.	Limited minority orientation.
Department of Defense	Coordinates worldwide defense telecommunications, also extensive R & D.	
Department of the Treasury	Jurisdiction over tax matters influences ownership structure of telecommunications industries.	
Assistant Secretary for Rural Development	Has authority and funds to finance and make management and technical assistance available and rural telecommunications systems.	
Rural Electrification Administration (REA) head	Has authority and funds to finance and make management and technical assistance available and rural telecommunications systems.	
Department of Housing and Urban Development (HUD)	Has authority and funds for planning and improvement of public services which could include telecommunications service delivery.	Limited minority orientation.
Independent Agencies		
Federal Communications Commission	The federal regulator of private corporations providing communications.	Agency in best position to have impact on EEO practices and general public interest.
Federal Trade Commission (FTC)	Federal regulator of trade practices via broadcast advertising.	
Equal Employment Opportunity Commission (EEOC)	Enforces Title VII against private and public telecommunications entities.	Agency can have the most impact on employment among the communication entities.
Commission on Civil Rights	Oversees the effectiveness of civil rights in the telecommunications agencies.	Agency reports to the executive branch and congress on the effectiveness of civil rights in telecommunications agencies.
Administrative Conference of the U.S.	Generally recommends changes to agency rulemaking process.	Rarely deals in consumer interest but could have impact on the process of rulemaking effecting minorities.
National Science Foundation	Funds research in areas relevant to telecommunications.	Agency in good position to have impact on demonstration projects in telecommunications.
National Foundation on the Arts and Humanities	Funds primarily public broadcasting programming on national/state and local levels.	Agency has potential funding sources for public access and local origination.
General Services Administration (GSA)	Operates (FTS) and provides consultation to federal agencies in telecommunications procurement.	Agency can play a strong role in technological development, competition and nondiscrimination in the private telecommunication service sector.
Small Business Administration (SBA)	Insures small business to received federal contracts, loans and loans guarantees.	Agency currently bars loans to minority firms to purchase or operate broadcast ventures.
National Aeronautics and Space Administration (NASA)	Research and development technology for the future.	The agency uses public funds for R&D. Limited minority participation.
Department of State	Dissemination of information abroad. Research and analysis of telecommunications policy as related to Third World nations.	Can have significant impact on Third World nations.
Board of International Broadcasting.		
Civil Service Commission	Has final decision over discrimination and affirmative action programs in the telecommunications industry.	Could be beneficial to the minority employment question in the broadcast industry.
National Commission on Electronic Funds Transfers	Reports to Congress and Executive on interface of banking and electronic technology.	

AGENCY	TELECOMMUNICATIONS INVOLVEMENT	MINORITY ISSUES
Smithsonian Institution	Recently established a telecommunications office.	
Privacy Protection Study Commission	Investigates privacy impact of existing and new technology (e.g. two-way cable service).	
Private Entities with Presidential Appointees Corporation for Public Broadcasting (CPB)	Receives and regrants federal funds for the production of local and national public broadcasting programming.	Is becoming more sensitive to minority issues. In 1976 established Dept. of Human Resources to address concerns of minorities and women.
Communications Satellite Corporation	For profit corporation designated U.S. rep. to the International Satellite Consortium.	Limited minority orientation.
Legal Services Corporation	Federal subsidized legal services program for minorities.	Beneficial as a legal outlet for minorities seeking opportunities in telecommunications.

[From the New York Times, July 8, 1977]

NATION FACING CRUCIAL DECISIONS OVER POLICIES ON COMMUNICATIONS

(By David Burnham)

WASHINGTON, July 7 — Fundamental changes in the way that Americans communicate are forcing the Federal Government to make policy decisions that could alter the fortunes of the nation's largest communication organizations and the lives of most citizens.

The pending decisions confronting the Carter Administration, Congress and the Federal Communications Commission involve a complex balancing of such questions as the competing rights of large corporations, the possible demise of the United States Postal Service, delicate diplomatic negotiations over the use of the air waves by individual nations and the importance of privacy to individual citizens.

The communication changes, made possible by the increasing use of several technologies, are expected to transform the way that many Americans conduct their lives; how they send written messages, pay their bills, talk to their politicians, get their pay, obtain medical care and receive entertainment, news and other information in their homes.

According to interviews with scores of communication experts and reports by dozens of different agencies, commissions and consultants, some of the most difficult pending questions awaiting resolution are the following:

How is the Carter Administration going to shape the executive branch agencies under its control to deal with communications issues? At present, according to several officials, Mr. Carter is planning to abolish the existing White House Office of Telecommunications Policy and scatter its functions among a few Presidential assistants and the Commerce Department.

Should Congress follow the lead of the House Communications Subcommittee and attempt a total revision of the Communications Act of 1934, the basic framework for regulation of all communications in the United States and a document that many experts contend has been largely outmoded and is now slowing the application of the most advanced technologies?

Should the Federal Communications Commission continue its policy of gradually subjecting the American Telephone and Telegraph Company to increasing competition in the sale of specific kinds of telephone equipment and communication services?

Should Congress grant the United States Postal Service a legal monopoly on electronic mail similar to the one it enjoys with conventional mail in the hope that such an extension could subsidize the sagging fortunes of the Postal Service and guarantee the continuation of first-class mail delivery? Or should electronic mail, like the telephone, be operated by private industry?

Should there be a single clearing house within the Federal Government to serve as a highly efficient central switching point for the steadily increasing volume of financial transactions completed by electronics and computers, or would such a clearing house pose a threat to individual liberty?

"Communications now has the potential to change the way Americans live more than any other sector of the American economy," said one White House staff official.

"But there seems to be a close parallel between communications today and energy 20 years ago. You could see the energy problem was coming back in 1957, but because there weren't any gas lines then, it was impossible to get a consensus that it was something that required careful consideration."

Another factor contributing to the difficulty of developing communications policy is the sheer size of the industry. According to such experts as Marc U. Porat, an economist now working with the Aspen Institute, more than half of the wages paid in the United States and nearly half of the nation's $1.8 trillion gross national product "originate with the production, processing and distribution of information goods and services."

In a recent article, Dr. Porat argued that while "information occupations" accounted for only 10 percent of the work force at the turn of the century, they now represent "45 percent of all jobs in the United States."

While there are economists who argue with some of Dr. Porat's definitions, there is no question that communication encompasses a huge sector of the American economy and some of the largest and most powerful institutions: the National Letter Carriers Association, the International Business Machines Corporation, the advertising industry, the three television networks, the Communication Workers of America, the movie industry and Ma Bell's empire.

SOCIAL PROBLEMS RAISED

Beyond sheer size, the new technologies raise difficult social problems, according to many experts.

The development of electronic systems for the transfer of funds, in which cash and checks are replaced by blips on a computer, has been made possible by the availability of increasingly cheap and reliable computers in banks, insurance companies and retail establishments. The growth of relatively small electronic funds systems has suggested the need for a national clearing house where all such transactions could be sorted out and possibly stored.

The Federal Reserve System, for example, recently initiated an experimental project in which its customary role as a clearing house for banks was broadened to include the handling of tapes carrying transactions of individual electronic-fund transfers.

Last year, John M. Eger, then acting director of the White House Office of Telecommunications, challenged the Federal Reserve plan on the ground that it might one day be used to build centralized Government files on the buying habits and movements of individual citizens.

The Federal Reserve plan, Mr. Eger said in a brief filed in opposition to it, could ultimately give the Federal Government "a highly effective tool for keeping track of people and enforcing 'correct' behavior."

Representative Lionel Van Deerlin, the chairman of the House Communications Subcommittee, discussed some of the stakes involved in the decisions awaiting resolution.

"What we have now in communications is government by court edict," the California Democrat said. "The 1934 Communications Act, in large part a rewrite of the 1887 Interstate Commerce Act, is hopelessly out of date. There is no overall policy statement from Congress, and the F.C.C.'s regulations therefore are frequently arbitrary and capricious."

Mr. Van Deerlin said that a major result of the outdated law and faltering regulation was that competition was being discouraged throughout the communications industry, and that the American people were therefore being deprived of "better, faster and cheaper communications."

Representative Timothy E. Wirth, a Colorado Democrat who is a member of the Communications Subcommittee, talked about other aspects of the situation in a speech last fall to the Institute for Telecommunication Sciences.

"There is very little recognition of the social significance of the computer and communication revolution," he said. "The unspoken fact is, in today's society, that information is power, and the terms of access to information determine who has influence and who reaps benefits in our society.

"Think of that for a moment. We are talking about economic power, about social and intellectual standing and about political participation. All are fundamentally affected by the availability of knowledge, which depends upon information which is rooted in technology."

HIGH SKILLS REQUIRED

A White House staff member discussed the same issue in somewhat different terms. Noting that the increasingly complicated communications environment was going to require "very high skills" to operate, the official speculated that this "may make it even harder than it is today for important segments of our society to take part in the economy."

In an effort to develop a more informed consensus about some of these issues, the House Communications Subcommittee two months ago published a 486-page staff report that tried to define some of the key communications issues and the possible steps that Congress might take to resolve them.

Various chapters in the report dealt with the use of the radio spectrum, broadcasting, domestic telephone service, international telecommunications cable television and privacy.

The subcommittee, which has been holding hearings on these issues, now hopes to complete by December a draft proposal for rewriting the 1934 Communications Act.

Richard E. Wiley, the outgoing chairman of the F.C.C., said in a recent interview that the commission's effort to develop new

policies "may slow down the introduction of new services."

"I would like to have more national direction, we could use policy guidance," he said, noting that the 1934 Act naturally contained no reference to recent technologies.

Three key technologies are involved in the communication revolution. First is the computer, which each year grows cheaper, more reliable and smaller. In a report published several years ago by the Conference Board, a nonprofit business research organization, it was reported that since the early 1950's, the physical size of computers has diminished by a factor of about 1,000, the costs have dropped a hundredfold and the capacity has grown by a factor of 1,500.

A recent article in Science magazine described the results of these changes. In 1950, the Federal Government ordered its first two big computers. Today, the article said, there are 220,000 computers in the United States, 40 percent of them medium or large size, manned by 2.5 million computer professionals.

The second key technical development is the high-altitude communication satellite, which can transmit directly to roof-top antennas. The potential of direct broadcasting from satellite has prompted Japan to consider developing a single transmitting station in space for all its people. In a world where large numbers of nations in Africa, South America and Asia are unable to afford conventional television broadcast stations, the social and educational possibilities are enormous.

In another application, a company established by I.B.M. and Aetna Insurance has won permission from the F.C.C. to launch a satellite that would permit corporations to transmit data between offices and factories all over the United States without ever picking up a telephone or going near a post office.

The third and possible most significant new technology is fiber optics communications, which is now being pursued by A. T. & T., the International Telephone and Telegraph Corporation, Siemans A.G. of Germany, Nippon Electric and Corning Glass. According to virtually all experts, fiber optics is expected to cost less than coaxial cable, be far smaller and lighter and be capable of transmitting far more information.

Fiber optics deals with the transmission of light and images, as around bends and curves, through a flexible bundle of plastic optical fibers.

Assuming the resolution of the remaining technical problems, such as how to achieve simple splices, many experts believe that within a few years A.T. & T. can begin a program to replace the copper telephone wire running into almost every building with fiber optics, which would be able to carry two-way television, a variety of two-way teletype services, dozens of conventional television channels and telephone messages.

The combined impact of these new technologies on the way Americans live will be enormous, most experts agree.

"If you link fiber optics with a teletype machine, you could do much of your banking from home, some of your shopping from home, buy airline tickets from home and maybe even work at home," said Richard Neustadt, one of several White House staff members now spending much of their time on communication issues.

The new communication technologies, he said, could also mean major improvements in the delivery of various social services, especially in rural areas where vast distances could be erased by electronics in the delivery of medical and school services.

Representative Van Deerlin sees the new communication systems leading to profound changes in politics, with candidates campaigning over citizens' band radio and elected officials being able to have "town meetings" via two-way cable television that would allow give-and-take conversations with all constituents who cared to turn on their sets.

But beyond the specific changes expected in the way that Americans bank, shop and obtain information and news, some experts believe that the communication and information and information revolution may ultimately strongly influence some of the basic values of society.

In an essay published several years ago, John McHale, director of the Center for Integrative Studies, State University of New York, speculated that the rapid growth of communications might affect the value of real property.

With more and more wealth being generated by information and communication technologies that, unlike coal and oil and uranium, cannot be used up, material property will no longer be the sole basis of economic power, Mr. McHale suggested.

In the industrial age, he said, wealth resided in visible assets such as land, buildings, machines and animals. But with the increasing value of information processing, physical properties "already have less and less intrinsic wealth values themselves."

PROFILE OF SECRETARY BERGLAND

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Minnesota (Mr. HUMPHREY), I ask unanimous consent that a statement by him, as well as the text of an article to which this statement makes reference, be printed in the RECORD.

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

STATEMENT BY SENATOR HUMPHREY

Secretary of Agriculture Robert Bergland has demonstrated dedication and strong conviction throughout the initial months of his leadership of USDA.

Upon his appointment, Secretary Bergland immediately faced a critical situation: farm prices were falling rapidly, and one out of every ten farmers faced bankruptcy.

But Secretary Bergland did not overpromise the nation's farmers. Instead, he has told America's farmers the straight facts of this difficult situation. He has advocated a strong supply management program. He has refused to offer target prices and loan levels that would encourage excessive production, thereby exacerbating this situation.

But he has never slackened in his efforts to help America's farmers.

He has sought to strengthen farm credit, improve rural housing programs and expand overseas' markets.

Secretary Bergland believes that farm income must be derived from the marketplace if such income is to be real. He has clearly defined his support for price support payments directed at cases where supply and demand are out of kilter and farm income is dangerously low.

Secretary Bergland knows farmers need markets and a sound supply management policy. He is dedicated to finding new markets and to instituting an effective supply management program.

Bob Bergland, whom I have known for many years, is one of the most effective advocates of American agriculture that I have ever known. Coming from the Red River Valley of Minnesota, he knows farming and the people who have given us the most productive agriculture in the world.

Mr. President, Bob Bergland is truly an exceptional man. An article portraying this outstanding American was published in the October 4 issue of the Christian Science Monitor. In an effort to share a glimpse of this important Cabinet member, I would like to give my colleagues an opportunity to read this article

[From the Christian Science Monitor, Oct. 4. 1977]

A FARMER'S OUTLOOK: NO TIME FOR GREED

(By Louise Sweeney)

WASHINGTON.—He looks as if he's spent a lifetime facing into a stiff wind without flinching, not hunching against the wind but welcoming it, his blue-gray eyes narrowed on a distant horizon.

It is the sort of face you might expect to find in one of Thomas Hart Benton's paintings of prairies storms, the face of Bob Bergland, the Minnesota farmer who is Secretary of Agriculture.

Sometimes the wind comes out of the west. It did one day in 1975 when he was Representative Bergland, Minnesota Democrat, taking a stand he knew was right but lonely on the House Agriculture Committee. The hearing was packed with Minnesota farmers who wanted higher prices and targets on that year's farm bill. The man who is now chairman of the Agricuture Committee, Rep. Thomas S. Foley (D) of Washington, remembers that the increase would have been "totally unrealistic," so Mr. Bergland offered an amendment moderating it in the hope of getting the bill through.

"There was fist shaking and murmuring and anger among them. . . . It was a whole roomfull of his constituents, and they were obviously outraged at what he did," Mr. Foley says. "They were people who didn't understand he was doing it for the purpose of getting a bill out on the floor that would pass. He didn't flinch from doing what was right, whether or not it was popular."

Secretary Bergland talks fast and bites off his words as though he were eating beef jerky. But there's no mistaking the message he is sending out to those used to the policies of former Secretary Earl Butz. "Times have changed. . . . I think the well-heeled commercial agribusiness enterprises of this country can take care of themselves. They don't need me," he says.

He is a man who curles his lip at materialism and speaks warmly of the Spartan but happy childhood he had as a Minnesota immigrant farmer's son during the depression. "Happiness is not for sale. It's a state of mind. Find it. And I bring that philosophy here to the administration of this department. Occasionally some greedy person will criticize something I've done, because I'm not enriching them to suit them. I don't waste time quarreling with them, but I pay no attention. I mean none. Anyone whose advice is derived from greed won't get the time of day from me. I'll listen. But that's all. And I don't listen very well to those people.

CONSUMER ADVOCATE ADDED

"The people who come here with a notion that's based on a belief that there's more to this life than getting rich and that we have a responsibility, politically and morally, a responsibility to share that which we have with those who are less fortunate, will not only be given an audience but be welcomed with open arms."

Under Mr. Bergland the U.S. Department of Agriculture has its first consumer advocate, Carol Foreman. He also has changed the budget to increase support for a protein supplement program for poor pregnant mothers. There are plans to "use food aid as a development tool, not a political club . . . in the field of foreign affairs," he says.

Bob Bergland is a tall, fit, terse man with gray hair who thinks of himself as "low key, not a screamer." "Be prepared" is the work-

ing motto of this man, who prides himself on always doing his homework. And Mr. Foley says he can best be described in "Boy Scout adjectives: honest, kind, decent, compassionate.'

Mr. Bergland is a Lutheran, of Norwegian descent, and friends speak of his quiet devotion to his church. His minister, Pastor Duane Carlson, calls him "a man of great principle."

Secretary Bergland describes himself as nonpartisan, a negotiator. But Sen. Robert Dole, a Bergland-watcher on the Senate Agriculture Committee, calls him "very partisan"—as well as "knowledgeable and industrious." The Republican Senator from Kansas gives him points for his performance. "It's a tough job but he's coming along all right."

RANGE OF EXPERIENCE

Sen. Wendell R. Anderson (D) of Minnesota has known Mr. Bergland a long time and sees him as a "pragmatic, incredibly hard-working, tough" guy who has spent many years "trying to make a living from the soil." But he also spent six years in the House, making a name for himself on the Agriculture Committee, six years as an agriculture undersecretary with Orville Freeman, and two or three years down in Florida where he worked as a construction laborer and carpenter after graduating from the University of Minnesota's two-year School of Agriculture.

He still has his 600-acre wheat and grass seed farm in Roseau, Minnesota, rented out to a son-in-law. After his four years as secretary is up, you won't see him for the dust he kicks up, getting back to it.

He misses springtime, the planting season, "the business of getting up early in the morning and being able to see the horizon and smelling life." He calls his farm his "security blanket," says that "it will never make me rich but will always provide me with the necessary comforts and the necessities." Even that has been a long time coming for the man who remembers five years when his family had no indoor plumbing in their farmhouse, and who saved for years for a shotgun.

This spare man presides over a marble and stone fortress of a building, its exterior trimmed with black wrought iron and quotations including one by George Washington who said: "With reference to either individual or national welfare, agriculture is of primary importance." An interior courtyard of blond brick, adrip with a central fountain and flags of all the states, is sunk in the middle of the building.

A RELAXED OFFICE

In the secretary's own office it is more relaxed. There are Minnesota scenes, sailing paintings, a giant gilt peanut shell full of peanuts on the coffee table. The secretary drapes his black-booted legs over a leather chair as he talks. He wears gray pants, a rosy beige shirt, and navy tie, slightly askew.

Sitting there, he admits to a passion for sailing, which he pursues on his 26-foot sloop in Chesapeake Bay. "That's the one place I can go and completely relax, not bring my burdens." He says he subscribes to three sailing magazines and reads every book on it he can find. Right now he's building a model airplane with his 15-year-old son, Franklin, one of the Berglands' six children. He also admits to a weakness for a macaroni hot dish his wife makes, laced with vegetables, and to playing the guitar, hunting, listening to mood music, fishing for walleyed pike, and refinishing furniture.

"He just seems happier, not as frustrated as when he was in Congress," says Mrs. Bergland of her husband's new role as Secretary of Agriculture. Mr. Bergland himself says, "I'm very secure in the job. If someone has done a good thing here, I'm prepared to pay public tribute to them, give credit. I'm not afraid. I'm not afraid of Jimmy Carter. I'm not afraid of the work, 'Cause you see I spent 30 years preparing for this job."

UNEMPLOYMENT DOWN IN HUNTSVILLE, ALA.

Mr. SPARKMAN. Mr. President, we are all disturbed by the high unemployment throughout the country. With this in mind I greatly enjoyed reading an article in my hometown paper, the Huntsville, Ala., Times, a few days ago. At a time when the unemployment throughout the country was a problem in the Huntsville metropolitan area we had the lowest unemployment rate since 1974. At the same time Alabama as a whole has an unemployment rate of 6.6 percent.

I ask unanimous consent that the news article clipped from the Huntsville Times be printed in the RECORD.

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

HUNTSVILLE METROPOLITAN AREA RECORDS LOWEST UNEMPLOYMENT RATE SINCE 1974

(By Skip Vaughn)

The unemployment rate for the Huntsville metropolitan area was 5.1 per cent in August, the lowest figure since the May 1974 rate of 4.8 per cent.

Local labor market analyst Abott Wood attributed the low unemployment to "improvements in the area's economy." The three-county area includes Madison, Limestone, and Marshall counties.

The previous low rate for this year was 5.5 per cent recorded in May. That was the first month the rate registered below the 6 per cent level since the 5.7 rate of October 1974.

Wood said a combination of factors caused the big drop in jobless totals from July, which had a 7.2 per cent rate. One reason, he said, is that the civilian labor force dropped from 127,200 to 125,600 as unemployed students and parttime workers returned to school. In addition, workers on unpaid summer vacation, recorded as unemployed during July, returned to work.

Other reasons unemployment dropped from 9,100 to 6,400 during the month, Wood said, include small gains recorded in nonfarm wage and salary employment. There were increases in the machinery component field (including electrical), the apparel industry, construction, and trade.

Statewide, unemployment dropped 10,300 over the month as the jobless rate fell to 5.6 from July's 6.3 per cent. This was mainly attributed to workers returning from unpaid vacations. The comparable national rate was 7.1 per cent.

Alabama's civilian labor force dropped 5,400 in August to total 1,535,900. According to the Alabama Department of Industrial Relations, the decline was due to "a substantial downturn in the seasonally high number of unemployed" during June and July. Employment rose 4,900 since July and 48,400 since August 1976.

Manufacturing employment rose 3,400 to total 355,700, with most of the gain in the apparel industry. Nonmanufacturing employment went down 2,300 to total 911,300. This was mainly due to a slowdown in govcrnment-sponsored summer employment.

The Huntsville area figures are also impressive compared last year. In August '76, the civilian labor force totaled 123,700 with 8,600 unemployed for a rate of 6.9 per cent. Wood pointed out that 4,100 more people are employed this year.

TERMINATION OF THE LOCKHEED LOAN GUARANTEE

Mr. CANNON. Mr. President, in 1971 the Lockheed loan guarantee by the Government was an extremely controversial issue and passed by only a 4-vote margin. I supported providing that guarantee for the company because I was concerned about the effect that the Lockheed bankruptcy would have had on our national defense program, and also in part, because I thought the Government was largely responsible for the financial problems Lockheed suffered. The C–5A airplane and Cheyenne helicopter programs caused the company major financial losses due in large part to use of the now discredited "total package" concept of procurement.

I was most pleased to see that Lockheed fortunes have improved to the point where the company no longer needs the Government guarantee to support its line of credit with the banks. The company has terminated its loan guarantee and now is back solely in the private banking sector.

I would like to point out to my colleagues that Lockheed never did borrow from the U.S. Treasury under the loan guarantee program and, further, the Treasury will make approximately a $30 million profit from the guarantee program.

An article in the October 1977, issue of Fortune magazine gives a succinct summary of the history of the guarantee program, and I recommend it to the attention of my colleagues.

Mr. President, I am glad to see that this has turned out successfully for the U.S. Government and Lockheed Corp., and I also am glad to see the Government no longer involved in Lockheed's financial operations. I ask unanimous consent that the Fortune article be printed in the RECORD.

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

A "BAD DEBT THAT WAS PROFITABLE FOR EVERYBODY

(By Linda Grant Martin)

The federal loan guarantees that have been Lockheed's lifeboat since 1971 were launched into waves of controversy and misunderstanding at a time when the Pentagons leading defense contractor looked as though it was about to go under. Lockheed is no longer in danger of swamping, and by the end of the year the guarantees will be ended—with the company's twenty-four banks and the U.S. Treasury much the richer.

When the Emergency Loan Guarantee Act squeaked through Congress by only four votes, Lockheed was grappling with a cash squeeze so severe that it needed vast new lines of credit in addition to the $400 million it already owed. But its bankers refused to lend it more money without firm assurance that they could eventually recover the additional investment. The bill provided that assurance by having the government guarantee repayment of new loans totaling as much as $250 million.

It was not by any means a cost-free prop. The legislation specified that the total charge for the financing should equal the amount that Lockheed, in its sounder days, would have had to pay in the free market—the prime rate to prime plus 1 percent.

A RISK THAT WASN'T

To avoid giving the company's creditors a windfall, the Emergency Loan Guarantee Board set up to administer the program devised a two-tier formula. Lockheed issued nine-month guarantee notes at interest rates appropriate for risk-free loans; over the six years, the rates ranged from 4.3 percent to 10.1 percent. Then the board set a variable

"guarantee fee," to be levied by the government.

Added together, bank and government charges ranged from 7.3 percent to 13.1 percent, during a period when the prime rate ranged from 4.8 percent to 12 percent. On top of all this, the banks and the government split a "commitment fee" of ½ percent of any unused portion of the $250 million. In the end the commitment fee alone came to nearly $3 million.

As it turned out, Lockheed needed nearly every one of the government-guaranteed dollars. Over the term of the loan, the company's borrowings climbed for a short time to a nerve-wracking $645 million, of which the government underwrote $245 million. Today Lockheed has repaid all but $80 million of the guarantee notes. By the end of this year it plans to reduce that figure to about $20 million, which the company hopes to convert to a short-term revolving credit.

Curiously, some of Lockheed's present leaders are somewhat ambivalent about the guarantee program. They acknowledge that it kept the company alive, but complain that the intangible cost was high—making the company, as one senior executive puts it, "a readily available victim to anyone who wanted to get into our innards."

The thirty-two-year-old secretary of the Emergency Loan Guarantee Board, Brian Freeman, still receives queries from Congressmen who seem unaware that the federal government has never loaned a dollar directly to Lockhed—even though these same Congressmen voted on the original legislation. The little-known truth is that the Treasury actually earned a tidy profit. The guarantee and commitment fees paid by Lockheed netted the government nearly $27 million. Even critical lawmakers find it hard to fault that return on a risk Washington lawyers called *"de minimis"*—in plain language, almost nonexistent. After all, the government held a first lien on Lockheed property valued far in excess of the guaranteed loans.

Freeman believes that all members of the uneasy alliance—Lockheed, the banks, the Defense Department, and the Treasury—benefited "because the self-interest of all the actors was preserved." He explains: "Lockheed survived, the banks stayed with the company, Defense preserved an important supplier, and the program earned money for the government.

THE BONANZA TO COME

What seems clear now is that the banks stand to reap the most profit from Lockheed's past plight. The consortium, led by Bankers Trust and Bank of America, won significant benefits: protection of the $400 million that might otherwise have been lost, interest on that amount, interest on the risk-free notes, and $1.5 million from the commitment fee on money that was not loaned.

