9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2866, to provide for the establishment of the New River Gorge National River, West Virginia.
3110 Dirksen Building
Human Resources
To hold hearings on the nominations of Armando M. Rodriquez, of California, and J. Clay Smith, Jr., of the District of Columbia, to be members of the Equal Employment Opportunity Commission.
4232 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To hold oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 4

9:00 a.m.
Government Affairs
Civil Service and General Service Subcommittee
To hold hearings on S. 1390, to authorize certain National Guard employment to be credited for civil service retirement, and S. 1821, to provide paid leave for Federal employees participating in athletic activities as an official representative of the U.S.
3302 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the Council on Wage and Price Stability.
5302 Dirksen Building

OCTOBER 5

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 3429, to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, Montana.
3110 Dirksen Building
9:30 a.m.
Human Resources
Labor Subcommittee
To continue oversight hearings on the administration of the Occupational Safety and Health Administration Act (P.L. 91-596).
4232 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 6

10:00 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To continue oversight hearings on international housing programs.
5302 Dirksen Building

OCTOBER 9

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To hold hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 10

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To hold hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building
9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To continue hearings on national health insurance programs.
4232 Dirksen Building

OCTOBER 11

9:00 a.m.
Armed Services
Manpower and Personnel Subcommittee
To continue hearings on alleged abuses in U.S. Marine Corps recruiting practices.
1114 Dirksen Building

OCTOBER 13

9:30 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume hearings on national health insurance programs.
4232 Dirksen Building

CANCELLATIONS

OCTOBER 2

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To resume hearings on proposed Interior Department regulations to implement the Surface Mining and Reclamation Act (P.L. 95343).
3110 Dirksen Building

SENATE—*Thursday, September 28, 1978*

(Legislative day of Tuesday, September 26, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

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

Hear the words of the 27th Psalm:

Wait on the Lord: be of good courage, and He shall strengthen thine heart: wait, I say, on the Lord.—Psalms 27: 14.

O Thou who art the Way, the Truth, and the Life, we beseech Thee to be with us in the toil of this day. In weakness give us strength, in stress give us quiet confidence, in moments of uncertainty may we hear Thee say, "This is the way."

O Lord, preserve us from impatience, from being too simplistic with complicated subjects, or too naive with profound considerations or too hasty with what ought to have time for mature judgment. Make us good workmen who seek ever to know and to do Thy will for this Nation and the advancement of Thy kingdom.

We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 28, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

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

RECOGNITION OF LEADERSHIP

Mr. ROBERT C. BYRD addressed the Chair.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee is recognized.

SENATOR JESSE HELMS RETURNS TO THE SENATE

Mr. BAKER. Mr. President, I have no need for my time and no requests for it, but I note that our colleague, the distinguished Senator from North Carolina has returned from his medical treatment and is present in the Chamber this morning. We are happy to have him back and we are pleased to see him look so well.

Mr. HELMS. Will my friend yield?

Mr. BAKER. I am glad to yield to the Senator.

The ACTING PRESIDENT pro tempore. The Chair will comment that we are very pleased to have the Senator return.

Mr. HELMS. I thank the Chair and I thank the distinguished minority leader. I can assure you that it is good to be back with my friends in the Senate.

I have heard many times about the danger of being stabbed in the back in political campaigns. I never thought it would happen to me, but it did—after a fashion. It was done by a dear friend of mine, a distinguished surgeon, Dr. Leroy Allen of Raleigh, whose skill has brought permanent relief from rather severe discomfort.

I am glad to be back. I feel good, and I deeply appreciate the many expressions of concern that came to me from so many Senators, staff members, the Senate pages, the security officers, and countless others.

I am delighted to see my good friend, the majority leader. You have been active while I have been gone.

Mr. ROBERT C. BYRD. I have been active on the telephone. I enjoyed my telephonic conversations with you.

I, too, am delighted to see my friend from my native State back in the Senate. I hope he has fully recuperated and, judging from his appearance, he has.

Mr. HELMS. I thank my good friend, who I often say with pride was born in North Carolina, but is now from West Virginia. I assure him it is good to be back and I meant everything I said in my several telephone conversations with the distinguished majority leader when he so graciously called me at the hospital. I am proud to have him as my friend, and to be his.

I thank the Senators very much and I thank the Chair.

FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House bill, H.R. 50, be read the first and second time.

Mr. BAKER. Mr. President, reserving the right to object, would the Chair, or would the majority leader, identify for me what item that is?

Mr. ROBERT C. BYRD. Yes. That is the Humphrey-Hawkins bill.

The ACTING PRESIDENT pro tempore. That is the House version.

Mr. ROBERT C. BYRD. It is the House version of the Senate bill which, I believe, is also numbered 50.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, it occurs to me that, in respect to the matter that the majority leader suggested, from the standpoint of orderly proceeding and predictability, the minority would be happier if the majority leader would consider making a request simply to take this matter to the calendar as if after first and second reading and after the procedural steps that are necessary then to take it to the calendar.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I withdraw my request and ask unanimous consent that H.R. 50 be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, the bill will be considered to have been read twice and will be placed on the calendar.

Mr. PROXMIRE. Mr. President, I congratulate the distinguished majority leader on getting on the calendar the Humphrey-Hawkins bill. This is a bill we should pass. I have my own views on how it should be modified, but I think it is an excellent action by the majority leader, and I congratulate him.

ORDER OF BUSINESS

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

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes remaining.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader.

CARTER ON TARGET ON SPENDING

Mr. PROXMIRE. Mr. President, last night President Carter told a Democratic fundraising dinner that the future of the Democratic party depends on the administration's and Congress ability to eliminate wasteful Government spending in the fight against inflation.

He said this:

Now is the time to put all of our efforts into solving the most complicated and intractable and corrosive problem of all—that is the problem of inflation, he said.

I would like to caution all you Democrats—those in my administration and in the Congress—that we here in Washington must set an example. We cannot pass legislation that is identifiably wasteful. If we do, it will sap away the strength we have to inspire the American people to solve this very difficult problem on their own.

If we fail here it will be almost impossible to succeed elsewhere. This is the most pressing of the hundreds of large and small restraints that are necessary to win this battle. This is the future of the Democratic Party—the future in which we maintain our vision.

Mr. President, in my judgment the President is exactly on target. His pleas to cut down on spending were—according to newspaper accounts—greeted with silence. But he is absolutely 100 percent right, and Democrats had better recognize it or our majorities in this Congress will melt away like snow on a red-hot oven. What is more important, if we do not control spending, a rampaging inflation will push us into a deep recession.

Consider a few ironies, Mr. President.

Yesterday President Carter called on the Federal Reserve to ease up on their monetary restraint so that the painfully high interest rates that are plaguing our country do not lead to recession. Carter is right, but only—and I emphasize only—if we also restrain spending at the same time. The Federal Reserve has no alternative but to put the squeeze on interest rates, if Congress is going to continue reckless deficit spending. Any other course for the Federal Reserve would guarantee inflation. If Members of Congress want to make it possible for the Fed to ease monetary restraint and the pressure on interest rates, we must reduce the huge increases we have been providing in spending.

For example, just yesterday, this body approved a conference report for Public Works which, as I pointed out, is a slambang $1.8 billion over the budget recommended by President Carter if a fair comparison is made. By skillful use of gimmicks, the committee report on the bill claimed it was more than $800 million under the budget. But remove the bookkeeping legerdemain, the slight of hand phoney comparisons, and the conference report stood revealed as a budget buster that would provide for 2,300 more bureaucrats in the Corps of Engineers.

Just yesterday, the Senate passed an HEW appropriation bill that is more than $4 billion over last year's swollen appropriation.

Two days ago, this body affirmed a $541 million giveaway to two shipbuilders to pay off on an overrun. That half billion did not buy a sub, a rowboat, or even a mop to swab the deck. It was entirely above the claims determined by navy professionals as owing to the shipbuilders.

In each of these cases, Mr. President—Public Works, HEW, shipbuilding bailout—the Senate voted overwhelmingly for the expenditure. Democrats and Republicans alike voted by massive majorities for these goodies.

Mr. President, it is time that all of us took a much more serious and critical look at what we are doing. Do we really believe in fighting inflation by keeping down Government spending, or do we only believe it if it is easy, convenient, and is not opposed by any significant group of constituents?

The record of the administration on economy is far less than it ought to be, but the record of Congress is much worse.

The words of President Carter last night in pleading for spending restraint should be heard by all Senators, so I ask unanimous consent that the speech be printed in the RECORD.

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

REMARKS OF THE PRESIDENT AT DEMOCRATIC NATIONAL COMMITTEE FUNDRAISER

I just heard the introduction of me by the Vice President and of all the witty, clever, intelligent introductions, his is the most recent. (Laughter, applause)

This is the most successful Presidential Democratic Fundraiser in the history of the United States. (Applause) And a great deal of credit is certainly due to our great Chairman, John White, to Evan Dobelle—(applause)—to all those who sold tickets, and to

the famous people who are here who helped us draw a crowd.

Bob Strauss, our former Chairman, is here. As you know, a lot has been written about Bob. (Applause) Just this morning I was reading about him. I read that he is the best politician in the Carter Administration—(laughter)— that he is the number one troubleshooter in the United States of America; that he is the least appreciated public official that has ever been known; that he has a personal savoir-faire that inspires the American people to reach for greatness and to try to emulate him; that he is one of the best dressed men in the Nation; and a lot more. If you would like to read the entire memo from Bob, I will share it with you later. (Laughter, applause)

One of the other great people that always attracts a crowd was introduced a little earlier—my mother, Lillian. (Applause) She always has the ability to put her finger right on the most incisive element in a certain episode, no matter how small or great. As soon as I returned from Camp David with President Sadat and Prime Minister Begin, I had the brief television program with them, went upstairs, the telephone was ringing, Mother was on the phone. She was campaigning for someone in Arkansas.

She very quickly asked me the most important question. She said, "Jimmy, is Anwar Sadat already married?" (Laughter, applause)

She is the only one in the family that knows how to handle the press. She stays in Plains—sometimes she stays in Plains. Not too long ago—this is a true story—she had a young woman who came to interview Mother about me from a very famous newspaper in Paris. And the young woman was cross-examining Mother, and she doesn't like women news reporters very much as it is. (Laughter) But the questions got more and more aggressive and abusive and finally she said, "I understand your son says he would never tell a lie." Mother said, "That's right."

She said, "Is your son absolutely honest?" Mother said, "I think he is reasonably honest, yes." She said, "He wouldn't tell any kind of lie?" Mother said, "Well, I think on occasion in his life he has told maybe a little white lie." The woman turned on her tape recorder very quickly. She said, "What do you mean by a little white lie?" Mother said, "Well, just a little white lie." And the woman said, "Well, define it for me, define it." Mother said, "I don't know how to define a little white lie." The woman said, "Well, at least you can give me an example." Mother sat there a while. She said, "Well, I guess I could. Do you remember a few minutes ago when you came in the front door and I said you were a very attractive young lady?" She said, "That was a little white lie." (Laughter, Applause)

I am proud of our Democratic Party officials. I am proud of Bob Strauss, the other people that serve with me. I am proud of my family, my mother, my wife, my sons and their wives. I am proud of the team we have created in the last two years to serve our nation.

Two years ago, I completed a long travel through this country, promising the people that we would try to create a government as compassionate and as competent as were the American people themselves. Our party has always been known as a party of compassion. But in the last two years, we have also proven that we have a party of competence.

Along with effective new programs, we have proved that the Democratic Party is the party of fiscal responsibility.

I would like to announce to you that I have just received the news reports from the wire services—AP, UPI, Reuters, Jerusalem Television, State Department and the OPS Center—that the Knesset voted for peace, 85; against the removal of the settlements, 19. So we have made a great step forward. (Applause)

That is indeed good news, and it is sure proof of the tremendous courage of Prime Minister Begin, the Israeli members of the Knesset who have now formed a possible partnership for the rest of our lives with their neighbors; the Egyptians, under the leadership of President Sadat. I am very proud of this decision by them.

We have a great country, and we have great friends and partners around the world.

Ours is a party that believes in a strong United States, strong not just in military weapons; we are the strongest on earth in military weapons—not just the strongest economically—not just the strongest in our political structure; we are the strongest politically and in our societal structure. But we are strongest as well in our commitment to basic principles that never change, principles that are challenged now and then under the most difficult circumstances by war, by corruption, by embarrassment, by failure on the part of some leaders. But the American people always stand staunch and never falter in our commitment to higher ideals and a greater nation in the future.

The Democratic Party represents those commitments, those ideas in the purest sense of all. Ours is the oldest political party on earth. It is also the youngest political party on earth, always eager for new ideas, always eager to meet change without fear, always eager to reach a hand out to someone not quite so fortunate as we—not down with a condescending air or as though we were doing someone else not quite so good as we a favor, but a party that believes in other people and the fact that they should have a right to take whatever God-given talents they might own and use those talents to the utmost.

We have corrected some of the defects in our party. In the past, at least in the South where I come from, we have always had the image of a party with a big heart. Our Members of Congress, even our most conservative Senators, have always voted for Social Security, Medicaid, Medicare, to give people a chance in life. But quite often we have had the wrong impression in the minds of the American people about our party's commitment to effective management, how to make government be efficient.

And after the last few years of embarrassment under Republican Administrations, I thought it was particularly important for us in this new Administration to run the government well, to take control of it and let the people know that someone was in command. And the partnership that we have between the Executive and Legislative Branches of Government now is proving that we have achieved that very difficult task successfully.

Republicans talk about tax cuts. Democrats cut taxes. Republicans talk about balanced budgets and then run up huge deficits which we inherited. Democrats draw up responsible budgets and we cut back Republican deficits. Any person who is lucky enough to be President and smart enough to be a Democrat—(Laughter)—knows that his success, my success, is based on a long party history of great national and international purpose—the desire to keep the United States sound and strong; the desire to assure peace and liberty throughout the world; the desire to help those who are poor and weak and timid and inarticulate; the desire for vigorous and sustained economic growth to give us confidence in the future; the desire to protect our great American natural beauty of pure air, of clean water; the desire to keep power, political power, where it belongs, in the hands of our people, in the hands of government closest to the people, no matter whether they might be young or old, consumers or producers, wage earners, retired people, farmers, city dwellers.

We not only reach out to people, but we bring them into the heart of things, into our hearts individually and personally and into the heart of our political organization to let their own lives be magnified and influenced. This is the essence of the Democratic Party, the party of Thomas Jefferson. That is why our party produces great leaders like my colleague, Fritz Mondale, the best Vice President I guess this country has ever had. (Applause)

Others have had perhaps equal potential. I don't know about that. But Fritz takes on the full duties of a President on occasion. He is an equal partner with me. There is nothing that I do that he doesn't share. Our great Speaker Tip O'Neill, who preceded Fritiz Mondale, Majority Leader Bob Byrd, who won a remarkable victory today in the Senate—and I thank him for it; (Applause) Jim Wright, Alan Cranston, all of our Democratic leaders, leaders in the House and Senate, chairmen and other members who have constructed already for the 95th Congress a superb record—we have a Congress that will not be forgotten.

The people won't forget that Congress helped to shore up crucial partnerships, crucial to us with our historic allies around the world who had begun to feel neglected. They won't forget the Congress that worked with me to strengthen NATO and to strengthen our defense around the world. They won't forget the Congress which has helped to restore the moral authority of our Nation. As I have said recently in some campaign speeches, when I was Governor of Georgia, when I was a candidate, I actually used to shrink up every time this year when the United Nations General Assembly convened, because I knew my Nation, which I love, would be the butt of every joke and the target of every attack for more than two-thirds of the nations in the world. And I am proud that in the last two years that has not been the case and we have now got new friends among the poor nations, the small nations, the new nations, and the nations whose people are black and brown and yellow.

We have made hundreds of new friends and I am proud of that.

These are some of the promises that I made to the American people during my two years of campaigning that are part of our Democratic platform, as you well know. Two years ago I promised the American people a responsible government, one that was lean and efficient and manageable. That is what the Congress has helped me give them.

Two years ago I promised the American people we would get control of the bureaucracy, restore incentives in the work ethic to our Civil Service system, let good employees be rewarded, let poor employees be inspired to do better, or transferred or programs discharged, let managers manage, let our Government be a source of pride and not despair, admiration and not condemnation. That is what we have done.

Two years ago I told the American people that Democrats believed that competition and market forces in a free enterprise system should determine prices, and we proved what we meant by making good progress on the airline deregulation bill, which I hope will pass, and by administrative decisions of the CAB that have lowered fares and boosted profits of the airlines of the United States. I am proud of that, too. (Applause)

Two years ago I said the Democrats believed in a free economic system with minimum intrusion by Government in the private affairs of American citizens, and we proved it by eliminating regulations, almost as fast as the other party used to write them, and we are beginning to rewrite the ones that are left in plain English so that ordinary Americans, even Democrats—(laughter)—can understand them.

And two years ago, I promised to maintain our national security and keep our Nation strong and we have done that. The defense

establishment has never been so strong, but we have done more than quarantee our basic security with military strength. We have cut wasteful military expenditures.

We put in a superb new management team under Harold Brown and the new Joint Chiefs of Staff to head our military establishment. We have brought our strategic thinking into the 21st Century. We are now working the last phases of a SALT agreement with the Soviet Union, which I hope to consummate very soon. And we have stopped the spread of nuclear weapons and the capability to have nuclear explosions around the world. The Congress did that. I am grateful to them.

But that is not all we have done. Two years ago I said that peace is more than just an absence of war. Peace is the unceasing effort to preserve human freedom and to preserve basic human rights. And we have made that effort. It is becoming increasingly successful. There is not a day that I have been President that we have not sought to narrow the gap between the values we hold most dear as a people and our actions abroad in dealing with other people.

Our goal is freedom and peace and justice for all. That is America's most cherished purpose, and we are strong in the pursuit of it.

I said two years ago that we would remove fraud, waste and corruption from the Government, and we are doing it, not overnight. It took a long time to create the mess that we inherited, and we cannot eliminate it in one year. But we will get rid of it, and you can depend on it. (Applause)

Two years ago I promised the American people that we would get control of our runaway energy problem. It has been the most difficult legislative task, I believe, that the Congress has ever undertaken in the history of our Nation. At long last we are getting the tools to do this job. I was excited by the work that Scoop Jackson has done in the Senate, and others who worked with him.

Two years ago I promised the American people that we would revitalize our educational system and focus the attention of it on the poor, and the deprived children who haven't had an adequate chance in life, whose parents perhaps are illiterate and haven't had the will or the motiavtion or the vision to inspire those little kids.

Even compared to the halcyon days of Lyndon Johnson, the Congress has voted the largest increases in funds for schools and education in history, and has focused actively on those who need it most.

Two years ago when I campaigned around this country, the common question asked me by almost every group that had elderly citizens in it is "How are we going to deal with a bankrupt Social Security system?" I promised them we would act responsibly and restore integrity to that system. We have kept that promise. It hasn't been easy, politically speaking, but we have done it.

Two years ago I said my Administration would have an urban policy for the first time to revitalize our cities, to inspire the mayors and others, private citizens, in a new partnership. And we have that policy now.

Two years ago I told the American people we had to bring our Federal budget under control. The last full year before my election in 1976, the budget deficit was $66 billion. We cut that deficit the first year to $51 billion. We will get it down, with the great help of the Congress, at least to $40 billion this year, maybe a little lower. And we are going to cut it significantly further next year. And we are going to keep right on cutting the budget deficit with good management and sound programs as fast as the strength of the economy permits.

We have kept that promise without yielding our commitment to let Americans have a better life.

One of the biggest problems we inherited, as you well know, was ten million American adults who could not find a full-time job; six or seven million who couldn't find a job at all. In just the short period of a year and a half, we have got a net increase of about six-and-a-half million full-time jobs in the United States.

The unemployment rate has dropped 25 percent in the short time, and we are going to keep it going down. (Applause)

And you ought to realize that we have cut the budget deficit, given jobs, better education, strengthened our defenses. At the same time, last year we had a multi-billion dollar tax cut and we have on schedule now another tax cut for the American people of about $20 billion.

That is the kind of fiscal responsibility that the American people deserve, to meet our people's needs while balancing the Nation's books.

Of course, Democrats have always believed in service, but carefully-budgeted, efficiently-delivered services.

We can cut crime; we can build roads; we can deliver jobs; we can feed our people without huge deficits if we eliminate the waste and the bloat in Government. This is responsible leadership. This is sound fiscal policy, and the American people know it. (Applause)

It is not calloused or hardhearted for a government to deliver food to a hungry person without waste, with efficiency. It is not callous nor hardhearted management to give our children a better education without waste and efficiently.

For the first time in political history, a recent Gallup Poll showed that twice as many of the American people now believe that Democrats are fiscally responsible as believe that Republicans are fiscally responsible. The Republic has finally woken up to the truth, to Democratis as compared to Republicans, and I am thankful for that. (Applause)

Well, let me say in closing that we are getting control of our energy problems. We are getting control of the bureaucracy. We are bringing new efficiency to government. We are taking control of foreign affairs. Our nation is strong again, proud again, secure again in its place in the world. And we have made a good start on the most difficult task of all, solving our economic problems in the areas of unemployment, in budget deficits. Now it is time to put all of our efforts into solving the most complicated and intractable and corrosive problem of all, and that is inflation.

Inflation hurts every one of us, not just the poor, not just the elderly. It saps away our national strength and will and confidence. Very soon I will announce a new package of anti-inflation measures. They will be tough. They will require sacrifices from business, from labor, from government, from every family, every segment of our society. They will be tough, but they will be fair.

I would like to caution all of you Democrats—those in my Administration, those in the Congress—that we here in Washington must set an example. We cannot pass legislation that is identifiably wasteful. If we do, it will sap away the strength that we have to inspire the American people to solve this very difficult problem on their own.

The best birthday present I could get from the Congress is to pass the deregulation bill, to pass the hospital cost containment bill, to send me appropriations and authorization bills that are solid and firm and cut to the bone without any waste. This is how the Congress can show its determination to join the fight against inflation.

If we fail here, it will be almost impossible to succeed elsewhere. This is the most pressing of the hundreds of large and small restraints that are necessary to win this battle. This is the future of our Democratic Party, a future in which we maintain our vision, even heighten our vision, while governing with prudence and responsibility that builds the confidence of our people in us.

I am proud of what we have achieved in the last year and a half. I am proud of the grand work we have laid for future achievement. But there is more to do if the United States is to realize the full promise of our people. We must succeed in giving the women of America equal rights. (Applause) And we must succeed in honoring the greatest of all Democrats, Hubert Humphrey, in meeting the yearnings of the poor people of our nation by passing a full employment bill with his name on it, the Humphrey-Hawkins Bill. (Applause)

It is obvious to me, I am sure it is obvious to you, that we cannot rest on past achievements. We cannot be complacent. We have work to do, as Democrats and as Americans. Let's do this work for our country together.

Thank you very much. (Applause)

THE CONTINUING TRAGEDY IN CAMBODIA INDICATES A CLEAR NEED FOR SENATE RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, just over a week ago, I spoke of the urgent situation in Cambodia and the need to ratify the Genocide Convention. Continuing reports from that country indicate that the situation is becoming more desperate daily.

News accounts make it all too clear that the Cambodian regime is apparently engaged in one of the worst cases of genocide since the Nazi regime.

Mr. President, the dimensions of this change are awesome. An estimated 1 million people—1 million, Mr. President—have been executed or starved to death by the leaders of this Communist Government, the Democratic Kampuchea.

Last Thursday, Lon Nol, the former leader of Cambodia, came to Washington, pleading for international support to bring this reign of terror to an end.

Lon Nol spoke with deep sincerity when he asked "all nations, in the name of God and every group who has also been a victim of genocide—the Jews, the Armenians, the Irish and our brothers and sisters in the Third World—to help us."

The need for some response by the world community to this senseless carnage is clear.

Senator McGOVERN has suggested military action by the community of nations. Others have suggested economic sanctions. Lon Nol and his supporters have suggested expulsion of Cambodia's delegates from the United Nations as well.

It is not clear what course of action the world community will decide to take.

But there is one action that this body can take—and take now.

Mr. President, we can ratify the Genocide Convention.

Unless we ratify this important human rights convention, we leave ourselves defenseless to charges of hypocrisy—accusing others of a crime that we fail to formally condemn and sanction ourselves.

This failure has undermined our efforts to halt genocide in the past, particularly during the tragic Nigerian civil war.

We cannot let this inaction by the

Senate undermine our humanitarian policies any longer.

As Cambodia demonstrates, there are clear and continuing threats to human rights throughout the world—urgent situations—that require a strong voice by the United States.

Mr. President, we simply cannot afford the luxury of further delay. We must ratify the Genocide Convention now.

RECOGNITION OF LEADERSHIP

Mr. STEVENS. Mr. President, is there time remaining on the minority leader's time?

The ACTING PRESIDENT pro tempore. Approximately 3 minutes remain. The Senator from Alaska is recognized.

OLYMPIC JOB OPPORTUNITY PROGRAM

Mr. STEVENS. Mr. President, we are all aware of the many demands the Federal and State governments make on private industry. For the most part, the business community has always come through as requested. Rare, although not uncommon, is the case of private businesses who set the pace for not only other businesses but the governments as well.

Such is the case with the Canteen Corp., a Chicago-based firm which has embarked on a commendable and far-reaching program to assist the U.S. Olympic athletes throughout the Nation through their Olympic job opportunity program. The Canteen Corp. of America has placed numerous athletes in their corporate jobs. Many of these athletes currently training for the 1980 Olympic games, could not continue training were it not for programs such as that sponsored by the Canteen Corp. This is a commendable program, and one which I hope the Federal Government will emulate.

Pending in committee is S. 1821, legislation the distinguished former Senator from Minnesota, Hubert Humphrey, and I introduced which would follow the example of the Canteen Corp. by providing leave time and flexible hours for Olympic athletes.

Mr. President, I ask unanimous consent that an article, "Jobs for Olympians: Business Pitches In," published in the June 12, 1978, issue of Business Week be printed at this point in the RECORD.

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

JOBS FOR OLYMPIANS: BUSINESS PITCHES IN

The 1976 Summer Olympics in Montreal struck Howard C. Miller, president of Canteen Corp. in Chicago, as unfair—not the games themselves, but the sight of state-subsidized athletes competing against Americans whose only support came from family and friends.

Instead of complaining about "the Russians and East Germans subsidizing amateur athletics," Miller addressed himself to the apparent inequity. The result is the Olympic Job Opportunity Program, an organization that has already found corporate jobs with flexible hours and paid time off for 23 U.S. Olympic hopefuls now in training. Some 80 major companies have endorsed the idea, and Miller envisions companies supporting up to a quarter of the 600 U.S. athletes who will compete in the 1980 summer games in Moscow and winter games at Lake Placid, N.Y.