The banks' full bonanza has yet to be realized. Last year Lockheed and the banks agreed on a restructuring that strengthened the company's balance sheet. Of the $400-million non-guaranteed debt, the banks converted $50 million to equity and $350 million to a term loan. Earlier they had lowered their interest rate for a year and a half, to 4 percent; prime was then about 6.4 percent to 8 percent. Only recently did the rate return to prime plus 1 percent.

To win such concessions in its time of need, Lockheed obviously had to reward the banks. Part of the prize was an issue of ten-year warrants to purchase 3.5 million shares of common stock at what now looks like bargain prices. If exercised, those warrants would give the banks a stunning 23.5 percent of Lockheed's equity. Since the warrants carried rights to buy at $7 and $10, and the stock has recently been around $18, the banks could realize an immediate profit of $30 million or more. Furthermore, in exchange for converting part of the debt to equity, the banks received 500,000 shares of $9.50 cumulative preferred shares. To date, dividends accrued on these shares total $4.5 million.

"In all," says Brian Freeman, "the banks appear to have earned a handsome return on what some people believe was essentially a bad debt."

MINICOMPUTER CRIME: THE NEED FOR SWIFT CONGRESSIONAL ACTION

Mr. PERCY. Mr. President, I recently made mention in the RECORD of the danger of computer crimes—the use of computers to perpetrate ingenious thefts of millions of dollars. This type of crime is extremely difficult to combat. Computer thefts are hard to detect and few law enforcement officials are sufficiently trained in computer technology to track down the criminals. Present laws do not provide the public with adequate protection against computer theft.

In June of this year, my distinguished colleague, Senator RIBICOFF introduced S. 1766, the Federal Computer Systems Protection Act of 1977. I am pleased to be a cosponsor of this bill, which would impose heavy prison terms and stiff fines for thieves who use the computer systems of the Federal Government, financial institutions, and other entities to steal or manipulate information, financial instruments, and other property.

A recent article in the Wall Street Journal, "Desktop Deceptions," by Hal Lancaster, further emphasizes the importance of combating computer crimes. The rapid proliferation of minidesk computers, and their ease of operation for all employees, is creating a "massive new potential for embezzlements and other frauds." The discovery of some computer crimes, states the author, "is a matter of the wildest luck." The article is further evidence of the urgent need for legislation to aid law enforcement agencies in their apprehension of computer criminals.

I ask unanimous consent that this article be printed in the RECORD.

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

RISE OF MINICOMPUTERS, EASE OF RUNNING THEM FACILITATE NEW FRAUDS

(By Hal Lancaster)

Here come the minicomputers—and, right behind them, here come the crooks.

Sales of the small, relatively inexpensive computers are taking off. International Data Corp., a Waltham, Mass., publishing and market research consulting firm, estimates that 200,000 minis are in use now; about 60,000 are due to be shipped this year. By 1980, International Data expects annual sales to total about 115,000 units.

That is good news for computer makers, but not for auditors, law-enforcement agencies and others concerned with computer crime. They say the rapid proliferation of minicomputers, and their ease of operation by nonspecialist personnel from vice presidents down to secretaries, is creating a massive new potential for embezzlements and other frauds.

This risk is particularly alarming to accounting firms, which in recent years have become targets for lawsuits by stockholders in corporate fraud cases. The Securities and Exchange Commission, as well, has pushed the firms to detect and report fraud. Though accountants are working on countermeasures against computer scams, they concede that the advent of the minis is complicating the job. And the worst is yet to come. "There are going to be a lot of shocks and horror stories out there," says Carl Pabst, a computer expert with Touche, Ross & Co.

SALESMAN'S PLOY

Some horror stories have surfaced already. Not long ago, for example, a salesman at a small West Coast manufacturing concern told a secretary, who operated a minicomputer as part of her duties, to make a seemingly innocuous change in the computer's program. She did so without question.

The computer originally had been programmed not to accept orders for the company's goods at a price below a set minimum. The change ordered by the salesman lowered that minimum—and permitted him to rack up big commissions by making sales at bargain-basement prices that undercut his competitors. His company, however, lost $75,000, the difference between the original minimum price and his sales price. The company's auditor stumbled across the computer-program change when checking another transaction.

It's common practice at many companies now to give lower-level personnel crash courses in minicomputers, hand them instruction manuals and turn them loose as operators. This is possible because the computer makers have made minis almost as easy to use as electric typewriters or ordinary calculators. It's also common for companies to have several minis, sometimes scores of them, dispersed around on desktops; each mini has its own operator or operators.

FRAUD MADE EASIER

This scattering of computers and computer operations "spreads security resources over a wider area and presents a more serious problem," says Donn Parker of the Stanford Research Institute, a leading researcher in computer crime. A single data-processing center staffed by a few professionals is far easier to police; collusion between an outsider and a data-processing employe is generally necessary to pull off a fraud, experts say. "If someone walks into the computer room with a new program for the machine, people are going to ask why," says one accountant who works with data processing. "But now, with several people manning their own terminals, who's to know?"

Consider, for example, the simple embezzlement arranged by a young junior accountant for an aerospace company who manned its minicomputer system. He was paying himself an extra $1,000 a month by creating fictitious employes and having the computer issue them checks; posing as the "employes," he simply cashed the checks himself. The fraud went undetected for two years, and was uncovered only after a company officer became curious when he noticed some unfamiliar names while glancing through a pile of canceled checks.

It took a Southern California hospital a year to unearth the finaglings of another young accountant who used his access to its minicomputers in a tax scheme. He ordered the machine to transfer small sums, never more than $4 total per person, from the federal withholding tax accounts of his fellow employes to his own. At the end of the year his W–2 form showed a huge tax deduction that entitled him to a fat refund; his colleagues' forms showed deductions that were only a few dollars less, than they should have been.

JANITOR'S UNUSUAL ROLE

This scheme was discovered only after a hospital janitor, for reasons unknown, added up the tax deductions on all his paychecks for the year and discovered the small dis-

crepancy between that total and the one on his W–2 form.

Because many such cases, if not most, are discovered accidentally or through the confessions of guilt-ridden participants, worried investigators wonder how many schemes aren't detected. The discovery of some computer crimes is a matter of the wildest luck.

Tate DeWeese, a Justice Department attorney, told a Senate committee about one bank employee who used a computer to siphon $2.5 million in customer accounts over several years, in a fraud undetected by any auditor or bank officer. The scheme was discovered only when New York City police raided a gambling operation—and discovered that one of its principal clients was the bank employee, who was betting $30,000 a week on an $11,000-a-year salary.

The willingness of top managements to hand over critical computer functions to underlings without themselves bothering to learn much about the systems facilitates crime, data-processing experts say. "The level of trust of employees is much too high," Mr. Pabst of Touche Ross says.

Charles Finley Jr., a computer consultant, relates one case of a company that bought a minicomputer system and turned it over to a lower-level official. "The vendor who sold the system talked to the company president only once," Mr. Finley says, and the executive wasn't aware of the system's capabilities. When he requested various computer-run reports, he was told by the official that they couldn't be done. Eventually, an outside consultant uncovered a $50,000 embezzlement by the underling; the reports requested by his boss were indeed feasible—and would have disclosed the theft.

DANGER OF BROADER MARKET

The potential for fraud is further magnified because the limited capacity and low price of minicomputers has opened a big new market among unsophisticated companies that earlier didn't need or couldn't afford big, high-capacity computer systems. Now, with some machines selling for a fraction of the cost of big systems, customers without any previous experience are diving into data processing—and getting hurt, because of both fraud and mistakes in using the new minis.

"The first-time user doesn't understand that problems are likely to come up," says Ivan Socher, general manager of the Commercial Systems division of Computer Automation Inc., a maker of minicomputers. "Experienced users operate differently. They expect the problems, and they're more likely to have taken precautions."

When fraud does occur, most victims hush it up. Rarely does a company press criminal charges when it uncovers a misuse of a computer. The freewheeling salesman who rigged his company's computer to accept low-cost bids, for example, got off with nothing more than a reprimand; he was judged too valuable to lose. The aerospace concern's accountant was fired after making restitution. The hospital accountant was discharged, but he got a favorable recommendation to avoid the possibility of a lawsuit in case he couldn't find another job.

One reason that computer crimes remain largely secret is the employer's reluctance to admit his gullibility. "It's like rape," says Gary Keefe, a computer expert with the accounting firm of Peat, Marwick, Mitchell & Co. "Management feels it's been beaten and doesn't want people to know it." A more practical reason is that employers don't want to risk stockholders suits charging negligence in allowing the crime to happen.

According to auditors, and manufacturers and others, many customers *are* negligent. They refuse to employ enough physical security or internal controls to reduce the potential for computer misuse, even though such controls are available.

Non-alterable programming "microchips" can be used in some systems, for example. Other systems can be rigged to alert the security department if the computer gets more than an average number of inquiries in a specified period of time; this can indicate that a tinkerer is trying various access codes to get into the machine's data. Computers can also be programmed to close down at a specified hour, precluding after-hours finagling.

But a full-blown program of physical and internal security and controls can be costly. "Operating efficiency and controls are counterproductive," says Mr. Pabst of Touche Ross, adding that many companies simply prefer to gamble that losses won't exceed the cost of effective policing.

Some auditing firms, however, are starting to insist that computer-using clients take some minimum safeguards, and they decline to work for those that won't. At the very least, they advise them on the installation of controls. The major firms also are developing their own computer specialists to work with audit teams, and they themselves are making more use of computers in conducting such audits.

LAGGING BEHIND THE CROOKS

They still have much to learn. "There's a lot of stumbling by the auditors; it takes one or two frauds before they catch on," says Mr. Socher of Computer Automation. Accountants conceded that their efforts still lag behind the advance of computer technology and that they remain vulnerable to computer fraud. "We're always in a catch-up mode," one auditor says.

Other critics are harsher. "There's an investment in personnel and training that audit firms aren't willing to make," the head of a computer-equipment manufacturer charges. "All you get from them is a whole lot of chin-scratching."

But even the most up-to-date auditing and the most rigorous internal controls and security, wouldn't stop fraud; no system is foolproof, industry sources maintain, and the real goal is to minimize losses. Says James Fosberg, senior vice president of Microdata Corp., a minicomputer maker: "If the controller is going to rip off the company, he'll do it with or without a minicomputer. The mini is no different than a manual system or any other computer system. The people who have access to the information have the same ability to perpetrate fraud."

UNEMPLOYMENT AND THE NATION'S $22 BILLION CRIMINAL JUSTICE PRICE TAG

Mr. WILLIAMS. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY SENATOR HUMPHREY

During the past ten years the nation has quadrupled its annual investment in its criminal justice system—from $4.5 billion in 1967 to approximately $22 billion today—in an unsuccessful effort to check the rising level of crime.

Absent any real change in circumstances, it is expected that these expenditures for the arrest, prosecution, conviction and imprisonment of criminals, will continue to increase at an even faster rate in the years ahead—without significantly reducing the level of criminal activity.

These are some of the astounding and alarming findings presented in testimony at hearings on crime and unemployment, held by Representative John Conyers of Detroit, Chairman of the Judiciary Subcommittee on Crime.

The criminal justice system expenditure figures were presented during the hearing by Leonard A. Tropin, Vice President, National Council on Crime and Delinquency. They are part of a picture of futility and enormous waste that he described to the Subcommittee.

It is Mr. Tropin's conviction that one of the most effective and cost efficient ways of combating crime is to provide meaningful job opportunities for disadvantaged people who now see criminal activity as the only avenue open to them to lift themselves out of poverty and the hopelessness that poverty breeds.

In other words, Mr. President, the Nation must move toward a full employment economy and provide the educational and job training opportunities needed by the disadvantaged to compete in the labor market before there will be a real change for the better in the level of crime in the country.

Mr. President, this is an extremely important subject which Representative Conyers is bringing to the attention of Congress and the Nation. The following excerpts from Mr. Tropin's statement bear directly on these matters.

"The experience of the past decade has not diminished the fervor with which some public officials still attempt to reduce crime by the expansion of the criminal justice system. The aggregate cost of Federal and State correctional facilities building or in the planning stage is now in the area of $8 billion for the next ten years. And by the time the bond issues are paid for, the cost of such capital construction will be several times the initial figure."

"I doubt very much whether these new facilities will help reduce the incidence of crime. In fact, there is some evidence to show that the enlargement of an already huge prison establishment may exacerbate rather than help solve the problem."

"I think it is far more productive for the Congress and State legislatures to look at other approaches to crime control than merely enlarging the system. Such approaches relate to those factors which are causatively connected with crime. Among them are unemployment, racism, poor education, family instability, and alienation."

"It is necessary to say at the outset that we cannot point to any of the factors I have just mentioned and link them in a direct, one-to-one relationship with the committing of crime. Social scientists cannot predict that given reductions in any one of these factors will automatically result in a proportionate decrease in the incidence of crime."

"Yet there is enough reliable research to show that a definite causative connection exists. To be more specific: there is a connection between street crime—robberies, muggings, burglary and so on—and the so called root causes. The connection between other types of crime—all of which cost the Nation billions, is far less direct, although there is still a connection."

"Chief among all the causative factors, I would place unemployment. Research conducted by the Federal Bureau of Prisons clearly shows that of all the variables examined by the bureau, unemployment relates most positively with Federal prison population. When unemployment among men 20 years or over goes up or down, so does the Federal prison population. There is a time lag of about 15 months which covers the time from arrest to eventual post conviction confinement. Now, we are not necessarily equating higher imprisonment rates with higher crime rates, but that is a conclusion which may be drawn."

"William Nagel, director of the Institute of Corrections of the American Foundation, concludes from a nationwide survey he has just completed that there is a strong positive correlation between the unemployment rate of a State and its crime rate. He further finds that there is a correlation between poverty and imprisonment. This may occur, he notes,

even though a State which has a high incidence of poverty may have a low crime rate."

"This may seem to be a contradiction, but it isn't. In a State which has much poverty, there may be relatively full employment. A great many people may be working at wages so low that they cannot take care of their basic needs. That's poverty. Another State may have greater wealth but it may also have a great many unemployed. And it is from the unemployed that we see so many entrants into the criminal justice system. So while States which are poor seem to have low crime rates, I don't think any rational person would advocate poverty as the cure for crime."

"Other researchers show the connnection between unemployment and crime. One study for example finds that the unemployment rate for ex-offenders is three times as high as that of the general public. Since considerable crime is committed by recidivists (persons repeatedly convicted), a job, therefore, is the essential element for helping keep that kind of person from committing more crime."

"That premise is confirmed by a study at the Center for Justice Policy of Duke University. This study showed that parolees who were able to find jobs were less likely to commit crime than those who could not find jobs."

"The positive connection between unemployment and crime is not a phenomenon restricted to the United States. Researchers in Canada also report this experience. Studies in England and Scotland show that whenever there is a downturn in the economy, there is a sharp increase in most categories of reported crime."

"And one final example: 'Wildcat' is a supported work project of the Vera Institute of New York. It provides jobs for released offenders. Research done on this project finds that supported work reduced the incidence of rearrest for offenders below what it would be for offenders who had no jobs. This is especially true for the first six months after the person has been released from prison."

"Other examples could be reported which have much the same findings. Having a job, they show, is one of the best means of helping an ex-offender stay out of trouble. And more important, having a job is one of the best means of preventing a person from getting involved in crime in the first instance."

"Many social factors foster criminogenic tendencies. I have noted some earlier: unemployment, racism, poor education, and so on. All of these are problems which require expanded action programs. But if I had to select what ought to be done first, I believe it would be to provide jobs for those who lack them—jobs that pay a reasonable wage—jobs that have a purpose—jobs that provide a ladder out of the despair that afflicts millions—especially the minorities, and the young."

"The point I want to stress to this Committee is that the Nation must begin to concentrate its resources on the causes of crime rather than on expanding the system that deals with it. And although the criminal justice system certainly needs reform and improvement, it is not in the last analysis the device to significantly reduce crime in America. Tinkering with the system cannot produce that result."

"There are those who believe that the system can put a lid on crime. They advocate mandatory sentences, they ask for more punitive prison terms, they plead for doubled police forces, they urge the appointment for tougher judges, and so on. I believe that these approaches cannot accomplish what their advocates hope for."

"One reason for this belief is that the criminal justice system deals with only a very small fraction of those who break the law. The number of offenders who are never apprehended, indeed whose crimes are never even reported, is vast. It eclipses by far the number who are brought to justice."

"Lloyd Cutler, former director of the National Commission on the Causes and Prevention of Violence—the Eisenhower Commission—used to dramatically illustrate how minimally the criminal justice system dealt with the criminal. He pointed out that of all reported crimes, only 12 percent led to the arrest of anyone. And, of course, there are many more crimes committed than are reported. Only six percent, said Cutler, led to a conviction. And finally, only about one and a half percent ever resulted in anyone going to jail. No wonder, said Cutler, the criminal justice system did not effectively deal with crime."

"We ought to seek massive improvement in our criminal and juvenile justice system. We need law enforcement departments that are more effective and responsive than at present. We need courts in which an offender may be tried swiftly and fairly. We need correctional programs which avoid over-reliance on the prison as the appropriate punishment for ordinary property crimes, the great majority of crimes committed in the country."

"But we ought to also keep in mind that as much as a better system is needed, it will only have a limited effect on the incidence of crime. The roots of crime are deep in American society and removing them requires programs which deal with the country's most basic social and economic problems."

"I therefore urge that all possible steps be taken to stimulate the economy so as to open jobs for the unemployed, especially the young unemployed. If the private sector cannot develop enough jobs for those who need them, government then should become the employer of last resort."

Mr. President, after he had finished his statement, Mr. Tropin was asked if the view he articulated was gaining increasing acceptance in our society. He replied:

"Well in some instances it is not. In fact, it's gone the other way."

"For example, the recent mayoralty primary in New York City saw candidates debating the capital punishment issue. Now, I think these are decent men debating this matter. But they were, I think, eager to alleviate the anxiety and fear of the people of New York City, and so they were saying as eloquently as they could, 'we've got to get tough and capital punishment is one way'."

"The fact that capital punishment has no bearing on the mayoralty issue, or the mayor's capacity to deal with the problem, seemed to make no difference at all."

"I must say this attitude is not simply one of politicians. There are academics and others who take the same point of view. I do not think it is the right course."

"If we are going to concentrate our relatively rare resources into building a bigger system, a tougher system, a more punitive system while disregarding the causes of crime, we are just going to wind up with a bigger system in which we will be dealing with more clients."

"The public education process is a very difficult one because the instinctive reaction of the man on the streets to crime is to say, 'we have got to get tougher'. And it is very difficult for him to explain that the more money you plug into programs that help the marginal man, the better off you will be because he sees it the other way; you are simply taking away money that might be used in programs that benefit him. He sees an imbalance, too much attention paid to the transgressor, not enough to the ordinary, decent citizen."

"If we are going to take a burglar, let's say, who has stolen two color television sets worth perhaps $1,000, and put him away in Greenhaven or some place in New York in an effort to punish him, you will have to pay $13,000 a year. That's the cost for that inmate, the operational costs of the institution, and another $13,000 in administration, for a total of $26,000 per year per inmate in New York State. For two years, of course, it would be double that—$52,000."

"Now, is it the best thing to do? To spend $52,000 in dealing with that man who has stolen perhaps $1,000 worth of somebody else's property; is that the best way to deal with him? Is that in the interest of the public?"

"I doubt that it is. We have no reliable evidence to show that that kind of function for that kind of offender really deters others from that kind of crime."

Mr. President, the hearings being conducted by Representative Conyers indicate without question that the most effective way of fighting crime is to prevent it from occurring. Preventing crime means providing an opportunity for the disadvantaged to qualify for a meaningful job in an expanding, stable economy. The only way to do this is to get this country moving as quickly as possible toward full employment.

B–1 BOMBER

Mr. HAYAKAWA. Mr. President, this past week the House of Representatives deleted $20 million from the fiscal year 1978 Defense supplemental authorization bill for initiating an R. & D. program to develop the FB–111H, a "stretched" version of the tactical F–111 aircraft. This program was also rejected by the House Appropriations Committee as well. These actions are in addition to the fact that the House Appropriations Committee had already earlier rejected the President's proposal to rescind $463.4 million for B–1 aircraft Nos. 5 and 6 that were appropriated in fiscal year 1977.

So once again the Congress has sent a clear message to the President—it does not "buy" his rationale for canceling the B–1. And is it any wonder? We spend millions of dollars to come up with an aircraft to handle the manned penetration mission. Then the President cancels this program and persuades the Congress to go along with him because he says we do not need a manned, penetrating bomber—the cruise missile can do it all. And now he turns around and says to us that well, yes, maybe we will need a new bomber and that he supports spending $20 million to initiate a study to develop the FB–111H.

I think the President had better tell us exactly what he does want. Because if he thinks we need a manned, penetrating bomber, which I strongly feel we do, then we should purchase the most cost-effective aircraft to do the job—the B–1. Testimony before the Congress indicates that to develop, purchase, and operate a fleet of FB–111H aircraft would be 50 percent more costly than to operate an equally effective number of B–1 aircraft.

This most recent action by the House provides further evidence that Congress does not share the President's perspective on the FB–111H. I therefore, strongly urge the President to lift the termination order affecting fiscal year 1977 funds on the B–1 so that aircraft Nos. 5 and 6 can be completed. Continued delays will only lead to more inefficiencies and increased costs.

ORGANIZATION OF THE DEPARTMENT OF ENERGY

Mr. PERCY. Mr. President, I have been most impressed with the speed and efficiency with which Secretary of Energy James Schlesinger implemented the Department of Energy organizational legislation. The new Department is now intact and operational. At last, one centrally located, unified body will oversee our energy policy and programs. It can now properly coordinate energy policy with the Congress, with other departments, and with the private sector.

Earlier this year I cosponsored the President's energy organization legislation. As ranking minority member of the Governmental Affairs Committee I intend to continue our oversight responsibilities in connection with the organizational aspects of DOE.

In particular, I have been interested in Secretary Schlesinger's approach to the areas of conservation, solar energy, decentralized energy technologies, and consumer protection. While the administration's overall organizational record on these issues so far is admirable, there are a number of significant area that concern me.

Conservation has an appropriately high priority in the new Department. This is due to the creation of the post of Assistant Secretary for Conservation and Solar Applications, as well as to the legislative assignment of primary responsibility for conservation to the Under Secretary.

But, at this time, I am uncertain as to whether or not the background of the nominee for Under Secretary, Mr. Dale Myers, has prepared him adequately for his responsibilities in the area of conservation policy. I plan to pay particular attention to his implementation of conservation policy should the Senate approve his nomination.

Solar energy and decentralized programs have been brought together under one roof, that of Conservation and Solar Applications, where they may receive appropriate emphasis. But the organizational plan has placed all photovoltaic, wind and biomass programs under Energy Technologies. Secretary Schlesinger informs me this action is "in no way intended to imply delay in the introduction of these technologies." However I feel the placement of these programs under the DOE division which deals solely with long-term research shows energy research officials may have written off the immediate applicability of these technologies, and thus shows a misunderstanding of their potential. I still strongly urge Secretary Schlesinger to reconsider his decision.

It is important that consumer affairs be given appropriate recognition at DOE from the start. Secretary Schlesinger informs me that the Assistant Secretary for Intergovernmental and Institutional Affairs will handle input from consumer groups, and that the Assistant Secretary for Policy and Evaluation will consider carefully the consumer impact of his decisions. While both these officials report to the Deputy Secretary, I am concerned that there is no single official who is specifically accountable for advocacy of consumers' interests in departmental decisions.

Mr. President, I ask unanimous consent that the text of my three letters of August 12, September 1, and September 16 to Dr. Schlesinger, together with his September 1, October 5, and October 11 responses to my letters, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., August 12, 1977.

Hon. JAMES SCHLESINGER,
Assistant to the President,
The White House,
Washington, D.C.

DEAR JIM: I am most pleased and gratified, as I am certain you are, that the Department of Energy is finally a reality. I offer my deepest congratulations to you upon your confirmation as the first Secretary of Energy.

As you know, the Government Affairs Committee has responsibility to oversee the organization of this new Department. For this reason I would be grateful if you would send me the recommendations of the organizational task forces on the DOE structure.

I would also appreciate your answers to these specific questions:

What institutional framework will be established to implement the conservation responsibilities of the Under Secretary?

What organizational protections will be instituted to redress the current ERDA bias toward high-technology options, and to promote decentralized energy applications?

Will consumer protection be consolidated, or will it be divided among several functional areas?

What framework will deal with the question of energy industry competition?

There is, of course, a need on your part to make rapid decisions on major issues. I therefore ask to be kept up to date, so that my comments, if any, will be germane to the process as you undertake it. Please contact me, or have your staff contact Chris Palmer (224–1462) or Ron Lanoue (224–2174).

Your attention to this request is much appreciated.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., September 1, 1977.

Mr. JAMES R. SCHLESINGER,
Secretary of Energy,
The White House,
Washington, D.C.

DEAR JIM: Our staffs have been in contact in regard to my letter to you of August 12. I am pleased to learn that your office is addressing the issues raised in that inquiry. I look forward to receiving a report on those matters.

During Congressional consideration of the Department of Energy, the problems of consumer protection and consumer representation were left for later resolution. Now that you are engaged in the detailed creation of the Department of Energy, I hope you will address the structure for dealing with this issue. In that regard, I have several concerns:

It is my understanding that an Assistant Secretary for External Relations will handle input from citizen groups. Will the occupant of that office also be in charge of promoting the consumer viewpoint before you, other DOE policymakers, and the Federal Energy Regulatory Commission? I am concerned that advocacy of consumer positions will be split up among program areas, or will not be a specialized function.

The Administration has opposed giving the Federal Trade Commission authority to initiate rulemaking concerning consumer protection aspects of the solar and conservation industries, since FEA would have this authority under the proposed National Energy Act. FEA has also indicated it would work with the FTC in developing rules regarding unfair or deceptive practices in this area. Where in DOE will these issues be handled?

What role will Advisory Committees play in the DOE decision-making process? How will adequate representation of all interested groups on Advisory Committees be assured?

How will the Administration implement funding of intervenors in DOE and FERC proceedings?

I look forward to receiving your reply. Please contact me, or have your staff contact Chris Palmer (224–1462) or Ron Lanoue (224–2174).

Warm personal regards,

CHARLES H. PERCY,
U.S. Senate.

U.S. SENATE,
Washington, D.C., September 16, 1977.

Hon. JAMES SCHLESINGER,
Secretary of Energy,
The White House,
Washington, D.C.

DEAR JIM: I was very pleased to receive your letter of September 1, responding to my queries concerning the Department of Energy organization. I also appreciate the staff-level briefing that Tenny Johnson of the Activation Task Force provided to Congressional aides on September 7. You and the President are to be commended for the speed and efficiency with which you are implementing the DOE legislation.

Your letter welcomed my views on transition planning. I have several points I wish to raise in light of your September 1 letter, the September 7 briefing, and the August 31 DOE organizational plans furnished to me.

I wholeheartedly approve of the role given to the Under Secretary in regard to energy conservation. The centralization of end-use conservation and solar programs under an Assistant Secretary, with the placement of electric conversion efficiency elsewhere, reflect what is to my mind a commendable orientation of the conservation program toward individual end users. I look forward to seeing these DOE programs in action.

I commend the special treatment for decentralized solar systems, and the promised introduction of an Office of Small-Scale Technology. The structure of the Conservation and Solar Applications may go a long way toward rectifying the alleged historical bias toward high-technology, centralized energy technologies in the Energy Research and Development Administration.

I am pleased that energy industry competition will be a special responsibility of the Assistant Secretary for Planning and Evaluation. This assures both accountability and a high priority for this function.

Unfortunately, I feel the placement of photovoltaics, wind systems, and biomass under Energy Technologies reflects a serious misunderstanding of these technologies. The list of Energy Technology projects slated for early transfer fails to include any of the above. I agree that more long-term research is needed on solar cells, windmills, and biomass, but all three can today be used commercially in many applications. It is wrong to write these off as energy sources before the late 1990's.

I am also concerned by your statement that consumer protection "will be made a concern of every official." The consumer function of Intergovernmental and Institutional Relations seems one of public relations, not advocacy. To make every official responsible for this may mean no official will have reason to promote consumer interests.

Finally, I question the placement of the

fledgling Energy Extension Service under Intergovernmental and Institutional Relations. The Extension Service will of course be primarily an outreach organization, but it will also play a key role in the promotion of conservation. I suggest further review of whether EES might more properly belong under Conservation and Solar Applications.

I wish you success as you take on the responsibilities of Secretary of Energy. I am sure you will carve out an enviable record of achievement.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

THE WHITE HOUSE,
Washington, D.C., September 1, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your congratulations on my confirmation as Secretary of Energy. Through the Department of Energy we hope to make the energy programs of the President and the Congress fully effective.

You ask for the recommendations of the organizational task forces on the DOE structure and also raise several specific questions about our plans for the new Department. Much preliminary staff work has been done, but further work will be required before overall organization options have been fully explored. I will be glad to provide our plan to you just as soon as this work has proceeded to a more advanced stage.

With regard to your specific questions, first, our current expectation is that the Under Secretary will exercise his energy conservation responsibilities under the Act primarily by means of conservation policy guidance to the Department, particularly to the Assistant Secretary to whom Section 203 (a)(9) of the Act assigns energy conservation programs functions. Also, we are studying the need for specialized staff support to the Under Secretary for this purpose.

With regard to decentralized energy applications, our preferred option at this time is to group together the programs for decentralized energy applications, including an Office of Small Scale Technology, and place them in an organization which will be separate from the major high-technology programs. Because both the decentralized applications and the other programs will be visible and separate, the proper balance can be struck in the program reviews which will provide the basis for Secretarial decision.

With regard to consumers, our preferred approach at this time is to group together functions relating to the involvement of consumers in the decision process and those relating to consumer affairs generally. Consumer protection, to which you specifically refer, will probably be made a concern of every official. The planning process could also reflect this assignment to assure that Departmental programs will include consumer protection as a factor in decision-making.

Competition, similarly, is regarded in our current thinking as a function of policy-making and a factor always to be considered in the Department's methodology for decision-making. The official responsible for policy and evaluation is expected to be assigned a special responsibility to assure adequate consideration of competition policy as the Department makes specific decisions.

When our planning is further advanced, I will, of course, be glad to discuss any matters of interest with you. In the meantime, I would appreciate receiving any specific recommendations you would like to make.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

DEPARTMENT OF ENERGY,
Washington, D.C., October 11, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Thank you for your letter of September 16 regarding the organization of the Department of Energy.

I am pleased that the organization of the solar program within the Department is in general agreement with your views on the subject. And I want to assure you that the one remaining issue of concern to you—placement of photovoltaics and similar programs under the Assistant Secretary for Energy Technology—is in no way intended to imply delay in the introduction of these technologies. It is our intent to move individual projects and applications within these areas into the Assistant Secretary for Conservation and Solar Applications as quickly as possible. I believe we share this objective and will work together to ensure its realization.

Your continued interest in the Department of Energy is most appreciated.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

THE WHITE HOUSE,
Washington, D.C., October 5, 1977.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of September 1, 1977, which sets forth several concerns in addition to those to which I responded in my letter to you of September 1, 1977.

First, you ask about responsibility for promoting the consumer viewpoint. Within the Department of Energy, consumer affairs functions are assigned to the Assistant Secretary for Intergovernmental and Institutional Relations. This official is responsible, in the words of Section 203 of the Department of Energy Organization Act, for "protection of the consuming public in the energy policy-making processes and assisting the Secretary in the formulation and analysis of policies, rules and regulations relating to . . . consumer affairs." The Assistant Secretary provides the window through which consumers will address their concerns to the Department (other than through the formal rule-making process). Further, the Assistant Secretary assures that specific issues raised by consumers are addressed by appropriate officials in the Department and that the action taken is communicated to those concerned.

As a separate matter, the Assistant Secretary for Policy and Evaluation has an explicit responsibility to assure that existing and proposed Departmental policies and programs are analyzed and evaluated in terms of their effect on consumers.

Through these assignments of responsibility, consumer needs will be recognized and promoted within the Department. However, with regard to more formal advocacy of a consumer viewpoint, the Department supports the proposed Consumer Protection Agency legislation as embodied in S. 1262, which would establish a separate agency for advocating such a viewpoint.

Next, you inquire about consumer protection in the developing solar and conservation industries. Within the Department, the Assistant Secretary for Conservation and Solar Applications has the substantive responsibility in this area. The Assistant Secretary for Intergovernmental and Institutional Relations will convey consumer concerns to the officials carrying out this responsibility and monitor their responses to these concerns.

With regard to advisory committees, your third area of inquiry, we believe that such committees afford one way of providing for interchange of views between the Department and all other entities and interests. In addition, the Department will, at times, need specialized expertise not available internally. Good management requires that the interests and expertise of all groups be considered in decision-making. The Department will strictly adhere to the provisions of the Advisory Committee Act and the regulations of the Office of Management and Budget to assure adequate representation of all interested groups. The Assistant Secretary for Intergovernmental and Institutional Relations has the responsibility in this area.

Lastly, you ask about funding for intervenor groups before the Department and the Federal Energy Regulatory Commission. This matter will be considered by the Department after its activation, in the light of Congressional decisions about the broad question of Federal funding for intervenors.

Please let me know if you need any further information.

Sincerely,

JAMES R. SCHLESINGER,
Secretary of Energy.

THE ADVANCED HARRIER

Mr. BARTLETT. Mr. President, over the years, the U.S. Marine Corps has sought to improve its ability to provide close air support to Marine ground units in combat. Marine pilots have been flying the A–4 Skyhawk since 1956 and the F–4 Phantom since 1961. These high performance aircraft, although they are getting old, performed well in combat during the Vietnam war and continue to provide most of the tactical air support for the Marine Corps.

Presently, there are 5 squadrons of A–4's and 12 squadrons of F–4's in the active Marine Corps. These high performance aircraft can operate either from a land base with a long runway or from a large aircraft carrier with a powerful catapult. Because the ground forces of the U.S. Marine Corps cannot always be assured of operating within range of large air bases, and because carrier based air support may not always be available due to the small number of U.S. carriers and their vulnerability to attack, the Marine Corps also maintains three squadrons of the amazing AV–8A Harrier attack aircraft, which can take off and land vertically. The Harrier is deployed forward with Marine combat units, employing roads, clearings, and other flat surfaces as temporary forward bases.

The Marine Corps has continuously sought to improve its ability to provide air support to Marines in combat at great distances from bases supporting conventional aircraft. The advent of the helicopter has meant that Marine Corps pilots are now able to airlift supplies to forward positions. The helicopter has also brought to mobile Marine forces modern attack helicopters, such as the AH–1J Cobra which can be very effective against many targets where heavy enemy air defenses do not exist. However helicopter technology has not advanced sufficiently to permit the development of helicopter attack systems combining high speed and a longer combat radius.

During the 1950's, the United States sought to develop vertical/short take off and landing (V/STOL) aircraft which

would be able to operate without runways, just as a helicopter can, but which would be capable of the high speeds which helicopters cannot achieve because of their dependence on rotors for lift. During the early days of V/STOL experimentation, many techniques were tried, nearly all worked, but none seemed suitable for deployment with combat forces at that time. During the 1960's, however, great progress was made in V/STOL technology. In Great Britain, the world's first V/STOL fighter was deployed with the Royal Air Force in 1967. This was the Hawker Siddeley Harrier.

Recognizing the importance of this British achievement, the USMC examined the Harrier and placed an initial order for 12 aircraft in 1969. Subsequently, the Marine Corps ordered 102 of these AV–8A Harrier aircraft, including 8 trainers. The first AV–8A was delivered to the Marine Corps on January 26, 1971. For the last 7 years, this "A" model of the Harrier has provided the Marine Corps with additional combat capability and with extensive experience in V/STOL operations which will prove to be of great value in the future when all of the services find themselves operating ever greater numbers of V/STOL aircraft.

Today, the Marine Corps has three squadrons of AV–8A Harriers, each with 20 aircraft. Two squadrons are located at Cherry Point, N.C., and one squadron is located at Yuma, Ariz. Each squadron is organizationally capable of dispatching a six-aircraft detachment to operate independently of the parent unit. One such detachment is now deployed to Okinawa, in the Pacific. For the Marine Corps, the major advantage of the V/STOL Harrier is the flexible approach to bases and logistics which it provides.

Initially, the Harrier would be deployed to a land base or aircraft carrier some 50 to 100 miles from the main battle area. An extensive supply of fuel, parts, and ammunition would permit sustained operations from these main bases. Use of available runway space for short takeoffs, instead of the fuel-consuming vertical takeoffs, would give each Harrier longer range and greater payload.

For the Marine Corps, the main advantages of the V/STOL Harrier are the ability to deploy forward in order to provide air support more quickly and the ability to disperse in order to reduce the aircraft's vulnerability to enemy air attack. To achieve these objectives, the Marine Corps plans to deploy 6 to 10 aircraft to facilities established along roads or near grass fields some 20 to 50 miles behind the forward edge of the battle area (FEBA). These "facilities" would have some ability to refuel, rearm, and maintain the Harrier aircraft.

For maximum dispersal and for the shortest reaction times, one to four AV–8A aircraft would be moved to "forward sites" in the vicinity or ground units they support. A cleared area approximately 72-feet square is all that is needed. These forward sites might, or might not, be able to refuel or rearm the aircraft. They are simply temporary bases designed to cut down response times and improve coordination with the ground combat forces. Aircraft deployed from these forward sites would, most likely, return to "facilities" or to main bases in order to obtain repairs and to refuel and rearm.

Other Harriers, at the bases and facilities would then move up to the forward sites to support the ground units. This "leap frog" reinforcement insures that close air support will be immediately available at all times, and it eliminates the need for the expensive, and often ineffective, use of the "air loiter" procedure which has attack aircraft constantly in the air awaiting missions which may or may not develop. The "ground loiter" capability of the AV–8A Harrier is exactly what the Marine Corps needs for close ground support.

For a single seat, light attack aircraft, the AV–8A is quite capable. It is normally equipped with two 30mm guns and can carry bombs, missiles, or rockets on five different weapons points. The Harrier has a maximum speed of over 700 miles per hour and can exceed the speed of sound in a dive.

Although the Harrier is not intended as an air combat fighter, it can be used in that role. Each Marine Corps Harrier carries two Sidewinder air-to-air missiles which are intended for self defense. This armament, combined with the tremendous maneuverability of the Harrier, have proven extremely successful in air-to-air combat exercises. The Harrier, when matched against the Navy's sophisticated F–14 aircraft, proved vastly superior in dogfighting ability.

Because of the large amount of fuel consumed in a vertical takeoff, V/STOL aircraft such as the Harrier are not known for having exceptionally long range. Still, the range on the AV–8A is respectable. With external tanks, the AV–8A can fly over 1,600 miles. With a single air refueling, the "A" model Harrier can remain aloft for 7 hours or fly 3,400 miles. The Harrier "A" can take off with a 3,000-pound bombload from a 1,000-foot runway and fly 414 miles, drop its bombs and return. From a 1,500-foot runway, it can carry 8,000 pounds 255 miles and return. When the Harrier "A" takes off vertically, however, it can carry 3,000 pounds only 57 miles and return. This is sufficient for many Marine missions, but it limits the flexible use of V/STOL aircraft. This is the major limitation of the AV–8A Harrier.

In order to overcome the range restrictions on the AV–8A Harrier, the Marine Corps has been developing an Advanced Harrier, the AV–8B, which is capable of doubling either the range or the payload, whichever is preferred for a particular mission. This remarkable improvement in performance will be accomplished using the basic Harrier design and the same Pegasus 11 engine. The modifications which make the greater ranges and payloads possible are mainly refinements in the aerodynamic design associated with vertical take-off, although 330 pounds in weight will be saved through the use of modern epoxy composite materials. For example, larger inlets on the engine, improved airflow around the wings, and the addition of lift improvement devices which capture the reflected jet exhaust under the Harrier in order to increase lift have all helped achieve the great improvements in range and payload.

In order to maximize the advantages made possible by these improvements in lift, the "B" model Advanced Harrier will have seven weapons points instead of five and will have a strengthened landing gear to deal with the extra load. A super accurate angle rate bombing system (ARBS) is also to be added to insure the most effective use of the Advanced Harrier's additional payload which will total nearly 9,000 pounds. An improved pilot's cockpit and additional electronic countermeasure equipment make the Harrier B a plane far superior to its predecessor, the AV–8A Harrier.

In addition, other minor changes have enhanced the performance, reliability, and safety of the Advanced Harrier. The Advanced Harrier is the evolutionary product of 20 years of design and testing of a revolutionary aircraft which has provided new approaches to tactical air support. The Advanced Harrier represents an important example of how an existing aircraft can be modified to incorporate new technologies and become an extremely cost-effective weapons system.

Mr. President, I ask unanimous consent that at the close of my remarks, an article on Harrier V/STOL operations, which appeared in the Marine Corps Gazette in May and an article which appeared in the Washington Post in September, be printed in the RECORD.

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

V/STOL WILL DO THE JOB FROM CARRIERS, SEA PLATFORMS, AIRFIELDS—OR PARTS OF ALL—EVEN ROADS, PADS OR WHATEVER

(By Lt. Col. J. W. Orr and Lt. Col. R. E. O'Dare)

[Figures in text not printed in RECORD]

The Marine Corps is committed to the development of the AV–8B V/STOL aircraft for its future light attack weapons system. This decision was based on a thorough operational appraisal of its V/STOL forerunner, the British-made AV–8A Harrier. Although the AV–8A is certainly not the do-all and end-all to V/STOL aviation, it is a first step, and has more than proven the validity of the concept. Primarily, it provides the Marine Corps with an aircraft which is not dependent on aircraft carriers or on the Short Airfield for Tactical Support (SATS) system. It has operated from existing amphibious ships such as the LPH and LPD, and has recently completed an extended cruise aboard the attack carrier *Franklin D. Roosevelt*. This basing flexibility, when applied to the close air support (CAS) mission enables earlier phasing ashore of Marine Corps CAS aircraft than is possible with conventional aircraft.

In the January issue of the Marine Corps Gazette Lt. Col. J. L. Cunningham asked the question: Can the Marine Corps really use V/STOL aircraft? The major problem that Lt. Col. Cunningham addressed was that inadequate numbers of amphibious shipping were available (a problem which would not be solved by eliminating V/STOL). In addition, he questioned the ability of amphibious shipping to support AV–8 operations. The support capability has, indeed, been verified and documented and will be discussed later in this article. Our intent

here is three-fold: to explain the basing and logistics concept; to discuss shipboard operations; and to look at the AV-8B as a close air support aircraft.

THE BASING CONCEPT

A review of the essential parts of the close air support cycle shows that much of the flying time equates to transit time (also loiter time if the aircraft employs an airborne loiter mode). In general, flight time also influences the unscheduled maintenance required during turnaround prior to the next sortie. The term "maintenance man-hours per flight hour" (MMH/FH) is used widely and expresses the idea that the longer an airplane flies the more it is likely to need maintenance.

Related to overall aircraft effectiveness, the major factors in the cycle imply that an aircraft should be based as near the target as prudent for four reasons:

The aircraft can carry more ordnance when the radius is short (less fuel required for transit time).

The transit time per cycle is reduced; this tends to increase the sorties per day per aircraft.

The maintenance time per cycle is reduced, since less flight time is accrued.

Target value is normally greater if it is attacked as soon as possible after detection.

Additionally, and probably most important to the ground commander, basing nearer the target reduces the response time between mission request and accomplishment.

Basing flexbility of V/STOL aircraft allows employment from bases afloat or ashore. Location of the bases will be contingent on operational circumstances, but can generally be categorized as sea bases, sea platforms, main bases, facilities or forward sites.

Sea bases

Sea bases (LPH and LHA ships) bear close resemblance to aircraft carriers, but they are designed for helicopter use and transportation of the landing force. Detachments of AV-8's can operate aboard these ships along with helicopters (or depending on availability, one ship could be used exclusively for an AV-8 squadron). The LPH and LHA have flight decks of approximately 600 and 800 feet, respectively, and provide the option of a short takeoff (STO) which increases the payload capability of the AV-8.

A sea base will have the capability to sustain air operations for extended periods of time including intermediate level maintenance, as well as organizational maintenance. Ordnance stowage, buildup and rearming capabilities are somewhat limited, but ship alterations are not entirely beyond reason. In any event, underway replenishment is routinely accomplished. When operating as detachments from more than one sea base, the intermediate level maintenance will be on only one ship, but organizational maintenance will be with each detachment.

Sea platform

The vertical takeoff (VTO) capability of the AV-8 enables operations from some of the other ships within the assault force that have helicopter landing platforms. Obviously the size and location of the landing platform must be consistent with AV-8 landing requirements. For operations aboard a sea platform, only minimal support may be available, such as fuel and ordnance. The AV-8 will cycle out of the sea base to the sea platform where it will ground loiter while awaiting mission assignment. When employed, sea platforms are utilized in much the same way as forward sites.

As more control of the beachhead is attained, AV-8 operations may be phased ashore. The types of shore bases are described below.

Main base

A main base will have the capability to provide complete support for an AV-8 squadron. This includes organizational and intermediate level maintenance and the required ground support equipment, repair facilities, and logistics support necessary to sustain flight operations over extended periods of time. The main base will provide the capability to operate under day, night and all-weather conditions.

Whenever possible a main base will be located at available airfields; however, if none exist, an AV-8 main base will be established and consist of a 1,500-foot runway (minimum), suitable parking area for twenty AV-8 aircraft, a supply area including unloading zones for resupply helicopters and billeting for 400 to 500 men. Under some circumstances, the AV-8 may share a main base with other aircraft.

Facility

As the area of combat operations expands, it may be desirable to locate detachments of AV-8 aircraft closer to supported ground units. This type of installation is designated as an AV-8 facility.

Under combat conditions, the facility should have a minimum runway of 600 feet by 78 feet, suitable parking for six to ten AV-8 aircraft, supply storage areas, and billeting However, it is considered desirable to use an existing airstrip suitable for AV-8 operations. In any case, it should be possible to establish a facility within a 72-hour period. Organizational maintenance and combat sortie recycling will be provided at the facility. Intermediate level maintenance will be performed on aircraft and components at the main base. Operations from the facility will be under day and night, visual flight (VFR) conditions.

Forward site

Under special circumstances it may be desirable to locate individual AV-8 aircraft close to the ground forces for rapid response and direct liaison with forward air controllers. (The aircraft has UHF plus VHF (FM) operation a forward site is considered to be a ground loiter station, and will be established approximately twenty nautical miles from enemy forces.

Under combat conditions, a single AV-8 requires a forward site having a minimum 72 by 72 feet (96 by 96 feet is desired) suitable landing and takeoff surface. Parking area for additional aircraft is desirable to permit employment of aircraft in sections. Where possible, an existing landing site should be utilized to eliminate the need to build a pad area. Actual construction of an AM-2 forward site required four hours during Exercise VERSATILE WARRIOR in 1972. Figure 2 depicts a typical forward site installation. Although limited organizational maintenance could be provided at the forward site, it may be desirable to provide fuel and limited ordnance replenishment; however, the extent will be in accord with the tactical situation. Operations from a forward site will be under day VFR conditions only.

It may be possible to utilize an abandoned airstrip or a segment of road for a forward site, thus utilizing short take off and landing (STOL) to increase the payload. Nonetheless, the forward site must be out of range of enemy artillery and in relatively secure areas which do not require excessive ground forces to protect the base and aircraft.

Levels of support may vary for operating at any of the bases. Figure 3 summarizes the general concept of maintenance capabilities available.

Logistics

While it is logistically appealing to make the amphibious landing where airfields already exist, it is strategically prudent to have a choice. Air operations ashore will probably require some construction or repair even if we occupy an existing airfield. If extensive rebuilding is required, the runway obviously can be operational sooner if our aircraft require a 1,500-foot runway instead of the 5,200 feet required for auxiliary expeditionary airfields. This releases limited assets that can be applied to priority construction throughout the force.

Presumably, an enemy-held airfield in the intended amphibious operational area (AOA) would be a major objective in itself prior to D-Day. With no ground forces ashore, the only available means to neutralize the airfield would be pre-D-Day interdiction strikes. If we succeed in capturing the field, we can be sure that major rebuilding will be required. Thus, V/STOL aircraft operating from the uncratered portions of the runway (or taxiways), may be the only fixed wing aircraft usable for days, maybe even weeks, from that airfield. The sooner Marine air begins operating ashore, the sooner other fleet aviation assets can be reassigned to higher priority missions (assuming that we could count on two CV's attack carriers—one-sixth of the Navy's assets, for post-D-Day support).

If the battle progresses satisfactorily, the forward edge of the battle area (FEBA) may move rapidly. Forward sites, facilities and main bases may move accordingly; the required equipment may or may not be transportable by road. Support for AV-8 operations, and ultimately support of the land battle, could well depend on the ability to move the necessary equipment. Table I summarizes typical requirements to accomplish facility or main base buildup and the number of sorties/trips required by the candidate options:

TABLE I.—*Requirements for facility/main base bui'd-up*

Option:	*Main base (880 tons)*	*Facility (235 tons)*
Truck, M-35	352	130
CH-53D	85	30
CH-53E	55	20

Fuel requirements

Approximately 5,000 pounds of internal fuel may be used per sortie, depending on the mode of operation. Based on the four sorties per day required in the 1972 Sortie Rate Validation Test, each aircraft may require 20,000 pounds of fuel a day. (The AV-8A actually demonstrated a sustained sortie rate of six sorties per day and a surge rate of ten per day during this test.) Translating this to a twenty-aircraft squadron, a total of 400,000 pounds (200 tons) of fuel a day would be required. Obviously the exact sortie mission profile may reduce or increase this total requirement. In addition, an AV-8A may use up to 500 pounds of water a sortie which, considering four sorties per day and a twenty-aircraft squadron, could total 40,000 pounds per day.

Depending on the tactical situation, some fuel may be desirable or required at a forward site. Fuel can be transported to a forward site by either helicopters or trucks, and can be stored there in either trailers or the helicopter expeditionary refueling system (HERS).

Ordnance requirements

As has been demonstrated in operations to date, a representative ordnance payload of 3,000 pounds can be carried in the VTO mode. Thus, an AV-8A can expend 12,000 pounds of ordnance a day at four sorties a day while operating thusly. At this rate a twenty-aircraft squadron could expend 240,000 pounds of ordnance a day.

It is important to point out here that major troop movements ashore will have been accomplished prior to the onset of logistical requirements shown above. Thus, the helicopter option of AV-8 basing build-up should be well within the lift capability of the amphibious force.

Fuel and ordnance requirements will be no greater for V/STOL than for an equivalent

conventional jet aircraft operating from the same airfield. More often, it can be expected that conventional aircraft will be based farther from the FEBA, and will require more fuel per sortie.

Yet another perspective on supporting V/STOL operations ashore considers the equipment and supplies that *don't* have to be transported in order to conduct close air support. Approximately two-thirds less runway matting is required for a V/STOL base; there are no catapults, no arresting gear and no ground support equipment for aircraft starting. If conventional aircraft eventually operate ashore, the additional support will be required, but it need not take up valuable cargo space in amphibious or early follow-on shipping.

SHIPBOARD OPERATIONAL EMPLOYMENT

The nature of an amphibious operation dictates that land areas and distances will be small by aircraft standards. A beachhead twenty by twenty nautical miles is considered as the initial phase. Prior to moving ashore, it is anticipated that the AV-8 will operate from sea bases. If the conditions are such that the sea base can operate within thirty nautical miles of the beachhead, then AV-8 basing within a nominal fifty nautical miles of the target areas is assured even before the maintenance activity is phased ashore.

During ship-to-shore operations, an AV-8 detachment may operate aboard an LPH along with assault helicopters. It has been demonstrated time and again during amphibious landing exercises (PHIBLEX's) that helicopters and AV-8A aircraft operations aboard ship are not unduly restrictive.

This aspect of the concept was one of the primary reasons why a detachment of AV-8A's was deployed with the 32nd Marine Amphibious Unit aboard the helicopter carrier *Guam* as part of Mediterranean Amphibious Ready Group (MARG) 2-74. Marine Medium Helicopter Squadron 263 operated seven CH-46's, five CH-53's and two UH-1N's, along with six AV-8A's from Detachment B, Marine Attack Squadron 513. This was the first extended deployment where the landing force commander had organic fixed wing assets.

During the ship-to-shore movement, it was common practice to spot five AV-8's on the flight deck of an LPH (with minimum interference to the spotting of CH-46's and CH-53's). Once the transport helos were airborne, the AV-8's launched in rapid succession via STO (full fuel and ordnance), and still arrived at the landing zones prior to the helicopters. When the on-call waves began moving, it was possible to use the forward two-thirds of the flight deck for helicopter operations (external lifts included) while keeping four AV-8's loaded for VTO from the aft one-third of the deck. Therefore, as it turns out, during those times when the maximum payload was important (beach and landing zone preparations and helo escort), the full deck was available to the AV-8's for STO's.

With the troops ashore, the AV-8's launched vertically in response to specific CAS target requests, and the VTO payload was adequate (remember, the LPH may be just over the horizon from the AOA or even anchored within sight of the beach). The forward air controller (FAC) made mission requests on the tactical air request (TAR) net. AV-8 pilots sat in their cockpits in Condition I alert status, monitoring the TAR frequency on the FM radio. When a request for CAS was made, the AV-8 pilot copied down the mission data and located the target area on his map. He was prepared to start the aircraft and launch within two to three minutes when directed by *Guam*'s air officer. The responsiveness of this kind of command and control cannot be matched by conventional attack aircraft based on distant aircraft carriers.

An interesting observation was made during PHIBLEX 2-75A (when AV-8 VTO operations were emphasized). In most instances, when a rapid launch was required for an on-call CAS mission, the deck condition would have allowed a STO in only one additional minute without artificial evolutions to clear the deck.