"The U.S. has been losing three out of four classes of super athletes who do not happen to graduate from college during an Olympic year," he maintains. "They have no place to go but work." Although swimmers peak at 18 or 19, the average age of U.S. Olympic athletes is 25.

NO HANDOUTS

To aid these athletes, Canteen began organizing the job opportunity program in late 1976. It sent out letters to the nation's 500 largest companies and got responses from nearly 300. "We're asking for a full-time job, not a handout for three years," Miller emphasizes. Salaries of the two dozen athletes placed so far average $12,000 to $15,000 a year, and, even if the individual trains and competes half of the time, that only costs the company $3,000 or $3,750 after tax.

Since last year, Canteen has built up the largest corporate team of Olympic contenders. It includes long-distance runner Tom Burleson, hurdler Charles Dobson, and 1976 gold-medal speed-skater Peter Mueller. While Mueller works as a maitre d' at a Canteen restaurant in Milwaukee, his wife, 1976 silver-medal speed-skater Leah Paulos, works as a youth-market sales representative for Coca-Cola Co.

Rower Carol Brown, a 1976 bronze-medal winner, is working in the marketing department of Pepsi-Cola/Seven-Up Bottling Co. of Seattle. Race walker August Hirt is an accountant for Continental Illinois National Bank & Trust Co. of Chicago. And biathlon athlete Peter Hoag works for Samsonite Corp. in Denver, where he has access to both skiing and a shooting range. Other companies hiring Olympic contenders include Montgomery Ward, General Mills, Standard Brands, Johnson & Johnson, and Wilson Sporting Goods. Last October, Wilson employed sprinter Stanley Vinson as a $9,000-a-year customer-service representative in the team sports promotion program.

"There was little support in the job market for athletes wanting to continue to compete," says Vinson, who had an assortment of moving and dishwashing jobs before Wilson hired him. Without the job opportunity program, he emphasizes, "I was at the end of my athletic career." Now he sells Wilson sporting equipment and voluntarily trains in Wilson T-shirts and jogging shoes.

COKE AND SHOWER HEADS

Companies participating in the job program are advised not to expect publicity from their involvement. But Miller acknowledges that if athletes do bring home the gold, later commercial endorsements are "a benefit that may accrue."

The job opportunity program is, of course, just one aspect of the U.S. effort, which, the U.S. Olympic Committee predicts, will cost $26 million between 1977 and 1980—double the previous four-year budget. About 85% of this cost is split between private donations and the corporate identification program, which allows companies to identify products with the U.S. Olympic Committee and team for $50,000 and up. There are more than 50 commercial categories, from candy and cosmetics to orange juice and toothbrushes.

Companies are starting their Olympic-related advertisements earlier, says Arthur I. Kuman, director of the Olympic Committee's corporate participation program. "It's intelligent repetition that counts," he adds. Already, Coca-Cola and Pollenex shower heads are being advertised, and Toyota Motor Co. and its 1,000 domestic dealers have embarked on the largest corporate identification program ever, dubbed "the million dollar dash for the 1980 Olympics." Between Apr. 24 and June 30, Toyota will contribute at least $1 million—about $10 per vehicle sold—to the U.S. Olympic Committee.

All of these programs are important, but Canteen's Miller suggests the job opportunity program "seems to be the only logical system for mustering the full potential of our amateur athletes."

THE FUTURE OF ALASKA

Mr. STEVENS. Mr. President, recently the Los Angeles Herald Examiner printed an editorial entitled, "The Fure of Alaska—it hits home." I believe this article raises some interesting and intriguing points. For instance, the editorial compares the d–2 legislation to a class "Motherhood" bill. Just as it is hard to be against motherhood and apple pie, who can say they are against a law which sets aside massive segments of land as perpetual wilderness?

But, this first reaction is one which ought to be carefully reexamined. Setting aside massive amounts of land as wilderness without considering the long-term affects and needs of all concerned as well as dealing with the specific details of the management is simply not good policy.

As the editorial points out, this is not a battle of development versus nondevelopment. There is not, as I have pointed out before, an army of bulldozers waiting to descend upon Alaska. Alaskans are not intent upon the destruction of their heritage. In fact, Alaska has the best environmental record in the United States.

There are lands in Alaska which are of national significance and these lands should be added to the various management systems. Alaskans ask only that a balanced and reasonable approach be taken to this legislation. It is my hope that a bill can be devised which gives Alaska a high amount of environmental protection while allowing for the reasonable development of Alaska's resources.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD at this time.

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

THE FUTURE OF ALASKA—IT HITS HOME

The Senate Energy and Natural Resources Committee is debating its own version of a measure which could lock up more than 100 million acres of Alaska in federal coffers. The proposals before the Senate are more moderate than a resolution passed by the House of Representatives, which would put as much as 110 million acres of the state under federal lock and key.

Despite the political polemics involved, and an unprecedented degree of pressure from environmental groups—as well as the Carter administration—the proposals signal a new era of governmental colonialism which could sweep through the rest of the states like a brush fire. For if passed, the legislation would establish precedent for similar land grabs in other states—including California—under next year's Roadless Area Review and Evaluation Program (RARE II), involving 62 million acres of National Forest lands.

At first glance, the legislation affecting Alaska resembles a classic "Motherhood" bill. Who could be against a law setting aside massive segments of land as perpetual wilderness?

We are.

For the arguments in favor of this bill are steeped in deceit and treachery, raising the

spectre of extremes which do not in fact exist, and gutting the agreements by which Alaska was admitted into the union. And despite guarantees and assurances, lands promised to the state and native peoples have been stalled, circumvented or totally ignored by a variety of federal agencies.

Specifically, environmental groups and representatives of the media—including the Los Angeles Times—have perpetrated a misconception in suggesting the battle over lands is one of either development or non-development. The facts—stripped of ringing environmental rhetoric—suggest otherwise. And though the state has been cast in the role of villain in an ongoing, Congressional morality play, Alaska's record of environmental concern and controls is far more substantial than that of the federal government. On the North Slope, for example, federal lands resemble a garbage dump, whereas adjacent state lands have been cleared of industrial debris by the joint efforts of state, business and native leaders.

The real issue, however, dates back to statehood, approved by Congress in 1958. Simply, the federal government has reneged on its promises. Whereas the state, and later, native corporations, were guaranteed more than 140 million acres in selections, less than 30 million acres have been conveyed. And lands which had been selected are now claimed by the federal government as part of the new legislative package.

Supporters of the legislation, moreover, suggest its passage represents a "last-ditch" stand; that without it, lands under consideration will be forever lost as potential wilderness. These claims are little more than distortions and exaggerations, for fully more than 220 million acres of Alaska will remain under federal control. The myth that bulldozers are poised on the edge of proposed parklands has no basis in fact. And though Congress is supposed to make its land selections this year, little would be lost by a delay.

Already the federal government has bitten off more than it could possibly chew—or manage. Some lands have been chosen in clear violation of the 1971 Native Claims Settlement Act, which authorizes only 80 million acres of land for federal selection. In addition, the government has purposefully bypassed its own regulations which specify established procedures governing land selections, including inventorying of resources. The pending legislation represents pork-barrel politics at its highest—and most sinister—level.

Does it make sense to lock up areas which may contain valuable energy resources, without first determining what those resources are? Is it sound policy to carve up Alaska, without input or a well-defined policy from the Department of Energy? Is it moral, or reasonable, to disavow the promises of statehood? We think not.

Alaska is too complex a state culturally, geologically and ecologically, to be neatly segmented by the crayons of bureaucratic land planners far removed, or used as an environmental dart board for hit-or-miss politics.

If Congress is so foolish as to support any form of the pending Alaska legislation, the public will in effect be barred from access to many lands supposedly held in public trust. Already the state has ceded the major share of park and wilderness areas extant throughout the nation today, and millions of acres which the state has chosen for its own holdings are earmarked for additional park lands.

This is a time for our elected officials to proceed with deliberation and caution, and not yield to artificial deadlines which could preempt the promises and planning forming the basis for statehood. Otherwise, what has been hailed as a great environmental trade-off of lands will surely become a rip-off.

And the odds are, it won't end with Alaska.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, if there is no further request for time on this side, I yield back the remainder of the minority leader's time.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 2441, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2441) entitled the 'Federal Public Transportation Act of 1978.'

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during the consideration of S. 2441, the following members of the staff be allowed unlimited access to the floor: Howard Menell, David Yudin, Jerry Buckley, Jim Schuyler, Ken McLean, Tony Cluff, and John Daniels.

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

Mr. MORGAN. Mr. President, I make the same request for Dan Duedney.

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

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

The ACTING PRESIDENT pro tempore. The pending business is S. 2441.

Mr. STEVENS. Is there a time agreement on this bill?

The ACTING PRESIDENT pro tempore. There is no time agreement on this bill.

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

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I wonder if it might be possible to get a time agreement on this bill. There had been some indication earlier that there might be a willingness to get a time agreement. Mr. MORGAN expressed interest in saying that if there were a time agreement, he had an amendment on which he would want a certain amount of time.

Mr. MORGAN. About 15 or 20 minutes on our side.

Mr. WILLIAMS. That is agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, for the moment, I will not make any request. Senator BROOKE is not present in the Chamber.

I thank the Senator from North Carolina.

Mr. WILLIAMS. Mr. President, today the Senate takes up S. 2441, the Federal Public Transportation Act of 1978. This legislation will make major strides toward a balanced transportation program in the United States. It would reaffirm our national commitment to more effective public transportation services as a key element in our overall transportation policy, and in our efforts to develop workable environmental, energy, and urban policies.

Mr. President, let me summarize and highlight several of the major features of S. 2441 and the changes it would make in the Federal public transportation program:

First, the bill would reauthorize both the section 3 discretionary grant program and the section 5 formula grant program for fiscal years 1979 through 1982. The total authorization in the committee bill is $14.8 billion.

Second, the bill includes the transit portion of the President's urban initiative to promote transit-related urban development and encourage intermodal transportation facilities.

Third, the bill would restructure the formula grant program to simplify its administration and improve the distribution of formula funds through a more equitable approach which targets funds to the areas of greatest transit need.

Fourth, the bill would establish a specific program of both capital and operating assistance for public transportation services in small urban and rural areas.

Fifth, the bill would make headway toward a new, unified planning program to assure balanced planning for all urban transportation modes.

Mr. President, this legislation marks the first reauthorization and major revision of the public transportation program since passage of the Landmark National Mass Transportation Assistance Act of 1974. Following a decade of experience in public transportation, that act signaled a substantial Federal commitment to the further development, improvement, and continued operation of mass transit systems in our urban areas.

Since 1975, the Senate has recognized the need for revisions and improvements to this program. Twice we have passed legislation that would accomplish needed changes.

Last year, on July 23, the Senate passed S. 208, the Urban Mass Transportation Assistance Act of 1978. The fact that it passed on a voice vote attests to the widespread recognition within the Senate and across the United States of the need to establish an assured long-term transit program, with an adequate level of funding for both operating and capital needs.

In January of this year, President Carter transmitted to Congress his comprehensive proposals for a surface transportation program. The President's stated objective was:

To develop a well balanced national transportation policy, one which takes account of our increased sensitivity to the effects of transportation on the social and economic life of our cities and rural communities . . . (and) to make certain that the Nation has an effective transportation system, which uses energy more efficiently, enhances the quality of life in our urban and rural areas, and helps expand our economy.

I introduced the public transit portion of the President's package as S. 2441. In March, the Committee on Banking, Housing, and Urban Affairs held 3 days of hearings on this legislation.

The message at these hearings was clear: We must reaffirm and strengthen our commitment to public transit; we need a simplified program; we need funding levels that allow us to preserve and improve our existing systems, and we need to tighten up the administration of the program.

As reported by the committee, S. 2441 would preserve the fundamental concepts contained in the original bill. Like the introduced version, the committee bill would advance the purposes identified by the President. First, it would strengthen transportation planning and encourage improved coordination between highway and public transportation programs. Second, S. 2441 would simplify funding categories developed in the past in a piecemeal manner and at the same time allow greater flexibility in the use of available public transportation funds. Third, S. 2441 would establish a predictable funding mechanism for the most routine public transportation capital and operating needs.

In addition, the bill contains many features and provisions considered by the committee and approved by the Senate in recent years. In its totality, I believe the reported bill, S. 2441, reaffirms the Federal commitment to public transportation, responds to the increasing public acceptance of public transportation, and will maximize the potential role that public transportation services can have on solving the problems of energy conservation, urban development, and environment preservation.

While the bill supports and reflects the administration's recommendation in most cases, the committee received testimony demonstrating the need for two major changes. The first change concerns the funding levels which the committee increased by $3.5 billion over the administration's recommended levels. Second, the committee restructured and revised the section 5 formula to make additional operating assistance available in future years under an expanded and better-focused formula which reflects levels and kinds of transit service. Other than these departures, the administration's basic initiatives—developed by Secretary Adams and UMTA Administrator Page—have been preserved.

Mr. President, let me turn away from the bill for a moment to put the Federal transit program in perspective for the Members of the Senate.

In the last several years, the public transportation program has played an increasingly important and productive role in our total transportation system. Almost 30 postwar years of declining transit ridership have ended. In every year since 1973, ridership has increased. On a nationwide basis, ridership has increased 10 percent since 1973—an increase of almost 500 million riders annually.

This trend toward greater public awareness and use of transit is continuing. Recent public opinion polls indicates strong and rising support for good transit systems. According to a recent Harris poll, more than two-thirds of the American people believe it is very important to improve transit services. Another poll found that almost two-thirds of the people believe the Government should increase spending for transit. Perhaps the most significant and telling such poll is a 1977 study by the Department of Transportation that indicates that 40 percent of Americans expect to have to change their transportation habits in the next few years.

But the best evidence of the renaissance we are now experiencing in public transportation is the patronage. The most recent statistics show impressive nationwide increases. In the first 6 months of 1978, total transit ridership increased 5.5 percent over the same period in 1977. This represents an additional 200 million passenger trips during that period. Much of this increase is due to major service improvements in many cities where Federal transit resources has been well used. These investments are paying off handsomely in such places as Minneapolis (up 10.5 percent); Denver (up almost 24 percent); Elgin, Ill. (up 20 percent); Grand Rapids, Mich. (up 15 percent); Boise, Idaho (up 30 percent); and Brockton, Mass. (up 41 percent). Even many of our more extensive existing systems are recording startling ridership gains: The New York City subway system is up 4 percent; Cleveland, up 10 percent overall; and Chicago is up 5 percent overall.

These statistics underscore the fact that people want to and will use transit, expecially where service improvements make it more attractive and more convenient.

(Mrs. HUMPHREY assumed the chair.)

Mr. WILLIAMS. Madam President, when we attract onto public transit, when these systems become an accepted part of the life of a community—as it is right here in Washington, D.C.—we are going to help solve our energy and environmental problems.

Public transportation services can affect energy consumption patterns. Very simply, cities with extensive transit systems consume less energy than cities without them. In New York, for example, per capita energy usage is 47 percent of the national average. In Chicago, average gasoline use per driver is less than 7 gallons per week, while in cities like Houston, and Los Angeles, the average is 14–16 gallons per week. Finally, electric-powered rail transit systems reduce our need for petroleum, since the electricity can be generated by other energy sources such as hydroelectric power or coal.

In terms of our environment, better transit services help solve an area's air quality problems. Even with improvements in pollution controls, automobile emissions are still a major factor in air quality problems. Reductions in auto travel and increases in transit usage can significantly reduce most forms of air pollution, particularly carbon monoxide and hydrocarbons.

The recently issued joint DOT/EPA guidelines implementing the Clean Air Amendments of 1977 stress the role of a carefully reviewed transportation planning process in helping to meet ambient air quality standards. The thrust of the guidelines is to encourage local plans to improve transit services and discourage excessive automobile use.

Madam President, an effective transit program is a critical element in any comprehensive plan to preserve our environment, conserve our energy resources and solve our urban problems. To make the transit program more effective, we need to make it more flexible and enhance its ability to help each community meet its own transportation and transportation related needs. There is no one system or technology which is the right answer for all communities. Differing geographical, population, development, and historical considerations mean that each area must find the combination of transportation modes and services which will meet its unique needs.

The catalog of mode and system choices has become much larger in recent years. In great measure, this is due to the 10 years of UMTA-assisted development of new methods and new technology, and the Federal commitment to improved transit that this program represents.

Technological development has led to highly sophisticated rapid rail systems; new generations of buses, rail cars and light rail vehicles; downtown people-movers; and exclusive corridors for buses and carpools.

We have also developed a wide variety of systems and methods to maximize the effectiveness of available facilities. these include traffic management devices such as contraflow bus lanes, bus priority signals, auto restricted zones and innovative approaches such as club bus programs and vanpools.

I am stressing here that the transit program represents a broad catalog from which each community must make hard, well-reasoned choices.

This legislation—S. 2441—would vastly improve the framework in which these choices must be made. It would provide a more flexible program that allows our communities, regions and States to examine their transportation needs, plan a rational, balanced approach to meeting these needs, and, in partnership with the Federal Government, finance the programs and projects that are decided upon.

This legislation represents a positive, carefully developed approach to meeting our public transportation needs. It is a strong reaffirmation of the national commitment to effective public transportation services. It represents a modest but important increase in funding levels which assures our ability to make the capital investments necessary to carry out this commitment. And it recognizes the Federal responsibility to participate in operating costs since there is an important national interest involved.

Madam President, support for this bill has come from all regions of the United States. The U.S. Conference of Mayors, the National Association of Counties, the National Conference of State Legislatures, the American Association of State Highway and Transportation Officials, the American Public Transit Association, the Environmental Action, Highway Action Coalition, the Sierra Club, as well as individuals from every area of our

Nation stressed the urgent need for the prompt enactment of this legislation.

The enactment of S. 2441 is of the utmost necessity if we are to continue our progress in providing efficient public transportation throughout our Nation. The Federal commitment contained in this proposed legislation will encourage development and further improvement of public transportation. If we are to reach our goals of alleviating air pollution, traffic congestion, rebuilding our inner cities and resolving the energy crisis, the Congress must assume the responsibility and the initiative to prevent any interruption of the highly successful public transportation program.

Madam President, I ask unanimous consent that a section-by-section analysis of the bill be printed at this point in my remarks.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2441

Title I—Public Transportation.

Sec. 101—Findings and purposes.

This section of the bill describes the need for a reaffirmation of the national commitment to continued improvement of public transportation services. It also states that the purposes of the public transportation program are to provide a stable, flexible and equitable program of Federal aid, and to encourage the development of a more effective transportation planning process.

Sec. 102—Discretionary grant or loan program.

This section of the bill amends the section 3 capital assistance program. Revised section 3 will be the source of assistance for the following activities:

The construction of new fixed guideway systems and extensions to existing fixed guideway systems. The cost of detailed alternatives analysis for such systems is also eligible;

The costs of acquisition, construction, reconstruction and improvement of mass transportation facilities and equipment. This category includes the purchase of rail rolling stock; the modernization of existing rail facilities; and acquisition of real property and improvements needed for an efficient and coordinated public transportation system. This is intended to be a general provision for most capital activities, subject to the limitation that projects for the replacement or purchase of buses or for the construction of bus related facilities would not be approved under section 3 unless the Secretary makes the finding that the project cannot reasonably be funded out of the bus replacement factor in section 4(a)(2)(F) of the formula program;

The deployment of new technology into public transportation service;

"Joint development" projects, involving the acquisition and preparation of real property for urban development purposes to enhance the effectiveness of transit projects, and which are physically and functionally related to such transit projects and

"Urban initiative" projects for facilities and equipment to improve the coordination between public transportation and other forms of transportation, and to enhance urban economic development.

There is a yearly limit of $200 million on joint development projects and urban initiative projects. Although there may be some projects that meet the characteristics of both joint development and urban initiative projects, these categories are not identical, nor is one category to be totally subsumed under the other.

Section 3 would be amended to require a designated recipient for major fixed guideway projects. Where a statewide or regional agency is responsible for the financing construction and operation of public transportation services, that agency may be designated as the recipient.

A new requirement would be added to authorize the Secretary to announce an intention to obligate for a project under section 3 of the Act through the issuance of a letter of intent. This letter would not be deemed an obligation or an administrative commitment, but as an intention to obligate from future available budget authority. The amount covered by letters of intent would not exceed the amount authorized for section 3, less amounts necessary for other section 3 activities. This new section is not intended to affect the validity of letters of intent issued before enactment of this legislation.

Section 3(g) of the Act would be amended to provide for a complaint procedure and discretionary sanctions in the event of a violation of the schoolbus operation agreement required by this subsection.

Section 3(h) which allows capital funds to be used for operating assistance by local authorities under certain conditions and repayment arrangements, would be repealed.

Sec. 103.—Authorizations.

Section 103 of the bill would amend section 4 of the Urban Mass Transportation Act to provide a consolidated source of all UMTA authorizations.

Several planning and program requirements would be deleted from section 4(a) of the Act. These requirements would be amended and relocated in the consolidated planning provisions which the bill would add as new section 8 of the Act.

Section 4(c) would be amended to repeal the existing provision which earmarks $500 million of the existing authorization for the section 3 discretionary grant program exclusively for assistance in areas under 50,000 in population. This earmarking would no longer be necesssary because a new program for small urban and rural areas would be established by section 18 of the Act (section 110 of the bill).

Section 4(c) would be amended to extend the funding of the section 3 discretionary grant program for 4 years, through fiscal year 1982. $6.2 billion would be authorized for the 4 year period. Because the Congressional Budget and Impoundment Control Act of 1974 no longer permits contract authority, except with user fee trust funds, the new funding would be based on budget authority. Any remaining unobligated contract authority would be unuseable and would lapse in 1980.

Authorizations for the section 5 program, as well as authorizations for miscellaneous expenses (administrative, research and development, training grants, university research, etc.) currently found in section 12 (d) are moved into section 4. Authorizations for the small urban and rural program are also contained in section 4.

Section 5 authorizations for fiscal years 1979–1982 are in the form of new budget authority. Remaining contract authority will not be useable.

Amended section 4 also contains set asides for planning (2% of the gross amounts authorized for sections 3, 5 and 18) and for deployment of innovative technique and methods (1½% of section 5).

The following chart indicates authorization levels for each major program category:

UMTA FUNDING LEVELS

[In millions]

	Fiscal year—			
	1979	1980	1981	1982
Sec. 3 discretionary	$1,400.0	$1,600.0	$1,600.0	$1,600.0
2 percent set-aside (planning)	28.0	32.0	32.0	32.0
Net discretionary	1,372.0	1,568.0	1,568.0	1,568.0
Sec. 5 total	1,762.0	1,876.0	1,990.0	2,103.0
Formula	1,635.0	1,685.0	1,735.0	1,785.0
2 percent (planning)	32.7	33.7	34.7	35.7
1.5 percent (innovative methods)	24.0	24.7	25.5	26.2
Net to be apportioned	1,578.3	1,626.3	1,674.8	1,723.1
Sec. 5(d)(1) (for areas not receiving 50 percent of deficits)	127.0	191.0	255.0	318.0
Net sec. 5	1,705.3	1,817.3	1,929.8	2,041.1
Small urban and rural	100.0	100.0	100.0	100.0
2 percent (planning)	2.0	2.0	2.0	2.0
Net to be apportioned	98.0	98.0	98.0	98.0
Miscellaneous	100.0	105.0	110.0	115.0
Total	3,362.0	3,681.0	3,800.0	3,918.0

A new section 4(i) is added which authorizes such sums as may be necessary to carry out public transportation projects substituted for Interstate highway projects pursuant to 23 U.S.C. 103(e)(4).

New section 4(j) adds two new reporting requirements. One requires an annual report to the Congress on the status of the public transportation program; the other requires reports, scheduled for October 1, 1979 and October 1, 1981, on projected authorization requests for the sections 3 and 5 programs.

Sec. 104. Formula Grant Program for Urbanized Areas.

Section 5(a) is amended to provide that for fiscal year 1979 and subsequent years, the formula under which section 5 funds are apportioned for each urbanized area will be revised to contain the following factors and weights:

27 percent on the basis of relative urbanized area population.

27 percent on the basis of population density.

4.5 percent on the basis of relative number of commuter rail train miles.

4.5 percent on the relative number of fixed guideway route miles (excluding commuter rail).

14 percent on the basis of modified population/population density: 85% to be apportioned to urbanized areas over 750,000; 15% to be apportioned to urbanized areas under 750,000.

23 percent on the basis of (i) relative bus seat miles, and (ii) a factor for the replacement of buses. Both the weights of (i) and (ii), and the replacement factor are to be determined by the Secretary.

Section 5(a)(3) is added to create the program for deployment of innovative methods utilizing funds set aside in section 4(g).

The section 5(b)(1) designated recipient provision is amended to require a "fair and equitable" distribution of funds by the Governor to urbanized areas of less than 200,000; and to require an annual report to the Secretary of allocations to these areas.

A provision is added in section 5(c) to bar the use of remaining contract authority after September 30, 1978. As of fiscal year 1979, the section 5 program would switch to budget authority to comply with the Budget Act of 1974.

The period that apportioned section 5 funds are available is increased from 3 to 4 years. Funds remaining unobligated at that time would be added to the amount available for apportionment.

Section 5(d)(1)(B) is amended to require the Secretary to make grants for additional operating assistance to assure, to the maximum extent possible, that section 5 assistance covers 50% of operating deficits. In the event that appropriations for the section 5 program are less than authorizations, the formula portion of the program must be fully funded before any funds are available for grants under this provision.

A new section 5(d)(2) is added to allow use of all formula apportioned funds for either operating or capital projects, except funds apportioned under 5(a)(2)(F) which are to be used for bus purchases and other bus related capital projects. Existing section 5(d)(2) regarding regulations has been deleted in favor of the new general regulation provision in section 12.

The Federal share of section 5 capital projects shall continue at a maximum of 80%, however, Federal participation in operating assistance would be limited to 33⅓% of total operating costs (in lieu of current limit of 50% of operating *deficits*). A grandfather provision is included for those areas already receiving more than one-third of total operating costs out of section 5, which would allow those areas to remain on the current system for one additional year and gradually phase into the one-third requirement as operating costs increase.

The section 5(f) maintenance of effort (MOE) provision is amended to allow proportional reduction in Federal assistance in the event of a locality's failure to meet required MOE. It is also amended to exclude reimbursements for school transportation services from the MOE calculation, and to allow proportionate reductions in required MOE where an area has been able to effect cost savings due to operating efficiencies.