For this deployment, MARG 2-74 had the luxury of six ships instead of the usual five (a second LST was added). The additional ship provided more living space, which allowed *Guam* to carry only one infantry company instead of two. This was not a reduction caused by the presence of AV-8's, but merely a fact of life that permitted lower than normal loading of personnel and cargo on each ship.

Another peculiarity of MARG 2-74 was that the AV-8's replaced AH-1J Cobras on a one-for-one basis. Deck loading on *Guam* was then relatively consistent with previous MARG's. This was not to imply that the AV-8's could do the close-in fire support (CIFS) mission of the Cobra. Indeed, the gunship is superior in that role to any fixed wing aircraft.

On the other hand, suppressing enemy fighters, surface-to-air missiles (SAM), armor or other hard targets requires the speed, agility, standoff distance and weapons capability of the fixed wing jet. Beach and landing zone preparations are best left to these aircraft. Choosing a "best mix" of fixed wing, V/STOL aircraft and helicopters for a given scenario would depend on many factors, but could include Cobra's *and* AV-8's. The accessibility of attack carriers or land-based fixed wing aviation assets to support amphibious operations would certainly influence the "mix" decision aboard the amphibs, but demand for their presence elsewhere (or pure time distance constraints) could deny the landing force commander these luxuries. As the LHA assumes more of the amphibious mission in the fleet, a larger, more versatile aircraft mix can be expected.

During MARG 2-74, for example, attack carrier fixed wing assets were available for only one PHIBLEX. We should not, therefore, arbitrarily discard the only technology which could provide the landing force commander with his own fixed wing assets for a critical portion of the amphibious operation.

The virtually constant Russian surveillance of MARG 2-74's operations indicated a new level of interest in amphibious operational capability, heretofore only routinely observed.

OPERATIONAL EFFECTIVENESS

An operational effectiveness measure of close air support aircraft is the expected targets killed each day by each aircraft. To determine this measure, it is necessary to evaluate individual aircraft in terms of the following parameters:

Sortie rate—number of sorties that can be flown per day per aircraft.

Responsiveness—military value of the target when the target is actually attacked.

Probability of kill—delivery accuracy and amount of ordnance placed on target.

In a DoD-sponsored CAS effectiveness study, the AV-8, operating from a desert strip in Twentynine Palms, California, continually provided five-minute response times from target request to first-pass attack with the targets located approximately ten miles from the strip.

Probability of kill is a function of a particular weapon against a specific target. The calculated number of weapons required to kill a particular type of target depends on this probability equation plus the predicted delivery accuracy of the aircraft system. In close air support, the ground forces in close contact with the enemy might impose restrictions on the size or number of weapons delivered because of fragmentation patterns. Generally speaking, in CAS, "more" is not necessarily "better" in terms of ordnance.

The AV-8A, of course, has its limitations in ordnance-carrying ability, particularly in the vertical take off mode. We in the V/STOL community have stressed the VTO capability to the point that we have earned the reputation of a short-legged little airplane that won't go far or carry much. Not so. The authors, and many other pilots, have flown from coast to coast (both ways) with only one refueling stop. Another example is the flight from Naval Air Facility, Kadena, Okinawa to Naval Air Station, Cubi Point, Philippines, which is routinely made by AV-8's without aerial refueling.

It has already been mentioned that the AV-8A has delivered a 3000-pound ordnance load to a fifty nautical mile radius from a VTO. The VTO may be required in some cases, but it is acknowledged to be an inefficient method of getting ordnance airborne if even a little takeoff roll is available. Literally thousands of sites all over the world provide this option to operate AV-8's, from ordinary roads to missionary airstrips in isolated places.

AIRCRAFT IMPROVEMENTS

At the present time, the triple ejector rack (TER) is not cleared for flight on the AV-8A aircraft due to funding constraints for flight testing. In 1978, as the AV-8A begins a conversion program to the AV-8C, the multiple stores limitation will be remedied along with other known deficiencies, such as defensive electronic countermeasures (DECM), radar warning and a chaff/flare dispensing system.

Representative loads with a TER-configured AV-8 are:

12 MK-82 (500#) bombs; or
12 LAU-68 or 10 LAU-10 rocket pods; or
a mix of bombs and rockets.

The AV-8B will have an even greater capability if it is needed. Figure 4 compares ordnance loads of today with the AV-8B. Figure 5 shows the range and payloads achievable by the AV-8B. With engine growth, the Pegasus 11+ engine would improve the capability even more.

With regard to the requirement for conventional fighter assets, we Marines have not had an enemy bomb dropped on us since World War II. We become, therefore, somewhat complacent about enemy offensive air capability. The authors belong to an apparent minority which believes that we need the antiair capability, but not at the expense of our attack or assault transport arms. The AV-8 does have a substantial capability to defend itself against enemy fighters, but it is not a supersonic interceptor nor does it have the sensors and weapons systems for such a mission. Some people see the fighter requirement constraining us to conventional aircraft and runways. We propose that the Navy and Marine Corps take another tack, that we get moving with development of a V/STOL fighter. While we're at it, let's take a look at V/STOL tanker, electronic countermeasures and reconnaissance machines to further release us from our reliance on large, expensive, time constraining airfields and aircraft carriers.

There are implications that V/STOL airplanes are more vulnerable to heat-seeking missiles than conventional aircraft. Without getting overly technical or exceeding classification criteria, it should be kept in mind that a diffused plume from AV-8 nozzles may present a less distinct infrared (IR) target than the "hot spot" jet exhaust of a conventional airplane. The IR missileer on the ground must still acquire his target visually. The AV-8 is a small, smokeless, irregularly shaped and highly maneuverable aircraft. It presents a small cross-section to any battlefield radar, and with its high thrust is capable of accelerating to high subsonic speeds quickly. All these characteristics complicate the enemy gunners' problems, whether they are using visual, radar, or IR tracking methods. The AV-8B will have the newest DECM package available throughout the fleet.

There is also an implication that Marine development of V/STOL assets might commit us to a Navy sea control mission. While this could occur on a random basis, it should never be the overriding deterrent to pursuing V/STOL. Such logic in past years would have put Marine helicopter development beyond reach. Helos occasionally provide fleet logistic services when we have the assets available, and rightly so.

The Navy's current plan envisions a shift to V/STOL and small shipping, initially, as a sea control measure. Technology clearly points to a successful transition over time.

Admittedly, AV-8's aboard amphibious shipping don't give the ready group a standalone defensive capability during open ocean operations. Neither do they give an overwhelming power projection force to singlehandedly affect the outcome of a conflict, but they are a strong factor of "presence." As such, they must surely be considered a deterrent.

It must be conceded that world interest in the Soviet YAK-36 aboard the aircraft carrier *Kiev* has been intense. In reverse, then, if there's nothing to be gained from V/STOL, why is there so much excitement about the *Kiev* and her V/STOL aircraft? The answer is, of course, that the Russians have gained additional air power at sea; flexibility, mobility and dispersion of assets.

With the reduction in the number of large flight decks available in our own fleet, and their dedication to higher priority missions, V/STOL could eventually become the only fixed wing aviation that we find at sea.

MARINES FIGHTING FOR AIR

(By George C. Wilson)

The Marines are in a new kind of fight, this one with Defense Secretary Harold Brown over their right to a modern air force.

Marine leaders contend that their air force is the extra punch they need to combat heavier but slower enemy forces, with the Warsaw Pact the threat now being cited.

Brown and his deputies counter that the corps, which through the years has prided itself on going lean, can go leaner and cheaper when it comes to planes.

The outcome of this battle will shape the future of the Marine Corps, with critics contending that its air wings are already taking too much money away from the ground forces, which should get top priority.

This new battle, being fought with budget analyses and counteranalyses written in the old Marine Corps headquarters alongside Arlington Cemetery and in Pentagon offices, will be joined in a formal way next week.

Marine Corps Commandant Louis H. Wilson, Navy Secretary W. Graham Claytor Jr. and Adm. James L. Holloway, chief of naval operations, are scheduled to meet with Brown Wednesday to appeal budget cuts he has tentatively decided to make in their separate air forces.

For both Marine and Navy leaders, Brown's most worrisome actions were those taken against the new generation of plane called VSTOL for vertical and short take-off and landing.

Marine leaders concede that they probably will not be jumping off landing barges to secure a beachhead in this age of "smart" weapons. So they instead envision flying troops over the beach by helicopter and supporting them with flying artillery—planes armed with bombs, rockets and guns.

The plane Marine leaders have been counting on most to give them that extra punch from the air in the future is a new model of the V/SOL Harrier designated as the AV-8B.

But Brown, in drafting what is called a presidential decision memorandum, decided the Marines could get along with the A-4 Skyhawk attack plane for supporting infantry rather than buy the new Harrier any time soon.

This would save money in the defense budget, which, despite such cuts, will keep going up in the future.

In another action which upset the Marine leadership, Brown recommended in his presidential decision memorandum drafted for President Carter that the Marines reduce their F-4 Phantom squadrons from 12 to nine.

If this reduction is imposed, Marine leaders contend that the nation's current shortage of planes for air defense will become even more severe. The Marine F-4s are used primarily for escorting bomb-laden attack planes to their targets. Each Marine squadron consists of 12 F-4s.

The combination of being forced to rely on the A-4s instead of the advanced Harrier and making do with fewer F-4 squadrons is being interpreted by some military officials as the Pentagon's first step toward tailoring the Marine air force for small wars rather than beef it up for a NATO rule.

Marine leaders have been trying to demonstrate that they are powerful enough to fight Soviet forces in Europe, with a NATO exercise in Turkey late this month the next time they will try to make this point.

Navy Secretary Claytor intends to support the Marines' appeal to Brown to restore Harrier money. Claytor is emerging as the Pentagon's leading advocate of proceeding full speed ahead on V/STOL.

Claytor and his Navy allies also are trying to get Brown to restore the cut made in the Navy's five-year V/STOL research budget. The Navy wants $1.2 billion. Brown so far has approved $550 million.

As the battle of Marine and Navy aviation budget is joined, these are the main choices as set forth in secret memos:

NAVY APRIL PROPOSAL

Plane	Purchases by fiscal years— 1979	1980	1981	1982	1983
F-14	42	42	42	36	0
F-18		9	30	72	108
AV-8B [1]			12	24	54
A-6E	15	12	12	5	0

BROWN'S TENTATIVE CHOICES

F-14	36	36	36	36	18
F-18	2	9	30	72	108
A-4M [2]	24	24	24	24	0
A-6	12	12	12	12	?
AV-8B (Purchases postponed.)					

NAVY'S COUNTERPROPOSAL

F-14	60	60	60	60	60
A-7	36	36	36	36	36
AV-8B			12	24	54
A-6E	15	12	12	5	0
F-18 (Program cancelled.)					

[1] Navy buys these for the Marines.
[2] For Marines.

THE FUTURE NAVY NEEDS THE ADVANCED HARRIER V/STOL AIRCRAFT

Mr. HART. Mr. President, one of the most important defense questions now facing the administration is whether the AV-8B Advanced Harrier V/STOL aircraft program will be continued. Upon this decision will hinge much of the fate of the Navy in the 1980's. Although it is not an issue with high public visibility, in fact it is probably as important as the B-1 bomber and the Panama Canal.

The Advanced Harrier is an improved version of the existing Harrier vertical or short takeoff and landing—V/STOL—aircraft now in service with the Marine Corps. While the Harrier is a British-built aircraft, the Advanced Harrier will be built in the United States. It will be the only American V/STOL until the late 1980's or early 1990's.

The Advanced Harrier is currently planned for acquisition by the Marine Corps. The Marines need a V/STOL aircraft for close air support; its freedom from increasingly vulnerable runways and its responsiveness to the ground commander make it valuable in this role. So long as Marine close air support continues to appear viable in the face of hostile frontline air defenses, the Marines will need a V/STOL close air support aircraft.

The Marine Corps now uses the AV-8A Harrier to provide close air support. However, the Harrier, which is the West's first operational V/STOL, has somewhat limited range/payload capabilities. The Advanced Harrier will provide sufficient range-payload capability to be a fully cost-effective aircraft. Vertical takeoff performance is increased by 1,800 pounds; more importantly, performance with a short takeoff run is improved by 6,000 pounds. With a short takeoff, the Advanced Harrier can deliver 4,000 pounds of ordnance to a distance of 600 nautical miles, flying an operational mission profile. The Harrier has already shown considerable capability as an air defense fighter; the Advanced Harrier will be improved in this respect.

Although the Advanced Harrier is currently a Marine Corps aircraft, our real requirement for it is as a naval aircraft. Currently, our naval aircraft are all dependent on catapult launch and arrested recovery. This restricts them to very large and very expensive aircraft carriers, such as those of the *Nimitz* class.

These aircraft carriers are enormously costly. The carrier alone costs upward of $2 billion. Its escorts, if they are nuclear powered, cost at least another $2 billion.

At the same time that these large carriers are becoming more costly, they also are also becoming more vulnerable. With the proliferation of effective antiship missiles in the Soviet and other navies, the chance that any individual ship will be disabled or destroyed has risen greatly. If our naval aircraft depend on very expensive carriers, which can only be afforded in small numbers, our at-sea aircraft capability will be less and less survivable. We will in effect be putting our eggs in ever fewer baskets, at the same time that each basket is more likely to be broken.

V/STOL aircraft give us an opportunity to reverse the trend toward greater vulnerability by dispersing our naval aircraft onto a larger number of individually smaller, cheaper ships. V/STOL aircraft can operate from ships as small as frigates and destroyers. For the lifecycle cost of one *Nimitz* class carrier, we can afford four 25,000-ton V/STOL carriers (VSS). By building VSS instead of *Nimitz* or CVV class carriers, we can

put our valuable eggs—our sea-based aircraft—into a much larger number of baskets.

The Advanced Harrier is the only V/STOL aircraft which can enable us to move in this direction in the near future. The Navy's planned type A and type B V/STOL's will not be in service until the late 1980's or 1990's; the Advanced Harrier will be ready in late 1982. If we delay dispersing our naval aircraft until the late 1980's or the 1990's—when we should have begun doing so in the 1960's, as the nature of the Soviet threat to the carrier became clear—we will have substantially undermined our naval aircraft capability to survive a contest with an opposing major power.

The Advanced Harrier is sufficiently capable to be an effective naval aircraft. I have already mentioned its very impressive range/payload characteristics, and the good performance of the existing Harrier in air defense. The tests of the *U.S.S. Guam* in the role of sea control ship demonstrated the utility of the Harrier in anti-submarine warfare. Its quick response time and high speed, compared to a helicopter, enabled it to be far more effective in certain roles than the LAMPS.

In its action on the fiscal year 1978 defense authorization bill the Senate acted to move in the direction of smaller carriers. It directed that a series of options on the carrier question be created. including the VSS V/STOL carrier, of which the Senate report said:

Although this type of ship is not shown in the current Navy Five Year Shipbuilding Program, funding for seven such ships was included in the Program presented in 1975, and one was in the Program presented in 1976. The committee believes that the development of VSTOL aviation ships should proceed at least at the same pace as the proposed CVV medium conventional carrier.

If the administration acts to terminate the Advanced Harrier program, as reportedly is being considered, it will deny the Senate the option of the VSS until the late 1980's. Without the Advanced Harrier, a VSS authorized in fiscal year 1979 could be equipped only with the inferior AV–8A or the British Sea Harrier. Neither possesses the performance necessary for a fully effective naval aircraft. If the VSS program cannot move ahead because the Advanced Harrier program has been killed, it may be very difficult to move ahead with any aircraft carrier program, or with planned programs for future carrier escorts.

Thus, the Advanced Harrier is needed by the Marine Corps, by the Navy, and by the Congress. While the Navy has not yet formally acknowledged an interest in the Advanced Harrier, recent test on the aircraft carrier *Franklin D. Roosevelt* showed the contribution V/STOL aircraft can make to carrier operations. According to a recent article in the Naval Institute Proceedings, these tests demonstrated that:

The Combat value of the AV–8a (the current Harrier), whether operating from a country road or the deck of a CV, lies in its flexibility. Using thrust vectoring during takeoff and landing, Harrier operations require minimal deck space compared to conventional aircraft . . . the Harrier has no need of the expensive, elaborate, and vulnerable catapult and arresting gear systems, without which the CTOL aircraft cannot operate.

Mr. President, I ask unanimous consent that the article, "VSTOL and the CV," by Lt. Col. John T. Tyler, USMC and Capt. Andrew H. Boquet, USMC, from the October issue of the Naval Institute Proceedings, be printed at this point in the RECORD for the further information of the Senate.

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

V/STOL AND THE CV

(By Lieutenant Colonel John T. Tyler, U.S. Marine Corps, Commanding Officer of Marine Attack Squadron 231 and Captain Andrew H. Boquet, U.S. Marine Corps, AV–8A Harrier Pilot; both authors were attached to VMA–231 during its deployment on board the USS *Franklin D. Roosevelt* (CV–42))

[NOTE.—April 1977 marked the return of the USS *Franklin D. Roosevelt* (CV–42) from an historic Mediterranean cruise which saw the introduction of vertical or short takeoff and landing (V/STOL) aircraft to CVs and may have been the *"Rosie's"* and E–1B's last hurrah. Although much statistic gathering and analysis remains to be accomplished relative to the deployment, it is the intent of this article to examine the Harrier CV experience in a chronological manner, and to highlight some operational benefits derived from using Harriers on CVs.]

In late June 1976, Marine Attack Squadron–231 left its home base, Cherry Point, North Carolina, and flew to Cecil Field, Florida, to join Carrier Air Wing-19. The West Coast air wing was preparing for an upcoming Mediterranean cruise on board the *Roosevelt*.

Generally, the augmenting of naval squadrons with Marine Corps aircraft is not unique, since Marine squadrons have often operated from carriers. However, the 14 aircraft of VMA–231 were not the usual complement of Marine F–4s, A–6s, or A–4s which have flown from CVs in the recent past. Instead, they were vertical/short takeoff and landing AV–8A Harriers.

Although Marine Harriers previously had extensive shipboard experience on board LPHs and LPDs as early as 1971, the AV–8A had never been integrated into the cyclic operations of a CV. Thus, in mid-1976, the *Roosevelt* sailed on the first build-up cruise with two F–4 squadrons (VFs 51 and 111), three A–7 squadrons (VAs 155, 215, and 153), an E–1B detachment (RVAW–110), a Pacific Fleet combat support helo detachment (HC–1), and a squadron of AV–8A Harriers (VMA–231).

During the summer months Carrier Air Wing–19 conducted its carrier qualification period, followed by Types 1, 2, and 3 training, which led toward the Operational Readiness Evaluation (ORE) in late August. Since the dictates of cyclic operations necessitated 1.5–hour flight periods for the conventional takeoff and landing (CTOL) aircraft, the Harrier was employed within that framework. Generally, the AV–8As would launch last and recover first, thereby averaging a cycle time of approximately 1.6 hours airborne. Occasionally, the Harriers would launch first, rapidly accomplish a mission, and proceed to the top of the stack of aircraft which were already airborne. On such "yo-yo" flights the average flight time was approximately 45 minutes. In both instances a rolling short takeoff was accomplished using 300–650 feet of deck. Occasionally vertical takeoffs were made; however, such maneuvers necessarily required reduced fuel and/or payloads due to total reliance on engine jet lift.

In the landing phase, the AV–8A executed the standard jet approach until it stabilized in a hover over the landing zone, at which time it descended vertically to a touchdown. Generally the primary landing zones were either just forward of the #4 wire (spot 3), or aft of the #1 wire (spot 4), depending on the amount of deck available for landing.

Even though the above procedures made the Harrier quite compatible with cyclic operations, certain benefits were immediately obvious vis-a-vis CTOL jet operations. First of all, the Harrier is self-starting and thereby required that no power units be available for that purpose. Second, there was no delay in launch caused by catapult hook-up since the aircraft does not use such a system. Third, on recovery only a small amount of deck space (50 feet radius) was required, thereby effectively increasing the amount of deck available for aircraft spotting. Fourth, on recovery there were virtually no bolters (or waveoffs) since the following Harriers delayed aft, or abeam, the ship while the preceding aircraft landed. Fifth, the AV–8A had no need of the arresting gear system since the Harrier adheres to the V/STOL adage that ". . . it is better to stop and land, than to land and try to stop." Finally, the Harrier's unique thrust-vectoring system made deck handling easier since it was possible to back the aircraft into position under its own power. Therefore, even in the initial stages of Harrier integration into cyclic operations its advantages were becoming obvious to those involved.

Following completion of Type 3 training in early August, the *Roosevelt* prepared for the final examination of its combat effectiveness, the ORE. The opening scenario had the ship sailing from an anchorage following receipt of messages indicating that attack was imminent. Exiting the harbor the *Roosevelt* had to pass through a minefield prior to entering open seas. In transiting the minefield the ship's course was unalterable, as was her slow speed. Consequently, the relative wind was from 40° starboard at 15 knots. Under such conditions the A–7s and F–4s could not be launched or recovered, thus the AV–8s were on alert status. Soon after entering the minefield, the ship detected hostile surface threats closing rapidly, and the Harriers were ordered to launch. Three minutes later, the first AV–8A launched vertically into the relative wind. Soon four AV–8s were conducting simulated strikes against the targets, and 20 minutes later they recovered. The AV–8A demonstrated its value as a viable component of the carrier air wing, and the *Roosevelt* passed the ORE with the VMA–231 taking top honors among the jet squadrons on board.

During the Atlantic crossing the Harriers used only the axial deck area, since the aft angle-deck portion of the ship was packed with aircraft. Both rolling and vertical takeoffs were accomplished, with standard jet-landing approaches being flown until the AV–8A was aft of the ship; at that time the pilot simply flew alongside the port side of the *"Rosie"* and across the deck to land aft of the jet blast deflectors (JBD) on the same area from which they had just launched. None of the Harriers operations conducted crossing the Atlantic required any ship course deviations. On one occasion the wind-over-the-deck (WOD) was a 15-knot tailwind. Consequently, Harrier pilots made their landing approaches from the bow of the ship and continued to land into the wind. This feat, while posing no difficulties for the AV–8A pilots, demonstrated the flexibility of the V/STOL concept and was repeated many times subsequently. Given a WOD from any direction, which could not be aligned down the deck due to ship's heading limitations, the Harrier could, and did, approach the ship from any one of the 360° possibilities and land.

In mid-October, as the *Roosevelt* approached Rota, Spain, two Harriers took off

vertically 75 miles out and landed at Rota for a two-day air demonstration. Following completion of the demonstration the aircraft returned to the ship which was at anchor in the Bay of Cadiz. With the relative winds coming from 60° starboard, the Harriers decelerated into the winds and landed, amidships, adjacent to the number two elevator, since the remainder of the ship's deck was spotted with aircraft.

From mid-October to the end of November, the *Roosevelt* operated around Italy, with port calls to Naples and Catania. While at sea, the ongoing examination of V/STOL flexibility continued as the air department, acting on CVW-19 and squadron recommendations, scheduled Harrier takeoffs and landings off cycle. One variation occurred after a normal recovery, when the CTOL aircraft were parked forward just prior to their respot aft. On this occasion, with the deck fouled forward, the AV-8As launched using a 300-foot rolling takeoff on the angle deck. The small outrigger tires of the Harrier prevent takoffs and landings over raised arresting wires, which could not be lowered on the *Roosevelt*, so it was not possible to use the entire angle deck without removing the wires, an option the CTOL pilots did not appreciate. Also during this period AV-8As conducted flight operations while the *Roosevelt* was at anchor in port. Multiple maintenance checks flights were flown using vertical takeoffs from any spot on the deck that afforded a minimum of a 50-foot radius area clear of obstructions. For recovery the Harriers simply returned to land on whatever point from which they had launched.

From late November through the end of December, VMA-231 participated in an operation that not only demonstrated the operational flexibility and maintainability of the V/STOL concept, but also predicted future applications of the concept. Tasked to transfer from the *Roosevelt* while at anchor at Catania to the USS *Guam* (LPH-9), the squadron flew on board the *Guam* in Augusta Bay, after which the ship set sail for operations in the Indian Ocean. Within ten days the squadron was flying in the Indian Ocean, having transited the Suez Canal, Red Sea, and the Gulf of Aden. While in the Indian Ocean VMA-231 Harriers participated in Kenya's Independence Day celebrations at Nairobi, Kenya's capitol.

After departing Kenya, the Harriers were placed on deck alert as the *Guam* proceeded north along the eastern coast of Africa. The problems associated with Uganda at that time are all too familiar. On several occasions the AV-8As were launched against unidentified air contacts, but none came any closer to the *Guam* than 35 miles. However, the combination of Harrier and ground-controlled intercept gave the LPH a potent airborne defense capability. After spending Christmas in Alexandria, Egypt, the *Guam* returned to Augusta Bay, preceded by a Harrier fly-off and return to the *Roosevelt* which was conducting routine air operations in the vicinity.

During January and February 1977, the AV-8As were used as in the previous months, except when they flew from the *Guam* once again, as well as from the USS *Trenton* (LPD-14). Supporting Marine infantry units in an amphibious exercise, VMA-231 Harriers staged from the *Guam* and used the 196 by 75 foot flight deck of the *Trenton* for refueling while conducting close air support strikes against enemy forces on the beachhead. Such employment of the AV-8A was in consonance with the original intents of the Marine Corps' visionaries who selected the Harrier in the early 1970s: obtain an aircraft that can operate near Marine ground forces so the time between tactical air requests and ordnance delivery is short.

In mid-March a war-at-sea exercise was conducted against the USS *John F. Kennedy* (CV-67), with the *Roosevelt* part of the aggressor forces. Generally, the AV-8As were used in an attack or surface reconnaissance role taking off first and recovering 1.2 hours later, just after, or during, the previous respot aft. In many cases the ship was steaming either downward or crosswind during the Harrier landings after which a turn into wind was made for the CTOL aircraft to land. In one instance, when the axial deck was fouled with the just recovered aircraft, the Harriers were given a five-minute alert to launch. The Harriers took off from the angle deck on an air-intercept mission and recovered after the respot aft on the number two spot by the JBDs. Again the landings were made while the ship was maneuvering crosswind to avoid enemy forces.

During this operation the *Trenton* was used again, this time as a deck-alert platform for AV-8As in an air-defense role. Flying from the *Trenton*, the Harriers took off vertically and made ship-controlled intercepts of enemy aircraft threatening the *Roosevelt* task force. As a day, fair-weather fighter-interceptor the Harrier demonstrated an excellent air-to-air capability since it can carry the latest AIM-9 Sidewinder air-to-air missile, as well as its own 30-mm. Aden cannons with lead-computing gunsight. In fact, many Navy and Marine fighter squadrons consider the AV-8A one of the best adversary aircraft in the fleet today due to its high thrust-to-weight ratio, small size, and maneuverability using thrust vectoring.

In the final days of March, while the *Roosevelt* conducted refueling operations with the escorting destroyers en route to Palma, VMA-231 Harriers flew multiple reconnaissance and air-to-air sorties and recovered. Certainly the ship's heading was not easily altered under such circumstances, but the Harrier's takeoff and landing flexibility required no deviations in the carrier's course or speed.

The remaining flying days of the deployment in early April saw the *Roosevelt* continuing to conduct routine air operations with the CTOL V/STOL aircraft, employing the lessons learned over nine months of integrated cyclic operations. By the end of the final line period nearly every conceivable type of takeoff/recovery option had been flown as part of the V/STOL integration program. Takeoffs and landings had been accomplished upwind, downwind, crosswind, and before, during, and after respots.

In essence, the Harrier demonstrated that the V/STOL concept could temper the rigid framework of cyclic operations because of its takeoff and landing flexibility. A carrier of V/STOL aircraft would not have to limit its operations to cycle times and the associated requirement for specific ship direction, but rather such a carrier could launch and recover whenever she so desired, and she could steam wherever she wished at any time. During the cruise VMA-231 Harriers often landed on spots 3 or 4, and proceeded to park themselves along side the edges of the angle deck to await refueling and rearming. Using thrust reversal the AV-8A could, and did, require no ground support tractors for respotting as the pilot merely backed the aircraft into the proper position. Only when CTOL recoveries followed V/STOL recoveries did it become necessary to proceed forward to the axial deck and await the respot aft. With an all-V/STOL deck it would be possible to continue an uninterrupted seqeunce of takeoffs forward and landings aft, since deck fouling due to respot requirements would not be binding. Basically, the V/STOL concept can allow the CV and the aircraft to be almost independent of one another, whereas CTOL aircraft requirements virtually dictate cycle times and associated ship movement.

In April 1977 the 10-month experiment with V/STOL CV operations ended when the Harriers launched from the *Roosevelt* for the final time. But this short trial proved two important points: (1) the Harrier can be smoothly integrated into the cyclic operations of a CV; and (2) the Harrier provided the CV with a combat capability that did not exist by using only CTOL aircraft.

OUR NATION'S NEED FOR THE ADVANCED HARRIER

Mr. WILLIAMS. Mr. President, I would like to express my support for the Advanced Harrier program.

At present, our only V/STOL aircraft is the AV-8A Harrier, which is built in Great Britain. The AV-8B Advanced Harrier will be built in the United States by McDonnell Douglas. This potential for employment by our American citizens is a very important consideration to me as chairman of the Senate Labor Subcommittee. In fact, based on our experience with the F-15 and F-18 programs, it will mean $150 million in new business for the State of New Jersey alone. Given the inordinate needs of our economy, the jobs represented by the investment can come none too soon.

Not only will this mean more jobs for Americans, but it will insure that we have the technology and the manufacturing capability for V/STOL aircraft in the United States. I believe it is important for our economy and for our national defense that we have a defense industry which includes all vital aspects of modern military technology.

The critical role for V/STOL aircraft in our future national defense requirements makes it especially necessary that we have an American V/STOL. The Advanced Harrier, although technically a Marine Corps aircraft, shows great potential in several naval roles. One of the most important tasks facing the Navy is antisubmarine warfare. In the tests conducted by the Navy of the *U.S.S. Guam* in the role of a sea control ship, the existing Harrier proved extremely valuable in the ASW task. The greatly increased payload of the Advanced Harrier, 6,000 pounds with a short deck run, will make it a more costeffective investment than the AV-8A for this and other roles.

If the Advanced Harrier program were terminated, the United States would be dependent on other nations for V/STOL aircraft until the early 1990's, when the Navy's Type A and Type B V/STOL's should enter service. We would yield the promising VSTOL field to Great Britain and the Soviet Union. It is somewhat disquieting to note that the new Soviet aircraft carrier, the *Kiev*, carries a V/STOL aircraft, the YAK-36. I do not believe that we would serve our national interest to surrender all progress in this field to other nations. Accordingly, I hope that the Advanced Harrier program will be allowed to proceed, to give our Nation the technology to produce operational Advanced Harriers by the early 1980's.

THE ADVANCED HARRIER PROGRAM

Mr. LEAHY. Mr. President, many sources have recently reported that elements within the Department of Defense have proposed terminating the AV-8B Advanced Harrier V/STOL aircraft program.

In my view, this would be highly unwise. While the Advanced Harrier is cur-

rently planned as a Marine Corps aircraft, its real importance in the future will be as a naval aircraft. The Advanced Harrier is currently the only aircraft which will enable us to move away from the large, expensive *Nimitz*-class or CVV-class aircraft carriers to smaller, less expensive carriers. Those smaller carriers, being too small to launch and recover conventional Navy jet aircraft, will require V/STOL aircraft.

As most of my colleagues are aware, I have for some time opposed construction of additional large aircraft carriers. These ships are tremendously expensive. Each *Nimitz*-class ship costs approximately $2 billion. The life-cycle cost of the ship has been estimated at about $17.5 billion by the Navy, and that does not include inflation and the escort vessels that are needed to protect the carrier.

When we are considering the issues of aircraft carriers and V/STOL aircrafts, we must first consider the fact that the primary mission of the U.S. Navy is sea control; that is, maintaining U.S. supremacy on key shipping lanes that carry supplies of raw materials to this country and manufactured goods to our trading partners, and in the North Atlantic Ocean, which is vital to our defense of NATO. Recent dramatic improvements in the Soviet Navy, particularly in their submarine fleet, directly challenge our ability to maintain that control.

While the large *Nimitz*-class aircraft carriers are effective in projecting power ashore with their attack aircraft, their utility in sea control is open to question. They carry very few antisubmarine aircraft in their normal aircraft complement, even though the submarine is the principal sea control threat. And because they are so expensive, they can only be afforded in small numbers; the current fleet has only 12 carriers. A small number of ships can only be in a few places at any given time, while a hostile force can strike in areas where no carriers are present.

We could save money and increase our effectiveness if we could build smaller, less expensive aircraft carriers in large numbers. Such a ship might be the proposed V/STOL Support Ship (VSS), seven of which were proposed in the 5-year shipbuilding program presented to Congress in 1975. The VSS, at approximately 25,000 tons, would cost only one-fourth as much as a *Nimitz*, in life cycle cost terms. However, that small ship requires a V/STOL aircraft, and the Advanced Harrier is the only V/STOL aircraft that could be ready for deployment in the next decade.

Denying ourselves the V/STOL option would commit us to building another *Nmitz*-class carrier or a slightly smaller version. Such an expensive commitment would deprive the Navy of funds that could be better spent on procurement of greater numbers of smaller V/STOL carriers, which would enable the Navy to patrol larger areas of the oceans, and more attack submarines, the best weapon to challenge the growing Soviet submarine threat.

The Advanced Harrier is the only aircraft which would permit us to move away from the supercarrier in the near future, because it is the only V/STOL aircraft planned for production in the United States before the late 1980's or early 1990's. If the Advanced Harrier program is terminated, we will have only the choice between the large, very expensive, and increasingly vulnerable supercarrier or no carriers at all, for at least another decade. I believe that it would be extremely unwise to place us in this situation, and I therefore hope that the Advanced Harrier V/STOL aircraft program will continue.

THE ADVANCED HARRIER

Mr. HATCH. Mr. President, I am deeply concerned about recent news emanating from the Department of Defense. It appears that Secretary of Defense Brown has attempted to stop the development of the Advanced Harrier program. The Advanced Harrier (AV-8B) is the continuation of the only vertical or short takeoff and landing aircraft in the free world. The present V/Stol aircraft, the AV-8A, is manufactured in Great Britain. Plans within the Department of the Navy call for the production of the Advanced Harrier to be done here in the United States. McDonnell Aircraft has been awarded contract as the primary contractor in the development of the AV-8B. Continued development of this valuable plane would not only allow the Marine Corps and Navy to develop a mode of aircraft that is recognized as the type of plane of the future as we turn away from the big carrier concept, but will infuse dollars into our economy as this will be a U.S.-produced plane.

While much has been made of the small differences between officials in the Navy and the Marien Corps over the development of the AV-8B, I find it reassuring to see that Navy Secretary W. Graham Claytor, Jr., has joined forces with Marine Corps Commandant Louis H. Wilson in support of the V/Stol program. Secretary Claytor has realized that the V/Stol concept of aircraft is important to our countries future security. Secretary Brown has decided to stop development of the AV-8B and force the Marines to continue to use the A-4 Skyhawk Attack plane for close support in combat operations. We live in an age of fast changing modes of warfare and the increase in the amount of guerilla warfare, as evidenced in Vietnam, make us realize that we must have the capability to deploy forces in many remote spots in the world. We can no longer afford the time nor the luxury of basing our planes from fully developed airfields. Under combat conditions, the AV-8B will be able to operate from a forward site as small as 72 by 72 feet. This will allow ground forces to receive the maximum air support necessary to effectively carry out their mission. The Marine Corps view close air support in the same way in which they view tanks, mortars, and artillery. Tactical air support must be integrated into the ground scheme of maneuver as one of the ground commander's supporting arms.

The AV-8B has come under considerable attack for the number of accidents that the plane has been involved in during the past few years. The new version of the plane, the AV-8B, has been designed to overcome the deficiencies of the former. The new Harrier will perform a complete mission in a shorter period of time than any conventional airplane in our inventory. It does this from unconventional air base facilities, thus exposing it to the increased hazards of takeoff, and mission accomplishment without an increase in flight hours. This tends to skew the accident rate against the V/STOL aircraft in favor of the conventional aircraft when the number of flight hours is used as the measurement base. I point out that of the 26 accidents since the introduction of the AV-8B in 1971, the majority of them have been the result of pilot error when in the conventional mode; only 8 of the accidents have been caused while in the V/STOL mode. This accident rate compares favorably with the F-4, A-4, and the F-8 rates for the first 7 years after introduction.

Mr. President, I feel that we can no longer forestall the development of this crucial plane. Its ability to operate in the frontlines of the battle greatly increases the utility of all of our combat units. I feel that the administration must reverse the apparent trend that they have charted on this plane. Additional support for this plane appeared in the October edition of Sea Power. Mr. Vincent T. Hirsch, president of the Navy League, urges the adoption and funding of this program. I ask unanimous consent that Mr. Hirsch's editorial be placed in the RECORD.

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

THE ADMINISTRATION'S TRACK RECORD

These days of early fall have been momentous ones for the Navy and Marine Corps, although there is little public awareness of that fact. For now is budget-planning time in the Defense Department. The budget in question is for the fiscal year 1979 commencing 1 October 1978. Hearings on it will commence early next year, since 1978 is an election year and Congress will seek to adjourn early so there will be time for electioneering.

Already, stories emanating from the Pentagon are carrying disquieting news for the sea services. It was reported in SEA POWER by Editor Emeritus L. Edgar Prina last month that proposed cuts by the administration in the budget threaten naval air strength in the years to come; the cuts being reviewed would have delayed for some years development of the Navy's vertical/short takeoff and landing aircraft, cut back the Marines' plan to purchase substantial numbers of an upgraded version of their Harrier aircraft, reduced the numbers of Marine aircraft squadrons, let the program for the Navy's new fighter, the F-18, and an attack version of it slip for at least a year, and even scuttled the proposed building of a new class of highly effective amphibious ships, the Landing Ship Docks (LSDs).

That's pretty drastic action, even without explanation. It becomes nearly catastrophic if one stops to consider its long-range connotations.

Despite the unswerving and eloquently stated position taken by the Chief of Naval Operations, Admiral James L. Holloway III, that a fourth Nimitz-class carrier was and is needed, the Congress preferred to have the Navy study the feasibility of building smaller, less capable platforms. Fortunately, a

rescission bill to recoup the long-lead money previously appropriated for power plant components for the fourth Nimitz was largely unsuccessful. Still, despite vigorous recommendations from the House Armed Services Committee, the Congress did nothing to provide additional funds to move this much-needed ship toward completion. The Navy also received its marching orders to move out smartly in development of a VSTOL aircraft. Both projects obviously bear directly upon the defense of the United States, and each also will involve the expenditure of very large sums of money.

Since the smaller carriers would not be able to operate as many conventional aircraft from their decks as the larger Nimitz class could, it follows that the sooner the Navy and the aircraft industry could develop a suitable VSTOL the more ably the Navy could carry out its mission because more of those aircraft, with more striking power, could operate from the decks of the smaller carriers. And, in the long run, the taxpayer could be spared the expenditure of funds for the construction of aircraft platforms which require catapults, arresting gear, and associated equipment needed to launch and recover conventional aircraft.

Accordingly, the Navy planned an orderly development program for a VSTOL, even though it recognized that long before it reached the fleet the two smaller carriers probably would have been built at a combined cost of several billion dollars, but with markedly less capability than the Nimitz. Thus, the Navy's consternation over the proposal to drastically reduce funds for VSTOL development was certainly understandable, since that proposal would have left the Navy without a VSTOL coming on, with two smaller carriers incapable of operating large numbers of conventional jet aircraft no large-deck carrier being considered, and the F–18 program in some jeopardy.

So it was with considerable relief that the Navy learned its reclamation to have VSTOL development funds restored to the new budget was successful. However, the lack of enthusiasm in DoD for the F–18 still prevails; as a consequence, that program still will lag.

Meanwhile, the Marines fared less well. Their plans to acquire advanced Harriers more rapidly and in greater numbers may be dampened considerably—in part, no doubt, because of the high accident rate of the AV–8A version of the Harrier now being flown in close-support roles. The Corps also has been told to acquire more A–4s, an aircraft that saw yeoman service in Vietnam but which still is a 24-year old aircraft. Some day the Navy and Marines will have the new sea lift represented by the LSD 41 class—but, unfortunately, not as soon as they hoped.

What is more disturbing to us than the cuts themselves is the thinking—or absence of it—that lay behind them. One must assume that Defense Secretary Harold Brown and his program planners realize full well that a sweeping cutback in VSTOL funds—coupled with: (1) failure to accelerate procurement of the F–14 and F–18; (2) an absence of additional large-deck carriers; and (3) the still-not-fully-guaranteed presence of two still-undesigned smaller-deck carriers—could only result in the Navy's air arm being markedly less effective in the years immediately ahead.

What then? Use land-based air to pick up the slack and provide support for the fleet? Eliminate the power projection role of the Navy by simply reducing the size and capability of the air arm? A combination of both? We wish we knew.

Inherent in these actions is the unfortunate lack of recognition of an often stated and eminently reasonable argument advanced by Admiral Holloway—that the thin edge of naval superiority held by the United States over the Soviet Union comes from our ability to deploy high-performance tactical aircraft at sea, day or night, under any weather conditions. Anyone who has seen the weaponry aboard the new generation of Soviet warships cannot fail to be impressed both by their capability and the weight of Admiral Holloway's logic.

And what is behind the proposed drastic reductions in programs affecting the Marine Corps, reductions that at one stage included the recommendation that three squadrons of Marine aircraft be eliminated? If the Corps' proven close-air support is undercut, who provides it? Or does anyone? And if the capability of the Navy to move Marines to a point of conflict is reduced, does that signify a forthcoming policy based on a doctrine of "If you can't move Marines, and you can't give them air support, who needs Marines"?

We hope our fears are unfounded. But the track record of this administration in its support (or non-support) of the Navy and Marine Corps doesn't inspire much confidence. No support for another Nimitz carrier. A stretchout of one of the two markedly new ship programs in the Navy, the surface effect ship, and an attempt to bring about a rescission of funds appropriated for the other, the patrol hydrofoil missile craft. Inadequate funding for aircraft procurement, which has caused some in the Navy to envisage giving up on the F–18 because it is allegedly too costly and too many other budget items are needed. A long-range shipbuilding program that still is neither clearly defined nor large enough. And now the proposed cutbacks cited above.

If the principal happenings of recent years that have had the greatest immediate effect on Americans have proven anything, it is the importance of having adequate maritime strength. If we cannot keep open our sea lanes of communication, our economy strangles. That was made abundantly clear by the oil boycott a few years ago. And a Navy with a weakened air arm—and consequently less able to protect itself at sea, or able to mount forces to secure a land target from which interdicting forces could sail or fly—is not likely to be able to insure that those lanes stay open. Not in the face of a still growing (in capabilities, if not numbers) Soviet Navy whose fleet of nuclear submarines is the most formidable in the world.

We reiterate our hope that our fears are unfounded. But we'll be awaiting with the keenest interest the formal budget presented to the Congress in January. Should it fail to provide adequately for the Navy and Marine Corps, then the Congress must assume that responsibility. To shirk it could well be irrevocably damaging to the future of the country.

AV–8B V/STOL FIGHTER PROGRAM

Mr. GARN. Mr. President, I am concerned about reports that Defense Secretary Brown intends to terminate the AV–8B V/STOL fighter program. At a time when the Soviet Union is deploying its Yak–36 Forger supersonic, V/STOL aircraft on its aircraft carrier *Kiev*, it is questionable whether the United States should end its Advanced Harrier project when no other similar V/STOL aircraft is near at hand.

The Advanced Harrier, which would have twice the range of the current Harrier, would be built in the United States, not in Great Britain. The Marine Corps would like to buy 360 of these V/STOL aircraft, at a relatively low cost of $5.3 million per plane in fiscal year 1977 dollars. It is possible that other services may also purchase the Harrier, because it will be the only Western V/STOL attack aircraft available until the late 1980's.

The Advanced Harrier can take off from a wide variety of runways, ranging from carrier flight decks to helicopter pads on ships to clearings inland close to the battlefield. All that is needed is a 72-foot by 72-foot area. The V/STOL capability of the Harrier greatly reduces the time necessary to respond to requests by ground commanders for close air support. Offshore, the plane can take off much more quickly than can conventional fixed-wing aircraft. V/STOL aircraft do not have to wait in line for a catapult launch. Inland, the plan can be landed close to the front line and then respond quickly from there to provide tactical support to ground troops. This also results in a great savings in fuel, because flights are shorter and there is no need to remain in the air circling the battlefield.

Because of the wide variety of landing sites which this plane can utilize, the Harrier can be scattered at different locations rather than clustering at large air bases. This makes them less vulnerable to attack. The range and load of the AV–8B are excellent for a plane of its size, and are improvements over the present AV–8A. The Advanced Harrier can lift 7,000 pounds vertically or take off from a short runway with 9,000 pounds in weapons. Without a bombload, the Advanced Harrier can fly to Europe without refueling and land in a parking lot when it gets there. Also, because of its excellent maneuverability, the Harrier will be able to defend itself quite easily against attacking fighters. The AV–8A has shown itself to be a more effective fighter in close-in air combat than the Navy's F–14.

It is important that we maintain the Harrier V/STOL capability for the Marine Corps. Not only is V/STOL important to the Marine Corps, but the Marine experience with the Harrier will provide the other services with the means by which they can evaluate their own future V/STOL programs and the present Soviet V/STOL effort. Mr. President, in order to show how far the Soviet Union has come in developing V/STOL combat aircraft, I ask unanimous consent that the 1976–1977 "Jane's All the World's Aircraft" entry on the Yak-36 Forger be printed in the RECORD. Although the Yak–36 apparently is not able to take off using the full length of a short runway, it is capable of taking off vertically. It is also a supersonic aircraft. Also, at the end of my remarks, I ask unanimous consent that an article from Air International entitled "V/STOL: An Idea Whose Time Has Come" be printed in the RECORD.

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

JANE'S ALL THE WORLD'S AIRCRAFT

YAKOVLEV YAK–36 (?)

NATO reporting name: Forger

This is the V/TOL combat aircraft deployed by the Soviet Navy on the *Kiev*, first of its new class of 40,000 ton carrier/cruisers to put to sea. It has been referred to as the Yak-36

by the U.S. Department of Defense; its NATO reporting name is *Forger*.

Two versions have been observed on the *Kiev*, as follows:

Forger-A. Basic single-seat combat aircraft. About ten or twelve appear to be operational on the *Kiev*, in addition to Kamov Ka–25 anti-submarine helicopters. Primary operational roles are assumed to be attack and reconnaissance.

Forger-B. Two-seat training version, of which one example was seen on the *Kiev*. A second cockpit is located forward of the normal cockpit, with the blister canopy at a lower level, as on the training version of the MiG–25. To compensate for the longer nose, a 'plug' is inserted in the fuselage aft of the wing, lengthening the constant-section portion without requiring modification of the tapering rear fuselage assembly. In other respects this version appears to be identical to *Forger-A*, but has no ranging radar or weapon pylons.

The likelihood that an aircraft of this type was under development in the Soviet Union was first confirmed in 1974 by Admiral Thomas H. Moorer, then Chairman of the U.S. Joint Chiefs of Staff. In his annual report, he said of the *Kiev*: "This ship is over 900 ft. in length and should displace 30–40,000 tons. The deck configuration and the lack of catapults or arresting gear indicate that this ship apparently is designed to operate V/STOL aircraft and helicopters. It should be capable of carrying 25 V/STOL aircraft or 36 helicopters. It is believed, however, that a mixture of new V/STOL tactical aircraft and *Hormone* (Ka–25) helicopters is the most likely complement".

The 1975–76 *Jane's* contained the remark that "A strike/reconnaissance V/STOL aircraft is thought to have been evolved from the Yak–36 (*Freehand*) by the Yakovlev bureau, utilising a mixture of vectored thrust and direct jet-lift". This belief was confirmed when the *Kiev* entered the Mediterranean in July 1976 and subsequently operated its complement of *Forgers* extensively during passage through that sea and the Atlantic en route to Murmansk. These aircraft are assumed to be operated by a development squadron.

The general appearance of the single-seat *Forger-A* is shown in several of the accompanying illustrations. Its basic configuration is conventional, except that V/TOL capability has permitted the mid-set wings to be made relatively small in area. They fold upward at approximately mid-span, for stowage on board ship. No leading-edge devices are fitted, but the entire trailing-edge of each wing is made up of an aileron on the outboard (folding) panel and a large Fowler-type flap on the inboard panel. Sweepback is approximately 45° on the leading-edge, and there is considerable anhedral from the wing roots.

All tail surfaces are swept, with conventional rudder and elevators. 'Puffer-jet' stability control orifices are apparent above and below the tailcone and at each wingtip, but there is no indication of a nose jet.

Each leg of the trailing-link tricycle landing gear carries a single wheel. The nose gear retracts rearward, the main units forward into the fuselage. A small bumper is fitted under the upward-curving rear fuselage.

Precise details of the engine installation are unknown. Primary propulsion appears to be by a single large turbojet, exhausting through a single pair of vectoring side-nozzles aft of the wing. No afterburner is fitted. The large lateral air intake ducts do not appear to embody splitter plates.

Two lift-jets are installed in tandem in the fuselage immediately aft of the cockpit, under a rearward-hinged louvered door of the kind fitted to the Mikoyan and Sukhoi STOL prototypes demonstrated in 1967. The position of the corresponding underfuselage doors implies that the lift-jets are mounted at an angle, in such a way that their thrust is exerted both upward and slightly forward. As the main vectored-thrust nozzles also turn up to 10° forward of vertical during take-off and landing, the total of four exhaust effluxes can be envisaged as forming a V under the fuselage. There appears to be a small intake for cooling air at the front of the dorsal fin fairing.

Observers of deck flying by *Forger-As* from the *Kiev* report that the aircraft appeared to be extremely stable during take-off and landing. Take-offs were made vertically, with a smooth conversion about 5 to 6 m (15–20 ft) above the deck, followed by a fairly shallow climb-out as forward speed increased. Landings were so precise that some form of control from the ship during take-off and approach has been suggested, perhaps in association with laser devices lining each side of the rear deck. The purpose of the aircraft's small dielectric nose cap is as yet conjectural.

At no time was a STOL take-off observed, as practised by the Hawker Siddeley Harrier/AV–8A combat aircraft of the Royal Air Force and US Marine Corps to increase their load-carrying capability. It is suggested that anything but direct vertical take-off might be difficult for the pilot of *Forger-A*, as take-off with forward speed over the deck would impose formidable stability and safety problems. The Soviet aircraft must also lack the Harrier's ability to increase its combat manoeuvrability by the use of thrust vectoring in forward flight (VIFF).

Initial estimates put the thrust of *Forger-A's* primary power plant at around 75 kN (17,000 lb), and the thrust of each lift-jet at 25kN (5,600 lb). This would appear adequate to permit a considerable weight of fuel and weapons to be carried. Gun pods and rocket packs have been photographed on four plyons under the aircraft's inner wing panels on deck, but no stores have yet been seen on these stations in flight. Performance of *Forger-A* is estimated to include a maximum level speed of Mach 1·8 at altitude:

Dimensions, external (estimated): Wing span: 7·00 m (23 ft 0 in).
Length overall:
Forger–A: 15·00 m (49 ft 3 in).
Forger–B: 17·66 m (58 ft 0 in).
Weight (estimated): Max T–O weight:
Forger–A: 10,000 kg (22,059 lb).

V/STOL—An Idea Whose Time Has Come
(By Roy Braybrook)

The vagaries of fame being what they are, few readers would associate the name of C Edgar Simpson with the invention of what is today the most important form of V/STOL powerplant, any more than they would know that in 1921 a gentleman called Guillaume patented the axial-flow gas turbine engine. (Rule One is not to think too far ahead of your time: posthumous laurels never buttered anyone's parsnips!) The fact is that little more than five years after Orville first got daylight under the skids of his Wright Flyer No. 1, this Simpson hombre was penning one off to the editor of The Aero, filling the world in on ducted fans with thrust vectoring. His idea was that the aircraft's engine would drive fans expelling air through curved "draught funnels" in the sides of the fuselage, the funnels being rotatable to provide lift or forward thrust, or a combination of the two.

Using such a combination, the aircraft would take off (he predicted optimistically) after only a few yards' forward roll. At the end of the flight the funnels would be pointed downward for a vertical landing. Driving home his argument with irrefutable logic, Simpson added something to the effect that if birds were birdbrained enough to return to earth in the manner of conventional aircraft, they would inevitably break their landing gear or turn over! Early in 1911, a British patent on a similar scheme for airships was granted to civil engineer James Robertson Porter, who may have realised that for Simpson's concept to work for heavier-than-air machines, it would require a thrust/weight ratio that was 50 years ahead of the state of the art. Porter's patent describes a radial-flow fan discharging air via two or more lateral nozzles curved through 90 deg. and (as before) rotatable to provide thrust in whatever direction was required.

The idea of vectoring thrust by tilting a piston engine with propeller attached was tried in New Zealand in Richard Pearse's two-seat aircraft, and in the UK by Vickers in the HMA No 9 airship. However, jet propulsion made thrust vectoring much simpler mechanically, a fact that was recognised in a WW II German patent application by von Wolff, covering jet deflection by cascades and bending jetpipes. This document presaged not only V/STOL, but also the use of thrust vectoring in flight for enhanced maneuverability.

Over the years the term "V/STOL" has generally come to refer to fixed wing aircraft that are capable of vertical/short take-off and landing, to the exclusion of rotary-wing aircraft, aerostats, and other aberrations. On this definition VTO was first demonstrated in WW II by Germany's rocket-powered tail-sitting Bachem Natter, although this was technologically more akin to the later zero-length launch category, having no effective means of low-speed control. However, it was not until 1969 that the world's first high performance V/STOL aircraft (the Hawker Siddeley Harrier) entered operational service, some 60 years after the publication of Simpson's letter.