Sec. 105—Technical Studies.

Section 9 of the Act would be repealed since its provisions and purposes would be transferred to other sections. Planning and technical studies would be authorized and funded under the new section 8 planning section (see title II of the bill). Preliminary engineering activities and detailed alternatives analyses, both currently funded out of section 9, would be eligible section 3 activities under this bill.

Sec. 106—Fellowship Assistance.

The following restrictions on the section 10 program of grants for training fellowships in the mass transportation field would be removed:

1. The number of fellowship grants UMTA can make in a year.

2. The 12½ percent State limitation on the number of fellowships awarded to any one State; and

3. The requirement that grants be made for training in institutions of higher learning offering programs of graduate level studies.

4. The limit of $12,000 in Federal participation in each fellowship.

Sec. 107—Definitions and General Provisions.

Several definitions would be added to section 12(c) of the Act. The definitions currently in section 5, including the definitions of "Governor" and "urbanized area" and a revised definition of "construction" would be consolidated in section 12(c) and, thereby would be made applicable to the entire Act. The definition of construction as added to section 3 would be consistent with the definition in the highway law (23 U.S.C. 101(a)). The definition of "handicapped person" would be moved from section 16, but would permit the Secretary to establish a modified definition of that term appropriate for the section 5(1) half-fare program, or to continue the current practice of leaving that determination to local operations.

The term "fixed guideway" would be defined to mean a public transportation facility which utilizes a separate right-of-way for the exclusive use of public transportation services. "Public transportation" would be defined to mean the same as "mass transportation." Definitions of "small urban area" and "rural area" are added, in light of the new small urban and rural public transportation program in section 18.

Several general provisions are added or amended by the bill. The sex discrimination prohibition in section 12(f) of the Act would be deleted because the new section 19 of the Act would cover this subject.

New section 12(e) would prohibit the UMTA assisted purchase of the assets of one public body by another public body. The language is intended to prevent the generation of additional Federal assistance in an area by the paper transfer of assets which are used in the same system before and after that transfer.

New section 12(f) would authorize the Secretary to review and approve the design of projects assisted under the act. This is intended to clarify the Secretary's authority to establish, where appropriate, criteria, standards and specifications for UMTA assisted capital projects, including both fixed facilities and rolling stock.

New section 12(g) would authorize the Secretary to issue regulations necessary to administer the UMTA Act.

Sec. 108—Amendment to sec. 16.

The bill changes the funding base for the elderly and handicapped special transportation program. The existing set-aside of up to 2% of section 3 funds would be deleted in favor of a section 5 funding base. The recipients of section 5 assistance would determine jointly with the Secretary what portion of the section 5 allocation is appropriate for section 16 activities.

The definition of handicapped currently found in section 16(d) would be moved to section 12.

Sec. 109—Commuter Rail Operating Assistance.

Due to the inclusion of a factor for commuter rail operating assistance as part of the section 5 program, the existing section 17 program would be terminated as of September 30, 1978, and the section 18 program would be repealed.

Sec. 110—Formula Grant Program for Small Urban and Rural Areas.

This legislation establishes a new section 18 as a separate program of capital and operating assistance for small urban and rural areas. It is intended that this program shall be administered by UMTA since it is an integral part of overall Federal public transportation program.

There is an authorized funding level for this program of $100 million per year for fiscal years 1979 through 1982. Under section 18(a), funds would be made available to the Governors on a formula based on non-urbanized area population. Funds for small urban areas would be distributed on a fair and equitable basis. Subsection (b) would provide that appropriated funds would be available for a total of 4 years and any apportioned funds remaining unobligated at that time would be added to the amounts to be apportioned in the next fiscal year. Subsection (c) would require the State to develop a plan and program for use of the funds in a manner consistent with the section 8 planning process and in coordination with other federally assisted transportation programs.

Eligible projects may include any projects eligible under the Urban Mass Transportation Act (capital, operating, planning, research and development, etc.) which are appropriate for a small urban or rural area. Recipients may include local public bodies, nonprofit organizations, and operators of public transportation services.

Section 18(e) would permit the Secretary to establish the terms and conditions of the program as he deems necessary and appropriate. This includes the authority to establish the Federal share of operating and capital projects in rural areas, but Federal participation in overall operating costs for rural projects may not exceed 50 percent. For small urban areas (5,000-50,000) the Federal share will be 80 percent of the cost of capital projects, and 50 percent of operating deficits.

The Secretary of Labor would be permitted to waive provisions of section 13(c) of the Urban Mass Transportation Act.

Sec. 111—Nondiscrimination.

A new section 19 nondiscrimination provision is added under which no person, on the grounds of race, color, creed, national origin, sex or age my be excluded from participation in or denied the benefits of, or be subject to discrimination under, UMTA funded activities. These provisions are specifically applicable to employment and business opportunities and are intended to be in addition to title VI of the Civil Rights Act of 1964.

The Secretary is required to take affirmative action to assure compliance with this section, and to take appropriate remedial actions in the event of a failure to comply. This remedial action would include directing that no further UMTA assistance be provided to the person not in compliance; referring the matter to the Attorney General with a recommendation for appropriate civil action; exercising the powers and functions under title VI; or any other actions available under present law.

Sec. 112—Human Resource Program.

A new section 20 is added creating a human resources program. This section would authorize the Secretary to undertake or assist programs that address human resource needs as they apply to public transportation activities. These projects can include employment training programs; outreach programs to increase minority and female employment; research on manpower and training needs; minority business enterprise programs; and other appropriate activities.

Sec. 113—Loan Forgiveness.

This section authorizes the Secretary to convert outstanding loans made under section 3 to grants. The Secretary is authorized to compute the local matching share that would have been required had the amount forgiven been the Federal share of a project undertaken when the grant was made, and provide in the grant agreement that such amount shall be contributed to mass transportation capital projects within the urbanized area. Such funds may not be used to satisfy the local share requirement of any other Federal project.

Title II—Planning and Consolidated Planning Fund.

Title II contains a revision and consolidation of the planning requirements applicable to both the Federal public transportation and Federal highway programs to create a unified highway and public transportation planning program.

This provision would amend the highway planning provisions in 23 U.S.C. 134 and add a new public transportation planning section in the Urban Mass Transportation Act to create parallel planning requirements for both programs. This amendment would consolidate all existing UMT Act planning requirements into a new section 8.

The same language in the new section 8 would be incorporated into section 134 of title 23 to subject the highway and public transportation projects in urbanized areas to the same statutory planning requirements.

New section 8(a) would require transportation plans and programs to be based on considerations of transportation needs, land use plans, development objectives, and overall social, economic, environmental, system performance and energy conservation goals and objectives. It would require review of alternative operating strategies and investment potentials to make more efficient use of exist-

ing resources and to provide a basis for the selection of major transportation investments. It would also require the planning effort to be continuing, cooperative and comprehensive to the degree appropriate for the complexity of an area's transportation problems.

Section 8(b) would establish that planning in urbanized areas shall be conducted by local officials acting through the metropolitan planning organization (MPO) in cooperation with the State. For small urban and rural areas, the planning process would be carried on by the State in cooperation with local officials and shall provide for coordination with local planning activities.

Section 8(c) would specify the procedures for designating or redesignating MPO's in urbanized areas. Within one year of enactment, by unanimous agreement of all local governments, an MPO designation could be changed; otherwise, designations of MPO's would be by agreement among units of general purpose local government and the Governor.

Section 8(d) would provide that the Secretary shall not approve any program of transportation projects unless the planning process is being carried on as required and the program is based on the planning process.

For urbanized areas with a population of 1 million or more, subsection (e) would establish a requirement that the metropolitan planning organization submit their transportation plans to the Secretary for review and evaluation.

Subsection (f) creates a consolidated planning fund to finance State and local transportation planning activities. This fund would be derived in part by setting aside 2 percent of the funds available under sections 3, 5 and 18 of the UMT Act. It would also require set aside of a percentage of highway funds available under 23 U.S.C. 104 and 133. This section would also be the source of funds for technical studies eligible under the proposed section 8(g) of the UMT Act.

The Secretary would be required to distribute the planning funds as follows: 35 percent to MPO's in urbanized areas over 200,000; 60 percent to States (subject to a hold harmless provision that States would not receive less than they received in fiscal 1978 under 23 U.S.C. (c)(1) and (c)(2); and 5 percent to be retained for discretionary use by the Secretary.

Grants under this section will be made directly to MPO's in urbanized areas with a population of 200,000 or more. For areas between 50,000 and 200,000 the State would allocate the funds on the basis of a formula based on population, transportation needs and status of planning.

Two other subsections are included in section 8, which have been transferred from other portions of the UMT Act. Section 8(g) incorporates the private enterprise language currently found in section 4(a). Section 8(h) authorizes special studies which are currently authorized under section 9.

Mr. WILLIAMS. Madam President, I have worked over the years side by side with the distinguished Senator from Massachusetts (Mr. BROOKE), and it has been a very productive, constructive, and very pleasant relationship.

Last year we came to the Senate with S. 208, which we jointly managed and which was unanimously acepted by this body. Obviously, the House did not act. The President then came on with his contributions this year. We put it all together and we are here side by side again, Senator BROOKE and I. It is a pleasure to be working with the Senator on anything, but particularly on this transit bill that means so much to our urban areas which this bill will expand now to the rural America too.

Mr. BROOKE. Madam President, I thank the Senator. I certainly share the views of my distinguished colleague from New Jersey (Mr. WILLIAMS), and I am very grateful to him for the generous words he has spoken in my behalf.

He certainly has been a leader in the entire field of mass transit. He is one of the very few Members of Congress who so early recognized the great need for mass transit in this country. In the Senate, he has really been the leader of the mass transit movement. It is a movement which has been slow in beginning, but it must accelerate if we are not to have our cities and even our towns clogged with traffic and our businesses disrupted because of the lack of viable mass transit systems throughout this country.

So it is with great pleasure that I have worked with Senator WILLIAMS on mass transit legislation. I applaud him and commend him for his outstanding service in this field, as well as in the field of human resources, where he serves as the distinguished chairman of that Committee. On the Banking, Housing, and Urban Affairs Committee, where we have jurisdiction over national mass transit legislation. We are fortunate to have the distinguished Senator from New Jersey as our leader.

Madam President, the distinguished Senator from New Jersey has outlined the major provisions of Senate 2441, the Federal Public Transportation Act of 1978, which will be offered as an amendment to Senate 3073. This is a most significant bill which reaffirms our national commitment to urban mass transit programs. As approved by the Banking, Housing, and Urban Affairs Committee, this bill would assure adequate funding and equity in the funding of operating assistance to all local transit systems, and would provide substantial new capital funding to meet our long-term public transportation needs in future years. It would also assist transit systems which are being developed and expanded in smaller urban and rural areas.

I would just like to highlight some of the important objectives of this legislation.

First. The funding levels in this bill reflect the belief that public transportation is an essential element of our national strategy to conserve energy, to improve our air quality, to promote revitalization and economic development in our central cities and rural areas, and to improve mobility for all of our citizens—including the elderly and the handicapped. For these reasons, it seems to me that there is no clearer case of need for increased Federal support than for assistance to our urban mass transit systems. Yet the Carter administration—without regard to national energy or urban policy objectives—has strongly urged the Senate to cut back our commitment to mass transit and to reduce significantly the funding levels in the committee bill. I hope that my colleagues will resist that temptation and will support the reasonable balance which has already been achieved in the committee bill.

Second. Under the committee bill, the discretionary section 3 capital grant program would be funded at $6.2 billion over the next 4 years. This would permit orderly completion of capital projects which are now under construction or approved by the Urban Mass Transportation Administration and expansion of the program to cities which are planning new rail systems or extensions of existing rail systems.

Third. Regarding operating assistance for local transit systems, the bill provides over $1.2 billion in fiscal year 1979 to be distributed under a revised section 5 operating assistance formula. This formula is an improvement over the existing population and population density formula because it recognizes several factors which reflect the nature and extent of existing services provided. However, I believe that the new formula for section 5 operating assistance is still too heavily weighted toward population factors which are largely unrelated to local transit service or to the local financial commitment to transit.

In order to provide a more equitable and objective basic for measuring transit "need," I proposed a supplemental operating assistance provision which is included in the bill. This provision seeks to assure that, to the extent possible, mass transit systems receive up to 50 percent of their operating expenses, net of farebox revenues, from the Federal Government. The provision is intended to promote equity among recipients of operating assistance funds. Under the operating assistance program, current law provides for a "cap" of 50 percent of a transit system's operating deficit which is available as operating assistance. Many cities, such as Los Angeles and Houston, already receive the full 50 percent funding for operating assistance. And some cities receive additional funding under the section 5 formula which may not be used for operating purposes, but has been used for the purchase of buses. At the same time, other cities which are dependent upon rapid transit or are developing new transit systems, such as San Francisco, Boston, Washington, D.C., and Atlanta, have received far less than 50 percent funding under the section 5 program. For example, San Francisco and Boston currently receive about 15 percent of their operating deficit funded under the section 5 program; Atlanta and Washington, D.C. receive only about 25 percent. This provision would target assistance at those local transit systems which have made substantial local commitments to transit and which have been shortchanged under the current section 5 program.

I am aware that there will be an amendment offered to delete this provision from the bill. But I would urge my colleagues to evaluate this provision carefully, and to disregard the misinterpretations of the effect and impact of this provision which have been presented, particularly by the administration in its intense lobbying for the amendment to delete the so-called Brooke amendment.

The Brooke amendment would not establish a "radical" or "expensive" new policy concerning operating assistance for urban mass transit systems. As I

have already discussed, this interpretation ignores the reality of the current funding mechanism which provides funding to some cities at levels of 50 percent of operating deficit and even higher. In addition, a specific authorization of $127 million in fiscal year 1979 and $891 million over the 4 year life of the bill is provided to fund this provision. Estimates of a $2 billion or $3 billion cost for this provision which have been attributed to the Department of Transportation and the Congressional Budget Office are based upon a misreading of the provision and ignore the fact that a specific dollar authorization is provided for each of the next 4 years.

I am certain that we will have an opportunity to discuss these and other issues regarding the Brooke amendment during the debate on the amendment to delete that provision. But I did feel constrained to correct some of the distortions and misconceptions which have been raised concerning the impact of the supplemental operating assistance program.

Finally, I would like to note that this bill contains a new formula grant program for small urban and rural areas which is funded at $100 million a year for the next 4 years. This provision recognizes the importance of establishing an ongoing program of capital and operating assistance for smaller communities. And the availability of operating assistance for the first time in smaller communities represents a national commitment to encourage the development and expansion of public transportation services.

Madam President, this is a fine bill which I enthusiastically support. Much of the credit should be given to my distinguished colleague from New Jersey who has led the fight for urban mass transit programs since he succeeded in establishing a permanent mass transit program in 1964. I strongly urge my colleagues to support this major legislation which provides for an effective and equitable national public transportation program.

Before I conclude, Madam President, I would like to include in the RECORD by unanimous consent the names of the distinguished and very hard-working members of the majority and minority staff of this committee, who have worked together with Senator WILLIAMS and with me in putting together what I believe to be a really fine bill, which I hope that the Senate will pass overwhelmingly.

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

Howard Menell, David Yudin, and James Schuyler.

UP AMENDMENT NO. 1939

(Purpose: To authorize public mass transportation systems to apply for exemption from certain economic regulations)

Mr. HUDDLESTON. Madam President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 1939: On page 64, line 17—

Mr. HUDDLESTON. Madam 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 64, line 17, strike out the end quotation marks and the last period.

On page 64, strike out line 18, and insert in lieu thereof the following:

"(h)(1) A State or a local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services, assisted under section 3 or 5 of this Act, provided by such State or local public body or provided to such State or local public body by contract. Not later than 180 days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.".

Mr. HUDDLESTON. Madam President, this amendment is to address a particular problem that develops when, in a metropolitan area that includes two or more States, the public transit systems attempt to work out agreements relating to fares or transfer of passengers in order to move people from the outlying areas into the inner city, or vice versa.

Under the existing act, there have been some prohibitions against this kind of cooperation. My amendment would merely permit the ICC to make exceptions in these cases, so that this kind of cooperation and joint arrangement can be facilitated.

The amendment provides for notice and reasonable opportunity for hearing, and gives the ICC the authority to limit the duration of the exemptions and reconsider and modify or reject the exemptions if it finds material grounds to do so.

Mr. President, the Transit Authority of Northern Kentucky (TANK) was created by joint action of Kenton, Campbell, and Boone Counties to serve the needs of more than 250,000 residents. Located immediately across the Ohio River from Cincinnati, Ohio, more than 50 percent of all northern Kentucky jobholders work in Cincinnati or Hamilton County, Ohio. All TANK routes utilize the Suspension Bridge across Ohio River and terminate in the Dixie Terminal Building, located on 4th Street in downtown Cincinnati. These routes provide thousands of northern Kentuckians with the daily opportunity to work and shop in metropolitan Cincinnati.

For several years, officials of the TANK Board have met with officials of the Southwest Ohio Regional Transit Authority (SORTA) and Queen City Metro (public operators of the Cincinnati bus system) to discuss intersystem methods of cooperation such as honoring each other's transfers and direct route service to places of employment on a contract or charter basis. For example, many Kentuckians work at the General Electric and Procter & Gamble plants in Ohio, while many Cincinnatians work or travel to the Internal Revenue Service Center, the Latonia Race Track, or the Greater Cincinnati Airport in Kentucky.

A major obstacle to cooperation between the two public transit systems has been the Interstate Commerce Commission (ICC). According to present law and regulations, a transfer system would constitute interstate commerce and require each system to obtain a certificate of public convenience and necessity issued by the ICC. Along with this certificate would go the control of routes, schedule, and fares.

The exception provided in 40 United States Code section 303(b)(8) for operations within municipalities or commercial zones and utilized by private carriers is unfortunately not workable for public transit because neither public system is authorized to spend tax dollars on intrastate routes in another State. The end result is that cooperation between the systems in the metropolitan Cincinnati area is at a standstill because of ICC rules and regulations.

It should be noted that Queen City Metro has no regular scheduled routes that are interstate, and implementation of the transfer system would daily place that system in interstate commerce. TANK on the other hand is in a situation where every route crosses the State line and there is no alternative but to continue the daily service in spite of statement by ICC officials that would seek court injunctions to stop TANK buses on the Kentucky side of the bridge.

The irony of this situation is that the Federal Government, through the Urban Mass Transportation Administration (UMTA), has provided capital and operating grants to TANK involving millions of dollars to transport Kentucky passengers to work and shop in Cincinnati. For example, one Federal grant already approved is for the renovation of the Dixie Terminal Building in order to attract additional passengers into downtown Cincinnati. How one arm of the Federal Government can encourage taking passengers into Cincinnati, while another arm wants to stop the buses at the bridge is somewhat hard to explain.

My amendment is offered to give some

specific relief by providing authority for the ICC to exempt from part II of the ICC Act State or local public bodies which provide mass transportation services, upon their application for the exemption. The amendment provides for notice and reasonable opportunity for a hearing, gives the ICC authority to limit the duration of the exemption, and, to reconsider, modify, or revoke the exemption if it finds material grounds to do so.

The concept of this amendment has been discussed with attorneys for the Urban Mass Transportation Administration, as well as the ICC, and their suggestions for safeguards have been incorporated into the amendment. You will note that the exemption can be denied if it would not be in the public interest, or if it constitutes an undue burden on interstate or foreign commerce, or if approval of the exemption would not leave the transit authority under control of any State of local public body.

A further safeguard in the amendment would make certain the exemption would not interfere with normal Federal jurisdiction over matters of safety, collective bargaining, retirement, and other benefits, as well as laws relating to employer-employee relations.

I believe that all possible interests are fully protected. At the same time, it does make it possible for the kind of arrangements necessary to have an effective and viable public transportation system in metropolitan areas where two or more States may come together.

I believe this amendment has been cleared on both sides of the aisle and is acceptable to the managers of the bill.

Mr. BROOKE. I am fully aware of it, Madam President, and I am ready to accept the amendment of the distinguished Senator from Kentucky.

Mr. WILLIAMS. Madam President, this does address itself to problem areas. We know there are many urban areas that involve two States. This is a barrier to the effective organization of the community for the most efficient transportation. I compliment the Senator from Kentucky and favor the amendment. As manager of the bill, I accept it.

Mr. HUDDLESTON. I thank the distinguished floor managers.

Madam President, I move the adoption of the amendment.

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

The amendment was agreed to.

Mr. HUDDLESTON. 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.

AMENDMENT 3667

(Purpose: To aid rural bus lines by improving their use of Federal funds)

Mr. LEAHY. Madam President, I ask unanimous consent that the Senate move to the immediate consideration of printed amendment No. 3667.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes amendment numbered 3667.

Mr. LEAHY. 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 68, line 3, after "share", insert "under this Act".

On page 68, line 6, after "share", insert "under this Act".

On page 68, starting on line 8, amend the second sentence of paragraph (2) to read as follows: "At least 50 per centum of the remainder shall be provided in cash from sources other than Federal Funds or revenues from the operation of public mass transportation systems.".

Mr. LEAHY. Madam President, the intent of my amendment is understood by all and it is endorsed by the Department of Transportation. This amendment would enhance the abilities of rural and smaller urban areas to provide public transportation services.

Currently, S. 2441's funds for the rural and smaller urban program can cover up to 50 percent of operating deficits and 80 percent of capital costs, the remainder of the funds having to come from non-Federal sources. This is an excessively stringent requirement for smaller cities and rural areas to meet with their limited tax bases. My amendment would ease this requirement and still retain significant local and State commitment to these transit systems.

This amendment would allow rural and smaller urban transit systems to use other nonrestricted Federal moneys to help pay the costs of operating their lines and purchasing their capital equipment. Specifically, these lines would be able to use other Federal moneys to cover 50 percent of those costs not borne by S. 2441. Local and State commitment to a bus program would still be significant in that their share would be at least 10 percent of capital costs and 25 percent of operating deficits.

It is the intent of this amendment that Federal funding sources for rural and smaller bus lines be better coordinated and that cumbersome redtape be kept to a minimum. My amendment would accomplish these ends. And because my amendment calls for no new Federal moneys, it will not cost this Government a penny.

Madam President, I ask that the Senate accept this amendment and incorporate it into the Federal Public Transporation Act of 1978 which has been so capably managed and developed by the eminent Senator from New Jersey, (Mr. WILLIAMS), and the distinguished Senator from Massachusetts (Mr. BROOKE), and Mr. SCHMITT, on behalf of the minority.

Madam President, if there are no objections to my amendment, I shall move for its adoption. I yield first to the distinguished Senator from New Jersey.

Mr. STAFFORD. Mr. President, I wholeheartedly support the amendment proposed by my good friend and fellow Vermonter. It is constructive and tailored to the needs of nonurbanized areas.

Mr. President, urban mass transit bills in the past have had limited meaning to Vermont, which is one of two States lacking any urbanized area.

Existing law provides only capital assistance for small urban or rural areas, while in large cities operating subsidies are available as well. Capital funds are, of course, helpful, but there is an urgent need for operating assistance if small urban and rural areas are to have any form of public transportation.

In my own State there are several small systems providing efficient service to their communities. Their needs, on a national scale, are not great, but the relatively small Federal subsidies they require will make the difference between mobility and isolation for many people.

I was therefore very pleased to see section 110 included as a part of S. 2441. This section provides formula grants to States to help support the operation of small urban and rural transit systems.

The Senate has passed bills with similar provisions before, but these bills have, for other reasons, never been finally enacted.

I compliment the distinguished Senators from New Jersey and Massachusetts and the whole Banking Committee for including in S. 2441 this provision which is so important to Americans living outside large cities.

I believe that these smaller communities need greater flexibility in matching requirements than is provided larger cities. The pending amendment increases this flexibility and encourages better use of Federal funds from various sources for transportation purposes. For these reasons I think the amendment should be adopted.

Mr. President, there is much we do not know about the best ways to encourage public transportation in small communities. Section 110 of this bill, with the changes made by the proposed amendment, is a good start.

I pledge my continuing interest and assistance in developing a workable and beneficial Federal program.

Mr. WILLIAMS. Madam President, I commend the Senator from Vermont for his most constructive, indeed, creative efforts in making sure that the promise of public transportation is nationwide and goes to all areas. One of the most difficult problems over the years has been that of finding ways for the resources to reach rural areas effectively for public transportation. We have significantly improved the transportation opportunities for rural America in this bill. This amendment, in my judgment, advances us greatly in that objective. I compliment the Senator from Vermont.

Madam President, I ask unanimous consent that a letter from the Department of Transportation, signed by Mr. Page of the Urban Mass Transportation System, be printed in support of this amendment.

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

URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., September 27, 1978.

HON. HARRISON A. WILLIAMS, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: In my letter of September 26, 1978, I clarified the position of the Department of Transportation concerning the definition of "States" in the proposed rural assistance program of S. 2441.

I would like to take this opportunity to comment on a potential problem that exists with local share requirements for small urban areas.

Under the provisions of section 18(e)1 currently proposed by section 110 of S. 2441, the Secretary of DOT is allowed great flexibility in developing terms and conditions for transit capital and operating assistance in areas whose population is less than 5,000. However, the language proposed in section 18(e)2 for areas whose population is between 5,000 and 50,000 is very restrictive as far as matching requirements are concerned. The second sentence of (e)2 says:

"The remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems."

This language is identical to the language in the existing section 5 formula assistance program for areas whose population is greater than 50,000. The language has been interpreted to forbid the use of contributed services or the use of Federal funds from other Federal programs unless the enabling statute of the other Federal program clearly allowed those funds to be used for local matching purposes. While this requirement has worked well in urbanized areas, we believe that such a stringent requirement will impede the development of coordinated, cost effective services in small urban areas. We believe that the Secretary of the Department should be able to develop regulations which encourage local public bodies to integrate and expand existing transportation services that receive local funding or receive Federal funds from agencies such as the Department of Agriculture, the Department of Labor and the Department of Health, Education, and Welfare. We believe that one effective means of encouraging local integrated and coordinated service is to permit a portion of the local share to be developed using contributed services and/or funds made available through programs of other Federal agencies.

Language which would provide this flexibility is shown in the enclosure. The amendment would revise the second sentence of section 18(e)2 to read:

"At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems."

This language would require local governments to demonstrate their local commitment to proposed transit projects by mandating that at least 10% of capital projects and at least 25% of operating deficits come from the same sources of state and local share as the section 5 program. The remainder can come from sources such as contributed services and other Federal programs where there is not a statutory prohibition against intermingling of Federal funds.

It is the intent of this amendment to permit sources of Federal funds to be utilized as fully as possible to coordinate transportation services. It is my hope that the legislative history would encourage Federal agencies who provide funds for transportation services to review their grant regulations and remove unnecessary restrictions that impede coordinated transportation services in areas outside urbanized areas.

I hope that you accommodate this change during the floor debate on S. 2441. I believe that this amendment would enhance the ability of local governments to coordinate available sources of funding and would minimize red tape.

Thank you for your continuing support.

Sincerely,

MARGARET M. AYRES,
(Acting for Richard S. Page).

Mr. LEAHY. Madam President, I appreciate the kind words of the Senator from New Jersey, who has really been the leader in mass transportation for this country. He has been of great help to those of us who live in rural areas in helping bring about, with the Federal Government, the realization that mass transportation can be effective in different ways in rural areas, as well as in the urban areas.

Mr. SCHMITT. Madam President, we have no objection whatsoever to the amendment of the Senator from Vermont, on this side. Again, like everyone else, I compliment him for thinking of the rural States. Those of us from other rural States have similar problems, and we think he has done a very creative piece of work in the amendment.

Mr. LEAHY. I thank the Senator from New Mexico. I hope that both he and I can trade rides in our individual States. I have been to New Mexico in his rural areas, and I know he has been a visitor in Vermont. We hope to have him up there in Vermont to ride in our rural mass transportation.

Mr. SCHMITT. I must say to the Senator from Vermont, I have ridden in his rural mass transportation up the ski slopes already. I find it not only enjoyable to ride but very enjoyable to ski and see his beautiful State. I hope he will do the same in some of our ski areas in New Mexico.

Mr. LEAHY. I look forward to it.

Madam President, I yield back my time.

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

The amendment was agreed to.

Mr. LEAHY. Madam 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.

UP AMENDMENT NO. 1940

Mr. WILLIAMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes unprinted amendment numbered 1940.

Mr. WILLIAMS. 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 46, line 12, strike the word "and".

On page 46, line 14, add a comma after "1982," and insert the following: "and $1,580,000,000 for the fiscal year ending September 30, 1983:"

On page 46, line 15, strike "1982" and insert in lieu thereof "1983".

Mr. WILLIAMS. Madam President, the purpose of this amendment can be stated very briefly. It would add an authorization of $1.58 billion for the section 3 discretionary capital grant program for fiscal year 1983.

While the purpose of the amendment can be stated briefly, the explanation will take a little more time. I offer the amendment on the basis of discussions I have had with my colleagues here in the Senate and with officials of the administration. I believe it provides a reasonable avenue of compromise on a difficult issue which, as usual, has no easy answer. This issue is the conflict between the genuine need for a well-funded, stable, and effective public transportation program on the one hand, and the undeniable importance of balancing this need against the challenge of battling the chronic problems of inflation on the other.

The tension between these twin objectives has had a major impact on the consideration of this bill. The original funding levels contained in S. 2441, as proposed by the administration, were clearly inadequate to continue the great strides that we have made in public transportation, especially in recent years. This is not only my opinion, it is the opinion of every witness that appeared before the Senate Banking Committee with the exception of the Department of Transportation. Some excerpts from this testimony illustrate these concerns:

THE NATIONAL ASSOCIATION OF COUNTIES

We do not support the proposed authorization levels contained in S. 2441. We realize that the commitment of federal resources must be determined within some overall limits. We also recognize the need to work for a balanced federal budget and that difficult budgetary choices have to be made about the future direction of our nation. More importantly, we do believe that increased attention to public transportation programs is one of our nation's crucial requirements. We must now decide to make this commitment to public transportation so that it can continue to play an important role in the achievement of our Nation's transportation, energy and environmental goals.

NATIONAL LEAGUE OF CITIES, THE UNITED STATES CONFERENCE OF MAYORS

The League of Cities and the Conference of Mayors find that the public transportation legislation proposed by the Administration is characterized by much needed structural reform but is funded on an inadequate basis. This funding shortfall not only inhibits the benefits of structural reform, it also jeopardizes the recent gains made by public transit in U.S. cities and makes new gains dubious.

THE NATIONAL GOVERNOR'S ASSOCIATION

The National Governors' Association encourages the Administration to increase its request for funding levels in both the highway and transit areas. The amounts proposed are insufficient to meet the Nation's needs.

THE NATIONAL CONFERENCE OF STATE LEGISLATURES

A $3 billion program . . . regardless of how the funds are distributed, is still basically a no-growth program. Without growth, without new programs to meet the needs of our urban and rural areas, without improving our existing systems, we will not be able to attract people away from the automobile and toward more energy efficient transportation modes.

AMERICAN PUBLIC TRANSIT ASSOCIATION

APTA believes the proposed Administration transit and highway legislation provides an inadequate level of funds to finance critically needed bus fleet replacement and expansion, modernization of existing rail transit systems and construction of new fixed guideways and extensions. In addition, the Administration's proposal does not address the need for additional federal operating as-

sistance to maintain the local, state and federal partnership established in 1974 to improve and continue public transportation services.

Madam President, based upon this record, the committee met to consider this bill in early May. At that time, I placed before the committee a proposal to substantially increase the funding levels for public transportation over the next 4 years to a level that comports with the actual needs, the demonstrated successes of the program to date, and the expectations of the American people.

During markup of the bill, I reduced the proposed authorization for the discretionary and formula programs by $1.2 billion in order to meet the objections of some members who felt my proposed levels were too high.

With that reduction, the committee approved the bill as it is presently before us. Almost concurrent with the committee action, the Congress as a whole indicated its commitment to transit spending levels higher than the original administration proposals by approving $3.65 billion for transit in the 1979 budget resolution, and by passing the transportation appropriation's bill more recently.

At the same time, in light of concern expressed by some of my colleagues, and the amendments pending before the Senate to reduce the authorization levels as reported by the committee, there is at least an indication that some Members are not convinced that the spending level issue has been resolved satisfactorily.

Madam President, the committee report and my opening statement both discuss at length the importance of the Federal transit program. Suffice it to say that I have worked for years to develop an effective public transportation program in this country. I think the national ridership increases, and our increased awareness of the usefulness of transit systems, prove that our efforts are paying off. And, I firmly believe that we have to keep working at having good public transportation systems in place so that we can be prepared for the energy, environmental, and urban problems of the future. But I respect the view of those who maintain that even the modest spending proposed in S. 2441 would be inflationary.

Madam President, I think it is possible to maintain the progress made toward a sound public transportation program in areas throughout the United States without directly exacerbating our problems in bringing raging inflation under control. I believe the proper balance would be struck by both approving this amendment and adopting the amendment which I understand my colleague from North Carolina (Senator MORGAN) will offer later today. If my amendment is not accepted, I must pledge myself to resist any reductions whatsoever in S. 2441 spending levels.

If my amendment is adopted, I plan to, of course, accept the reduction amendment that will be offered by the Senator from North Carolina, which does reduce the bill by, in round figures, $1 billion.

The amendment adding a fifth year to the section 3 program will offset some of the problems I perceive in the Morgan amendment. That amendment would cut a billion dollars from the committee bill, most of it coming from the capital grant program. Without a fifth year authorization, the drastic reductions in the capital grant program proposed in the Senator's amendment come dangerously close to requiring a moratorium on all of those major transportation projects which are on the immediate horizon but for which no Federal commitment has yet been made. No new commitments could be made for the life of the authorization in the committee bill. Projects affected by these constraints could include those now planned or under way in Atlanta, Los Angeles, Baltimore, New York, Chicago, Philadelphia, Houston, Boston, Detroit, and several other cities.

Adding a fifth year to the section 3 capital grant program would help provide the long-term assurance of stability so necessary for the conduct of preliminary planning for new and major transportation investments. And it will help both localities and the Federal Government schedule the progress of these important new projects. It will also help us assure reasonable progress on vitally important modernization programs for many of our existing rail systems. The seven major rail cities—New York, Chicago, Philadelphia, Boston, Pittsburgh, Cleveland, and San Francisco—have long-term modernization needs of at least $15 billion. It is crucial that we provide a long-term assurance to these cities so they can undertake these high-priority projects to avoid continuing deterioration.

Madam President, by adding a fifth year to the authorization, we can allow for a reasonable reduction in the first 4 years of the authorization levels in the bill without risking damage to the continuity of the capital grant program. I should add that the administration's original bill proposed a 5-year discretionary program for the very same reasons that I am offering it today: to provide stability, to encourage States and local governments to continue the long, painstaking process by which major transportation decisions are made, to allow the Federal Government to plan and schedule its projects, and to acquire the continuity of the Federal transportation program. As the administration recognized in its original bill, it is possible over a 5-year authorization to permit UMTA to write letters of intent for new projects, while at the same time minimize the impact on Federal spending on an annual basis. For this reason, the administration supports this amendment.

Madam President, I urge my colleagues to support this amendment in the spirit of compromise to an effective public transportation program, but it also recognizes the Federal responsibility to do its share to minimize the consequences of inflation.

This has all been laboriously developed and worked out, discussed, and agreed to, by members, not only members of the committee, but the administration also. I believe the amendment puts everyone on a common course, both in terms of the years we will be addressing ourselves to, 5 years of authorization, and to get the money levels that I believe Senator MORGAN and the administration find acceptable.

Madam President, I have a letter dated September 26, 1978, from the Secretary of Transportation, Brock Adams, that affirms that which I have just stated. I ask unanimous consent 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., September 26, 1978.

Hon. HARRISON A. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This is to reaffirm the position of the Administration regarding the authorization levels in the transit legislation which I stated at our meeting of September 19.

The Administration strenuously objects to the additional $891 million authorization in Section 104(c) of S. 2441, and supports the Muskie-Proxmire amendment to strike those funds.

Apart from the striking of this $891 million authorization, pursuant to our agreement the authorizations for the transit program in FY '79, '80, '81 and '82 would be reduced by a total of $1 billion dollars. A new fifth year of Section 3 funding for FY '83 would be added at an authorization level of $1.58 billion. The new authorization figure for the transit legislation, exclusive of Interstate Transfers, would be $12.870 billion for FY '79–'82, plus the additional fifth year authorization for Section 3.

The Administration supports this approach to funding with the understanding that these authorizations represent the upper limit on the funding levels that are acceptable during the time frame covered by S. 2441. It is my strong desire that this point be emphasized when the House and Senate Conferees meet to resolve the differences on future highway and transit funding.

I deeply appreciate the effort which you have made to achieve this agreement. I believe that the transit legislation which has been developed in the Senate will enable the national public transportation program to maintain and expand vital services for millions of our citizens.

Sincerely,

BROCK ADAMS.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER (Mr. HODGES). The Senator from New Mexico.

Mr. SCHMITT. Mr. President, the managers on this side understand the linkage—pardon the expression—between the Senator from New Jersey's amendment and that of the Senator from North Carolina and concur in that linkage and in the motivations that lie behind it.

I think on balance this provides a very workable compromise for these two proposals.

We are willing to accept the amendment.

Mr. WILLIAMS. Mr. President, before we put the question, I thank the Senator from New Mexico. I also say that I welcome him to comanagership of this legislation.

I know Senator BROOKE has been called to important matters in our committee, which is simultaneously meeting, even though this comes from the Banking, Housing, and Urban Affairs

Committee. We have two acts in progress, a committee meeting and we have this legislation on the floor.

This is unique. My name is Harrison and my comanager's name is Harrison. There are two Harrisons in all Washington and here we stand side by side as partners on this bill.

Mr. SCHMITT. That is a good opening hand, I believe, a pair of Harrisons.

Mr. WILLIAMS. I would say that my life has been lightened a lot because most people do not call me by that name. I think the Senator has a nickname, too.

Mr. SCHMITT. I have, although a certain member of my immediate family, namely, my mother, does not like it very well.

But I assume the Senator has the same problem.

Mr. WILLIAMS. No, on the contrary, it was my grandfather, my mother's side, who said the name was too much and called me Pete a couple of minutes after I was born. But she likes it because it was her father's.

Mr. SCHMITT. We might also note your daughter-in-law, or son-in-law, happens to be a former resident of the town in which I was born in New Mexico. So the linkage is even greater between the two.

Mr. WILLIAMS. Good.

Well, we are in a cooperative venture here in many ways.

Mr. SCHMITT. Let us hope, as a result of our cooperation here, irreparable damage is not being done in the committee.

Mr. WILLIAMS. Mr. President, we have no further discussion.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

So the amendment (UP No. 1940) was agreed to.

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

Mr. SCHMITT. 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 Colorado.

AMENDMENT NO. 3310

(Purpose: To provide for a study to determine a mass transit allocation formula which takes air pollution into account)

Mr. HASKELL. Mr. President, I call up my amendment No. 3310 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL) proposes an amendment numbered 3310.

Mr. HASKELL. 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 72, lines 17 and 18, insert the following:

STUDY

SEC. 114. (a) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, within one year of the date of enactment of this section, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his findings with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including, but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including, but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meteorological, and other variations so that air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including, but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964;

(5) the relative weight which such air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

(b) There is authorized to be appropriated such amount as is necessary to carry out the provisions of this section.

Mr. HASKELL. Mr. President, the purpose of my amendment is to bring the resources of the Federal mass transit program to bear on the problems of urban air pollution with greater force and sense of purpose. This amendment directs the Department of Transportation, in consultation with the Environmental Protection Agency, to conduct a study to determine the feasibiltiy of including the nature and extent of an area's air pollution as a criterion in the distribution of mass transit funds. In conducting the study, the Department of Transportation and the Environmental Protection Agency would be required to determine the most appropriate and reliable means of defining and measuring air pollution, to determine those mass transit programs which most easily and appropriately lend themselves to using air pollution as a factor, and to consider the relative weight which such an air pollution criterion should be given in devising any revised funding formula. The study additionally directs the Department of Transportation to identify any alternative approaches to modifying the criteria for allocating mass transit funds which would assure full recognition of the vital role mass transit has to play in combating air pollution.

Mr. President, the Senate has frequently expressed its concern over the plight of our cities. Our cities are plagued with the problems of pollution and congestion, and the problems grow worse each day. The quality of life in our cities is deteriorating, they are no longer healthy places in which to live.

Part of the rationale for funding and developing mass transit is to reduce reliance on the automobile and thereby make headway in ridding our urban areas of unhealthy air. The automobile is presently the major source of air pollution, even in urban areas of heavy industrialization. According to the Environmental Protection Agency, the amount of automobile-related pollution is as high as 90 percent in some cities and accounts for at least 50 percent even in those areas with major sources of stationary pollution.

It is because of the automobile that 103 out of 105 urban areas do not meet the national ambient air quality standards for ozone, as required under the Clean Air Act. These 103 urban areas, where more than 100 million people reside, consistently experience oxidant levels above the standards. Mass transit programs which will reduce these dangerous emissions are imperative if we are to truly commit ourselves to resolving the problems of air pollution in our cities.

Despite the major role of mass transit in reducing air pollution, the funding formulas in current mass transit programs do not directly take into account the significant contributions which an effective mass transit system can make toward reducing urban air pollution. Mr. President, my amendment would provide the Congress with the factual information necessary to intelligently discuss this possibility. The study called for in my amendment will lay the necessary empirical groundwork for the Congress to devise a funding scheme which directly takes into account the extent of an area's air pollution in distributing mass transit funds. It is a sound and responsible beginning toward solving a problem—air pollution—which if left unattended will literally choke our cities.

Mr. President, I would like to close by expressing my great appreciation to Senator WILLIAMS for his support and assistance in getting this amendment adopted by the Senate. I would also like to extend my warmest thanks to Senator BROOKE for his cooperation and support.

Mr. President, I have discussed this amendment with the distinguished manager of the bill. I understand it is satisfactory to him. I wish to express my great appreciation for his support and assistance.

I have also discussed this with Senator BROOKE, although I have not had an opportunity to discuss it with Senator SCHMITT, not realizing that he would be the minority manager of the bill, but I hope this amendment is satisfactory to him.

Mr. WILLIAMS. Mr. President, I have had the opportunity to discuss the amendment offered by the distinguished Senator from Colorado. I discussed this

at length, and over many weeks. The more I know of this, the more I see its importance, and how this study and knowledge can advance significantly what we know is one of the most beneficial objectives of public transportation in urban areas; namely, reducing aid pollution. This kind of knowledge can be significant in advancing one of the major missions of public transportation. I strongly support it.

Mr. HASKELL. I thank the Senator very much.

Mr. SCHMITT. Mr. President, this seems to be a very useful effort to make, although I think one should be very cautious in predicting the outcome of the study.

As the Senator from Colorado is well aware, in some mass transit systems, for a variety of reasons, there may actually be a net contribution to pollution, because of low ridership or old buses or some other factor that is unique to a particular system.

I think it is important to understand that, if only to determine what needs to be done in order to bring mass transit systems specifically into compliance, if you will, with air pollution requirements.

So this side accepts the amendment and compliments the Senator on his proposal.

Mr. HASKELL. I appreciate the comments of the distinguished Senator from New Mexico.

Mr. SCHMITT. Also, I hope the record shows, as a result of this, that there is a requirement on the industry and on the Federal Government to look at the technological advancements that are required in order to solve whatever pollution problems may exist within mass transit systems.

Not too many years ago, I was overseeing in NASA a study for the Department of Transportation, looking at alternative propulsion systems for buses. In the process of that study, it became clear that there certainly were better systems even presently available, in terms of technology, although not quite available in terms of economics, that would tend to solve some of the problems of which we are all aware.

I hope that in the process of this study, those responsible for it will look at that NASA study as well as other information, to determine not only a formula question, but also the technological question of where we should be headed in the long term.

Mr. HASKELL. I think the Senator's comments are extremely well taken, and I appreciate the Senator's dialog.

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1941

(Purpose: Exempt retread tire manufacturers from recordkeeping provisions of section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966)

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1941.

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

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

The amendment is as follows:

At the end of title III thereof, add the following new section:

"SEC. 114. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting ", except the manufacturer of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.".

Mr. FORD. Mr. President, I have talked with both sides of the aisle with reference to this amendment. It is identical to one that was passed by the Senate previously without any objection whatever.

We are trying to be very careful to assure the removal of unnecessary regulations that are being imposed upon small businesses, such as retread tire manufacturers and sellers, be eliminated.

Since the people at the Department of Transportation indicate that this regulation is not needed, it would save the handling of millions of forms and approximately $3 to $5 million annually.

The regulation provides that you have to file a report on every tire that is recapped, in case you might have to recall that tire. There have been 66 million reports that have been filed, but only eight retread tires have been recalled over the last 6 years. So I do not believe there is any necessity for the placing of these burdensome regulations on small businessmen, and I hope that the managers of the bill will accept this amendment.

Mr. WILLIAMS. Mr. President, I am happy to have the Senator from Kentucky bring forward this amendment. This is a measure that has passed the Senate before.

Mr. FORD. It did, without objection.

Mr. WILLIAMS. I am in favor of it and am happy to have the opportunity to be associated more intimately with this matter. It is another of our objectives here—to reduce the unnecessary burdens of paperwork upon business.

Mr. FORD. The Senator from New Mexico probably particularly understands that this amendment is a small step for eliminating regulation, but a giant step for the small businessman.

Mr. WILLIAMS. Probably the Senator from New Mexico wishes he had said that. [Laughter.]

Mr. SCHMITT. The Senator from New Mexico definitely wishes he had said the original words that were just paraphrased by the distinguished Senator from Kentucky. Unfortunately, No. 12 is not too bad, but "it ain't No. 1."

The Senator from Kentucky is absolutely correct in his remarks about this amendment, and we support it fully on our side.

I add, however, that on occasion the Senator from Kentucky and I disagree on how best to relieve paperwork burdens and regulatory burdens. But I think we certainly are in agreement that that should be done. Wherever we can take a small step for the small businessman, such as this, we certainly should cooperate and do so.

Mr. FORD. I thank the distinguished Senator from New Mexico and the distinguished Senator from New Jersey for their cooperation in this matter.

I yield back the remainder of my time.

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. FORD. I thank both my colleagues for their cooperation.

UP AMENDMENT NO. 1942

Mr. WILLIAMS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1942.

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

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

The amendment is as follows:

On page 41, line 11, strike out "and".

On page 42, line 13, strike the period and insert in lieu thereof "; and".

On page 42, between lines 13 and 14, insert the following new paragraph:

"(F) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

On page 46, line 18, before the period, insert a comma and the following: "and not more than $45,000,000 of the total amounts appropriated pursuant to this paragraph shall be available for projects approved under subparagraph (F) of section 3(a)(1)".

Mr. WILLIAMS. Mr. President, the purpose of this amendment is to add a category of capital grant assistance to those activities already eligible under section 3 of the UMTA Act as amended by S. 2441. The new category is designated to meet the needs that have become clear for commuter services operating in the Northeast Corridor. The amendment would not increase the funding in the bill.

Mr. President, the Northeast Corridor improvement project was enacted in 1976 to create the first high speed, high quality rail passenger service between the major

urban centers from Boston to Washington. The Corridor project was intended to result in major improvements in service for intercity and commuter passengers. Unfortunately, because of a compromise at the time of enactment with the Ford administration, the funding was cut back to the existing level, and a number of project elements were deleted, including rolling stock, certain station improvements, and so forth.

Certain portions of the physical plant involved are in need of replacement. The Corridor as a whole needs a substantial amount of work simply to overcome the decades of deferred maintenance under the ownership of the private railroads. The electrification system, for example, is over 40 years old and operates on a type of electricity that will no longer be produced within a few years.

Replacement of electrification and extension of it to Boston from New Haven with modern, commercially available electricity, will be of great benefit to all users of the corridor, but at the same time it presents problems for existing users—both intercity and commuter. One obvious problem is that the existing rolling stock will not operate on the new system. For the commuter agencies, this means that as a result of this Federal project, they will need to either reelectrify their brancn lines or retrofit their cars to operate with the dual capability on both kinds of electrification.

Since the Northeast corridor project has insufficient funds currently authorized to even complete the needed Physical plan improvements, diversion of funds from this source (as has been proposed by the DOT in order to "save" money) will only result in an inability of this improvement project to meet its statutory goals, to the detriment of both commuters and intercity passengers. The existing project simply cannot afford to reelectrify lines used by commuter agencies or in the alternative buy them rolling stock with dual capability. Furthermore, it is entirely possible in various locations that the relevant commuter authorities might want to undertake additional improvements concurrently with the improvements being undertaken as part of the corridor project in order to increase line capacity, operating flexibility, and so forth.

Mr. President, this amendment would provide a solution to some of the problems experienced by the corridor project and the commuter services operating on the corridor. The Secretary of Transportation would be given discretion to fund projects for the modification of equipment and fixed facilities (other than stations) which he determines to be necessary to avoid any adverse impacts caused by the corridor project. In a departure from the match requirements under section 3, any grants approved under this amendment would not require any local share, as provided in the "4–R" Act of 1976. Under the amendment, not more than $45 million may be used for this activity.

Mr. President, I believe the amendment is entirely consistent with the Secretary's present efforts to coordinate the actions of the Urban Mass Transportation Administration and the Federal Railroad Administration to assure that funds are used efficiently in the corridor. The law (45 U.S.C. 854(c)) already requires the Secretary to determine that tion facilities in the corridor by the various modal administrations be accomplished in a complementary manner in order to maximize public benefit.

Mr. President, I urge the adoption of the amendment.

Mr. President, again I state this is not an addition. This opportunity for section 3 funds to go into the corridor project will not add any money. It just clarifies and makes it possible for the existing money to be available for this purpose and it certainly advances not only the specific purpose of this legislation but makes it possible to keep the corridor project advancing on the schedule that we hope for.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, we have not had a chance to study this particular amendment in detail on this side, but it is my understanding that it is merely a clarification of authority for section 3 funds to be utilized in the Northeast corridor. There is no suggestion here of increased funding or anything other than if the Senator will respond, something that already happens in many areas. Is that correct? Is it a clarification?

Mr. WILLIAMS. This kind of capital activity and capital needs is what section 3 money is available for, yes. And as to the funding, while it does not increase the funding under section 3, the money could come from section 3 for these purposes and at the discretion of the Secretary and the funding would be as it is for because this is in the Northeast corridor project. It would be on a same basis but using this fund for that purpose rather than getting more, seeking more money for the Northeast corridor.

Mr. SCHMITT. Based on this colloquy, I see no reason why the minority side would have any objection to this amendment. I might also add a personal note that I cannot very well have an objection, because so many people now served by the Northeast Corridor transportation system seem to be thinking about moving to New Mexico so I certainly would not want to do anything that would hurt their transportation needs.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to

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

Mr. SCHMITT. 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 following staff members of the Environment and Public Works Committee be granted the privileges of the floor during this debate. Dick Harris, Kathy Cudlipp, Larry Roth, Lee Fuller, and Barbara Webb.

This is during consideration of title III of S. 2441, which will go to third reading and then will be combined with S. 3073.

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

Are there further amendments to be proposed?

Mr. WILLIAMS. Yes.

UP AMENDMENT NO. 1943

(Purpose: To change the planning provisions of the bill)

Mr. WILLIAMS. 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 New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1943.

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

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

The amendment is as follows:

On page 36, in the matter between lines 10 and 11:

(1) Strike out—

"TITLE I—PUBLIC TRANSPORTATION"

(2) After "Sec. 105.", strike out "Technical" and insert in lieu thereof "planning and technical", and

(3) Strike out—

"TITLE II—PLANNING

"SEC. 201. Planning and consolidated planning fund.".

On page 36, strike out line 11.

On page 38, line 7, strike "and highway".

On page 48, strike lines 4 through 8, and insert in lieu thereof the following:

"(f) In each fiscal year, 2 per centum of the funds appropriated under subsections (c) (3), (d), and (e) of this section shall be set aside and used for planning activities and technical studies under section 8 of this Act.

On page 60, strike lines 1 through 3 and insert in lieu thereof the following:

PLANNING AND TECHNICAL STUDIES

SEC. 105. (a) Sections 8 and 9 of the Urban Mass Transportation Act are repealed.

(b) The Urban Mass Transportation Act is amended by inserting after section 7 the following new section:

PLANNING AND TECHNICAL STUDIES

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation resources and to meet needs for new transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b)(1)(A) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

"(B) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 percent of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area redesignate as the metropolitan planning organization any representative organization.

"(C) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

"(2) The planning process for areas not within urbanized areas shall be carried on by the State in cooperation with local officials and shall provide for coordination with local planning activities.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve any program of projects in whole or in part unless (1) the Secretary finds that the planning process on which the program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.".

Beginning with page 72, line 18, strike out all through page 78, line 19.