One of the strange things about V/STOL is that, although production totalling 139 Harriers) for the RAF was augmented by the US Navy purchasing 118 AV–8As on behalf of the US Marine Corps and *Armada Española*, the remainder of the ground attack market just sat back and completely ignored the aircraft's existence. Whoever said customers would beat a path to your door to buy a better mousetrap knew nothing whatever about military aircraft!

Equally strange is the fact that within the last twelve months the prospects for V/STOL have been completely transformed (for the better) in many important respects. It isn't simply that HSA now has more Harriers on order than in the last several years. Nor is it that the Soviet Navy is working up its first V/STOL carrier (a sort of rich man's *Invincible*), or that McDonnell Douglas has been authorised to commence work on a Harrier derivative (AV–8B), which it is anticipated will ultimately replace both the A–4 and AV–8A. It isn't that France's PH–75 carrier project has suddenly become the PA–75 (*porte-hélicoptère* becomes *porte-avion*), nor that Italy's Cantieri has designed a Harrier carrier, as has Y–ARD in Australia and every major shipyard in the UK. It isn't even that the US Navy has embarked on a programme covering three new categories of aircraft, that will provide the service's air arm with the option of going V/STOL *in toto* early next century.

More than any of these programmes, what really grabs me is that the US Air Force (the traditional arch-enemy of this class of aircraft) is now actually funding industry to study V/STOL fighters and transports suitable for employment by Tactical Air Command from 1990 onward. It used to be that—if there was anything to be relied upon in aviation—it was Lufthansa buying its tubes from Seattle and the USAF fighting to the death against V/STOL. Now I find that the Red Baron's outfit is operating DC–10s and A300s, that every hot-rod fighter designer in the US is suddenly drawing jet lift projects and that you simply can't depend on anything any more!

WHAT WENT WRONG?

The long wait for Harrier export sales to materialise, followed by this recent transformation in the outlook for V/STOL, clearly warrant examination. Did the market fail to respond in the early 1970s because the Harrier was basically the wrong aircraft, or because it was marketed in the wrong way? Has the sudden upswing in the last year been largely a reaction to Soviet disclosures, or is it evidence of fundamental changes in worldwide market demands caused by other factors?

Without wishing to sound too much like a running dog for the fat cats of the V/STOL business, in my view the Harrier is basically the right aircraft for the V/STOL export market. I believe that the late Sir Sidney Camm was absolutely correct in his refusal to support anything but the simplest practical V/STOL powerplant concept. I also believe that the comparatively high bypass of the R–R Pegasus engine provides through its low erosion jets an unique capability to operate from natural surfaces, effectively giving combat operations even more basing flexibility than was enjoyed by piston-engined fighters. I am convinced that for many scenarios in which low level flying predominates, the performance penalties associated with the use of an unreheated turbofan are more than offset by the advantages arising from this flexibility.

Readers may find this glowing testimonial to the Harrier something of a surprise, coming from one who claims responsibility for the West's *only* advanced technology V/STOL fighter project to date. However, experience has proved that Harriers can be operated in most areas of the world with little site preparation, whereas my own project was intended only to use specially prepared sites in Europe I recall a press report of Germany's VJ 101 having operated on occasion from "unprepared concrete", which gives some inkling of what would be required for a V/STOL aircraft with *really* high energy jets!

One of the fundamental weaknesses of Britain's supersonic P.1154 project (of which the theatres of operation were to have included the Middle East and Far East) was that its ground erosion problem could only be assessed by building the aircraft and flying it. Taking this factor in combination with the P.1154's dependence on the very expensive AW 681 V/STOL transport for logistic support at forward sites, there is not the slightest doubt in my mind that the RAF is much better off with the Harrier.

The switch in procurement policy away from the P.1154 came in 1965. I have tremendous admiration for the way that John Fozard and his design team then transformed the yuck-look Kestrel trials aircraft into the very handsome (pre-Snoopy) Harrier. The analogy that comes to mind is what Joe Smith did for the Spitfire: some of the subsequent Marks remain exquisite more than 30 years later (Rule Two is that designing a good-looking V/STOL fighter is murder, and a good-looking two-seater is impossible).

With hindsight, one can say that the Harrier would have benefited from more wing area in achieving better manueverability with the high bomb-loads now available, and that a raised cockpit (as on the Sea Harrier) would have answered criticism of its rear view. It is also arguable that a better undercarriage layout could have been found and that the engine nozzles should have been drooped, but whether there would have been an overall gain from either change can only be conjectured. For example, drooping the nozzles would have incurred the disadvantage of reducing the valuable IR-screening effect of the underwing stores. HSA might have achieved a slightly better VTO weight by persisting with development of the inflatable intake lip, but such minor improvements have little real bearing on the overall saleability of the aircraft.

Accepting that the basic design was correct, what of the aircraft's operational capabilities? In the early days of the Harrier, word went around the market that it had no warload or radius of action. The background to this was that the Pegasus was then not fully developed and that many people outside V/STOL (including the Russians, strangely enough) had it firmly fixed in their minds that the Harrier was designed to perform its normal mission from VTO. This led to a long-lasting and widely held (yet completely misleading) impression of the aircraft's real capability. There was even a US exercise in which Navy carriers steaming 400 mm (740 km) offshore were felt to be totally secure, since the USMC "enemy" on land had only puddle-jumping AV–8As. The story goes that the ships' crews were actually sunbathing on deck when the Harriers made their first pass!

The other respect in which the aircraft's public image has never caught up with its real operational capability is in thrust vectoring in forward flight (VIFF). For close-in dogfights at low levels this gives the Harrier a kill-ratio against "dedicated fighters that is completely out of keeping with a bald comparison of performance figures. In effect, the pilot has a control which is invisible to his opponent yet which can produce sudden changes in speed, attitude, pitch rate, and flight path direction that are totally at variance with conventional aircraft behaviour. The pilot of the opposing aircraft therefore finds that the Harrier moves unpredictably, and has an unnerving habit of making square-turns and of forcing overshoots. Nevertheless, VIFF has remained a closed book because it was developed as a combat technique only by the USMC and is still the most highly classified feature of the Harrier.

THE MARKETING MESSAGE

The question was put earlier, whether the Harrier has been marketed in the wrong way. I can think of no evidence for this, aside from criticism in Germany that HSA pressed too hard in the early days, before the project was really at a viable stage. My only adverse comment on the sales programme is that it might have been better to have marketed the aircraft as a modified, export-orientated "Harrier International", suited to either land-based or sea-based operation, with magnesium and liquid oxygen deleted, a simpler nav-attack system, and the nose redesigned to accept a variety of light weight radars. The short answer to this suggestion is that it is impossable to point to a single potential customer and say that this aircraft would have won an order where promotion of the standard RAF Harrier failed.

Digressing slightly, one of the results of the modern emphasis on export sales is that it places new demands on the manufacturer's organisational structure. At the time of the previous aircraft generation (eg. Hunter) the aircraft was designed purely to meet the requirements of the prime customer and other sales were virtually an incidental fall-out. As a result, the RAF was effectively the project manager and to a large extent the service even sold the aircraft!

The new environment differs basically in that exports are a vital consideration from the outset and that the airframe manufacturer shoulders the greatest share of the sales burden. As a result, for the first time in military aviation history the manufacturer is nowadays really responsible for project management. In my view, it follows that the airframe company must in each case appoint a project manager with overall control of design, construction, flight test operations and sales. British Aerospace may well decide to fill such slots with professional managers, but it can be argued that it is a better principle to teach aircraft men about management than to teach managers about aircraft.

It is something of a hobby-horse with me that the British aerospace industry is not training young people for future top jobs in project management. There are plenty of bright specimens around, but they are not being given the necessary breadth of experience in the four areas listed above. The short answer to this criticism is that if industry moved its staff around to broaden them out for project management, it might as well hand out blue uniforms and call itself the Royal Air Force! I am not a great believer in short answers.

To recap, it is contended that the Harrier is basically the right aircraft for the V/STOL market, and that there is nothing wrong with the way it has been "sold", but its public image has never caught up with its real operational capability. The fact that none of this discussion really explains the previous lack of Harrier sales may imply that the market itself was simply not ready for V/STOL.

There is probably a good deal of truth in this idea. The V/STOL concept was so revolutionary when the Harrier entered service that most operators were content to sit back and watch developments. In addition, there was undoubtedly a wide-spread gut-reaction abroad that procurement of a V/STOL fighter implied that other types in the force structure would be of no value in war.

There were some potential operators who argued that they saw no prospect of war in their area, or that V/STOL was only necessary in a nuclear conflict. Another case was Switzerland, which, in the 1940s, had constructed what might be termed "fortress airfields" in the mountains, with hangars and flak emplacements cut into the rock face. The argument that such airfields cannot be put out of operation by bombing sounds reasonable enough, until stand-off PGM are used. At the opposite extreme, countries which critically needed V/STOL for operational flexibility and immunity from runway bombing were often ruled out by political considerations.

Of the many factors which came into play, perhaps the most significant in the early 1970s were the natural reluctance among operators to be pioneers, and the general demand for multi-purpose aircraft. In looking at the factors which brought about the recent change in outlook for V/STOL, the most obvious are the growing appreciation of the vulnerability of conventional airbases to stand-off attack, the wearing out of old aircraft carriers used by the smaller navies, and the ski-jump maritime take-off technique, which almost halves the Harrier's deck run requirement. However, it is also arguable that a very important factor has been the swing in demand (as a result of the lessons of the Vietnam War) away from multi-purpose aircraft toward more specialised types, such as the Harrier.

FIRST OF THE NEW WAVE

A major influence on service attitudes to V/STOL has undoubtedly been the entry into operation with the Soviet Navy's Northern Fleet of the Forger. Before discussing the aircraft's role and comparing it with the Harrier, a brief analysis of the design may be in order. At first sight the mid-set wing suggests there are two small propulsion engines located side-by-side below the wing spars. However, a more careful examination indicates that the fuselage lacks the depth for this arrangement and the intake proportions certainly imply that a single main engine is used with the wing halves bolted to heavy ring frames. The vast amounts of smoke that pour from the two rotatable nozzles under the trailing edge root are reminiscent of the dirty efflux from an Su–7 Fitter. Hence it is reasonable to assume that this main engine is a Lyulka AL–21 turbojet. With afterburner removed, this engine will

produce a testbed thrust of around 17,500 lb (7 935 kg).

The two lift engines located in tandem behind the cockpit are more difficult to assess. However, it may be inferred from the size of the various aircraft fitted with lift engines at the Domodedovo Show of 1967 that the Soviet Union has developed an engine of at least 8,000 lb (3 360 kgp). The Forger's total testbed thrust available for jet lift is therefore approximately 33,500 lb (15 195 kgp), or roughly 50 per cent more than that of the Pegasus used in Harriers currently in service or projected.

On the other hand the Forger's structure and powerplant are obviously considerably heavier than those of any Harrier. Basic weight plus pilot must be roughly 16,500 lb (7 480 kg). My own guess (from an earlier conversation with Soviet project engineers) is that the aircraft is designed to perform its standard mission from VTO at a sea level ambient of at least 86° F (30° C). Indeed, it is quite possible that the initial requirement was based on land operations, with VTO under the much more demanding hot-high conditions used in designing Soviet military helicopters. The point of this is that in all probability the usable take-off weight does not reflect the very high thrust installed.

With allowances for intake losses and recirculation, and for power off-takes and attitude control requirements, the standard disposable load probably consists of no more than 5,000 lb (2,265 kg) of internal fuel and 2,000 lb (900 kg) of warload. With this load it may fly a close support mission of 130 nm (240 km) in a LO-LO profile, or 200 nm (370 km) HI-LO. In reconnaissance, it may reach 300 nm (555 km) at altitude, carrying a sensor pod and external tanks. In air defense with lightweight missiles, it may be able to patrol for one hour at 100 nm (185 km). *The Forger* has been "clocked" on radar in level flight in the region of M=1.05.

Aside from having a marginally better level speed than the Harrier, it can lift heavier loads from VTO, and is therefore basically more flexible in its use of helicopter pads and other small decks. However, all the evidence points to the fact that it is not intended to take advantage of STO, hence it loses out to the Harrier in warload/radius where deck runs of above perhaps 200 ft (60 m) are available. The Harrier also has a far simpler powerplant, and is therefore much better, not only in maintenance and reliability, but in safety.

In transitional flight, the *Forger's* most striking difference from the Harrier is that the Soviet aircraft appears to be flying "on rails". It is obviously equipped with a high-authority autostab; indeed, it may even be flown fully automatically at low speeds. One reason for this additional complexity is that, whereas the Harrier's turbofan (being designed specifically for a V/STOL aircraft) has contra-rotating spools to eliminate gyroscopic effects, the three turbojets of the *Forger* have no such feature and consequently produce precessional moments. For example, a pitch demand will produce yaw and roll! The basic flying characteristics at low speeds are further complicated by large pitching moments associated with starting up and shutting down the lift engines. Hence the aircraft is probably totally unflyable with the black boxes inoperative.

Aside from its better VTO performance, the *Forger* wins over the Sea Harrier in timescale (a four-year lead) and in compatibility with helicopter-size deck lifts, since its conventional undercarriage allows a wing fold. On the other hand, the British aircraft is far better in a dogfight, having VIFF, a lower wing loading and better SEP (Specific Excess Power) over most of the speed range. The Sea Harrier also wins on warload/radius for close support whenever a reasonable deck run is available. It also has much better external stores capacity and an excellent dual-mode radar. Thanks to its small size and smoke-free exhaust, the Harrier in flight is almost as invisible as an F-5. The *Forger* is about as invisible as a wing of F-4s in afterburner! Equally important, the Harrier's engineering simplicity results in far less maintenance personnel and facilities on the ship, and a far higher percentage of aircraft available to fly.

Although the performance of the *Forger* can be estimated fairly easily, its primary role is something of a mystery. With warload limited to four pylons crammed together under a diminutive folded wing, it can hardly be intended to excel in close support or strike. Likewise the lack of a worthwhile search radar (it only has radar ranging and an IR-sensor) limits its usefulness in reconnaissance and air defence. It has been suggested that the *Forger* provides midcourse guidance for the ship's SS-N-12 missiles, but this theory is difficult to swallow.

The Soviet classification for ships such as the *Kiev* and *Moskva* is believed to be "anti-submarine cruiser" (ie, the same as that for Britain's *Invincible*-class). Since a large proportion of Soviet submarines are with the Northern Fleet, it may very well be that the *Kiev's* role is to ensure that the "wolfpacks" can break out into the Atlantic through the choke points between Greenland, Iceland and the UK. The main threats to these wolfpacks are NATO killer submarines, carrier-based S-3s and land-based P-3s and Nimrods. It follows that the *Kiev's* Ka-25 helicopters are to defend the wolfpacks against underwater attack, that the SS-N-12 missiles are to sink the US carriers and that the tasks of the *Forger* are to find these carriers and to intercept the P-3s and Nimrods. It currently appears ill-equipped for either job, unless it has effective passive detection devices.

At present the Harrier and *Forger* are the only known high performance V/STOL aircraft in service, although they are to be joined by the Sea Harrier in 1980 and (probably) by the AV-8B around 1984. We are now seeing a whole rash of weird and not-so-wonderful V/STOL designs emerge in America. I cannot imagine that the readers of this journal will need any assistance in predicting which of these projects will go down in history as genuine jumping jets and which will be remembered merely as no-hope hoppers!

AV-8B HARRIER

Mr. DANFORTH. Mr. President, I would like to make a few clarifying remarks about the Advanced Harrier aircraft being developed for the U.S. Marine Corps. This is the so-called AV-8B. There has been some confusion about this New V/STOL—vertical or short takeoff and landing—aircraft.

The Marine Corps has been operating the "A" model of the Harrier since January 1971, and has had nearly 7 years' experience with this aircraft. Before that, the British had 3 years' experience operating the aircraft and had about 6 years' experience before that with a similar prototype. All in all, the basic Harrier design is 20 years old.

The Advanced Harrier, the AV-8B, which is being designed and developed by McDonnell Douglas in the United States, is a direct descendant of the AV-8A, the Western world's only operational V/STOL fixed-wing aircraft. The modifications being made to the basic Harrier design, which was initiated in the 1950's, in order to create the Advanced Harrier are evolutionary, not revolutionary. Although the AV-8B will be able to fly twice as far, or carry twice the payload, of the "A" model of the Harrier, this great improvement is brought about by minor refinements in the aerodynamic design and by the use of modern lightweight composite materials. The Harrier "B" will use the same engine as the Harrier "A." The most revolutionary aspect of the Harrier aircraft is not its V/STOL design, but rather the Marine Corps doctrine of deploying this aircraft in direct support of combat troops on the ground.

The Advanced Harrier deserves the support of the Congress, not because it is V/STOL, but because it is ideal for the Marine Corps mission. V/STOL technology has been with us a long time and will continue to advance in the future. Many new uses for V/STOL will undoubtedly be seen. Clearly, however, V/STOL is not now ready for application to all types of aircraft. Vertical takeoff consumes too much fuel for V/STOL to be used on aircraft whose sole mission is, for example, strategic airlift. Likewise, supersonic, air defense interceptors, and manned bombers would probably lose more than they would gain if made V/STOL with today's technology. Advanced technologies may change the situation, but, for the present, V/STOL is best applied to those missions where range is not a major consideration and where the ability to operate off unimproved airstrips, roads, grassy fields, parking lots, clearings, and the like are most important.

In adopting the AV-8A, and in seeing the great improvements possible with the "B" model Harrier, the Marine Corps has identified a very clear need to reduce reaction time in order to provide more immediate, and cost-effective, close air support for ground commanders. For the Marine Corps, the AV-8B is the means by which it strengthens the interaction of its ground and air elements. In becoming the first American air arm to experiment with operational V/STOL, the Marine Corps showed a dedication to their mission which is commendable. The experiment has been a success. Now, the Marine Corps would like to expand their force of V/STOL aircraft—to make their next modernization step also a step toward greater use of V/STOL aircraft. Their proposal is quite reasonable. They intend to purchase an advanced version of the proven Harrier which will incorporate proven technologies and design innovations which will double the range or payload of the Harrier. This is not a risky venture; it is commonsense.

WHY WE NEED THE ADVANCED HARRIER V/STOL AIRCRAFT

Mr. HAYAKAWA. Mr. President, the administration has reportedly made a tentative decision to cancel the AV-8B Advanced Harrier program. The Advanced Harrier is an improvement of the existing Harrier V/STOL—for vertical or short takeoff and landing—aircraft now in service with the U.S. Marine Corps, the Royal Air Force, and the Spanish Navy. The Harrier, which is the free world's only V/STOL combat aircraft, is

built in Great Britain; however, the Advanced Harrier will be built in the United States.

Both Great Britain and Spain plan to employ the Harrier as a naval aircraft. It is in this role that the Advanced Harrier is of particular interest, not only for the United States, but for many other Western nations which have or soon will have small aircraft-carrying ships in their navies.

Because the Harrier and the Advanced Harrier are V/STOL aircraft, they do not require large aircraft carriers with catapults and arresting gear. They can be flown from ships as small as frigates and destroyers.

The capability and flexibility of any ship is greatly increased by having aircraft on board. Such aircraft can serve as reconnaissance and guidance systems for shipboard cruise missiles. They can intercept attacking bombers before the bombers can launch their own antiship missiles. They can turn even a small ship into an effective projection platform, thus into a more effective diplomatic tool. Because the speed of an aircraft such as the Advanced Harrier is superior to that of a helicopter, it can increase the responsiveness of a small ship in antisubmarine warfare. Tests of the Harrier on board the U.S.S. *Guam* and the U.S.S. *Franklin D. Roosevelt* have demonstrated all of these uses of naval V/STOL aircraft.

While the current Harrier can function in many of these roles, the Advanced Harrier will be far more capable. It has a payload almost 6,000 pounds greater than the current Harrier, given a short takeoff.

I do not believe it would be prudent for the United States to cancel the Advanced Harrier program. Doing so would leave the United States with no U.S.-built V/STOL aircraft until the late 1980's or 1990's. We would be abandoning the naval V/STOL field at the very time when many other nations, including the Soviet Union, are moving into it very rapidly and forcefully. The promise of V/STOL is too great for us to neglect it, and I hope the administration will not cancel the Advanced Harrier program.

Mr. President, I think that it is important for everyone to understand that V/STOL has been operational with the U.S. Marine Corps for 7 years. I ask unanimous consent that an article by Mr. Lindsay Peacock entitled "V/STOL on the Big Carriers" be printed in the RECORD. This article illustrates quite nicely the success the Marine Corps has had in taking V/STOL to sea.

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

V/STOL ON THE BIG CARRIERS

(By Lindsay Peacock)

Half of the eight new aircraft currently in the conceptual design stage with US Naval Air Systems Command are expected to be V/Stol types, although none is likely to enter operational service until the 1990s at the earliest. In the meantime, much of the task of formulating possible operating methods has fallen to the Hawker Siddeley Harrier, which, as the US Marine Corps' AV-8A, recently completed the first operational deployment of a V/Stol aircraft aboard a US Navy attack carrier.

USS *Franklin D. Roosevelt* (CV-42) has now returned to Mayport, Fla., after a highly successful six-month tour of duty with the Mediterranean Sixth Fleet. During this cruise some 14 AV-8As of Marine Attack Squadron VMA-231 operated alongside the F-4 Phantoms and A-7 Corsairs of Carrier Air Wing 19.

Since entering service with the Marine Corps in April 1971, the AV-8A has been to sea several times, playing a key role in the lengthy series of trials from the USS *Guam* (LPH-9) between 1972 and 1974, when this vessel served as the Interim Sea Control Ship. Intended for use in what were euphemistically described as "low-threat" areas, the definitive Sea Control Ship was envisaged as a simplified aircraft carrier designed to operate a small mixed force of fixed-wing V/Stol aircraft and helicopters. This was seen as a means of maintaining some measure of strike/ASW capability over a greater area of the world's oceans.

Though the project was eventually abandoned, small numbers of AV-8As and SH-3Hs operated from *Guam* throughout the evaluation period. The ship subsequently returned to its original duties as an amphibious assault vessel and made one further cruise with the AV-8A operating in support of Marine helicopter-borne assault forces, its usual USMC role.

Salt-water corrosion was the subject of one of the major lessons learned aboard *Guam*. In an attempt to eliminate this costly and time-consuming problem, all 14 of VMA-231's aircraft were completely stripped down and treated with preservative before starting the *Roosevelt* cruise. Results from the two inspections which had been made by March this year indicated that this had been successful in controlling corrosion. A further, more thorough, examination was to be made following the squadron's return to Cherry Point in mid-April.

Other preparations for the deployment included a work-up to operational readiness during a series of mini-cruises off the eastern seaboard of the USA from late June to September 1976. The *Roosevelt* then sailed for the Mediterranean on October 4, 1976.

One of the most important attributes of the V/Stol aircraft is its ability to do without the catapults and arrester gear required by conventional aircraft. The resulting simplified launch and recovery procedures mean that operations can be conducted at a far greater pace than is normally possible.

Most missions from the *Roosevelt* began with a Stol take-off from the forward area of the flight deck; average roll was 450ft, with a maximum of 650ft available. A wind over deck (WOD) of 16kt was required when operating with a typical fuel load of 5,800lb, rising to 27kt (well within the *Roosevelt's* capabilities) when the maximum of 6,800lb was carried.

For a short take-off the AV-8A was taxied into position (using a 650ft white line for visual reference) abeam the forward end of the island superstructure and brought to a halt with the brakes fully on. After a brief series of checks and upon receipt of a signal from the Flight Deck Officer, the engine was brought to full power with the nozzles in the fully aft position. As soon as the aircraft was felt to be skidding, the brakes were released and the AV-8A then accelerated down the deck. At a point shortly before the bow, the nozzles were rotated to a pre-selected 55 degrees to provide engine lift during the transition to wingborne flight.

Overall operating weight penalties made vertical take-offs generally unprofitable, although the AV-8A did operate in this mode on a number of occasions during the cruise. A typical Vtol sortie with a 3,400lb fuel load gives a duration of only 20min, so it is not surprising that the use of Harrier to provide some defensive cover during in-port periods has been virtually ruled out.

Missions invariably terminated with a vertical landing at one of four points: forward deck near the bow, forward deck just aft of the port jetblast deflector, port deck-edge elevator, and the fantail aft of the arrester wires. The recovery method most frequently used followed the practices adopted for conventional tail-hook aircraft. After the traditional fly-by and break to port, the AV-8A flew normal downwind and base legs before lining up for finals about three-quarters of a mile aft of the carrier. The transition from conventional to thrust-borne flight was then started and the aircraft brought to a "hover" relative to the carrier at a height of 50ft.

JET BLAST

To avoid blasting the flight deck with jet efflux, the AV-8As usually positioned themselves abeam of the carrier when landing on the forward three locations. Having reached the selected site, the aircraft then moved across before setting down. Landings made on the fantail usually followed a straight-in approach.

If standard approach patterns were impossible for any reason, three other recovery methods were available: downward, cross-deck from port, and cross-deck from starboard. In these cases the techniques adopted—apart from the transition to the hover always having to be made into wind—were virtually the same as those for a normal approach.

Each recovery was closely monitored by the LSO (Landing Signals Officer) located in Primary Flight Control (Prifly), who remained in radio contact throughout the landing sequence. In the case of a cross-deck recovery from starboard, however, his usefulness was limited by the fact that the aircraft was hidden by the superstructure until shortly before touchdown. As usual, the LSO marked aircrews on their landing performance.

Before the cruise the AV-8A's ability to operate for extended periods as part of a full conventional air wing was questioned within the USN. The type's short endurance, which many felt would severely disrupt the activities of other wing elements, was seen as the main limitation. In practice, however, the aircraft confounded its critics by successfully blending into the USN's cyclic pattern of operations.

Air operations from the *Roosevelt* revolved around a 90min launch/recovery cycle, and in the early stages of the deployment it was usual for the Harrier to launch last and recover first. But in-flight refueling from one of nine embarked A-7B Corsair "buddy" tankers later overcame the endurance problem. It was then discovered that the in-flight refueling probe seriously affected performance. Viffing (Vectoring in Forward Flight). The probes were therefore removed, necessitating a complete revision of operating methods. Under the new procedure the Harrier was launched first, recovering in mid-cycle some 45min later, and it was by no means unusual for AV-8As to land in the middle of the re-spot period.

About half of the Harrier sorties flown from the *Roosevelt* reflected the traditional Marine Corps role of close air support for ground troops, with the most commonly used ordnance being the Mk76 25lb practice bomb. Five were usually carried by each aicraft engaged in visual bombing training, with a single Mk58 smoke float being dropped for use as a target in the absence of proper range facilities.

Ordnance cleared for use by the AV-8A when operating in the close air support role includes the Mk81 Snakeye 250lb bomb, Mk77 550lb firebomb, Zuni 5in unguided air-to-ground rockets and the LAU-69 2·75in FFAR pod. Use of the 30mm Aden gun pods is temporarily restricted while they are modified—

by eliminating the need to keep a live round in the breech—to meet USMC safety requirements. Only two of the AV–8As aboard the *Roosevelt* had been converted by last month, and so gunnery training did not feature prominently in daily operations.