Mr. WILLIAMS. Mr. President, this amendment is a substitute for title II of S. 2441. The amendment would amend section 105 of S. 2441 to create a single new planning section for the UMTA program. It would incorporate the existing requirements and authorizations for planning activities currently scattered throughout the UMTA Act into a new section 8.

This new section 8 is intended to simplify and clarify the planning and technical studies activities conducted pursuant to the UMTA Act. It is consistent with the joint planning process currently required by DOT regulations, and can be a basis for the further evolution of joint highway and transit planning.

The new section 8 would establish the basic requirement that plans be based on transportation needs and related matters such as social, economic, energy, and environmental goals and objectives. It underscores the need for alternatives analysis, and requires that the level of planning effort be related to the complexity of an areas problems.

It would establish a statutory mandate that planning in urbanized areas should be conducted by local officials acting through the metropolitan planning organization (MPO) in cooperation with the State. This is the same requirement that is currently contained in joint FHWA/UMTA planning regulations. For small urban and rural areas, the planning process would be carried on by the State in cooperation with local officials.

The procedures for designating or redesignating MPO's in urbanized areas would be specified. Within 1 year of enactment, by agreement of 75 percent of local governments, an MPO designation could be changed. Otherwise, designations of MPO's must be by agreement between local government and the Governor.

Funding the UMTA planning program will be through a set-aside of 2 percent of the appropriated funds for the discretionary formula, and small urban and rural programs.

Mr. President, S. 2441 contains a unified transit and highway planning program which I believe is an important step in the direction of a balanced approach to meeting our surface transportation needs.

This concept of a unified planning program was included in President Carter's original transit and highway legislation. In my judgment, it is one of the most progressive and important provisions of the legislation. Neither highway nor transit planning can be done independently of the other; these two systems are closely intertwined. Plans for each are clearly dependent on the other.

Currently, the Department of Transportation has been able to achieve a significant degree of joint planning by using its administrative powers. The bill would go even further by strengthening, simplifying, and supplementing that process. It would also resolve many of the doubts and uncertainties that have inhibited the program because of its direct and non-statutory origins.

The planning provision, as reported by the Banking Committee, modifies the original proposal but retains the essential concept of a new balance of responsibilities between State and local governments. It would recognize the important role that metropolitan planning organizations have in making highway and public transportation decisions in our larger cties. I believe it is important to assure the proper role of MPO's in the local planning process. This legislation would carefully structure a framework for balancing the legitimate interests and roles of both the States and the local entities in that process.

It is with some reluctance and disappointment that I must concede the insurmountable difficulty—at least at this time and in this bill—of overcoming the elements of distrust and protectionism that too often seems to govern relations between States and localities.

Controversy has swirled around the idea of truly consolidated planning since it was first proposed. The administration, working with the Banking Committee and the Environment and Public Works Committee worked long and hard to find a common ground for a unified program acceptable to both State and local interests.

Unfortunately, it appears that the time is not ripe to develop a strong, balanced, and mature planning process. Nevertheless, I believe this is a goal we should continue working toward and I urge the respective parties to sit down and hammer out a new approach to planning that will assure the adequate representation of all interests, and more importantly encourage a planning process focused on transportation needs without geographical or modal bias.

Mr. President, I offer this amendment as a satisfactory interim substitute for a truly unified planning process. I urge its inclusion in this legislation, while I also urge that greater efforts be made to resolve the differences that have prevented us from taking a step toward more effective planning.

Mr. President, this has been developed, this amendment, and a resolution at this time of some of these difficulties has been worked out with the most distinguished Senator from Texas (Mr. BENTSEN) who handled the other part of this bill with such great distinction here on the floor a few weeks ago, and who is greatly interested in this aspect. His ideas were brought to this method of approach we are using as a result of this amendment to the planning process.

● Mr. BENTSEN. Mr. President, I commend my distinguished colleague from New Jersey, Senator WILLIAMS, for his efforts on behalf of unified transportation planning. The respective staffs of the Banking and Urban Affairs Committee and the Environment and Public Works Committee diligently pursued a workable framework for joint highway and transit planning, and they, too, are to be commended.

Unfortunately, I must concur in Senator WILLIAMS' remarks concerning the insurmountable difficulties in achieving agreement on this issue at this point in time. While we can all perceive the advantages of consolidated planning, there are problems inherent in the divergent structures of the highway and mass transit programs which, for the moment at least, preclude a workable solution.

The Federal-aid highway program is a federally assisted State program. What this means is that the States, not cities or counties, are responsible for the programing of projects, their actual construction, and their subsequent maintenance.

This basic framework meshes well with the realities of highway planning in urbanized areas. Metropolitan highway planning, as opposed to transit planning, must grapple with factors that transcend regional boundaries, such as intra- and interstate traffic patterns, and connectivity and continuity of routes. This sort

of planning requires the coordination which can only be provided at the State level.

The need for such State coordination is confirmed by reference to a second basic principle of the highway program. Federal highway assistance has always been limited to routes of national or statewide importance, and this policy is embodied in the concept of Federal-aid highway systems. The intent to exclude routes of purely local significance is manifest in even the most localized system, the urban system, which consists of arterial routes and collector routes in each urbanized area.

It is for these reasons that we have been unable to accept the subject amendment and applaud its withdrawal. All is by no means lost, however. Federal policy already encourages multimodal transportation planning, and Department of Transportation regulations already provide for a joint highway/mass transit planning process for metropolitan planning organizations. Nevertheless, I join with the distinguished chairman of the Banking and Urban Affairs Committee in calling for renewed efforts in the future to improve coordination of transportation planning activities.●

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, we have no problems with this amendment on this side, and we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1944

(Purpose: To encourage single programs to meet transportation needs on an intermodal basis, encompassing capital expenditures for both rail and bus projects, and a combination of funds available under section 3 and section 5)

Mr. WILLIAMS. Mr. President, I have an amendment that I send to the desk which I am introducing for myself, my colleague Senator CASE, and the Senators from New York (Mr. JAVITS and Mr. MOYNIHAN).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and others, proposes an unprinted amendment number 1944.

Mr. WILLIAMS. 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 45, strike out lines 12 and 13 and insert in lieu thereof the following:

(d) Section 3(h) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(2)(F).".

Mr. WILLIAMS. Mr. President, this amendment would add a new provision to the Urban Mass Transportation Act of 1964 in place of existing section 3(h) which will be repealed. The purpose of the amendment can be stated very simply. It would amend S. 2441 to encourage and permit comprehensive programs to be developed in order to meet transportation needs on an intermodal basis, encompassing capital expenditures for both rail and bus and using a combination of funds available under sections 3 and 5 of the UMTA Act, as revised by this bill.

As reported by the committee, S. 2441 would place restrictions on the availability of section 3 funding for bus and bus-related programs. The restrictions are intended to channel most routine bus purchases and bus related construction activities into the section 5 formula grant program; However, section 3 funds would remain available for these activities under limited and special circumstances. This would be a significant improvement over current law because most routine bus related capital activities are predictable and recurring and should not have to compete with activities funded through the discretionary grant program.

While some degree of rigidity is appropriate from both an administrative and grantee standpoint, if the two major grant programs are too inflexible, the effect may be to stifle innovation and creative thinking in the public transit field. This may be precisely the effect of S. 2441 on a major breakthrough in financing transportation improvements in my own State of New Jersey. The problems have been brought to my attention by the State of New Jersey, the Port Authority of New York and New Jersey, and by the New Jersey department of transportation.

The State of New Jersey has developed a combined plan of rail and bus transportation improvements and submitted them as a single project to UMTA. The single program would be supported by the port authority's contribution of $120 million to be used as the local match. Using the Port Authority moneys as a local match in this fashion would provide up to a total of $600 million in rail and bus improvements for the people of New Jersey. A similar proposal is now under consideration for the State of New York.

Mr. President, this is a novel approach to financing public transportation. Unless S. 2441 is further amended, it is not altogether clear that UMTA could approve and fund this innovative approach, although it would be permitted to do so under present law and although UMTA is enthusiastic about the plan.

In a letter to Mr. Allen Sagner, chairman of the port authority of New York and New Jersey, UMTA Administrator Richard S. Page endorsed this new concept in financing and implementing the public transit program in the New York and New Jersey area. To quote Dr. Page:

It seems to be most promising and when developed and processed through implementation, will greatly enhance the quality of transit service provided in Northern New Jersey. We are pleased to work with you and the State of New Jersey in its refinement. Further consideration and official approval of this concept will be contingent upon the *development of a single project that encompasses both bus and rail improvements* (and) favorable Congressional action on pending public mass transit legislation . . . (emphasis added).

Mr. President, this program for capital improvements may be complicated—unintentionally and unnecessarily—by the pending legislation.

Mr. President, in those cases in which a State or local public body is not reasonably able to fund capital improvements for either rail or bus, but is able to fund one particular mode, this amendment would permit the State's 20 percent share of the total program to be made up of capital or new capital facilities related to one mode rather than a pro rata share of each of them.

This amendment will insure the availability of intermodal funding by permitting the use of section 5 bus funds for railroad funding, but only if an equivalent amount of bus funding is provided by the local public body.

In New Jersey and New York, where funds are available for buses and bus related facilities through the joint agency of these two States, but funds are not available for railroad improvements, the amendment would permit port authority funds to be treated as the local share to draw down the available section 5 funds even if the Federal funds are used for purposes not related to buses.

Mr. President, I move the adoption of my amendment. It is supported by UMTA and the Department of Transportation.

Mr. President, I ask unanimous consent that the correspondence concerning the amendment between myself and Secretary Adams be printed in full in the RECORD.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR PETE: Thank you for your letter of July 25, 1978 that proposed a new subsection 3(h) to make clear that Congress intends to encourage the development of large bus, bus facility and rail projects that combine expenditures from both section 3 and section 5 capital funds. I appreciate the initiative that you have taken to clarify the proposed language.

The Administration's proposed transit bill provided for the funding of routine capital projects with section 5 capital funds and to use section 3 funds only for non-routine projects such as major fleet expansions and new starts. We believe that this mechanism would minimize red tape for applicants and help state and local govern-

ments regularize transit programing decisions.

S. 2441 as it was reported from Committee, retained this concept but applied it only to buses and bus facilities. It would forbid the Secretary of DOT to approve a bus or bus facility project under the discretionary section 3 program unless he finds that "such project cannot reasonably be funded" from section 5 capital apportionments. We support this provision because it will ensure that applicants turn first to section 5 formula apportionments for bus and bus facility projects.

The new subsection 3(h) that you propose would allow the Secretary to approve a combined project that uses both section 3 and section 5 funds provided that the "scope of the combined project" includes a bus and bus facilities component which "would amount *at least* to the amount of funds that would have been available for that purpose under subsection 5(a)2(F)." (emphasis added). This language would undoubtedly provide the flexibility to fund a massive bus and rail project where enough buses and bus facilities will be purchased to exhaust all of the subsection 5(a)2(F) funds. I believe, however, that it places an unnecessary and unwise precondition on the scope of the combined project because DOT could not approve any such combined project unless the applicant spent an amount equivalent to "at least" all of the section 5(a)2(F) funds on the buses and bus facilities. In certain instances the requirement would require applicants to develop oversize bus projects to take advantage of this provision.

The Department supports the basic concept that you propose because it holds the promise of providing additional flexibility to local public bodies while still maintaining the integrity of routine bus and bus facility purchases under section 5. We have discussed these issues with your staff and the Department believes that the following language will achieve your objectives while, at the same time, establishing a procedure that is easy for the Department to administer.

Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act; Provided, however: that in that project no section 3 funds shall be expended in connection with the acquisition of buses, bus equipment or bus related facilities unless the combined project includes new buses, bus equipment or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)2(F).

The language up to "Provided" permits the Secretary to approve combined projects that use Federal funds from sections 3 and 5. This combined project will not affect the authorization or appropriation process since Federal funds flow to the combined project from the traditional section 3 and section 5 categories. What this phrase does do is to permit greater flexibility for local governments to "package" the size, scope, and delivery of capital grant funds and to develop local share match funds.

The language beginning with the word "Provided" establishes a statutory safeguard for this combined project to ensure that applicants for bus and bus related funds look first to the section 5 program to fund these routine needs. You might wish to emphasize on the floor of the Senate that the Secretary should consider subsection 5(a)2(F) apportionments available in the current year, prior years, and future years before approving the use of section 3 funds for bus and bus related facilities in a combined project. This would ensure that applicants do not program their bus expenditures to follow the letter, but not the spirit, of this proviso.

Thank you for the opportunity to comment on your amendment. I look forward to working with you in the issues that face the pending transit legislation.

Sincerely,

BROCK ADAMS,

U.S. SENATE,
Washington, D.C., July 25, 1978.

HON. BROCK ADAMS,
Secretary of Transportation,
Washington, D.C.

DEAR SECRETARY ADAMS: S. 2441, the Federal Public Transportation Act of 1978, will be scheduled for consideration by the full Senate in the near future. As a result, I would like to receive the Department's comments on the following floor amendment which I intend to offer.

As you are aware, as reported by the Committee, S. 2441 would repeal existing section 3(h) of the Urban Mass Transportation Act of 1964. In place of existing section 3(h), I propose to add the following:

"Notwithstanding any other provision of this Act, the Secretary may, upon application of a local public body, utilize funds available to such local public body under subsection 5(a) 2(F) of this Act for any purpose for which funds may be utilized under section 3; provided, however, that the scope of the combined project must include a level of replacement and purchase of buses and related equipment or the construction of bus related facilities the estimated cost of which to the public body would amount at least to the amount of funds which would otherwise have been available for that purpose under subsection 5(a) 2(F)."

The purpose of the amendment is to encourage the development of innovative approaches to financing public transportation. In its present form, because of the rigid structure of the section 3 and section 5 programs, S. 2441 may preclude the development of comprehensive approaches to public transit capital expenditures. Without further clarification, the success of the programs now in development involving the States of New York and New Jersey and the Port Authority would be dependent upon interpretations of admittedly unclear language and Congressional purpose. The problem arises because of the requirement in S. 2441 that section 5 formula bus apportionments must first be fully utilized before any routine bus capital expenses are eligible under the section 3 capital program. The purpose of this amendment would be to make clear that public policy encourages the development of large bus, bus facility and rail projects that combine expenditures from both section 3 and section 5.

Since it is likely that S. 2441 will be scheduled for floor action in early August, I would very much appreciate your prompt attention and reply to this letter.

With every good wish, I am

Sincerely,

HARRISON A. WILLIAMS, Jr.

Mr. WILLIAMS. Briefly stated, this is a cooperative effort of the two States represented in the offering of this amendment, New York and New Jersey. It will make it possible for us to greatly improve our effort to rationalize and make more efficient and effective transportation within the bistate area.

Mr. SCHMITT. Mr. President, we have no difficulty with this amendment. I again would not want to do anything but to increase the transit capabilities of the residents of New York and New Jersey. We enjoy very much the transplants we have had in New Mexico—not that I think it is because of the bad transportation systems that they come and see us, but, nevertheless, I think we ought to improve transit services for that area.

Mr. WILLIAMS. With this cooperative feeling it might occur to me to create some more amendments.

[Laughter.]

I appreciate the comments so much and the friendship so much of the Senator from New Mexico. I thank the Senator from New Mexico.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the committee substitute? The Senator from Maine.

AMENDMENT NO. 3458

(Purpose: To reduce the authorization for operating subsidies)

Mr. MUSKIE. Mr. President, I call up my amendment 3458.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE), for himself, Mr. BELLMON, Mr. PROXMIRE, and Mr. LUGAR, proposes an amendment numbered 3458.

Mr. MUSKIE. Mr. President, I will 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 47, beginning with "$1,762,000,000" on lines 4 and 5, strike out all through the colon on line 12.

On page 48, strike out lines 4 through 14 and insert the following:

"(f) In each fiscal year, 2 per centum of the funds appropriated under subsections (c)(3), (d), and (e) of this section shall be set aside and used for consolidated planning activities under section 8(e) of this Act.

"(g) After the deductions required by subsection (f) of this section have been made, there shall be set aside, for the purposes of section 5(a)(3) of this Act, not to exceed 1½ per centum of the remaining funds appropriated under subsection (d) of this section."

On page 50, lines 24 and 25, strike out "the second sentence of".

On page 55, line 7, insert "(2)" after "5(d)".

Beginning with page 55, line 9, strike out all through page 56, line 11.

Mr. SCHMITT. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. Yes.

Mr. SCHMITT. The Senator from Massachusetts would very much like to be here to assist the Senator in his efforts. I wonder if we could have a brief quorum call until we ascertain his whereabouts? I believe he is on his way over here, but we are not absolutely sure. Is that permissible?

Mr. MUSKIE. It is perfectly agreeable to me.

Mr. WILLIAMS. Of course, the Senator from Maine knows Senator BROOKE desires to be, and really needs to be, here. I wonder if we could lay his amendment aside, if there is going to be a little delay, just to do some technical amendments on the bill?

Mr. MUSKIE. The Senator has some technical amendments?

Mr. WILLIAMS. Just a few, and we can stop that when the Senator from Massachusetts appears.

Mr. SCHMITT. It is my understanding it will not be longer than 5 minutes, probably less. He is on his way.

Mr. MUSKIE. I have no objection to laying the amendment aside temporarily for the purpose of considering technical amendments. I would like my amendment to be considered following those amendments.

Mr. WILLIAMS. I am sure they are technical. There might be problems, but if there are, we would lay them aside.

Mr. MUSKIE. I will agree to laying this aside so that the distinguished floor manager can proceed as suggested.

Mr. SCHMITT. Mr. President, I believe then there is a unanimous-consent request pending?

The PRESIDING OFFICER (Mr. CLARK). Without objection. the amendment of the Senator from Maine will be temporarily laid aside.

UP AMENDMENT NO. 1945

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1945.

Mr. WILLIAMS. 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:

(a) On page 44, line 10, after the period, insert the following:

"The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment."

(b) On page 44, line 18, strike out the period, insert a comma and add the following:

"nor shall the total amount covered by new letters issued exceed any limitation that may be specified in an appropriations act."

On page 56, line 24, redesignate subsection (c) of section 104 as subsection (d), and redesignate succeeding subsections of section 104 as subsections (e) through (i) respectively.

On page 64, line 18, strike "Act".

Mr. WILLIAMS. This amendment contains three technical changes to S. 2441, and one change which is in the nature of a technical amendment.

The first amendment modifies the language of section 3(a)(4) of the UMT Act as in appears in section 102(a) of S. 2441, to clarify that letters of intent shall be issued only in amounts sufficient to cover operable segments. It has been agreed by the administration and representatives of the relevant Senate committees that this is the intent of this provision, therefore specific language should be added to clarify this point.

Similarly, it is the general purpose of the letter of intent provision that the total outstanding amount covered by letters of intent will not exceed either total authorizations or any limitation that may be specified in the appropriation process. This amendment adds clarifying language to that effect. While it is not required that such a limitation be imposed in the appropriations process, this language is added to assure that the appropriations process is not unduly restricted.

The second amendment corrects a mistake in the lettering of subsections under section 103 of the bill due to inadvertant inclusion of two subsections "(c)."

The third amendment corrects a typographical error in the printed bill.

Mr. SCHMITT. Mr. President, it is my understanding that the second and third of these amendments are truly technical. The first one has some additional substance and implications, but they are ones which are clearly of interest to the Budget and Appropriations Committees. Therefore, on this side, we have no objection to them.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. SCHMITT. I ask unanimous consent that Patty White of Senator HAYAKAWA's staff be granted the privileges of the floor throughout the consideration of this measure.

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

UP AMENDMENT NO. 1946

Mr. WILLIAMS. Mr. President, I send to the desk another 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 New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 1946.

Mr. WILLIAMS. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

In page 61, strike lines 23 and 24;

On page 62, strike lines 1 and 2 and substitute the following:

"(3) the term 'Governor' means the ranking executive officer or his designate for each of the jurisdictions included in the definition of 'States'; ";

On page 63, strike lines 16 through 18 and substitute the following:

"(11) the term 'States' means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, including the Northern Mariana Islands; and ".

Mr. WILLIAMS. Mr. President, this amendment would revise the definitions of the terms "States" and "governor" in the Urban Mass Transportation Act. This amendment is offered on the request of the Department of Transportation.

The existing definition of "States" includes "the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States." So long as the UMTA program has been an "urban" program, the question of which possessions or territories of the United States were eligible for transit grants presented little problem. However, S. 2441 would establish a formula program of grants for small urban and rural areas. Since funds would be specifically apportioned to each eligible area, the question of which possessions are eligible becomes relevant.

This amendment proposes to clarify the question by adopting the same list of jurisdictions that are eligible to receive Federal highway funds under title 23, United States Code—including the new territorial highway program proposed in S. 3073. Under this provision the following jurisdictions would be eligible in addition to the States: Puerto Rico; the District of Columbia; Guam; American Samoa; the Virgin Islands; and the Trust Territory of the Pacific Islands, including the Northern Mariana Islands.

Under this approach, we avoid the ambiguity of the current language and lessen the chance that funds would be apportioned to rural areas and not be obligated.

This amendment also conforms the definition of "Governor" to be consistent with the definition of "State."

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Administrator of the Urban Mass Transportation Administration, Mr. Page, together with enclosures.

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

DEPARTMENT OF TRANSPORTATION
URBAN MASS TRANSPORTATION ADMINISTRATION

Washington, D.C.

Hon. HARRISON A. WILLIAMS, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: As we approach Senate floor debate on the provisions of S. 2441, I hope that we can continue the helpful exchange of ideas that have characterized the development of the new bill. There are, of course, a number of important issues that will face the Senate and later the Conferees as the Congress charts the course for Federal assistance to public transportation in the next decade. However, I would like to take this opportunity to clarify one issue that we have been discussing with the staff of the Senate Banking Committee. I would be glad to discuss any other issues at your convenience.

S. 2441 and its companion bill in the House, H.R. 11733, repeat the definitions of "States" and "Governor" that are in the existing Act.

"States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the *possessions of the United States*. (emphasis added)[1]

"Governor" means the Governor or his designate, of any one of the fifty states or Puerto Rico, and the Mayor of the District of Columbia or his designate.[2]

Under these definitions, we have provided Federal transit funds to possessions of the United States such as Guam and the American Virgin Islands. We have denied assistance to the Trust Territory of the Pacific Islands since it is not a United States possession but is administered by the United States on behalf of the United Nations. The inclusion of "possessions of the United States" in the definition of State has created very few problems while we were administering an "urban" mass transportation program.

However, both the Senate and House bills propose to create within U.S. DOT a rural transit assistance program that would be apportioned to each "State"[3] on the basis of non-urbanized population. Possessions of the United States that could be included within the definition of State, depending on the Congressional intent, are: American Samoa; Baker, Howland and Jarvis Islands; the Canal Zone, Canton and Enterbury Islands; Guam; Johnston Island; Kingman Reef; Midway Island; Navassa Island; Palmyra Island; Virgin Islands and Wake Island. Puerto Rico and the Trust Territory of the Pacific Islands are not considered possessions and the legal status of the Line, Ellice, Phoenix, Tokelau and Northern Cook Islands are the matter of an international dispute.

We would propose to clarify this issue by adopting the same list of jurisdictions that are eligible to receive Federal Highway Administration funds under the provisions of the definition of "State" in section 101 of Title 23, United States Code or under the "Territorial highway program" of section 215 of Title 23, United States Code, as it would be amended by section 104(a)(18) of S. 3073 and section 104(a) of H.R. 11733. The language for this revised definition is shown in Enclosure No. 1. This language would avoid the ambiguity of the current language and would lessen the chance that funds would be apportioned to rural areas and not be obligated. Of course, if a jurisdiction were apportioned funds and chose not to use those funds, those funds would be reapportioned under the provisions of section 18(b) as proposed by section 110 of S. 2441.

An ancillary problem exists with the definition of Governor described on page 1. The definition of Governor does not describe who should act as the executive officer in areas other than the 50 states, Puerto Rico, and the District of Columbia. This is an anomaly of the current law. Enclosure No. 2 presents language for a conforming amendment.

Thank you for the opportunity to comment on this issue. I would appreciate your efforts to clarify this issue so that we can avoid a lengthy administrative rulemaking process that would otherwise be necessary before we could apportion funds to any rural area.

Sincerely,

RICHARD S. PAGE.

ENCLOSURE NO. 1: AMENDMENT TO S. 2441

On page 63, strike lines 16 through 18 and substitute the following:

"(11) the terms 'States' means the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands, including the Northern Mariana Islands; and"

ENCLOSURE NO. 2: AMENDMENT TO S. 2441

On page 61, strike lines 23 and 24 and on page 62 strike lines 1 and 2 and substitute the following:

"(3) the term 'Governor' means the ranking executive officer or his or her designate for each of the jurisdictions included in the definition of 'States';"

Mr. SCHMITT. Mr. President, this amendment obviously corrects an inequity that has gradually resulted as we changed the scope of the program, and we have no objection to it on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SCHMITT. 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.

Mr. SCHMITT. Mr. President, I ask unanimous consent that James Lockemy and Eddie Twilley of Senator THURMOND's staff be granted the privileges of the floor.

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

Mr. WILLIAMS. Mr. President, I have developed, with the Senator from Indiana (Mr. LUGAR), a colloquy dealing with the joint development and urban initiative features of S. 2441. The Senator from Indiana was very constructive in his thoughts about and specific additions to the bill in the committee. This colloquy develops some very helpful thoughts in relationship of the joint development urban initiatives that are provided in this bill, and I ask unanimous consent that this amplifying colloquy be printed in the RECORD at this point.

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

● Mr. LUGAR. Mr. President, I would like to discuss section 3(A)(1)(D) of the bill with you in order to more clearly understand the purposes and scope of the joint development projects to be funded by the Secretary of Transportation.

Mr. WILLIAMS. I would be most happy to discuss this important section of the legislation with the Senator from Indiana.

Mr. LUGAR. The committee report, 95-857, states: "This provision—would authorize the Secretary to make grants—to finance the additional cost incurred in connection with projects. These 'joint development' projects would involve the coordinated planning and development of transportation facilities and the adjacent land in order to maximize the economic and social return of the public investment, foster more efficient use of urban land and bring about urban development—development purposes which are physically and functionally related."

Would a project which would reduce congestion in a city and increase transit ridership by connecting a private development project with the central transfer point of a metropolitan transit system be eligible for funding under this section?

Mr. WILLIAMS. Yes, I assure my colleague that such a project would not only be eligible under the bill, but it would be the kind of project envisioned as a joint development project.

Mr. LUGAR. Specifically, the city of Evansville, Ind., is in the process of developing a $40 million downtown development project with private investors. The buildings in this project will be connected by a series of skywalks. The city would like to link the new project with the central transfer point of the Evansville transit system by building a 3-block connecting skywalk. Would this project be eligible for funding by UMTA as a joint development project?