The increased emphasis placed upon air combat was readily apparent, with the remaining missions involving simulated air combat manœuvering against either another AV–8A or Phantoms from one of the two fighter squadrons also embarked in the *Roosevelt* (VF–51/111). Previous trials have revealed that the Harrier does not fare too well when flown as a conventional aircraft. Use of Viffing, however, significantly improves its chances of emerging victorious. In a recent evaluation against the F–14A Tomcat, AV–8As won 14 out of 19 engagements, with a further two resulting in draws. Principal armament for air-to-air combat is the infrared AIM–9G Sidewinder.

Particularly valuable is the Harrier's ability to operate from both amphibious assault ships and the landing platforms of smaller vessels incapable of handling conventional combat aircraft. Two periods of cross-deck operation were carried out during the cruise, the first involving three aircraft which undertook several sorties from the USS *Guam* in support of a Marine amphibious exercise in Sardinia. Overall tactical control was the responsibility of the *Leahy*-class guided-missile cruiser USS *Richmond K. Turner* (CG–20).

Following transit to *Guam*, each aircraft flew one close air support (CAS) sortie, and returned to *Guam* for rearming and refuelling before departing on a second CAS mission culminating in a landing on the USS *Trenton* (LPD–14). The final CAS sortie started with a vertical take-off from *Trenton* and ended with a return to *Guam*.

The second deployment, also aboard *Guam*, involved 13 aircraft which sailed with the ship through the Suez Canal and Red Sea into the Indian Ocean, whence they were flown to Nairobi to participate in the Kenya Independence Day celebrations. During the return journey three or four days were spent on simulated air combat manœuvering missions, with aircrews being scrambled from the ready room.

Maintenance performance aboard the *Roosevelt* was, according to several of the 180-odd support personnel, "largely routine". At least ten of the 14 AV–8As were usually serviceable at any time, allowing pilots to fly as many as three sorties per day. During February VMA–231 recorded an above-average total of 346 flight hours in some 432 sorties, for a maintenance man-hour per flight hour (MMH/FH) ratio of 34·2:1. The supply of spares caused concern before the cruise, but earlier problems are now gradually being overcome and no trouble was experienced during the deployment.

The *Roosevelt* cruise has succeeded in its primary aim of proving that there is a place aboard aircraft carriers for V/Stol aircraft, and there can be little doubt that it has done much to clear the way for further deployments. Many of the lessons learned aboard the *Roosevelt* will play a significant part in formulating operating methods for the new US Navy V/Stol aircraft which should enter service toward the end of the century.

THE FARM PROGRAM

Mr. NELSON. Mr. President, every time the farm program comes before the Congress there is a great hue and cry from much of the press and the public claiming that farmers are unjustly subsidized by the American taxpayer. Many people write asking why the taxpayer should pay hard-earned money to subsidize the price farmers receive for their products. They frequently send critical newspaper editorials to support their position.

The fact of the matter is that there must be some kind of farm program that assures some stability in the price the farmer receives for his products.

It is not a matter of "subsidizing" the farmer. Any fair evaluation of what return the farmer gets for his investment and his labor forces the conclusion that it is the farmer who is "subsidizing" the consumers, not the other way around.

Because there is so much public misunderstanding about farm problems and farm programs, I wish to put on record this statement on the matter with the particular hope that my many colleagues in the Congress who do not represent agricultural constituencies will find it of some value.

Most of the statement deals with the problems of dairy farmers, but their experience is not atypical. To set the mood I would like to quote from a statement prepared by the U.S. Department of Agriculture that describes to consumers what the situation is. The USDA statement from which this material was taken is titled "Five Acres Between You and Starvation":

There is just over a billion acres of farmland in the United States. That is an average of 5 acres per person. So, each of us depends on 5 acres of land for our food and some of our clothing and lumber.

How much is 5 acres? Well, the playing boundaries of a football field cover just over an acre. So, 5 acres is slightly less than five football fields. But the 5 acres you depend on aren't all flat and suited to be cultivated for growing crops. Just over two of the football fields—2.2 acres—are cropland.

A farmer has to spend about 26 hours per year working on that 5 acres to produce your wood and fiber. It's hard work and takes a lot of skill. It is important to you that he has enough incentive to do it, and do it well.

A farmer has an investment of $2,294 in physical assets in that average 5 acres that grows your food and fiber. The farmer has made the investment because he wants to make a profit taking care of that investment and the 5 acres. For this, you, as an average consumer, would pay the farmer $427.54 last year. He gets about 40 cents out of each dollar you spend for farm-produced food.

The farmer used that $427.54 to pay $353.17 in production expenses. That left $74.37 for the farmer who took care of the 5 acres, and who took care of one-fifth interest in a beef cow and one-nineteenth interest in a dairy cow.

How much is $74.37? Well, a 3½ percent return on the $2,294 investment in physical assets made on your behalf is $80.29. So, the farmer who was looking after your average 5 acres of land didn't get back quite 3½ percent cash on his investment—and he threw in his labor. If you put $2,294 in a savings account—where there is no risk—you'd be rightfully upset if you didn't receive at least a 5-percent return of $114.70 on your investment at the end of the year.

USDA ACTION

A short time ago Secretary of Agriculture Bob Bergland raised the price farmers get for their milk.

He set the milk price support at 83 percent of parity. This means he assured the Nation's dairy farmers that they would receive no less than 83 percent of the price that farmers got for their milk during a baseline period some 75 years ago when, it has been agreed, farmers received a reasonable income for their milk.

If the normal market price for milk falls below 83 percent of parity, the Federal Government will step in and begin to buy milk products, like butter, cheese, and nonfat dry milk, at a price that will give farmers 83 percent of parity.

That, in essence, is how the Federal milk price support system works.

The effect of the Secretary's action will be to increase the income of Wisconsin dairy farmers from $8.93 per 100 pounds for all-milk before the action to $9.45. It may go a few cents higher when the full effect is felt. To date it has not reached above $9.15.

Before Bergland's action the retail price of a gallon of milk ranged from $1.05 to $1.15 in Wisconsin. The average was $1.10. As a result of the secretary's action the average price would climb to $1.16 if all of it were passed on to the consumer. Wholesalers may not do this, however, just as they have not passed on fully recent increases in the price of butter and American cheese so as not to discourage consumption.

The reaction among people unacquainted with dairy industry conditions was predictable. Certain newspapers criticized the action as callous treatment of the buying public which "fanned the fires of inflation." The administration was accused of paying off a "political debt" to dairy farmers who in many areas, including Wisconsin, supported President Carter in the election.

The criticism betrayed abysmal ignorance about the economics of the dairy industry and the American consumer's stake in it, the significant factors behind the price increase.

The United States has about 285,000 dairy farms. And that is an interesting statistic. Dairy farmers are supposed to have a lot of political "clout." If you consider the fact that there are 2 million people in labor unions and more than 12 million small businesses in the United States, that clout diminishes rapidly. So when Congress passes laws that aid dairy farmers it is responding not so much to the political power of these farmers as to a concern about the Nation's food supply.

About 48,500 dairy farmers reside in Wisconsin, making it the largest producer of milk in the United States—"America's Dairyland," as our license plates proclaim.

Chances are that evening will find the farmer and his wife poring over the books, plotting strategies on how to make the place even a modest financial success. The truth is that much of the time the price the farmer receives for his milk does not equal the real cost of producing it.

In 1975, for example, the Wisconsin farmer received $8.17 per hundredweight at the all-milk price. But his actual production cost was $9.79. He absorbed the loss by not paying himself or his family any wages, by foregoing profit on a sub-

stantial capital investment, and by putting off necessary expenditures.

The main problem for the dairy farmer—and for the consumer—is unpredictability.

How would you like it if you had absolutely no control over the price of a product you manufactured, or if your wages fluctuated continually?

That is how it is in the milk business. Wisconsin farmers got $6.80 a hundredweight in January, 1975; $9.08 in December, 1975; $8.25 in February, 1976; $8.99 a month later, and about $8.65 today.

This makes rational planning of either business or family budgets almost impossible.

There are the constant efforts by consumer-oriented groups to bring down the prices of foodstuffs. A lot of this effort focuses on milk because it is a large and important item in our diets. Typical of these efforts was a conference in December 1975, by the Community Nutrition Institute specifically on dairy prices. The problems of the farmer were virtually ignored.

Another influence is the mass media, which generally displays a one-sided knowledge of the dairy industry. Many influential newspapers strongly attacked Secretary Bergland's decision to raise the price of milk, displaying extraordinary ignorance about the situation of the dairy farmer in the process.

If the dairy farmer has to work 365 days a year including Chistmas, Thanksgiving and other holidays, why does he continue? He does it because that is what he likes to do; that is his heritage; that is what he does best; he loves the land as all farmers do; he cherishes his independence; he likes to see things grow; he knows his work is useful and necessary.

And why does Congress continue to maintain such a dairy support program?

In a sense the last question is the wrong question. When one efficiently produces a good product for a low return on one's labor, and frequently with little or no return for investment or management, it is the producer, the farmer who is paying the subsidy, not the consumer.

So the question ought to be: "Why should the dairy farmer be required to continue subsidizing the consumer?"

Thousands of dairy farmers have decided they could not continue with present income. They have quit. In Wisconsin in the last 25 years far more have quit than have stayed.

And so it is quite clear why Congress continues the support and protection system. It is to prevent more farmers from going out of business in order to assure a constant supply of a vital food at a fair price.

The real explanation for the decline in dairy farms is that financial uncertainty and arduous hours have combined to cause thousands of dairy farmers to give up.

Perhaps more important in the long term is the fact that young farm boys cannot get the financing to go into farming so we are losing them too.

They have turned to other agricultural pursuits—such as cattle-feeding or grain growing—or they have sold out, moved to urban areas and gotten 40-hour-a-week jobs with cost-of-living raises and pensions.

If this trend continues unabated someday we will have conglomerate corporate agriculture which will not serve the interests of the consumer or the country.

DAIRY CONFERENCE

In the past few years several conferences have been held regarding dairy pricing procedures. I was particularly pleased to address one held here in Washington on December 15, 1976, because it was sponsored jointly by the National Milk Producers Federation, the U.S. Department of Agriculture, and the Community Nutrition Institute.

My invitation to speak at this conference was prefaced with the question,

How would Congress look at any legislation dealing with changes in the nature of dairy cooperatives and the federal milk marketing system?

My answer is that most Members of Congress would look at the question from a position of profound ignorance while those who understand the issue would ask, just what is the nature of the changes proposed? My general answer to that question is that I would support any workable proposal that would assure the dairy farmer a return at least equal to the cost of production. Dairy farmers are used to hard work, long hours and cows that produce milk 7 days a week including Christmas. They and their families will work for low wages or no wages as long as the milk price will pay the cost of production. They are perfectly willing to gamble on some "good years" that will reward them with some income for their labor, some for their managerial skills and some return on their investment. If achievement of that modest objective could be advanced through some improvements in marketing orders or cooperatives I am for it. Any proposal that would weaken the market position of the dairy farmer I would oppose.

It is the view of many consumers—perhaps a substantial majority—that retail prices can be appreciably reduced by further squeezing the dairly farmer. They believe that the dairy support program is an indefensible expenditure of taxpayers' money to subsidize the farmer. Not infrequently consumers, city folks, members of Congress, ask me why they should continue to subsidize the dairy farmer. My response puzzles them. I point out that they are asking the wrong question. The right question is: How much longer can the dairy farmer be expected to continue to subsidize the consumer? When one efficiently produces a good product for a low return for one's labor and frequently little or no return for investment or management, it is the producer who is paying the subsidy, not the consumer.

TWO DAIRY FARMS

What is it like to be a dairy farmer in Wisconsin? Is the work difficult or easy? Do you make very much money? Is it an easygoing life?

Recently the Farmers Union Milk Marketing Cooperative, headquartered in Madison, identified two dairy farms in Marathon County—the heart of the State dairy industry—that were typical of the 48,500 dairy farms in the State.

Collectively these 48,500 farms produce over one-seventh of the Nation's total milk supply, more than farms of any other State. They make an exceptionally important contribution to our food supply because almost 25 percent of the protein needed in the American diet comes from milk.

The availability of so much milk in Wisconsin makes it a leader in another field, the production of cheese. About 40 percent of the Nation's total supply originates in our State.

Each of the two typical families was asked and agreed to provide the cooperative with income and expense data for 1976.

SMITH FAMILY

One family—let us call them the Smiths for purposes of this report—milked 34 cows, a popular sized herd on Wisconsin dairy farms.

Mr. and Mrs. Smith get up at 5:30 a.m. and, together, begin to milk the herd at 6 a.m., finishing at 8. They take an hour for breakfast and household duties. Then Mr. Smith leaves for the field to plow or for town to pick up feed, while Mrs. Smith launches into the household chores. The work cycle pauses at noon lunch hour, the runs again from 1 p.m. to 5. After another hour break, the evening milking begins at 6 p.m. and continues until 8 p.m. Again, husband and wife work as a team.

On the average workday farmer Smith works 11 to 12 hours, and his wife 4 to 5 in farm-related activities. During the haying and seeding seasons Mr. Smith works an additional 4 hours daily and Mrs. Smith an additional 5 to 6.

The children pitch in around the fringes. But most of their time is consumed by school, homework, and youth activities.

Sunday is not a day of rest on any dairy farm. It still means several hours of work for the family. Day in, day out, year in, year out, the cows must be milked and fed and milking equipment cleaned. Chores never stop. If farmer Smith hopes to take any days off during the year, he must arrange to have his cows milked by relatives, friends, or children staying home.

People who do not know what the life of a family is like oftentimes imagine it as idyllic. From their passing car they get but a brief glimpse of green and gold fields, a bright barn, and a pleasant home nestled among tall trees in a quiet valley.

In reality Mr. Smith, despite the outward calm of his circumstances, spends his life living with uncertainty. He cannot control the production of his cows. He cannot throw a switch and turn them off like a machine when the market becomes glutted and prices plummet.

He cannot predict or control the effects of weather. In an autumn of 1974, for example, an early killing frost hit the prime agriculture areas of central Wisconsin, cutting corn production from the normal 85 bushels an acre to 68.

Excessive moisture in the spring of 1975 hampered planting and destroyed crops. The worst ice storm in State history struck in March 1976.

Then came the now-famous drought, affecting the entire State. During the 1976 growing season (spring through September) precipitation ranged from 12.2 inches below normal in the Northwest to 4.9 inches below in the Southeast—the driest year on record. Production of corn—vital to the livestock industry—dropped from a normal 200 million bushels to about 150 million; oats from 75 million to 55 million; hay from 11 million tons to about 8.5 million. About 2,000 Wisconsin family farms went out of business.

What financial return does farmer Smith and his wife get for these labors, this need for constant attention to duty, for financial uncertainties and potential for disaster?

According to the exact accounting made by Farmers Union Milk Marketing Cooperative, the Smith family had a net gain of $7,794 from their operations in 1976. And it is important to note that neither Mr. and Mrs. Smith nor their children took any wages in 1976. Their wages were the $7,794.

The income-expense statement which accompanies this report gives all the figures for the Smiths in 1976. The cooperative did not attempt to draw a net worth for the Smiths. But a study last year, based on data gathered by the Wisconsin Department of Agriculture and the University of Wisconsin, resulted in a portrait of a typical Wisconsin dairy farm family remarkably like the Smiths. This study was based on the land values of a farm in Marathon County that milked 40 cows daily. The capital investment of the farm in land, buildings, livestock, and equipment was approximately $185,000.

On that basis, farmer Smith and his wife either received 4.2 percent return on investment and no wages—or no return on investment and about $1.70 per hour for their over 100 hours workweek.

JONES FAMILY

If this seems bad, the situation of the second Marathon County farm family studied by the cooperative was terrible.

The Jones family, as we shall call them, spent $48,073 to run their 42 cow farm against income of $47,346 for a net loss of $727. And their life was just as hard as the Smiths'—up at 5:30 a.m., done at 9 p.m., with hours added for special seasons, with the never-ending milking, and with fear of weather and the unpredictable cost-income roller coaster. A complete financial report for the Jones' farm also accompanies this story.

Unfortunately the two stories you have just read are not unusual cases. They are typical of the dairy industry in Wisconsin and in the United States. And the situation has been like this for years.

"All farmers have it rough," wrote the columnist James J. Kilpatrick. "But some have it rougher than others.

"These days, if you are into milk, you are into misery."

American dairy farmers have been living with boom-bust cycles for years.

Having recognized all this it must be acknowledged that most dairy farmers have not been able to live with conditions and bank on the future. They have simply been forced to quit.

In 1952 there were about 132,000 dairy farms in Wisconsin. Today there are 48,500. That means that over 70,000 went out of production.

These Wisconsin dairy farmers are part of a larger picture of farmers generally. In 1954 there were 5.9 million farms in the United States. In 1976 there were an estimated 2.7 million.

The decline of the family farm raises a most important question that goes to the heart of social and cultural values at stake not only for the farm family but for American consumers. These values are important to us all. Involved is the great question of the stewardship of our land and food for our people.

THE BALANCE SHEET

The Smith Family—1976

Income:	
Milk	$35,918
Cattle and cows	1,982
Miscellaneous (premiums)	429
Total	38,335
Expenses:	
Machinery repair and small tools	2,293
Feed purchased	11,297
Seeds and crop expenses	1,152
Fertilizer and lime	3,142
Machine hire (custom work)	214
Milk hauling	583
Livestock expenses (veterinary, breeding, medicine)	1,633
Gas, oil	751
Real estate and personal property taxes	1,007
Insurance	824
Utilities	1,072
Auto expense	737
Interest	3,766
Hired labor	110
Supplies	1,412
Miscellaneous	548
Total	30,541

The Jones family—1976

Income:	
Milk	$43,575.00
Cattle	646.00
Grain	264.00
Other farm income (machine hire)	515.00
Federal gas tax credit	115.00
Patronage dividends	2,151.00
Refund	80.00
Total	47,346.00
Expenses:	
Machinery repair and small tools	2,933.37
Dairy feed	15,534.59
Seeds, other crop expense	1,328.40
Fertilizer and lime	3,270.42
Machine hire (custom work)	716.78
Trucking	7.00
Veterinary and medicine	252.19
Other livestock expense	835.31
Gas and oil for farm	1,187.28
Taxes and insurance	2,057.13
Farm utilities	1,669.39
Farm use of pickup truck	182.90
Interest	9,456.00
Cash rent and other farm expense	1,069.28
Freight and trucking	573.00
Outstanding feed accounts	7,000.00
Total	48,073.04

IN THE SUPERMARKET

American consumers eat better while spending less of their expendable income on food than any other nation. Many curiosities occur. For example:

When Secretary Bergland set the price support for milk at 83 percent of parity last spring, there was a general belief that the consumer would pay a lot more for milk in the store. Interestingly, at that time a half-gallon of homogenized milk in the Washington area cost 83 cents. In October a half-gallon cost 75 cents, a reduction of 8 cents. Obviously, other factors than the support program indicate what the consumer will pay for milk in the supermarket.

Of course, Federal funds have been spent meanwhile in an attempt to secure the designated support level, but in fact the 83 percent level has not been achieved. As of September 15, 1977, dairy farmers were receiving 76 percent of parity for all milk and 81 percent for milk used exclusively for dairy products, such as cheese.

Sadly, the parity level for all farm commodities had dropped by September 15 to 63 percent, the lowest since March 1933.

And this is the picture, according to the USDA (as of June 1976), of the percentages of expendable income spent in various parts of the world for food:

Nation:	*Percent*
India	64
Brazil	47
Russia	40
Yugoslavia	39
U.K.	30
France	26
W. Germany	24
United States	17

CO-OPS ESSENTIAL

How does milk get from the farmer to the grocery store shelf?

The most common device is the cooperative.

The cooperative is an organization founded by farmers to sell the milk they produce. Before the creation of cooperatives individual farmers sold their milk to dairies which, in turn, processed it and sold it to consumers directly or through retail stores.

The typical dairy industry cooperative work is like this:

Farmer-members pay in capital to purchase such items for it as buildings, milk holding tanks, and trucks to transport milk from the farm to the cooperative and on to the dairy.

The farmer sends his milk to the cooperative which, in turn, sends it to the dairy. The cooperative establishes relationships with a number of dairies and other milk consumers, such as cheese and baking companies or manufacturers of powdered milk.

The cooperative thus is able to be a "traffic cop" for milk, preventing chaos in the market and insuring a constant market for the farmer. In the "flush" season, when milk production soars, there might not be a market for all the product in established fluid milk outlets. The cooperative is able to divert the excess into the production of other uses not tied to the calendar.

If an individual farmer attempted to market his milk alone, he would not be able to serve both as a "production superintendent" on his farm and as a "traveling salesman." He would be tied to local markets, as he was in the past. The cooperative can perform the sales func-

tion and develop markets hundreds of miles away.

The dairy usually pays the cooperative which, in turn, pays the farmer-members, after deducting a percentage for operating expenses. If there is money left over at the end of the year between the money deduction and the actual expenses, the excess can be retained for expansion, or distributed to the farmer-members. In the latter case, the members pay income taxes on it.

So, in essence, the cooperative is a rational instrument that allows the farmer to function in a modern marketing situation and gives him financial stability. It can do what the individual farmer cannot—apply the management time and skills necessary to establish stable markets. The cooperative also functions as a bargaining agent for farmers in dealing with dairies and other consumers of milk.

Only one-third of the products of the Nation's farms and only one-fifth of the materials they purchase move through cooperatives. And while the largest farmer cooperative in the country probably would rank among the top 50 corporations, the combined sales of all 7,645 U.S. farmer cooperatives was less than the sales of the single largest industrial corporation in the country, General Motors.

Critics frequently declare that dairy cooperatives control 75 percent of the milk market, and that this is monopolistic. But there are 631 separate cooperatives and many of them compete. Furthermore, these cooperatives, as a combined group, process only 28 percent of the milk supply.

All of this undermines the charge that cooperatives have an unfair advantage because of the Capper-Volstead, which allows farmers to form cooperatives without being in violation of antitrust laws.

In final analysis, the cooperative is good for the consumer, because it introduces rationality into the milk marketing business, and encourages dairy farmers to stay in production.

MILK BY THE MINUTE

Has the price of milk gone up?

It depends on how you look at it.

In 1950 the cost in Wisconsin of a half gallon of milk was 32 cents. Today it is between 60 cents and 70 cents.

So the price went up, right?

Well maybe not. The average American had to work almost 16 minutes in 1950 to purchase a half gallon of milk. Today he has to work less than 10 minutes for it.

So did the price of milk go up? It's an interesting question. In terms of a person's toil, the price dropped 37.5 percent.

Let us continue this exercise.

Before the recent support level for milk the average cost of a gallon in Wisconsin was $1.10. If the full price hike is passed on to consumers, milk will average $1.16 a gallon in Wisconsin—up 5.4 percent.

The U.S. Department of Agriculture reports that in the last decade the price of milk has increased less than the cost of all other foods, and less than the rise in the Consumer Price Index.

A longer view produces a different impression. In 1950 the average American spent 22.4 percent of his income for food. In 1975 food costs had dropped to 17.1 percent of income—the lowest of any nation in the world.

GAO CHALLENGE ON MENTAL RETARDATION: MORE CAN BE DONE

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HUMPHREY, I submit the following statement and the material attached thereto and ask unanimous consent that it be printed in the RECORD.

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

The material ordered to be printed in the RECORD is as follows:

STATEMENT BY SENATOR HUMPHREY

Nobody knows for sure how many millions of lives are wasted because of mental retardation, nor is there an objective measure of the economic injury and heartache that result. But the cost is enormous.

Authorities estimate that over six million persons are mentally retarded and that 100,000 new cases occur each year. In 1974, the Department of Health, Education and Welfare estimated the national cost as between 8.5 and 9 billion dollars annually.

We pride ourselves that there is a new and enlightened approach to our treatment of handicapped individuals and, in particular, those who are mentally retarded. Sensitive and positive media treatment of mentally handicapped persons has grown in frequency.

There is increasing recognition that retarded individuals are more like us than they are different; that they need, just as we all do, love, joy, activity, a chance to grow and progress; a chance, wherever possible, to become independent and contributing members of their community.

The rights and aspirations of handicapped persons have been codified in such legislation as the Education for all Handicapped Children Act, the Developmental Disabilities Act, and amendments to the Rehabilitation Act of 1973, including the landmark prohibitions against discrimination in federally-funded programs.

Part of this progress reflects a heightened public sense of justice and compassion; but a great part has been the pragmatic recognition that every American who can become independent and productive is not only happier but also is less likely to be dependent on costly public welfare programs.

Earlier this year, at the dedication of an excellent facility for severely handicapped individuals in Minnesota, I spoke of these changing trends. And I concluded that we must now focus additional efforts and resources on the goal of preventing mental retardation.

This goal has, in fact, been official federal policy for years, but it has not received the coordinated emphasis required to make it a dynamic factor in our health programs. The preventive initiative has been focused and hesitant, without clear direction or defined goals.

Speaking to this situation is an excellent and timely report submitted on October 3, 1977 by the Comptroller General, "Preventing Mental Retardation—More Can Be Done."

Although this report is distributed to all Congressional offices, I know that sometimes documents slip by unnoticed. I want to call attention to this very useful survey that can help mobilize and invigorate our efforts to prevent mental retardation, and to recommend to all my colleagues that they read it carefully. It points out that knowledge, authority, organization and resources exist for a coordinated and effective campaign against this distressing human, social and economic problem.

Although the entire report is of interest, I ask only that the Digest be reprinted here. It summarizes in a clear and succinct manner the reasonable goal of this nation to cut in half the incidence of mental retardation by the end of the century. In analyzing weaknesses that have delayed progress, and in identifying some of the primary organic and environmental factors causing retardation, the report provides a solid base for a renewed legislative and administrative commitment.

To achieve our goal, the knowledge and techniques already available to our biomedical and behavioral sciences must be coupled with a decisive and determined effort.

Some metabolic disorders are among the causes that can be corrected if they are promptly identified and treated. For that purpose, I offered legislation in the last Congress to require all federally assisted hospitals to perform tests on newborn infants to detect metabolic disorders that can retard brain development. While this bill did not pass, a federal blueprint for genetic disease programs was enacted in 1976 as the comprehensive National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act. The new law provides for research, training, testing, counseling, and information and education programs with respect to genetic diseases, including those not specifically listed.

I was gratified to note that the GAO report recommends the use of this legislation as a vehicle for a program to evaluate, assist, and expand state and regional screening programs.

Our hope for the future must be to eliminate to a great extent the incidence of mental retardation. But we can not forget those six million Americans who need our immediate attention and concern. One of the more sensitive treatments of retardation, written by John Deaton, appears in a recent issue of the Texas Monthly. Deaton writes with tenderness and candor of the ways in which a family must adapt to their special child; and the ways in which that child enriches the family experience.

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS: PREVENTING MENTAL RETARDATION—MORE CAN BE DONE

In November 1971 the President established a national goal: to reduce by half the incidence of mental retardation by the end of the century. Despite this goal:

No agency of the Department of Health, Education, and Welfare (HEW) has been made responsible for seeing that the goal is put into practice, coordinating efforts, clarifying agency roles and resource commitments, or measuring progress in meeting the goal.