Mr. WILLIAMS. Yes, it would be eligible. The committee report is quite clear with respect to this kind of project. The report states in part:

Examples of activities which would be financed under this section include: foundation work and the utility capacity that would accommodate both a transportation facility and a nontransportation facility, walkways or tunnels from a transportation facility to a nontransportation facility, open space serving both the transit and nontransit facility, and land adjacent to a transportation improvement but not for the building erected on such land.

Thus, the walkway you suggested would be a perfect example of a desirable joint development project. I think that this type of project captures the spirit of the law by insuring the coordinated development of mass transit and other commercial and residential activities in our cities to maximize the economic and social returns of investment, both public and private.

Mr. LUGAR. I thank the Senator for his assistance and support.●

Mr. WILLIAMS. The same request is made in connection with discussions that have been held on the elderly and the handicapped and their relationship to program efforts in transportation. The very distinguished chairman of the Special Committee on Aging (Mr. CHURCH) and I have discussed this matter, and have formed our thoughts and put them into a colloquy that I ask unanimous consent to have printed in the RECORD at this point.

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

● Mr. CHURCH. If I may make an inquiry, there are several transit issues which are of concern to me, as chairman of the Committee on Aging. The first is the so-called Transbus issue, involving the redesign of new transit buses obtained with Federal funds. In order to comply with congressional mandates, the buses must be accessible to the elderly and other citizens with mobility impairments. It is my understanding that the dispute over the regulations for Transbus, issued by Secretary Adams in May 1977, has now been resolved in a manner which meets the objections, and satisfies the needs, of transit operators, manufacturers, and elderly and handicapped individuals.

Mr. WILLIAMS. That is correct. Secretary Adams' original mandate, which called for all such vehicles ordered after September 30, 1979, to have low floors and a ramped front entrance, was mod-

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[1] Section 12(c)1 of the UMT Act of 1964, as amended.

[2] Section 5(a)2 of the UMT Act of 1964, as amended.

[3] Section 18(a) as proposed by Committee Print of S. 2441. Section 22(b) as proposed by Committee Print of H.R. 11733.

ified on September 14. These modifications meet the concerns that have been raised by some manufacturers and transit operators by permitting the front entrance to be equipped with either a ramp or a wheelchair lift, and by providing for flexibility in delivery dates to accommodate the very large task of tooling up for a major, but needed, change in bus design. It is my understanding that groups representing the elderly and handicapped are also satisfied with these changes, because they assure that, within a time certain, buses with low floors that can be utilized by those groups will come into nationwide use.

Mr. CHURCH. I am glad to learn that Transbus has been resolved in a way which is acceptable to all concerned parties and guarantees eventual full fleet accessibility.

However, it is clear that this accessibility will take some time to achieve. For the foreseeable future, the regular transit system must be supplemented with special services for the elderly and other groups. Also, we need to continue support for rural transit programs.

Mr. WILLIAMS. I concur completely. Even in my own State of New Jersey, which is highly urbanized, there is a clear need in many areas for special and rural transit programs. The bill before us today should help to meet these needs better through a new funding mechanism for small urban and rural transit. Also, while the section 16(b)(2) program of grants for special transit vehicles is eliminated as a permissive statutory setaside, this should not result in any diminution of such activity.

Mr. CHURCH. On this subject, I want to point out that Senator DOMENICI, the Committee on Aging's ranking minority member, and I made an inquiry to Secretary Adams in February. While I will include the entire text in the RECORD, I would like to point out that Secretary Adams' reply states:

> We believe that at least as much money will be spent under our proposal as is currently utilized under the administrative setaside.

The Secretary also points out that new funding sources will also become available for the operating expenses of these transit services.

May I just say that I hope that the Banking and Aging Committees can join in a cooperative oversight function, once this legislation becomes law, to assure that there is continuing adequate funding for special transit operators.

Mr. WILLIAMS. I see no reason why such joint oversight could not take place.

Mr. CHURCH. Thank you.

There is one other transit issue which, while outside the scope of this bill, is of great concern to rural and special transit operators around the Nation—the need for affordable, nonrestrictive insurance. The Committee on Aging focused on this in a July 1977 hearing, and found that many operators, in all geographic regions, were being forced to curtail services. Since that time the committee has established a constructive working relationship with a White House Rural Task Force headed by Mr. Jack Watson; and with Dr. Frank Davis of the University of Tennessee, who is studying the insurance problem under a DOT grant.

It appears that solutions for this problem, which can be implemented at the State level, may soon emerge from these efforts. I recently received a letter from Secretary Adams, which expresses his willingness to help Congress find an answer to this insurance crisis. He points out that a remedy takes on added importance given the pending proposal for rural and small urban transit assistance.

I ask that this letter and the one which I referred to earlier be printed at this point in the RECORD.

The letters follows:

Washington, D.C.,
September 14, 1978.

Hon. FRANK CHURCH,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, D.C.

DEAR SENATOR CHURCH: Thank you for bringing to my attention your statement in the Congressional Record regarding the insurance problems of rural and special service transit providers.

I am very concerned about this problem, particularly in view of the pending program proposals for Federal financial assistance for rural and small urban transit services. As you know, this particular insurance problem is both very complicated and not well or widely understood. Your Committee has performed a great service in raising the visibility of the problem and in encouraging the many diverse interests affected to focus on potential solutions. For its part, the Department of Transportation, through its University Research Program, has sponsored the work of Dr. Frank Davis at the University of Tennessee in his investigation of possible remedies.

Let me assure you and the Committee, the Department is prepared to assist in any way it can in solving the insurance problems of rural and special service transit providers.

Sincerely,

BROCK ADAMS.

LETTER FROM SENATOR FRANK CHURCH, CHAIRMAN, AND SENATOR PETE V. DOMENICI, RANKING MINORITY MEMBER, SENATE SPECIAL COMMITTEE ON AGING, TO HON. BROCK ADAMS, SECRETARY, DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 15, 1978, AND REPLY DATED APRIL 11, 1978

DEAR MR. SECRETARY: We are planning to seek a clarification of the effect of President Carter's proposal for the improvement of Federal highway and transportation programs, as embodied in S. 2440 and S. 2441, upon transportation services for older Americans in both urban and rural locales. Your responses to the following preliminary questions will greatly assist this Committee in assuring that the Nation's elderly are served by adequate, accessible, and affordable transit services:

To what extent will new public transportation services funded under the "small urban and rural formula grant program" utilize the experience and findings of demonstration projects funded under the old section 147 Rural Highway program? What improvements in the quality and availability of transportation services for the rural elderly can be expected under the proposed legislation?

How is the repeal of the 2 percent set-aside for grants for special transportation, under section 16(b)(2) of the Urban Mass Transportation Act, expected to affect the funding level for such activities? While we are aware that this is a permissive rather than a mandatory reserve of funds, the full funding authorization has been utilized during the existence of the program.

Will assistance for operating expenses now be available to transportation service providers receiving funding under section 16(b)(2)? Will any such assistance be adequate to alleviate the threat caused to many such programs due to the rising costs of vehicle maintenance and insurance?

Will the new planning requirements set by the proposed bills be utilized to address the problems of duplication and fragmentation which currently exist in special transportation programs receiving assistance from DOT and other Federal sources? What role does DOT envision for such special transportation programs during the period in which existing mass transit providers transform their bus fleets to accessible vehicles in accord with your "Transbus" decision of last May; and after all such bus fleets are fully accessible?

Will the nondiscrimination provisions of section 19 of S. 2441 apply to the access of elderly persons to programs funded under the small urban and rural provisions of S. 2440? If not, please provide your rationale.

In regard to section 102(b)(2) of S. 2441, we would suggest that the language be expanded to make it clear that public transportation services must be operated in a manner which provides services which may be effectively utilized by all citizens; and that the term "transportation disadvantaged" be defined elsewhere in the bill.

May we say that, while we have not yet reviewed all provisions of these bills, we are in accord with the President's goal of establishing a more uniform and coordinated system of Federal transportation assistance. In addition, we applaud your own personal commitment to equal transit rights for the elderly and handicapped, as evidenced in the "Transbus" decision. The nondiscrimination section of S. 2441, by including "age" as an invalid ground for denial of public transit benefits, is a welcome statutory embodiment of this principle.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman.
PETE V. DOMENICI,
Ranking Minority Member.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 11, 1978.

Hon. FRANK CHURCH,
Chairman, Special Committee on Aging,
U.S. Senate,
Washington, D.C.

DEAR FRANK: Enclosed is the Department of Transportation's response to your recent letter to me on behalf of the Special Committee on Aging, which set forth six questions regarding the effect of the Administration's proposal for the improvement of Federal highway and transportation programs (S. 2440 and S. 2441) upon transportation for older Americans.

Please let me know if we can be of further assistance on this matter.

Sincerely,

BROCK ADAMS.

[Enclosure.]

RESPONSE TO QUESTIONS RE THE EFFECTS OF THE PRESIDENT'S PROPOSAL FOR THE IMPROVEMENT OF FEDERAL HIGHWAY AND TRANSPORTATION PROGRAMS UPON TRANSPORTATION SERVICES FOR OLDER AMERICANS

(1) *Question:* To what extent will new public transportation services funded under the "small urban and rural formula grant program" utilize the experience and findings of demonstration projects funded under the old section 14 rural highway program? What improvements in the quality and availability of transportation services for the rural elderly can be expected under the proposed legislation?

Response: The Department of Transportation views the section 147 program as a proving ground for what might work in rural and small urban areas to enhance public transportation.

The Department is presently funding approximately 100 demonstration projects in 48 States that encompass a wide variety of types of services and service levels, under varying climates and geographical conditions. The Department expects that these demonstration programs will: (a) develop parameters of what reliability and costs local governments can expect from their rural transit providers; (2) provide data that the Department can use in developing regulations for use in monitoring performance at the local level without burdening grantees with excessive redtape; and (3) develop models for coordination of funds and services as a means of improving the quality and quantity of transportation services.

The Department expects to make available the experience and findings of the ongoing rural highway public transportation demonstration program to all State and local transportation agencies and special service providers at the completion of the program. This information will assist them in designing and operating public transportation programs that can best meet local needs. Currently, as an integral part of the demonstration program, annual regional workshops are held to exchange information among operators and sponsors. These workshops are advancing the state-of-the-art in this developing transportation field.

The elderly can expect at least four improvements in the quality and availability of transportation services:

There will be more rural service for everyone because of the new sources of funding for rural and small urban transportation. Under the proposed small urban and rural (SUR) transportation assistance program, each state may decide the amount of its apportionment to spend on public transportation, provided that at least 10 percent is dedicated to these projects. Thus, a state could conceivably spend its total SUR apportionment on public transportation, which far exceeds the amount of funds available under the demonstration program. Also, the formula would assure that funds would be distributed more evenly among the States. Since more public transportation projects could potentially be advanced under the legislative proposals, the opportunities for the elderly to travel will likely be enhanced.

The public transportation services provided will have to incorporate special efforts in the planning and design of the systems so that they can be used effectively by elderly persons.

The section 147 demonstration program should provide data which planners can use to minimize the delays in starting new services.

The new legislation will enable providers of transportation services to expand on the successes of the section 147 demonstration program.

(2) *Question:* How is the repeal of the 2 percent set-aside for grants for special transportation under section 16(b)(2) of the Urban Mass Transportation Act, expected to affect the funding level for such activities? While we are aware that this is a permissive rather than a mandatory reserve of funds, the full funding authorization has been utilized during the existence of the program.

Response: Although the administration's proposal does not include statutory language describing a section 16(b)(2) permissive setaside, it is the intention of this administration to strongly encourage States and local areas to use section 5 funds for section 16(b)(2) programs. We believe that at least as much money will be spent under our proposal as is currently utilized under the administrative set-aside.

(3) *Question:* Will assistance for operating expenses now be available to transportation service providers receiving funding under section 16(b)(2)? Will any such assistance be adequate to alleviate the threat caused to many such programs due to the rising costs of vehicle maintenance and insurance?

Response: Although the Department does not anticipate expanding the scope of section 16(b)(2) itself to include assistance for operating expenses, there are other mechanisms for private nonprofit corporations to receive operating funds. In addition to farebox revenues, contract services, and grants from social service agencies, 16(b)(2) operators in urbanized areas can receive operating funds from the public agency that is the recipient of section 5 funds. In rural and small urban areas, the State can provide operating funds directly to 16(b)(2) operators under the language proposed in section 133(f).

(4) *Question:* Will the new planning requirements set by the proposed bills be utilized to address the problems of duplication and fragmentation which currently exist in special transportation programs receiving assistance from DOT and other Federal sources? What role does DOT envision for such special transportation programs during the period in which existing mass transit providers transform their bus fleets to accessible vehicles in accord with your "Transbus" decision of last May, and after all such bus fleets are fully accessible?

Response: One of the most obvious ways to decrease the cost of special transportation programs is to eliminate the duplication and fragmentation of the providers of service. This has been a thrust of the Department's Urban Mass Transportation Administration (UMTA) for several years. It is showing results in places such as Delaware, where a single state agency is the recipient of UMTA and HEW funds for specialized transportation services. In Portland, Oregon, the transit authority is serving as the provider of special transportation programs, and social service agencies are contracting with it for client services. Language in regulations issued by the Department, which require that the planning "process shall consider all modes of transportation," will reinforce, enhance and expand such activities throughout the country.

(5) *Question:* Will the nondiscrimination provisions of section 19 of S. 2441 apply to the access of elderly persons to programs funded under the small urban and rural provisions of S. 2440? If not, please provide your rationale.

Response: Yes. Current highway program directives require that public mass transportation facilities and services be planned, designed, constructed, and operated to allow effective utilization by elderly or handicapped persons. This requirement will remain in force.

(6) *Question:* In regard to section 172(b)(2) of S. 2441, we would suggest that the language be expanded to make it clear that public transportation services must be operated in a manner which provides services which may be effectively utilized by all citizens; and that the term "transportation disadvantaged" be defined elsewhere in the bill?

Response: We do not believe it is necessary to define the term "transportation disadvantaged" because it is not used to create a separate category of individuals for Federal assistance.

We believe the current language, coupled with the language of section 16(a) and section 504 of the Rehabilitation Act of 1973, combine to express adequately the concept embodied in your suggestion.●

Mr. WILLIAMS. Mr. President, we suspended the consideration of the amendment offered by the Senator from Maine for the purpose of taking care of these, not technical but noncontroversial, matters. I now yield the floor, so that we can go back to his amendment.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that the Senator from North Carolina has an amendment that will take very little time, that the committee is willing to accept. Perhaps by the time the consideration of that amendment is concluded, Senator BROOKE may be able to return to the floor. So for that reason, and in order not to waste the time of the Senate, I am happy to yield at this point to the distinguished Senator from North Carolina (Mr. MORGAN) so that he may call up his amendment.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from North Carolina will be in order.

UP AMENDMENT NO. 1947

(Purpose: To reduce the level of authorizations)

Mr. MORGAN. Mr. President, I call up my amendment which is at 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 North Carolina (Mr. MORGAN), for himself, Mr. PROXMIRE, Mr. BAYH, Mr. EAGLETON, Mr. MCINTYRE, Mr. HART, Mr. LUGAR, Mr. CANNON, and Mr. HATCH, proposes an unprinted amendment—

Mr. MORGAN. 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 46, line 9, strike out "$1,400,000,000" and insert in lieu thereof "$1,250,000,000".

On page 46, line 10, strike out "$1,600,000,000" and insert in lieu thereof "$1,325,000,000".

On page 46, line 11, strike out "$1,600,000,000" and insert in lieu thereof "$1,405,000,000".

On page 46, line 13, strike out "$1,600,000,000" and insert in lieu thereof "$1,490,000,000".

On page 47, line 3, after "section 5" insert "(a)(2)".

On page 47, line 3, after "Act" insert "and for purposes of subsections (f) and (g) of this section,".

On page 47, beginning with the first dollar sign on line 12, strike out all through line 17, and insert in lieu thereof the following: "$1,504,000,000 for the fiscal year ending September 30, 1979; $1,586,000,000 for the fiscal year ending September 30, 1980; $1,735,000,000 for the fiscal year ending September 30, 1981; and $1,785,000,000 for the fiscal year ending September 30, 1982. Appropriations pursuant to the authority of this subsection shall remain available for four years following the close of the fiscal year for which such appropriations are made.".

On page 48, line 18, strike out "$100,000,000" and insert in lieu thereof "$90,000,000".

On page 48, line 19, strike out "$105,000,000" and insert in lieu thereof "$95,000,000".

On page 48, line 20, strike out "$110,000,000" and insert in lieu thereof "$100,000,000".

On page 48, lines 21 and 22, strike out "$115,000,000" and insert in lieu thereof "$105,000,000".

Mr. MORGAN. Mr. President, on behalf of myself and Senators PROXMIRE, BAYH, EAGLETON, MCINTYRE, HART, LUGAR, CANNON, and HATCH, I offer this amendment to the Federal Public Transportation Act Amendments of 1978 (S. 2441). This amendment would have the effect of reducing authorizations in this bill by $1 billion over the next 4 years. This amendment will cut $730 million from the capital budget (sec. 3), $230 million from the Federal operating subsidy (sec. 5), and $40 million from administration and research. This amendment will reduce the authorizations by $291 million in 1979, $384 million in 1980, $205 million in 1981, and $120 million in 1982. This amendment will reduce the 4 year authorization levels from $13.870 billion to $12.870 billion.

Reduction of the authorization levels in S. 2441 to this level will still allow a substantial increase over past transit spending and over the administration's proposals, which in themselves contained a 15 percent increase in transit spending over present spending levels.

I want to emphasize that S. 2441 will contain a substantial increase in spending over present levels even after the incorporation of this amendment. But in its unamended form, S. 2441 promises an acceleration of Federal assistance far beyond what we can afford or what will realistically be appropriated. At a time when the Federal Government is running a deficit of nearly $40 billion, the increases contained in S. 2441 are out of line with the type of tightening of the belt we are going to have to exercise in this country to return fiscal soundness to our affairs.

Since the creation of a Federal urban mass transit program in the early 1970's the Federal Government's contribution to this program has grown at a rapid rate. In 1974 the Federal contribution was $581 million, not counting Washington Metro funding and interstate transfers. In 1978, the Federal contribution had ballooned to $2.365 billion. There are few programs in the history of our Nation that have grown so rapidly. In its unamended form S. 2441 would increase Federal spending for urban mass transit by almost $1 billion between this year and next. This is simply too great an increase for the Nation to afford or for the cities to absorb wisely.

During the growth of this program, there has been a broad base of support for rapid increases in the Senate Banking, Housing, and Urban Affairs Committee. Regardless of origin or party, Senators on this committee supported increases in a program that was widely perceived to be in the national interest. The legislative history of S. 2441 before the committee indicates that this broad bi-partisan base of support has been severely eroded by the fiscal excesses of S. 2441 as reported. In a series of key votes the committee split 7 to 8. Senators PROXMIRE, LUGAR, and MCINTYRE, members of the Banking Committee and supporters of a sound transit program, have joined me in bringing this amendment before the entire Senate.

The bill as reported by the committee is substantially above the budget resolution totals established in May and reconfirmed in September. The Budget Committee, in trying to bring overall fiscal soundness to the Federal budget, has been more than generous in endorsing substantial increases in the Urban Mass Transit Administration's budget. In fact the budget resolution totals are substantially in excess of the generous increases proposed by the Carter administration for UMTA. Unless we bring the numbers in S. 2441 into line with the budget resolution figures the bill may never become law at all since the President has indicated his intention to the Congress to veto a bill that is substantially out of line with reasonable growth levels.

Since introducing this amendment some months ago, my office has received calls and letters lamenting my "anti-transit" amendment. I want to set the record clear. Neither I nor the other sponsors of this amendment are anti-public transit. But there are limits to Federal generosity that we need to be more aware of. This year the Federal Government is going to spend almost $40 billion more than it will take in. At the State and local level, many units are decreasing taxes and running surpluses. Yet, these same State and local governments tell me that I am anti-transit because I want to reduce the growth rate in a Federal program that is already paying the cost of 80 percent of the transit investments being made in this country. I think these attacks indicate that there has been a serious loss of perspective on the nature of our Federal system and the appropriate roles of the Federal, State, and local governments in that Federal system.

The Federal Government does not have the responsibility to fund programs that benefit people in a local community. This is the role of State and local government. We do not have a centralized welfare system in this country. This is the responsibility of each locality and State. We do not have a centralized education system in this country. Each community has the responsibility for educating the children in its domain. Similarly with mass transit. This is a service that cities should provide for themselves. In all of these areas the Federal contribution has grown greatly in recent times. This is not a change which is compatible with the long-term survival of our Federal system.

It often perplexes me that when I tell people this, as I often do, they respond by saying, "Yes, but only the Federal Government can afford these programs. State and local governments lack the ability to raise taxes to pay for them." This statement, and the type of thinking it represents, is at the core of the fiscal crisis we face in this Nation today. First of all, let us set the record straight on the ability to tax; State and local governments can and do tax to raise revenue. The barrier here is that people on the State and local level will not pay for the tax increases necessary to fund increased services when they are confronted with the choice of doing so. For reasons that are not too clear they perceive Federal moneys to be free. People want the Federal Government to pay for services that they would not pay for on their own if given the choice in their communities. This is particularly paradoxical since they are paying for the Federal programs just as surely as they pay for programs at the State and local level.

The Federal Government can deal with this climate of expectations only by funding programs through means that are not readily visible or immediately felt by the public. Deficit spending is the most favored and widespread technique for hiding the costs of benefits which people receive. But, as we know all too well from recent experience, deficit spending results in the hidden and pernicious tax of inflation which we all eventually have to pay.

State and local governments must begin to approach their problems with more of a spirit of self-reliance and independence. They must begin telling their citizens that they must pay for their services or else go without them.

Before closing, I would like to return to the specific program which my amendment addresses, the public transportation program. In recent years several cities have invested billions in Federal and local moneys into the construction of heavy fixed rail transit systems. Washington, San Francisco, and now Atlanta have heavily mortgaged their future on these fixed rail systems. The record of performance, public acceptance, and costs of these systems is not so unambiguously favorable that further massive Federal investments in heavy fixed rail systems for cities with even lower population densities is justified. Yet passage of S. 2441 as reported would provide sufficient funds for several major new starts in cities where the chances for viable operation are even lower than in the cities where the systems are currently running into difficulties.

The limited success which the new starts have had in achieving the goals that inspired their construction must cause us to question the link between more money and better transportation. It is clear to me that how we spend the money is more important than the total amount of money that we spend. Recent studies by CBO have made clear that there is a whole host of very low cost alternatives to expensive capital investments that can be as effective or more effective in improving transportation. For instance, the use of bus priority lanes can drastically improve the efficiency and speed of transit at a very low cost. Similarly the use of buses in the place of heavy rail systems can lower costs, increase flexibility, and save energy. We need to do a better job encouraging the localities who are interested in massive Federal subsidies to try these cost saving performance improving techniques before we pour Federal money into projects that will have a difficult time even meeting operating costs.

There is one instance which I would like to relate which bears out several of

these observations. During consideration of S. 2441 in the Banking Committee, a local official came to my office and beseeched me not to support cuts in the transit bill before the committee. It happens that this official was from a county that had tried to establish bus priority lanes to improve the efficiency of the transit system, reduce pollution and lower the bus system's operating deficits. It turned out that this county had abandoned this plan because motorists who had to drive in the more congested remaining lanes were irritated by the longer time they had to spend commuting to and from work. Because the county had abandoned this plan they wanted Federal money to put a fixed rail transit system down the center of the same freeway—with Federal money. The same officials who refused to incure the wrath of the irate commuters wanted the Federal Government to fund an enormously expensive fixed rail system. I might also add that this county is in a State where the voters recently enacted a great decrease in property taxes.

It is particularly ironic that there is such a widespread attack on the property tax in many cities at the same time that the transit systems in these same cities are incurring massive operating deficits. This is the more ironic because the value of transit systems cannot be recovered at the fare box since the value accrues to the property base. Transit advocates often point out that the Federal Government spends much more money on highways than on transit, thus insuring the inadequacy of public transportation. This analysis fails to note that the highway system, unlike the transit system, is user funded, funded by user taxes that are levied in rough proportion to the use of the system. This is, of course, not the case in the transit area where virtually no public transit system even meets operating costs from fare box receipts—transit "user fees." It is, of course, possible to devise a tax scheme that would recover the cost of the transit system from the place where that value accrues—the property base. Only the property tax can do this, and the Federal Government cannot—fortunately—tax property. Thus it turns out that the cost recovery scheme most appropriate for truly putting the transit systems of this Nation on an equal competitive basis with the highways is in the hands of the local governments and they are not willing to exercise that power.

The amendment before the Senate today will not solve these problems but it is a small step in the direction of reducing the Federal deficit and will hopefully be a message to the cities, counties, and States that they must take steps to spend their money more wisely and on those projects which the citizens of their communities truely want. It is my hope that the Senate will join me in making this modest step toward fiscal responsibility.

Mr. SCHMITT. Mr. President, as indicated earlier in the colloquy between the Senator from New Jersey and myself, this amendment is a part of a package that is a very reasonable package, and the minority has no objection to the adoption of the amendment.

Mr. WILLIAMS. Mr. President, I certainly support the amendment offered by the distinguished Senator from North Carolina. In my opening statement, I described the evolution of this legislation to the point where we added a year to make to make it a 5-year program.

With the Morgan amendent we will be reducing the money in this bill by $1 billion. It all comes together as a sound approach; sound in every way in terms of the length of the programs and the amounts of money for the public transportation program.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

Mr. SCHMITT. Mr. President, I am advised that although the Senator from Massachusetts (Mr. BROOKE) personally would not oppose this amendment, he did want to express his concern that the Carter administration's strong support for the Morgan amendment reflects the President's policy to cut back on our Federal commitment to mass transit, in contrast to the prior administration, which worked for increased funding for transit. This administration's program runs directly counter to what Senator BROOKE believes to be a rational environmental, energy, and urban policy. Senator BROOKE expressed the hope that I would make that clear, and draw the attention of the Senate to his remarks in his opening statement expressing such concern.

However, he will not oppose the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. SCHMITT. 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 question recurs on agreeing to the amendment of the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand that Senator BROOKE will be on the floor shortly, so I would like to reserve my amendment until that time. I have some further comments on the bill to make before that time. The distinguished ranking Republican member of the Budget Committee (Mr. BELLMON) is here with some comments of his own. So, pending time for Senator BROOKE to arrive and to get into the issue raised by the provisions of the bill which is identified with his name, I will proceed with my general comments.

Mr. President, the Senate now has before it S. 2441, the Federal Public Transportation Act of 1978. This is a major multi-year, mass transit authorization bill, and I am certain the Senate will want to know the implications of its enactment on the congressional budget ceilings. Before I get into that subject in detail, however, I want to say that I support most of the provisions of the bill. The major exception is section 104 (c), which would establish an expensive new policy regarding Federal mass transit operating subsidies. That particular provision stands out so clearly as a "budget buster," that I believe the Senate has no alternative but to eliminate it from the reported bill.

I commend Senator WILLIAMS, the manager of the bill, for his skill in defining the transit problems that we have in our urban areas, and for his many contributions to solving those problems with Federal assistance.

I can recall when he began those efforts years ago, when I, myself, was a member of the then Senate Banking Committee. I remember what a struggle it was for him to get a start in establishing Federal policy dealing with mass transit. I have watched his efforts over the years and I want to take this opportunity to commend him for those efforts.

Although I have serious concerns regarding certain aspects of the bill, as I just mentioned, I want to say that I believe my colleague from New Jersey has made another substantial contribution to mass transit by shaping this major authorization legislation now before us.

Mr. President, I should like to take a few minutes to report to the Senate on the potential impact of this bill on the Federal budgets for fiscal year 1979 and future years.

To begin with, S. 2441 provides specific UMTA authorizations of $14.8 billion over a 4-year period beginning in fiscal year 1979, plus indefinite authorizations for interstate transfers—that is, transfers from the highway program—which are expected to require a further $2.7 billion over the same period. Annual program authorizations total approximately $4.0 billion in fiscal year 1979, and increase steadiily thereafter to $4.6 billion in fiscal year 1982.

As chairman of the Budget Committee, I regret to say that these authorization levels could cause serious budgetary problems. The spending ceilings agreed to by the Congress in the second budget resolution allow for a substantial but responsible 16-percent increase in mass transit program levels. This increase substantially exceeds the overall 11.1-percent increase in the budget for fiscal year 1979 and reflects the priority that the Congress attaches to mass transit programs. But, full funding of S. 2441 would produce an immediate 32-percent increase in program levels and cause the budget ceilings in function 400, transportation, to be exceeded by $0.4 billion in budget authority and $0.3 billion in outlays in fiscal year 1979 alone. Further, full funding would cause the 5-year transportation targets to be breached by at least $2.5 billion in budget authority and $2.2 billion in outlays.

Fortunately, Mr. President, unlike existing mass transit legislation, S. 2441 does not provide "backdoor" spending which automatically provides full funding. Rather, in accordance with the requirements of the Budget Act, it provides only authorizations for appropriations. This should result in a significant improvement in the Congress' ability to control mass transit spending.

This new control may already be in evidence in the form of the recently approved fiscal year 1979 Department of

Transportation Appropriations Act that provides mass transit funding which is consistent with congressional spending ceilings and much lower than would be authorized by S. 2441 or companion House legislation. However, I must caution that the regular appropriations bill does not include funds for several programs and projects which would be authorized by S. 2441 and could be funded with supplemental appropriations.

Mr. President, I have reviewed the list of possible transportation supplementals very carefully, and I believe that if there is no unwarranted expansion of established Federal policy toward mass transit; then we can expect the Appropriations Committee to assure that the Congress stays within its fiscal 1979 transportation spending ceilings.

The important queston, then—and I am now approaching the question of my amendment—is whether S. 2441 includes any provisions which would fundamentally alter Federal mass transit spending policy, and in so doing jeopardize the Appropriations Committee's ability to hold spending within the congressional budget ceilings.

Unfortunately, there is one such policy change in S. 2441 as reported, and I believe its budgetary implications are so unfavorable that the Senate must remove that provision from the bill. I refer, Mr. President, to section 104(c), which would establish a new and expensive policy regarding Federal assistance for the financing of mass transit operating deficits.

AMENDMENT NO. 3458

The amendment I call up at this time would strike this section from the bill. I am joined in this amendment by my distinguished colleagues (Senator PROXIMIRE) the chairman of the Banking Committee which reported S. 2441; Senator BAYH, chairman of the Transportation Subcommittee of the Appropriations Committee; and Senator BELLMON, the ranking member of the Budget Committee. Also cosponsoring the amendment are Senators DOMENICI, LUGAR, and SASSER. Mr. President, I ask unanimous consent that Senators MCINTYRE, EAGLETON, BENTSEN, HATCH, MCCLURE, and THURMOND, be added as cosponsors of this amendment.

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

Mr. MUSKIE. Mr. President, enactment of section 104(c) would redefine mass transit policy to provide Federal operating subsidies to all transit operators up to the point where the total amount of these subsidies is equal to one-half of each transit operator's operating deficit. The only limitation is one that is included in a separate section of the bill, and provides that the subsidies cannot equal more than one-third of the recipient's total operating expenses.

Under current policy, 50 percent of the transit operating deficit represents a ceiling above which Federal operating subsidies cannot rise. Section 104(c) would fundamentally change this policy, by converting the ceiling to a floor.

There is a song that was popular not long ago which suggests that there is no real difference between a ceiling and a floor, that it is all a matter of perspective. In the words of Paul Simon's song, "one man's ceiling is another man's floor." Well, Mr. President, in case any of my fellow Senators live in high-rise apartments where that message has a ring of truth, let me assure them that, at least as far as Federal spending is concerned, there is a very significant difference between a ceiling and a floor, as analysis of this provision makes very clear.

As reported, S. 2441 includes an authorization for section 104(c) that starts at $127 million in fiscal year 1979 and increases each year thereafter, reaching $318 million by fiscal year 1982. These authorization amounts are based upon the critical assumptions that transit deficits are under control and that the proposed new Federal policy will not influence transit operators, local transit unions and city officials to alter existing approaches to transit financing. However, those assumptions are totally unrealistic.

In fact, it is very likely that enactment of section 104(c) would have a very significant impact on future decisions related to transit fares and transit operating costs, and therefore also on the level of Federal operating subsidies required to implement the new policy.

Were the provision to be enacted, the perception would be that the Federal Government stands ready to pay for all increases in each transit operator's costs and deficit until the size of those payments reaches one-half of the operating deficit, or one-third of total operating costs. This 100 percent Federal share would provide a clear financial incentive for local transit operations to allow wages and other costs to rise and fares to fall—or fail to rise with continued increases in costs, until one of the two limiting conditions applicable to the size of Federal subsidies became operative.

For example, assume that a particular transit operation currently has annual operating costs of $200 million, operating revenues of $100 million and therefore an annual deficit of $100 million as well. Assume further that the local government is financing $75 million of the deficit and that the Federal Government is providing operating subsidies of $25 million, equal to 25 percent of the deficit. Enactment of section 104(c) would establish the "proper" level of Federal subsidy at 50 percent of the deficit, or $50 million. Because of a "maintenance of effort" provision in the law, the local government could not reduce its subsidy of $75 million. Therefore, the only way in which the transit operation could receive the additional Federal subsidies to which it was now "entitled" would be for it to allow its deficit to rise. It could do this by any of several methods, including the tactic of simply acquiescing to high-cost wage settlements which add $50 million to operating costs. Total annual operating costs would then be $250 million. As before, operating revenues would be $100 million and the local subsidy $75 million. The Federal subsidy, however, would increase by $50 million, to $75 million, equal to one-half of the new deficit. The result, therefore, would be that the Federal Government paid for 100 percent of the increase in operating cost and in the deficit.

Theoretically, it would be possible to contain Federal subsidies by limiting the authorization and appropriation amounts. However, this would prove extremely difficult, if not impossible. Under section 104(c), transit operations which are not already eligible for assistance under the new policy would become eligible in the future as their costs and deficits rise. Since this ultimately would lead to transit operations in essentially all cities being eligible, the pressure on the Congress to provide additional funding would be extremely strong.

Enactment of section 104(c) thus could result in significantly greater additional Federal spending than the specific authorizations in S. 2441 suggest. For example, UMTA has estimated that the radical policy change could quickly result in additional costs of as much as $2 billion per year. The Congressional Budget Office, even though using a much more conservative method to project transit deficits, still estimates that the additional annual cost of this section alone would climb to over $1 billion by fiscal year 1983.

Mr. President, in terms of the level of Federal operating subsidies, CBO's estimate—which, again, is much more conservative than that of UMTA—shows that setcion 104(c) by itself could cause Federal operating subsidies to approximately double in 3 short years. In terms of the congressional budget, section 104(c) by itself could cause the fiscal year 1979 through fiscal year 1983 spending targets to be exceeded by nearly $4 billion.

Mr. President, given this situation I see but one possible conclusion: The section 104(c) provision in S. 2441 represents an unwise new direction for mass transit policy, the cost of which is seriously understated.

Others have recognized this to be the case. I note that the provision was extremely contentious in committee, where it was approved by only 1 vote, 8 to 7. No less than five members, including the chairman of the committee, filed dissenting views. It is also strenuously opposed by the administration and by the League of Cities and U.S. Conference of Mayors, all of which see very clearly the fiscal irresponsibility which the provision entails.

Mr. President, I would conclude by reminding the Senate of two points. First, section 104(c) is a problem not only because it would cause the Congress to break its own budget, but also because it represents very bad mass transit policy. If enacted, it would provide incentives for cities to mismanage their transit operations. Second, defeat of this provision will in no way shortchange the cities with regard to Federal operating subsidies. Even without section 104(c), S. 2441 still provides for an immediate increase in annual authorizations available for operating subsidies of about 48 percent or $400 million, most of which is earmarked for the same large cities that would benefit the most under section 104(c). No one can charge that the Senate is being stingy with mass transit.

I urge the Senate to vote "aye" on our amendment to strike this unwise and excessively costly policy provision from the

Federal Public Transportation Act of 1978.

Mr. President, at this point, I am happy to yield to my good friend from Oklahoma, the ranking Republican on the Budget Committee (Mr. BELLMON), for such time as he may wish.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I thank my friend, the Senator from Maine.

I strongly support the Muskie amendment, of which I am a cosponsor.

The distinguished Senator from Maine has made several important and telling points against the amendment, and much of what I want to say will simply reinforce the position he has taken.

The amendment would strike portions of section 104 from S. 2441. The problem, as I see it, is that the new policy, established by the amendment relating to mass transit operating subsidies established in section 104, sends all the wrong signals to local transit authorities. In essence, it encourages such transit systems to act in an irresponsible manner as regards the control of operating deficits because the bill provides full assurance that the Federal Government will pick up the check for any adverse financial results.

Heretofore, our policy with respect to Federal assistance to mass transit operations has been one which limited Federal exposure to no more than 50 percent of operating deficits. This new policy, envisioned in section 104, would provide additional operating subsidies of no less than one-third of total operating costs or 50 percent of operating deficits. Thus—and Senator MUSKIE made this point—what was formally a ceiling will now become a floor.

Transit systems would then have no reluctance to permit costs to rise or fares to remain static in the face of rising costs, since the Federal subsidy would increase, leaving them financially no worse off and politically better off than they were before.

In addition to establishing bad transit policy, the new provisions of section 104 are authorized at unrealistically low levels and therefore subvert future budgets. The authorization suggests that $1.3 billion would adequately fund the purposes of this section between now and 1982. CBO however, has estimated that, as local transit operators change their behavior and flock to the Federal feast, an additional $2.6 billion would be required, if the purpose of this section were to be realized.

It has been alleged that the appropriations process could be used to prevent such escalating costs. However, we all recognize that as virtually all transit systems became eligible for the subsidy, intense pressure to fatten up the subsidy would be put on the appropriations process. Certainly it is undesirable to create such a situation with full knowledge and seemingly by design.

Finally, Mr. President, I feel compelled to point out that initially two cities, Boston and New York, would receive over 50 percent of the incremental funding associated with section 104 operating subsidies. In the case of Boston we would be rewarding a transit system whose fares according to DOT are among the lowest (25 cents) and its employees among the highest paid in the Nation, over $8 an hour. In short, by "bailing out" the Boston transit system, we would be rewarding profligate behavior and encouraging others to adopt the same theory of operation which has created a crisis in that city. Should that come to pass, the extent of Federal commitments to mass transit subsidies become virtually limitless. Resources are scarce and Federal support must be limited and constrained in such a manner that its implementation improves rather than destroys local initiative and responsibility.

I encourage my colleagues to support this amendment, which reaffirms existing public policy and precludes the establishment of a new, expensive and undesirable alternative.

Mr. BENTSEN. Mr. President, I strongly support the Muskie amendment, and I congratulate the Senator from Maine for his diligence in trying to see that we have some legislation to help the taxpayers get some results for their money. I think we have to strike section 104(c) from the Federal Public Transportation Act.

My opposition to this provision stems not from any innate bias against mass transit. I have been a strong supporter of mass transit, as the Senator from Maine well knows from the 1974 fight, in which I helped him. I recognize the pressing need to improve these facilities and encourage their use.

In chairing the Transportation Committee, I held hearings in New York; in Watts, Los Angeles; in Chicago, and in Atlanta, involving the mass transportation systems, and I saw how effective they can be and saw how much waste can occur with poor management.

I do not want a situation in which we have rewards for bad management, and that is what this provision would do. I appreciate the vital role of mass transit in urban areas of this country. I understand the energy saving and environmental advantages of mass transit.

I submit, however, that we have an obligation to approach even the most commendable objectives in a rational, fiscally responsible manner.

Inflation is the most difficult problem facing this country today. We do have finite resources, and we do have competing objectives. Mass transit is one of the very high priorities, and seeing that we accomplish it effectively is our responsibility.

Section 104(c) is neither rational nor fiscally responsible. It is generous to a fault. It will encourage waste and inefficiency in the management of our mass transportation resources.

Mr. President, the Federal Government has recognized and accepted an obligation to help meet the deficits of local mass transportation systems. Last year we spent $750 million in this endeavor; we picked up 30 percent of the mass transportation deficits in this country. That is not an insubstantial effort; it is a commitment of major importance.

Some may argue that allocation formulas for offsetting grants have traditionally been unfair or inadequate since they have been based in the past on population and population density.

Many of these concerns and objections are addressed in the pending legislation, which adds to the formula such factors as age of bus fleets, bus seat miles, fixed guideway route miles, and community rail miles.

Section 104(c), however, goes too far. It constitutes fail-safe insurance for mass transportation systems, regardless of management practices or demonstrated need. By guaranteeing that the American taxpayer will pick up half of any deficit, providing it does not exceed one-third of total operating revenues, 104(c) constitutes an open invitation to inflationary mismanagement.

Let me cite an example of what this provision would entail. Let us assume that city X has a mass transportation system with operating expenses of $1 million and a deficit of $100,000. Let us further assume that the Government, under current legislation, picks up 45 percent of that deficit. The local taxpayers, in other words are out $65,000.

If 104(c) becomes law, it will not be long before local officials sense the significance of the legislation. The people in city X might reduce bus prices or they might raise salaries. And well they should. Let us assume that the local deficit rises 30 percent—to $130,000. The Government pays half and the city pays half, $65,000 apiece. The local jurisdiction, in other words, could purchase an additional $30,000 of deficit at no additional cost to itself.

I submit that such a provision is clearly lacking in logic and deserves prompt and overwhelming rejection by the Senate.

Mr. President, there are many worthwhile programs and problems in this country that could effectively absorb more resources than we can afford to commit to them. Mass transportation is a legitimate and worthwhile contender. It deserves our serious, sympathetic consideration.

But, like other problems and issues, it also demands a sense of fiscal responsibility; a rational allocation of finite resources; sound management practices, and a recognition that we simply cannot ask the American taxpayer to foot 50 percent of any mass transit incurred by an urban area.

The deficiencies of 104(c) are not limited to logic; the provision is costly in the extreme. It is estimated that 104(c) would cost about $900 million over the next 4 years. But this is only the beginning—it sets a policy which the urban mass transportation administration estimates could eventually require $2 billion per year to fully fund.

Let us do what we can for mass transit, Mr. President. But let us also recognize the constraints of the possible and delete section 104(c) from this bill.

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

Mr. BENTSEN. I am happy to yield.

Mr. BROOKE. Does the distinguished Senator from Texas realize that his city of Houston already gets 50 percent of its operating deficit from the section 5 formula?

Mr. BENTSEN. I say to the Senator

from Massachusetts that as this bill is structured—and we are seeing a major change in the mass transit system of Houston and it is long overdue—but as this one is structured, there is nothing to encourage management to be more efficient. There really is a bonus, in effect, for mismanagement. I do not believe that is a proper way to approach this.

Mr. BROOKE. That is a separate issue. The Senator talks about fiscal responsibility. There should be something called fiscal equity as well as fiscal responsibility.

I am just pointing this out to my distinguished colleague from Texas, and I am not saying that it is irresponsible or anything of that nature, that Houston already receives at least 50 percent of its operating deficit under the section 5 formula.

Mr. BENTSEN. I say to the distinguished Senator from Massachusetts that providing fiscal equity does not make it right. With this provision, I cited the example of how transit authorities could raise their salaries substantially and they would not pick up any of it. They would let the Federal Government foot the bill.

Whether it is Houston, Austin, San Antonio, or Boston, we should try to think about the taxpayers of this country and see if they can get their money's worth, and we should encourage effective and efficient management in this country.

Mr. BROOKE. I could not agree more with the Senator from Texas. That is exactly what I believe in. I think that the Senator from Maine, the Senator from Oklahoma, certainly the Senator from New Jersey and I all agree that we have to be concerned about the American taxpayer. But we also should be concerned about the fairness of the allocation mechanism. Should population be the principal means of allocation or should it be commitment to mass transit? Many of the cities do not want mass transit at all. They do not want to put any money into it. They can solve their problems otherwise. But there are some cities that are committed to mass transit. They have done a lot for mass transit. Their whole economy depends upon mass transit systems, and that commitment cannot be measured by the population of the particular city.

Rural areas are also concerned about the need for mass transit, because they see that it is cost effective. It takes people to their jobs and it creates jobs.

Mr. BENTSEN. Let me say to the Senator from Massachusetts I held hearings in New York, Chicago, Detroit, Los Angeles, and Atlanta, on mass transit. I think Houston is late coming to the party. They have done a very poor job on mass transit. They have just passed a very substantial bond issue to try to do something about it. They advise me that the way they are going to fund it is by an increase in revenue and a substantial one.

But again whether it is Houston or any other city in my State, I am not going to support something that I think really does not put the incentive in there for more effective and efficient management. In fact it is the very contrary.

Mr. BROOKE. I think the Senator is absolutely correct. On the other hand, I do want to see equity for those cities that are committed to mass transit, those cities which are not faring equitably under the existing formula, and it is very difficult to get congressional legislation which takes that into effect.

It seems now that we are moving in the direction of revenue sharing, revenue sharing based upon population. And I am just suggesting to the distinguished Senator from Texas that in this amendment which was adopted by our committee we look at other criteria when we develop a formula that is going to be used for the distribution of mass transit funds. But I am certainly not picking on Houston by any means and I want the Senator from Texas to understand it. I simply pointed that out to him.

Mr. BENTSEN. I am picking on Houston myself, and I am glad to aid and abet.

Mr. BROOKE. I just mentioned Houston as a matter of personal knowledge that they do receive 50 percent or more of their operating deficit.

But, at any rate, I thank the Senator for yielding, and I do have a statement that I wish to make regarding the amendment which is proposed by the distinguished Senator from Maine and supported by the distinguished Senator from Oklahoma, the distinguished Senator from Texas, and others.

Mr. President, I must strongly oppose the amendment of my distinguished colleague from Maine.

Let me first explain what the supplemental operating assistance provision in this bill will actually do. The specific language of this provision tends to be overshadowed by the rhetoric about "guaranteed 50-percent funding," "inflation," "inefficiency," and "open-ended commitments."

Those are the words that I have heard this morning. Those are the words that I have heard before. I repeat them.

Guaranteed 50-percent, funding, inflation, inefficiency, and open-ended commitments, words with which we all disagree. I think that all of us here in the Senate and certainly the President, would find these words anathema.

The additional operating subsidy provision would be available for those local transit systems, or "urbanized areas," as they are called in this legislation, which do not receive 50 percent of their operating deficits under the section 5 formula for operating assistance.

If I may have the attention of the Senator from Maine, as the Senator from Maine recognizes, what we have tried to do in this legislation is to focus upon those urbanized areas, as they are called, which do not receive 50 percent of their operating deficits from the existing section 5 formula. That was the purpose of this provision, not inflation, not guaranteed 50-percent funding, not inefficiency, and certainly not open-ended commitments. That was the purpose of my amendment when it was introduced and that is what is would do. In order to promote an equitable distribution of funds, and I am sure the Senator from Maine understands the necessity for equity in this instance, this provision would provide that the Secretary of Transportation shall use the funds authorized in this section to bring those transit systems up to either a 50-percent level or to one-third of total operating expenses in accordance with the limit of maximum Federal participation established in this bill, whichever is the lower.

Therefore, even if the provision were fully funded, not all cities would receive full 50-percent funding, because of the cap of one-third of total operating expenses.

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

Mr. BROOKE. I yield.

Mr. MUSKIE. No. 1, with respect to the point the Senator made earlier, I, of course, do not quarrel at all with the intent or motivation of this amendment. What concerns me is its effect. I say in that connection that there seems to be general consensus that the current law did result in inequities. I am not sufficiently expert on all of the city transportation systems to comment in detail on that, but there was general consensus. And, as I understand the second tier of funding for operating subsidies, it was put together after a long and strenuous effort on the part of people concerned in trying to ameliorate those inequities and deal with them.

The Senator's proposal is supplementary to that second tier funding.

Our estimates of the costs are, first, with respect to the fiscal year 1979, the resulting costs would exceed the budget as it stands. Second, with respect to the estimates of future funding costs, those estimates have not been based upon the assumption that all cities support would rise to 50 percent of deficit, because you do have the one-third control.

But one of those estimates, the most pessimistic of them, comes from UMTA itself, and amounts to $2 billion; the CBO estimate is more conservative at $1 billion. No one really knows for certain how many cities will rise to the bait of 100-percent Federal support of higher deficits, therefore of higher wage settlements or of lower fares. But there is definitely an incentive for them to move in that direction.

Mr. BROOKE. Mr. President, if the Senator will yield, the Senator is well aware of the limitation. There is an authorization limitation in the first year of $127 million, in 1980 of $191 million, in 1981 of $255 million, and in 1982 of $318 million. That is the limitation.

Mr. MUSKIE. I also understand the pressures for meeting the eligibility for funding in response to this formula. I mean, I saw evidence of it on the floor today. Your justification for the bill, in part, rests upon the fact that Houston now gets 50 percent of its deficit supported. Well, that is your argument for Boston. I imagine that a similar argument will be raised for every city offering a mass transit system anywhere in the country, and I cannot believe those pressures will be resisted if we establish this policy of this eligibility formula in this bill.

Mr. BROOKE. Mr. President, if the Senator will yield, let me assure the Sen-

ator from Maine that cognizant as I am of the budgetary problems which he faces as chairman of our Budget Committee and, as he knows, I have supported him in his endeavors to stay within the budget, that is why the limitation was placed in the authorization.

What the Senator is suggesting is that we may not be able to hold to that limitation.

Mr. MUSKIE. I just recognize from 4 years with the budget process the kind of pressures that generate future years' spending. The time to apply the discipline is at the point where you create the pressure-generating policy. If it is not the intent that this policy should result in the kind of future year budget costs that I tried to project, then we ought to have a different formula. We ought to have a different policy. We ought not to deliberately put in place a policy that has this kind of pressure-generating potential, and I just think it has that potential.

I have looked over the pressure process, which is something of an education in a variety of fields, I might say. Every time I come to the floor I learn more things. I am not sure they are all stored in this inadequate head, but in any case, I do understand it.

There is, of course, wide diversity in the circumstances of mass transit systems in our cities across the country. Differences are reflected in fare levels, they are reflected in deficits, they are reflected in revenue responses, in the fare box revenues, and so on. There is great diversity, and I understand the difficulty of having to establish a policy that applies to those diverse circumstances.

But I just think that this proposal will generate pressure that Congress will not be able to resist, pressure to provide funding to the levels that will equal, hopefully, the conservative estimate of what those levels might be, and potentially to provide the higher levels estimated by UMTA, and it is for that reason that I am concerned. All this is in addition to the fact that the immediate effect of the formula is to breach the fiscal year 1979 budget levels.

(Mr. MELCHER assumed the chair.)

Mr. BROOKE. Let me assure my colleague from Maine——

Mr. MUSKIE. Let me emphasize, too, that the Senator has been a supporter of the budget process, so I would not want that ambiguity to be in the RECORD.

Mr. BROOKE. I thank the Senator.

I just want to say that being cognizant of that, in an attempt to be reasonable while at the same time attempting to correct what I believe, and I believe the Senator from Maine has already agreed, although he may not understand the extent to which inequities exist in funding for the various rapid transit systems around the country, that what we have tried to do in this bill is to try to correct those inequities while, at the same time, giving serious consideration to the budgetary problems we knew could exist. Therefore, the limitations are clearly contained in the authorization. I certainly would be one to resist the pressures, and I am quite aware that pressures would build. I have seen them build around here, and I know the Senator from Maine sees them every day. As a matter of fact, almost every bill we have on the floor requires his attention constantly, both in authorizations and in appropriations, to see to it that the pressures that build to go beyond our budget ceilings are rejected.

But I just wanted to assure the Senator that when I hear such language, as I said before, as "inflation, inefficiency, and open-ended commitments," that that was not the intent of the proposer of this amendment or my distinguished chairman, Senator WILLIAMS, or the members of the Banking, Housing, and Urban Affairs Committee on which the distinguished Senator from Maine once served himself.

It is a very serious-minded and very conservative committee, as he well knows. While there was not an overwhelming vote in the committee I must confess, at least the committee did vote on this provision with full knowledge of what its impact would be, and I think the deciding factors were based upon the inequities that presently exist in the formula.

There are many cities which we are trying to help here that are committed to mass transit and need increased mass transit. They have already demonstrated their desire to have a viable transit system by their own expenditures. So what we would be doing here is to correct an inadequate formula so that it would be a formula which did not short change those cities that want mass transit and have demonstrated not only their desire for it, but their intention to construct and to operate mass transit systems, which are so sorely needed in those cities.

I thank the Senator and I would just like to proceed and get back to another subject.