Prevention of mental retardation has not been designated an objective by the Department's agencies responsible for prevention.

Systems have not been established or methods developed to assess progress in achieving the goal.

Many authorities believe that about 6 million Americans are retarded and as many as 4 million of the children expected to be born by the year 2000 will be mentally retarded.

HEW estimates that mental retardation costs the Nation between $6.5 and $9 billion annually in care, treatment, and lost productivity. HEW alone spent over $1.7 billion on the mentally retarded in fiscal year 1976.

Of the many causes of mental retardation which have been identified, GAO selected a few for which preventive techniques are available to determine what else can be done. Many causes of retardation also have other ill effects. Thus, if the incidence of retardation is reduced, these problems may also be prevented, possibly saving lives, and avoiding human suffering. Following are the causes GAO selected.

METABOLIC DISORDERS

Mental retardation caused by inherited metabolic disorders can often be prevented if the afflicted infant is identified and treated shortly after birth. Almost all States have programs for testing a blood sample from newborn infants to detect phenylketonuria.[1] To reach all newborn infants, improvements are needed in many of these programs. Also, only a limited number of States are testing for six other treatable metabolic disorders which can be identified from the same blood sample.

Although these metabolic disorders are not common, the monetary savings that result from avoiding costs of caring for the retarded greatly exceed the cost of screening all newborn infants and treating them. Also, by using automated laboratory methods applied on a large scale, tests for other disorders can be made on the blood sample drawn for phenylketonuria testing at little or no additional cost . . .

PREMATURITY AND LOW BIRTH WEIGHT

Comprehensive prenatal care can help prevent low birth weight and prematurity, reducing the incidence of mental retardation. However, many women receive no prenatal care and many more do not obtain prenatal care until very late in pregnancy.

Health officials in each State visited said additional prenatal care was needed. However, in these States the extent of the unmet need for prenatal care, location of those areas most in need, or the effect prenatal care programs have had on reducing mental retardation have not been sufficiently analyzed.

HEW has not evaluated State programs to assess how they affect the population served or to make sure that resources are being used most effectively . . .

CHROMOSOME ABNORMALITIES

Chromosome abnormalities are estimated to account for about 16 percent of the clinically caused cases of mental retardation. Down's syndrome, one of the commonest of such abnormalities, appears in about 5,000 births each year and, although current information is not available, it has accounted for 15 to 20 percent of the institutionalized mentally retarded.

Treatment of chromosome abnormalities is limited; thus, medical genetics concentrates on preventing retardation through genetic counseling and testing. However, only a small portion of those who could benefit from these services receive them. Neither HEW nor the States attempted to find out if persons needing the service are screened or served. Geneticists interviewed generally thought that a disproportionately small number of those who obtain genetic services were from lower socioeconomic groups.

Federally funded family planning programs and possibly others could provide the needed outreach, identification, and services to lower income families. Federally funded maternity and infant care projects were referring high-risk clients for genetic services; however, the family planning programs in those States generally did not.

RUBELLA AND MEASLES

Mental retardation caused by rubella and measles can be prevented by aggressive vaccination programs. But, because rubella and measles immunization levels are low, expanded efforts to immunize children and test women of childbearing age for susceptibility to rubella are needed. Better data is needed on immunity levels in local areas. Certain Federal programs—such as Medicaid's Early and Periodic Screening, Diagnosis, and Treatment; Head Start; and family planning—could help improve surveillance data and raise immunity levels . . .

LEAD POISONING

HEW estimates that 600,000 children have elevated blood lead levels. More widespread screening is needed to determine the extent of the lead poisoning problem. A recent breakthrough in testing techniques has made it possible to do more testing inexpensively.

However, except in certain known high-risk areas, lead poisoning is not recognized as a problem and screening is not routinely done. Reporting requirements are inadequate to determine the extent of screening or the results in locales where screening is done . . .

RH HEMOLYTIC DISEASE

Mental retardation and other complications caused by Rh hemolytic disease can be prevented by identifying women with Rh negative blood types and providing them with immunoglobulin when they bear Rh positive children or have abortions. Although the extent of the problem is not known, many women apparently are not receiving the immunoglobulin.

States need comprehensive systems for testing pregnant women for Rh incompatability, reporting disease incidence, and reporting immunoglobulin utilization. Only five States had mechanisms for fully monitoring Rh hemolytic disease, only seven required either premarital or prenatal blood typing, and only six had special programs for reporting immunoglobulin use. In lieu of State laws requiring such tests, the family planning programs could assist by including Rh blood typing as a routine part of family planning services . . .

EARLY CHILDHOOD EXPERIENCES

About 75 percent of the incidence of mental retardation is attributed to environmental conditions during early childhood. Although the relationship between poor living conditions and mental retardation is still not fully understood, many projects are studying this.

So far, this work has not been organized at either the Federal or state level. HEW agencies did not feel it was their responsibility to collect and evaluate the results of various programs directed at preventing psychosocial retardation or implementing those that are the most efficient and effective. As a result, little is known about the full extent of ongoing programs, the number of people being reached, or whether or not the techniques being used are effective and could be more widely applied . . .

RECOMMENDATIONS

The Secretary of HEW should (1) designate a focal point in the Department to implement a national prevention strategy, monitor and coordinate the efforts of the various HEW agencies and offices, and develop a method of determining the progress being made in reaching the goal and (2) make the prevention of mental retardation an objective in HEW's operational planning system. . .

This report makes several recommendations to the Secretary on actions that could be taken to increase HEW's efforts to reduce mental retardation caused by metabolic disorders, insufficient prenatal care, genetic disorders, rubella and measles, lead poisoning, Rh hemolytic disease, and poor early childhood experiences. . .

AGENCY COMMENTS

HEW generally agreed with GAO's findings and recommendations and stated that the conclusions were valid and the recommendations worthy of implementation.

HEW told GAO that it would designate the Office of Assistant Secretary for Health as the focal point in the Department for mental retardation prevention. It agreed that, whether or not its operational planning system is continued, the relevant issues would be monitored by the agency tracking system. . .

[1] A metabolic disorder caused by the inability to produce the enzyme which ordinarily metabolizes a particular protein in foods.

JENNIE

(By John Deaton)

The traits of Down's syndrome include mental retardation, short stature, and stubby limbs, but it was the slanted eyes and a Mongolian-like fold of the upper eyelid that caught the fancy of a nineteenth-century English doctor.

Langdon Down, familiar with the then new work of Charles Darwin on the evolution of species, described the condition that came to bear his name in a paper titled "Ethnic Classifications of Idiots." In it he concluded that the mongoloid represented a genetic regression to the supposedly more primitive Mongolian race. He was wrong, but some people accepted his theory, and in 1924, F. G. Crookshank took Down's theory one step further; in a book titled *The Mongol in Our Midst* he wrote that the mongoloid was not a throwback to a primitive Oriental human being, but rather to the orangutan. Even today the straight flexion crease found on the palms of many mongoloids is known in medical parlance as the simian line, in reference to a similar crease found on the palms of apes.

Jennie is more like a monkey. Just now as I was typing this, she scampered into the study, put her hands on her hips and said, "Hi, Da!" She crinkled her half-moon eyes and gave me a bright, Brushfield-spotted smile (Brushfield spots, whites places in the irises of mongoloids, represent defects in the eye-coloring layer). As she was whirling to leave, I gave her a kiss on the head. She smiled and brushed it off. It's not that she doesn't like to be kissed. She loves to be kissed, but she brushes all kisses off. It's what her brothers and sister do when Jennie kisses them, and Jennie's picked it up.

Jennie's eight, and she is mentally and physically retarded. Full grown, she'll stand no more than five feet. Her mental age now is about four, but it may increase to that of a child of seven or eight. She is perceptive in many ways. She can recognize the way to the store or to Mona's house (where she stays before and after school), and her memory is excellent. She never forgets a meal and can remember which toys and books belong to her. She's also capable of holding a grudge when she feels she's been slighted, and she's perfectly normal in her ability as the youngest child to tattle on her brothers and sister if they've mistreated her (which is rare).

Food is a big item in her day. The first thing she does in the morning after her mother's hug is say, "Seerul." Once, when she kept gaining weight, despite our efforts to restrict her food intake, we became suspicious that she was eating too much at school. My wife, Mimi, and I spoke to Jennie's teacher, and were told proudly, "Oh now, Jennie—she's one of my good eaters. She'll even clean off the others' plates." That, we tried tactfully to explain, was just the problem.

The thing they teach you about birth defects during medical training is that when one is present, look for others. A child with a clubfoot may have a cleft palate as well: one with congenital cataracts may also have a heart murmur. In Jennie's case, she had duodenal atresia, a condition that often occurs with mongolism. The first part of her small intestine was a blind, obstructed pouch rather than a clear passageway from stomach to colon. From birth, she vomited

all her nourishment. Strange that nature should accompany its imperfection with a self-destruct mechanism, and yet, maybe not so strange either.

Although it was months before Jennie's mongoloid condition would be confirmed, the diagnosis of her bowel obstruction was made two days after she was born. Our pediatrician recommended immediate surgery, and by nine o'clock that night she was in the operating room. The bypass was successful, and soon Jennie was greedily taking milk.

A week after she left the hospital, we moved from Sacramento to Madison, Wisconsin, where for a year I did research in medical genetics. We discovered that John Opitz, a well-known medical geneticist, had recently moved to Madison. He saw Jennie and confirmed the diagnosis of mongolism. Optiz held Jennie in his arms as he counseled us. "She sleeps a lot, doesn't she?" he asked. My wife nodded. Opitz smiled. "Mongoloids are such good babies." He didn't seem to want to stop holding Jennie, but holding her was difficult. Floppiness is one of the features of a newborn mongoloid. It's due to an underdeveloped nervous system, and Jennie had it in full measure. She'd slip right out of your lap if you didn't hold her closely. "You know she won't live as long as your other children," Dr. Opitz cautioned, "but love her and keep her with you." The average age of death of institutionalized mongoloids is about 30 to 35 years. While I was doing medical work at a state school in South Texas I encountered several mongoloids in their late sixties and early seventies in good health. Recent studies show that mongoloids who survive past age five have a good chance of living to adulthood.

We were grateful for Opitz' advice, because we'd been told earlier to put Jennie in an institution. It was a temptation, since I myself had been taught in medical school to recommend institutionalization for all retarded children. "You can't do anything for the child," the pediatrics professor had said, "so do something for the parents." In fact, you can do a lot for a mongoloid child, and for children who are retarded from other causes. You start with love and do most of the same things you would in raising a normal child. We have found that the fears we had about a handicapped child not fitting into the family were unwarranted.

Jennie is the hub of our family. Her brothers and sisters accept her as a special person but not as a sluggish retardate. When Roger, the oldest and most serious of our children, was eight, I asked him to write down what he thought of Jennie, who was then a year and a half. Here is what he wrote: "She was born in 1969. I didn't see her till about a month after she was born. The first thing she learned to do was clap her hands. Second she learned to say 'bye.' It was not till 1970 that she learned to pucker up when you did. Boy! That sure made our family happy! Jennie is mental retarded. Yet, I like her just the way she is. She has not learned to walk, but I think she want to very much. And learn a lot more things, too. She learns very fast for a mental retarded child."

Jennie rides her "ri-tickle," plays on her swing set, loves hide-and-seek, and can do a fair job of watering the yard. She "reads," cleans up after herself, and watches TV. She is not a victim of "mongolian idiocy"—a term that still appears in modern medical texts and one that is not only offensive but also wrong. In the first place, the mongoloid is not a throwback. The eyes of a person with Down's syndrome are slanted and partially covered by a skin fold that is suggestive of the eye fold in a person of Oriental extraction. However, in the Oriental the fold of skin extends from the bridge of the nose all the way across the eye. Indeed, it partially covers the upper eyelid. The eye fold of a mongoloid child is much shorter, starting at the bridge of the nose and ending just above the corner of the eye. It resembles a small pinch of skin that didn't get tucked in, and it often disappears by the time the child is an adolescent. The notion of "idiocy" is misleading, too. A few people with mongolism are able to learn to read and write. And most are not so severely retarded to merit being called "idiot." The modern practice is not to use words like "idiot," "imbecile," or "moron" when referring to retarded persons. The more specific and less offensive terms are "profound," "moderate," or "mild" mental retardation.

The cause of mongolism is a genetic accident. A normal fertilized egg of a human contains 46 chromosomes; a mongoloid begins with one extra. Within each chromosome there are thousands of genes containing the hereditary material DNA. Even one defective gene can cause abnormal traits in an individual, so you can imagine the problems an entire extra chromosome in each cell might cause. It isn't understood exactly how the additional hereditary material produces the features of monogolism. We do now that the extra chromosome is a number 21 chromosome, a relatively obscure-looking structure when compared in a microsopic field with the rest of the cell's chromosomes. Chromosomes occur in pairs, and the extra 21 added to the cell's two normal 21's creates a trio; hence, the genetic name for mongolism is trisomy 21.

How is mongolism transmitted? In most cases a genetic mix-up occurs in either the egg or the sperm, which brings one extra chromosome to the new person. This extra chromosome is more likely to be present in the egg than the sperm. A woman is born with all the eggs she will ever have, and these continuously undergo division in her ovaries during her reproductive years. The more years in which the eggs have to divide, the greater the likelihood of a genetic accident occuring. Thus, from 30 on, the chances of a woman having a mongoloid double every five years. A pregnant woman 45 or older runs a 1 in 65 risk of having a mongoloid baby, compared to a 1 in 1500 risk if she becomes pregnant prior to age 30. By contrast, the father's age has no bearing on whether a pregnancy will result in a mongoloid child. A man's sperm cells at the time of ejaculation are no more than about six weeks old, and much younger if the man ejaculates cften.

The chromosome defect responsible for mongolism was discovered by Jerome LeJeune and his coworkers in Paris in 1959, and only since then have doctors been able to distinguish with certainty between mongolism and cretinism, a similar-looking defect of the newborn. Cretinism results from a failure of the thyroid gland, and the condition can be cured by giving the infant thyroid hormone. Quacks continue to take advantage of this onetime confusion, and now and then I read of a "miracle way" to cure mongolism by giving the child thyroid hormone.

Jennie fits into the moderate range of retardation. Like many persons with Down's syndrome, she is trainable but not educable. She can learn a few reading and writing skills, but she will never be literate. For the record, she walked at age two, said her first word (bye!) at eight months, and didn't begin using simple sentences, until she was six. Her social skills and ability to mimic have always outstripped her verbal achievements. One morning Mimi hiccuped just as she went in to awaken Jennie. It made a loud Ho-Whup sound. Jennie didn't seem to pay any attention, but the next morning when Mimi went in to get her, she woke up and said, "Ho-Whup!" Then she grinned. She will say, "I do it!" and leap in front of you to carry in the groceries, set the table, pour the tea. She can make a monster face and run through the house frightening people or become a snake and slither across the floor nipping at your feet. About the only thing she lags on is dressing herself.

She's also not the cleanest of children. To keep her from wetting the sheets, her mother dresses her in double diapers. The faint smell of ammonia hangs in the air of her room. It doesn't bother Jennie, but it has bothered others. When Jennie was three, we put her in a preschool nursery. Before long we began getting hints that she wasn't "fitting in." Mimi would leave for her job about 7 a.m., and I'd take Jennie by the preschool on my way to work about an hour or so later. In that time Jennie might have a bathroom accident, get syrup in her long brown hair, or decide to draw on herself with Crayolas. Because mongoloids are prone to colds, she often had a runny nose—and the unladylike habit or wiping it on her dress. The head of the school finally wrote to us saying that it wasn't much fun to pick up a child who had food in her hair and a dirty face and often needed a bath. We took Jennie out of the school.

When Jennie was five she started going to public school. Her world blossomed. She rides the bus and is in a class with others like herself. Her teachers have taken the businesslike attitude that Jennie is a student who is capable of learning. They've taught her to count to ten (sometimes she makes it to twenty) and to recite her body parts. She got an identification bracelet at school and learned her name and address. One day she came home and said, "Commere!" After we had all gathered around, she took a crayon and sheet of paper and very laboriously wrote out the letters: J-E-N-N-I-E. Then she put her hands on her hips and beamed.

We had wanted to keep one of her school group pictures, but Jennie didn't cooperate. She wore the picture out. Jennie would proudly name each person in it over and over, starting with her teacher and tracing her fingers to the faces of each of her classmates. She recited the names for us and, when no one listened anymore, she would sit down and name them for herself. She took the picture to bed with her and would find it first thing next morning. She carried it everywhere. Within a week the faces were blurred, and Jennie's litany turned into a puzzled recital as she searched in vain for the missing persons.

TV is special to her. She likes ballgames, enjoys clapping and cheering with the fans, and she gets irritated if we try to change the channel when she's watching football or baseball. Her favorite program is *Emergency*. "Woo-woo," she calls it, circling her hand above her head to imitate the flashing red light. I don't know how much she understands of the program, but she cries during the commercials.

Little things are what you remember about her. The way she can drop off to sleep suddenly as if she were shot, and the way she marches through the house on a cold morning trailing her sheet behind her like a queen on the way to her coronation. She's not all sweetness. She can be grouchy in the morning; often she comes out of her room looking like the wrath. She can be stubborn, bossy, sulky. She even has her own profanity, which she resorts to on special occasions: "Cock-ka-me!" We discourage her from saying it. Usually, though, Jennie is happy. She enjoys the little things—undressing to take a bath, eating watermelon, going for drives in her car, being left alone to explore the refrigerator. Most of all, she loves people. She likes to be around them, tickle them, talk to them, laugh with them. Give her a chance, and she'll take off after the other kids and play with them for hours and hours just like she is one of them. Which, of course, she is.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Robert P. LaRoche, of California, to be U.S. marshal for the eastern district of California for the term of 4 years vice Arthur F. Van Court.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Wednesday, October 26, 1977, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ORDER FOR H.R. 9512 TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on H.R. 9512 be held at the desk, pending further disposition.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS DISCHARGED FROM FURTHER CONSIDERATION OF H.R. 2817

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2817.

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

TINICUM NATIONAL ENVIRONMENTAL CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2817.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2817) to provide for certain additions to the Tinicum National Environmental Center.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HEINZ. Mr. President. First, I want to thank the majority leader and the member's of the Senate Public Works and Environment Committee, and especially its distinguished chairman, Senator RANDOLPH, for making it possible to consider H.R. 2817 at this time.

The legislation which we are about to consider tonight is one of particular interest to myself and the citizens of Pennsylvania. H.R. 2817 would authorize the appropriation of $7.25 million for the preservation of the last remaining saltwater marshland in the Commonwealth of Pennsylvania. In 1972, Congress created the Tinicum National Environmental Center. The refuge's 1,200 acres provide a unique outdoor laboratory for the purpose of exploration and development of new techniques in the field of environmental education and interpretation. Tinicum is the first environmental center in the United States. With the passage of this legislation the Interior Department will be able to expand the present area, and also fulfill the intent of the original legislation.

The citizens in and around the Delaware County area have made the Tinicum National Environmental Center a local priority. Not only have individuals banded together to form a citizen's group for the purpose of raising money locally, but additionally Delaware County officials have pledged to eliminate four sewage treatment plants, that discharge treated waste into the lagoon, at a cost to the county of $8.42 million. In closing, I recognize the people who have worked so diligently and ardously to make this dream a reality. The citizen's group, Concerned Area Residents for Preservation of Tinicum Marsh (CARP), the League of Women Voters, and the Delaware County officials are to be commended for the fine effort that they have expended on behalf of all of the residents of Pennsylvania. Their time and effort has assured our State of a fine facility of which we can all be most proud.

Without the timely passage of this bill that tonight's action makes possible, Tinicum marshland areas now available for inclusion would be irrevocably destroved. In fact, at this very moment, a land fill permit for 78 acres of vital marshland is now pending before the Pennsylvania Department of Environmental Resources. This action, therefore, comes none too soon and I thank my colleagues for their sensitive response to my request for the very expeditious handling of this matter.

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

The bill (H.R. 2817) was read the third time, and passed.

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.

STRATEGIC ARMS LIMITATIONS TALKS II

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 457, Senate Concurrent Resolution 56.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 56) expressing the concurrence of the Senate and the House of Representatives with respect to Presidential action affecting the limitation of strategic armaments.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCLURE. Mr. President, I take this time only to thank the committee for the consideration that it gave to the amendment which I had offered in the Chamber and which has been incorporated in the resolution.

I am appreciative of the action that was taken by the committee. I think that action in incorporating the amendment which I offered as well as the one that was offered by Senator ALLEN not only strengthened and improved the resolution but made it acceptable to some of us who otherwise would have had trouble with the resolution.

I thank the Chair and the Senator from Alabama.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SPARKMAN. Mr. President, this resolution really is a recognition of the progress that has been made in the SALT talks and this simply recognizes that.

We are indebted particularly to the Secretary of State, Mr. Vance, and to our representatives of ACDA, the Arms Control Agency, for the good work that has been done in working out solutions with reference to the SALT talks.

I feel that real progress has been made, and I hope that the Senate will give favorable consideration to the concurrent resolution.

I move its approval.

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

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Whereas the Interim Agreement Between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms expired on October 3, 1977;

Whereas a temporary further observance of the limitations of the interim agreement will provide time for further negotiations, consistent with Public Law 92-484, toward a treaty limiting strategic offensive arms;

Whereas the Congress desires that the United States negotiate a treaty supportive of United States national security without the burden and pressure of imminent deadlines;

Whereas the Arms Control and Disarmament Act contemplates close cooperation and consultation between the executive and legislative branches on matters of important substance;

Whereas the interests of the United States are best served by a mutual recognition, in a spirit of comity, by the Congress and the Executive, of the importance of close consultation, cooperation, and adherence to the constitutional and statutory sharing of responsibility in the conduct of foreign affairs;

Whereas the administration has stated its unilateral intent that, while the strategic arms limitation negotiations are being completed, the United States intends not to take any action inconsistent with the interim

agreement: *Provided*, That the Soviet Union exercises similar restraint; and

Whereas the Administration has expressly represented to Congress that the aforesaid declaration of intent is nonbinding and nonobligatory upon the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President is authorized to proceed in accordance with the declaration of intent of the Secretary of State of September 23, 1977, and the Senate and the House of Representatives of the United States concur: *Provided, however*, That nothing herein shall or may be construed to prevent any action or prohibit any weapons' system development, procurement, or deployment heretofore or hereafter authorized or provided for by the Congress of the United States; be it further

Resolved, That the Secretary of State shall at least once every six months during negotiations for a SALT II Agreement report to the Congress on the exact status of negotiations for such SALT II Agreement.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. SPARKMAN. I thank the Chair.

ORDER FOR RECESS UNTIL 9 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 the hour of 9 o'clock tomorrow morning.

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

Mr. ROBERT C. BYRD. Mr. President, following the order for the recognition of Mr. ALLEN on tomorrow, is there not an order previously entered to proceed to the consideration of Calendar Order No. 449, H.R. 3454, the wilderness bill?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 o'clock tomorrow morning and, after the two leaders or their designees have been recognized under the standing order, Mr. ALLEN will be recognized for not to exceed 15 minutes, and after that the Senate will take up H.R. 3454, the wilderness bill and other matters, following that or during the day, that have been cleared for action in the meantime.

So I think Senators can expect rollcall votes tomorrow and possibly a session which will stay until a reasonably late hour.

Mr. President, the Senate is about to stand in recess following the skillful management of that motion from the Chair, and I, as usual, shall view with awe and admiration the performance of the distinguished Presiding Officer who presides over the Senate with a degree of skill, efficiency, and dignity as rare as a day in June.

So that occurrence is about to happen.

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

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I wish to inquire sometime whether the manly art of yodeling is used in the Hawaiian Islands because I think the Presiding Officer can call from one island to the other.

The ACTING PRESIDENT pro tempore. The Chair is flattered to the point of being speechless.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore (Mr. MATSUNAGA). The question is on agreeing to the motion of the Senator from West Virginia. As many as are in favor of the motion will say "aye"; those opposed "no."

The motion is agreed to, and, accordingly, the Senate stands in recess until the hour of 9 o'clock tomorrow morning.

Thereupon, at 7:29 p.m. the Senate recessed until Thursday, October 20, 1977, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 19, 1977:

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Walter N. Heine, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement (new position).

NATIONAL RAILROAD PASSENGER CORPORATION

The following-named persons to be members of the Board of Directors of the National Railroad Passenger Corporation for the terms indicated:

For the remainder of the term expiring July 18, 1978:

Frank H. Neel, of Georgia, vice Edward L. Ullman, deceased.

James R. Mills, of California, vice Gerald D. Morgan, deceased.

For a term expiring July 18, 1980:

Harry T. Edwards, of Michigan, vice Joseph V. MacDonald, term expired.

Charles Luna, of Texas (reappointment).

For a term expiring July 18, 1981:

Anthony Haswell, of Illinois, vice Donald P. Jacobs, term expired.

Ronald G. Nathan, of the District of Columbia, vice Frank S. Besson, Jr., term expired.

DEPARTMENT OF JUSTICE

Michael J. Egan, of Georgia, to be Associate Attorney General (new position).

DEPARTMENT OF STATE

Edward E. Masters, of Ohio, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

CORPORATION FOR PUBLIC BROADCASTING

Irby Turner, Jr., of Mississippi, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982, vice Virginia Bauer Duncan, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 19, 1977:

DEPARTMENT OF JUSTICE

Ralph C. Bishop, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Charles F. C. Ruff, of the District of Columbia, to be Deputy Inspector General, Department of Health, Education, and Welfare.

U.S. INTERNATIONAL TRADE COMMISSION

William R. Alberger, of Oregon, to be a member of the U.S. International Trade Commission for the term expiring December 16, 1985.

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.

EXTENSIONS OF REMARKS

PROVIDING MORE JOBS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 1977

Mr. ASHBROOK. Mr. Speaker, concern is growing over the economic problems facing our country. Some industries are being hit with large layoffs of workers.

Recently Fred Hout, a good friend and the retired chairman of Peabody Barnes, Inc., of Mansfield, Ohio, addressed these problems. As Mr. Hout stated:

Job opportunities and job security are seriously threatened because of lack of increasing productivity. . .

His views on this question and what he describes as "the punitive attitude" of the Federal Government toward industry deserve to be considered by all concerned with the economic problems of our Nation.

At this point I include excerpts from Mr. Hout's speech:

PROVIDING MORE JOBS

(By Fred B. Hout)

We are particularly sensitive to some of the economic problems confronting us today where some companies and industries are faced with massive layoffs and the continuing unemployment percentage figures continue to deeply concern us.

The Youngstown Sheet & Tube situation has been well publicized and the loss of more than 5,000 jobs attributed to inability to compete with imports not only because of the "dumping practices" of Japanese, but because of the deteriorating productivity in this eastern Ohio facility. The after-the-fact situation is that we are rushing Federal Aid to these employees who are losing their jobs because of a condition far beyond their control. But this emergency relief so urgently needed now doesn't begin to attack the root of the problem.

Again, we see a situation in Bridgeport, Connecticut where Bridgeport Brass, a com-