There is a second limitation also present in the bill. Recognizing the budgetary constraints and the fact that 50 percent funding is actually a goal—it is a goal and not a mandate—I want to point that out, because I think I heard language on the floor this morning which would indicate that some thought it was a mandate—I repeat it is not a mandate, it is just a goal—the bill provides that if appropriations in any given year are insufficient to finance fully the 50-percent provision, then those cities which are eligible for assistance under this provision would take a pro rata reduction in supplemental assistance.

I think that is a real safeguard, and that was put in for a specific and obvious reason.

As I have stated, the 50-percent provision, far from being a floor, as some have claimed—and I heard this morning that it was a floor, and it is not a floor—it is rather a goal, which would represent the achievement of equity for those eligible cities under the operating assistance program.

This provision does not establish the principle that a city is entitled to receive 50-percent funding of its transit deficit. It recognizes the reality that some cities are currently receiving 50-percent funding and more under the formula, and that other cities, which are constrained by an inequitable population formula allocation, are not receiving their just share of funding. I think that is a laudable purpose, and it is based upon a material existing fact.

The city of Houston, as I pointed out, receives 50 percent or more under the present formula, and there are other cities which, because they have an inequitable formula allocation, are just not receiving their equitable share of the funding. In fact, the 11 cities which would gain under this provision represent a majority, almost 60 percent, of the transit ridership in the Nation, in the entire Nation, and I think that is very significant.

We are talking about people, we are talking about transporting people from job to home or wherever they need to be transported, and 60 percent of the entire ridership in the whole Nation would gain under this provision in these 11 cities.

Those three cities which are cited as major beneficiaries of the provision are New York, Boston, and San Francisco. They carry nearly 50 percent of our Nation's riders. Can you imagine, just three cities whose transit systems carry nearly 50 percent of our Nation's riders?

Now, mass transit operating assistance is not a general revenue-sharing program. It was never intended to be a general revenue-sharing program. Nor is it the same as a community development block grant program.

These funds are to be targeted at those local transit systems with demonstrated needs, those systems which provide substantial transit service, in localities which are willing to make a real local financial commitment to transit.

I somewhat liken it to the debate concerning the Department of Housing and Urban Development's UDAG program, which we considered on the floor earlier this year. The program provides discretionary money which the Secretary of HUD distributes to cities which have developed specific programs. Many believe that UDAG should be just another revenue-sharing program, when the purpose of that bill was to aid distressed cities wherever they may be in the country—cities that are really economically distressed and are deteriorating. It is not intended that all cities be eligible for that special program.

Some claim that, say, my own hometown of Newton, Mass., which by no means could ever be classified as a distressed city, should share UDAG funds with, say, some of the cities around the country that are really distressed such as Detroit, for example, or Newark, N.J., or Washington, D.C.

(Mr. NELSON assumed the Chair.)

Mr. BROOKE. I say again, under this provision we are not concerned with all cities, we are concerned with those cities that need and are committed to and are willing to make a real financial commitment to additional mass transit services.

I am proud to say that cities and towns across my own State of Massachusetts have made and continue to make that kind of substantial commitment to mass transit. They are aware of the energy shortage, of the pollution and congestion from just too many automobiles, and the need to serve our low-in-

come families, our elderly, and our handicapped, who just cannot be transported from one place to another.

In fact, among Massachusetts mayors alone, this is not looked upon as an urban transit bill, it is called the Property Tax Relief Act of 1978. And any increased funds received by the Massachusetts Bay Transportation Authority would be used to reduce the share paid by property taxes in all the cities and towns in the MBTA area. The tax-rate savings would be substantial—at least $10 in Boston, Revere, and Somerville, with similar substantial savings in at least six other Boston area communities. I would hope that other localities which have tax funds specifically committed to transit would propose similar savings for their localities under this program. As the mayor of Oakland, Calif., has written in support of this provision:

The communities of the San Francisco-Oakland urbanized area have made a substantial commitment to transit. Oakland taxpayers support their respective shares of both the Bay Area Rapid Transit District and the Alameda-Contra Costa Transit District. The supplemental operating provision will provide funds that will bring the percentage of Federal contribution closer to the 50-percent level of net operating expenses which is provided in other areas of the country.

In fact, it is not just the older, developed transit systems which gain under this provision. The Washington, D.C.-Maryland-Virginia Metro system, the Atlanta MARTA system, Denver, Portland, and Seattle are all expending large sums of money to develop and expand their transit systems and would all benefit under the supplemental assistance program.

It is an unfortunate fact of life that transit systems do run operating deficits. And it is also true that transit systems which are developing, expanding, upgrading, or purchasing new equipment are likely to face more substantial deficits. New systems, in particular, are likely to keep fares low in order to attract transit ridership.

We have seen that happen here in the District of Columbia, when the Metro first opened. It was a question of getting people to get out of their cars and into rapid transit, learning how to use it, rather than clogging up downtown Washington by creating traffic jams, which we have enough of with the tourist business in the city. And this happens not only in Washington, but in all the major cities of the country.

I believe that it would be a cruel deception for the Federal Government to provide substantial assistance to localities to build new transit systems and to upgrade and expand existing systems and then not provide adequate funding so that these systems may operate.

In other words, you let them build the system, and what can you do when the system does not have sufficient operating funds. You just cannot price this service out of the market. People are paying so much now to ride rapid transit systems that they just cannot afford increase fares in many cities. If it is not more economical for them to ride the transit system than it is for them to come into town with an automobile, and pay a high parking lot fee, then people will not use transit. And most cities today do not even have parking lots to adequately take care of people who come in with their cars, and then they just park illegally. It is getting so now you cannot even find an illegal place to park any more in many cities of this Nation; so that they really have a very serious transit problem on their hands.

There is one final point which I would like to address. I know the strong feelings of the administration in opposition to my provision. I know the strong feelings of the distinguished chairman of the Budget Committee, not on the issues I am talking about, because I think he agrees with me on the issues I have raised. He is only talking from his position as chairman of the Budget Committee, and I understand that and respect that position, and I feel the same with respect to the Senator from Oklahoma (Mr. BELLMON).

So I shall not prolong this debate. I do want to call for the yeas and nays, after my distinguished chairman (Mr. WILLIAMS) has an opportunity to talk.

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

Mr. BROOKE. Yes, I yield to my friend from New York.

Mr. JAVITS. I just wish to record myself as being for the Brooke formula, for one critical reason. It is the best way in which fair weight can be given to transit ridership those who are saving gasoline and energy for the country. Failure to give weight to that item has resulted in very serious disadvantages to the major urban mass transit systems in the country. Three of these, New York, Boston, and San Francisco, have 50 percent of the transit riders in the country. New York alone has about 30 percent and yet receives only about 11 percent of Federal financial assistance. Cities over 1 million receive from the Federal Government approximately 6 cents per rider. By contrast, cities between 50,000 and 200,000 receive about 25 cents per rider.

Finally, as to the regulator—the fact that this will be handled temperately—municipalities have to come up with the other 50 percent of the operating deficit. I can assure you that in New York, that is an absolutely rigorous regulator. So I shall support Senator BROOKE's position.

Mr. BROOKE. I thank my colleague from New York. I have always said whenever you have problems in any city of this country, you can find them multiplied in the city of New York.

I know we have problems in transit, and this is a problem we will have to address. These three cities that I mentioned, New York, Boston, and San Francisco, actually carry 60 percent of the Nation's ridership.

But rather than belabor this debate, since we have had a very spirited debate, the chairman and the ranking Republican member of the Budget Committee, primarily, for budget reasons as I understand it, not that they are against rapid transit systems, have made their positions known. I see that our colleague on the Banking, Housing, and Urban Affairs Committee, the distinguished former mayor of the city of Indianapolis, and now a very distinguished member of our committee, is here to support this amendment. I believe that he would similarly raise the fiscal problems—none of my colleagues, I think, are against mass transit. And they recognize that at sometime in the near future we have to develop a formula which is more equitable than the formula which exists at the present time.

The final point I should like to stress before yielding to the chairman of the committee is whether this provision promotes inefficiency and inflation in the operating assistance program, as some critics have stated. As I have said, the cities eligible for this provision are subject to two caps: One, 50 percent of the operating deficit, which would mandate a 50-percent local share—localities would have to come up with a 50-percent matching share— and one-third of total operating expenses. Those cities eligible for supplemental assistance are the only cities which must operate under both of these caps.

Under the existing formula, that does not exist. But under this formula, they would have to operate under both of those caps.

I believe that these two requirements constitute the most significant constraints against inflationary increases in the bill. Those are pretty severe constraints, when you have to come up with 50-percent local money, No. 1, and you are constrained by a one-third cap on operating expenses.

On the other hand, this bill eliminates the existing cap of 50-percent funding of operating deficits by the Federal Government and substitutes the "one-third of operating expense" maximum of Federal participation. I have yet to hear any complaint about the inequity and inflationary incentive of providing increased operating funds for those cities currently receiving 50-percent funding under the formula.

I never hear that. It is very strange, for those cities without the cap, there is no complaint at all.

Rather, the administration and my colleagues who support the amendment of the distinguished Senator from Maine target their attack—I am not talking about the Senator from Maine, I am talking about others—at those cities

which have been unfairly treated under the existing formula and which are trying to "catch up" to those cities which are unfairly rewarded by the operation of the formula.

That is my charge. These cities are being rewarded and they are being rewarded unfairly, because they are really not even committed to mass transit. Yet they are getting the benefits without the liabilities or without the commitment, so to speak. The proponents of this amendment have certainly set a selective standard of fiscal responsibility.

May I add that once those cities eligible for supplemental operating assistance receive 50 percent of their operating deficits, they would have to provide one-half of any increase in operating expenses in order to receive increased Federal assistance. That would be likely to require increases in State or local taxes—such as property taxes—which, as we all know, will be very difficult for local officials to propose. Requiring an increase in State and local tax dollars is a most effective disincentive to increasing local operating deficits.

I do not think you will find many mayors out there now or many city councilors out there now who are prepared to increase property taxes. They have heard of proposition 13. They have read about it. They know about it. For them to increase taxes, you can bet your bottom dollar they will do so only under the closest scrutiny and only for the best and most compelling reasons; namely, the necessity to have a viable mass transit system.

Mr. President, I believe that the Committee on Banking, Housing and Urban Affairs has developed a legislative package which would provide a strong and equitable Federal commitment to urban mass transit. The amendment of my distinguished colleague from Maine severely distorts the equity and balance which the bill sought to achieve in the area of operating assistance.

It is the cost of operating transit systems which stands as the most severe impediment to the development and expansion of public transportation services in our urban areas. These costs represent a significant portion of State and local budgets. At the same time, all local tax sources—not just the property tax—are under great pressures today. I do not believe that it is a wise Federal response to cut back an important Federal program in an area of critical national interest which could reduce the burden placed on local tax sources.

I am aware that the Carter administration strongly supports the amendment of my distinguished colleague from Maine. It is impossible to understand how this administration can argue for a rational effort to address the problems of the scarcity and cost of energy and not recognize the critical role of mass transit in reducing energy consumption.

We talk about new sources of energy. We talk about capturing the wind and the waves and the Sun. But the best and sole source of energy is conservation. Conservation is one of the best sources of energy we have. If you do not use it, if you conserve it, you do not need to have any more. The more you can cut back, the less you will have to find; there is no question about that. Certainly, mass transit is one of the most important steps that we can take for conservation of energy in this country. I think everyone recognizes that.

If we could get more people out of the gas-guzzling automobiles and into mass transit, you have no idea what we can do so far as solving our national energy problems is concerned. I think that this program we are recommending here today is one that will do it. I just cannot understand how this is not understood downtown.

I believe that this administration has sent a clear message to the cities of Boston, San Francisco, Atlanta, Denver, Portland, Seattle, and other cities which are planning major investments in transit in the future. They are saying that the Federal Government is not prepared to make a definite and long-term commitment to the operation of mass transit in this country.

Therefore, Mr. President, though I know what the opposition is, I still, in good conscience strongly urge my colleagues to reject this amendment and to let our cities know that the Federal Government is prepared to act as a full partner in the most critical area of public transportation.

Mr. WILLIAMS. Mr. President, the Senator from Massachusetts has done a most able job of describing his amendment that is in the bill, that the amendment of the Senator from Maine would strike from the bill. Therefore, I am not going to take a great deal of time in stating here that I supported the Brooke amendment in the committee and support it here on the floor. I think it might be useful to take just a moment, however, to think through some of the problems we have when we are developing the distribution of funds under a formula. I think this is one of the toughest problems we have here in the Senate: to find equity as we direct the funds to the designed need that we have legislated for.

We see this in many areas.

Now, in transportation, we had a national program of urban mass transportation in the area of capital fronts for 10 years before we developed any program of support to the urban areas for the expenses, the operating costs, of running their systems.

Of course, within that period, the program was broadened in many ways and we tried to reach the small urban and rural areas. It took us 10 years to realize the necessity and, then implement what we realized the necessity of—a contribution to the costs of operations.

We knew this was necessary. We could see the decline and abandonment of transit systems even while we were prepared to make contribution for capital purposes.

So, in order to keep old systems alive and help defray the operating expenses, the Congress put in the operating assistance in 1974.

Now, in the original formula so that it would have a national reach, we restored to the simplest approach. We used population and population density factors. For practical reasons this was and approach which we are all familiar with.

That population-population density approach, however, did not reflect effort, and the intensity of transit operations, in many of our areas.

Transit intensity was not reflected in that formula. That is why we had these disparities in communities that could get 50 percent of their operating deficits out of section 5. That is why those highly intense transit areas, New York, Boston, Atlanta, and many others, were way short of that percentage of their operating deficit—way short.

This year with this bill we have improved the formula distribution and we get a lot closer to a realistic reflection of transit operations within the various areas.

But, even with that, there was not that fine tailoring of this legislation to all of the urban areas that are making a significant effort. This amendment of the Senator from Massachusetts is in response to that.

We know the areas that clearly would be reached by the Brooke amendment are those areas that have done a significant amount of work in the last few years to expand, improve, modernize, and to generally make transit all that it can be within those areas.

Take Atlanta, I believe that is one of the areas that has expanded so greatly to improve its mass transportation, public transportation systems and would receive money under the Brooke amendment. There are others, too.

Again, it comes down to the everlasting search for the equity in the situation the Brooke amendment represents, and I support it and hope it will stay in the bill.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to support the Senator from Maine in an effort to delete this amendment. I do so in spite of the fact that I know that if the amendment remained in the bill it would be good for the community in which I live—Cleveland. I am told it would mean $20 million extra in the next 4 years.

It is very difficult for any Member of this body to stand up and oppose legislation that helps his own community. But I do so because I am concerned about the manner in which the Regional Transit Authority in Cleveland has been expending their funds.

I am concerned when I read about their hiring practically every executive who has worked for them in recent

years on a consultant basis and paying them tremendously high fees, the purposes for which are not easily explained.

I am concerned when I read about the Regional Transit Authority in my own community sending people to various conferences, or making other kinds of expenditures, and then responding and saying, "Well, the Federal Goverment will pay 80 percent of it."

I believe in fiscal responsibility, whether or not it is the Federal Government's money, or whether it is the State government or the Regional Transit Authority, or any other particular body.

I have not seen that kind of fiscal responsibility on the part of the Regional Transit Authority in the largest community in Ohio. I have not seen them using competitive bidding, at times when they should have been using competitive bidding, but, rather, negotiating contracts that I questioned their negotiating, and saying that it is in the community's best interest.

So, although I know that it is difficult to oppose a proposal that is going to help one's own community, because I do live in a suburb of the Cleveland area and the RTA does serve my community, I believe that this is my way of saying to the RTA: "Look, it's time for you to take stock in yourself. There just is not an unlimited amount of money available to you at the Federal level, and somewhere along the line you ought to start to economize; you ought to look at the salaries paid to your executives because they are very high, indeed."

But no, they say that the Federal Government is going to pay 80 percent of it and they do not have to give that kind of concern.

I am concened about lower fares for the people who ride the RTA in Cleveland. I would hope these moneys would cause those lower fares to result. But I also feel that maybe we have to say to an executive body such as this: "Quit thinking that the Federal Government has an unlimited amount of money available to you."

This is an instance in which I think we ought to send a message to some of the transit systems around the country, because I do not believe that Cleveland is alone in the wasteful expenditure of funds. I believe that they are typical of many other transit authorities throughout the country, because one of the answers has been, "Well, we're only paying the same amount of money that is being paid in other parts of the Nation."

I believe the people ought to be paid well, but I think those salaries ought to be comparable to other people in industry and in the governmental service.

Therefore, I rise to support the Senator from Maine in his effort to delete the amendment of the Senator from Massachusetts in this area.

Mr. BROOKE. Will the Senator yield?

Mr. METZENBAUM. I certainly will.

Mr. BROOKE. I certainly admire and respect the Senator's courage in what he has said. If he has that kind of situation existing in his city, and I regret to find that he does, then I think he is certainly within his right to do everything he can to alleviate that condition.

However, I want to point out to the Senator when he talks about 80-percent funding, that refers to capital assistance. When a city wants to construct a rapid transit system, they are eligible for 80 percent.

But this amendment does not direct itself at all to that 80-percent funding. I just wanted the Senator to be sure. We are here talking about operating expenditures, and that alone.

Cleveland gets less than 50 percent of its operating expenses. It gets about 25 percent, which is considerably less than other cities. The reason is that the section 5 formula, under which we are working, is an inequitable formula.

I know the Senator was not here during the debate, but the point I was trying to make—and the Senator has every right to support the amendment of the Senator from Maine to delete this from the bill—is that all the committee tried to do in adopting this provision was to bring equity into this whole question of operating deficits. It established two caps: a 50-percent cap and a one-third cap for operating expenses. It also would require a matching local 50 percent. The cities would have to come up with 50 percent themselves, and it would have to be cities, obviously that were committed to the program and that really were suffering.

Cleveland may have a unique problem. Cleveland has had several unique problems, as I have been reading recently, and I sympathize with that city.

I assure the Senator that this has nothing to do with the 80 percent. If they have been misusing that, if they have been hiring consultants they do not need, that should be corrected, not only in Cleveland but also anywhere we find it. We cannot waste Federal taxpayers' dollars or local taxpayers' dollars. If they are getting 25 percent under the existing formula, most of the money they are wasting, as the Senator from Ohio has said, is coming out of the local taxpayers' property taxes, I would assume, rather than from the Federal Government, because they are not getting it from the Federal Government. I think that should be brought to the attention of the Governor and the officials in the city of Cleveland.

But that is not my concern. My concern is merely to point out to the Senator that we are not concerned here with capital; we are concerned with operating deficits and an attempt to bring some equity into a situation which is inequitable at this time and has been inequitable—namely, the section 5 formula. This amendment would try to do exactly that and would do exactly that, even though, as the Senator from Maine pointed out, it could potentially have some budgetary problems.

Mr. METZENBAUM. I appreciate the clarification of the Senator from Massachusetts, and I do not take issue with him.

The 80 percent I mentioned was the quotation I used from the newspapers. I think they were somehow charged in as capital expenditures, to go to conventions and things of that kind, and to hire consultants. One way or the other, it comes out the same way.

I agree with the Senator from Massachusetts that the present formula is inequitable, and I share his concern about changing that formula. I am not certain that this is the manner in which to do it, but I feel that the formula should be changed, because I think my community is shortchanged. I am not certain that I am prepared to support changing it in this manner, but I hope that along the way we can make that change.

Mr. President, I ask unanimous consent that during the consideration of this bill, Mr. Tom Hall, of my staff, have the privilege of the floor.

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

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

Mr. METZENBAUM. I yield.

Mr. MUSKIE. There are other points I would like to make in response to the Senator from Massachusetts and the Senator from New Jersey, along with the comment that the Senator from Ohio made, and to emphasize what was said earlier in the debate.

Independent of the Brooke amendment, the pending bill does undertake to reform the formula. For example, with respect to the additional amounts provided, independent of the Brooke formula, the city of Cleveland will get an increase of 72 percent over current law for its operating costs. It is one of the highest. Boston gets an increase of 118 percent. San Francisco, another city mentioned by Senator BROOKE, will get an increase of 98 percent. Philadelphia gets an increase of 131 percent. Chicago gets an increase of 94 percent and Cleveland 72 percent, and all others are under that.

Those changes are a reflection of the change in the formula that is in the bill if the Brooke amendment is stricken out of the bill. So Cleveland will get some relief. I thought the Senator would like to know that.

Mr. METZENBAUM. I appreciate the statement of the Senator from Maine.

I know that Cleveland will gain from it. I think we need that assistance. But I thought I should address myself to some of these practices that have concerned me over a period of months.

Mr. MUSKIE. I appreciate that comment, because it is a point that needs to be made with respect to the Brooke amendment and with respect to the widely varying circumstances in which the mass transit systems of many cities find themselves.

I have before me a table which I ask unanimous consent to have printed in the RECORD.

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

SELECTED TRANSIT OPERATING STATISTICS FOR MAJOR URBANIZED AREAS

Urbanized area: Year	Operating ratio [1] (percent)	Operating Revenue per passenger (cents)	Operating deficit per passenger (cents)	Operating cost per passenger (cents)
Nation: [2]				
Calendar year	59.9	34.6	23.2	57.8
Calendar year	54.0	35.5	30.2	65.7
Calendar year	53.7	38.1	32.8	70.9
Calendar year	53.0	39.8	35.4	75.2
4-yr average	54.9	37.0	30.4	67.4
Boston:				
Fiscal year 1974	30.6	35.7	81.0	116.7
Fiscal year 1975	28.8	36.7	90.8	127.5
Fiscal year 1976	28.5	38.2	96.2	134.4
Fiscal year 1977	25.4	40.2	118.0	158.2
4-yr average	28.0	37.8	96.9	133.7
Chicago:				
Fiscal year 1974	78.9	58.0	15.5	73.5
Fiscal year 1975	69.7	40.3	17.5	57.8
Fiscal year 1976	66.3	40.0	20.3	60.3
Fiscal year 1977	63.5	39.4	22.6	62.0
4-yr average	69.0	43.2	19.4	62.6
New York:				
Fiscal year 1974	67.2	43.9	21.4	65.3
Fiscal year 1975	63.9	47.0	26.5	73.5
Fiscal year 1976	55.3	48.0	38.7	86.7
Fiscal year 1977	51.1	55.1	52.7	107.8
4-yr average	58.5	48.3	34.2	82.5
Philadelphia:				
Fiscal year 1974	60.6	42.7	27.8	70.5
Fiscal year 1975	55.6	37.8	30.2	67.0
Fiscal year 1976	34.6	37.3	70.4	107.7
Fiscal year 1977	[3] NA	NA	NA	NA
3-yr average	48.9	39.5	41.3	80.8

[1] Operating revenue/operating expenses.
[2] American Public Transit Association, Transit Fact Book, 1977–78 Edition, 1978.
[3] Not available.

Note: While these data probably represent the most complete information available, the results are not always comparable from year to year or from urbanized area to another.

Source: Calculations by Congressional Budget Office using unpublished survey data collected by UMTA for individual urbanized areas and by APTA for the nation as a whole.

Mr. MUSKIE. Mr. President, the table shows the relationship between operating revenues and operating expenses as well as operating deficits in Boston, Chicago, New York, Philadelphia, and in the Nation as a whole. This table reflects widely varying differences in these particular measures of the health and operating policies of these large mass transit systems.

For example, in the Nation as a whole, revenues over a 4-year period are 55 percent of operating expenses. That means that operating revenues are running about one-half of operating expenses in the Nation as a whole.

However, in Boston, for example, operating revenues are only 28 percent of operating expense levels. In Chicago, they were 69 percent of operating expenses; in New York, 58 percent; in Philadelphia, about 50 percent.

So there is a difference. Those differences reflect the effectiveness of management. They reflect possibilities of waste. They reflect differences in wage scales and wage policies, differences in pressures to control costs.

There are many stories I could put in the record, if I were aiming my remarks at particular cities, of poor management and wasteful management in our mass transit systems. All I am trying to focus on is not a catalog of mistakes or shortcomings by management of our mass transit systems but instead the incentives in the proposed policy with respect to wasteful and inefficient management.

I understand that about 75 percent of transit operating expenses represents wages. If the formula written into the bill by the Brooke amendment makes it possible to increase operating expenses by increasing wages entirely at Federal expense, the Senator understands, I think, what kind of pressures there will be for higher wage settlements because Uncle Sam will pick up the entire tab.

Mr. President, in the course of the debate, the distinguished Senator from Massachusetts has identified three cities particularly as cities that would be treated inequitably under the present formula—Boston, New York, and San Francisco. Under the committee bill, without the Brooke amendment, Boston, one of those three cities, would get increased apportionments for operating expenses of 118 percent—without the Brooke amendment.

New York would get an increase of 92 percent without the Brooke amendment. San Francisco would get an increase of 98 percent without the Brooke amendment. Only a few other cities get increases above 50 percent.

So that the bulk of the assistance for operating expenses provided by the committee bill, without the Brooke amendment, goes to the three cities which the Senator from Massachusetts has identified as three of the situations representing inequities under current law. So, obviously, without the Brooke amendment, the committee has gone a long way to correct the inequities represented in current policy.

The second point I should like to make with respect to the observations of the Senator from Massachusetts is this: He says he is not setting a policy of 50 percent, or 33 percent if the cost measure is controlling. But it is striking to me that he said his proposal originated out of the fact that in some cities, the Federal Government was covering 50 percent of the deficit. Obviously, he chose that as the norm toward which we should move. So if we adopt this policy, we are saying that it should be the policy. How fast we fund it will depend upon the budget resolutions, says Senator BROOKE.

But he is adopting it as a policy; 50 percent Federal funding of local mass transit deficits or one-third of operating costs, whichever is the lower.

So what he is saying is that it is policy, and if we can find the money in the Federal budget then we should try to find it to increase Federal assistance up to funding of 50 percent of local mass transit deficits or up to one-third of local operating costs. To the extent that Federal assistance in any community is below either of those policy objectives which are established by the Brooke amendment, we create incentives to increase operating deficits, to increase operating expenses, whether or not those increases are justified in terms of better service, more efficient service, or better management.

We are also taking the pressure off any incentive there may be to increase the fare, the fare box revenue in these cities. If operating costs, if wages can be increased without increasing fares on local riders, what local resistance then could there conceivably be? We should be asking the riding public in a community to carry a fair share of the burden of funding the expenses of the system.

So, Mr. President, our objection to this is not the shortcoming of any particular transit system. The appropriate committees, the appropriate Federal agencies have a responsibility under the current law as well as the pending bill to try to ride herd on things of that kind.

But what we are concerned about is the incentive that the Brooke amendment creates for further mismanagement, for further waste, for further expensive cost increases, for holding fares down when they should be increased. Whatever the policy mix one should have to get a better managed system, a more soundly financed system, the Brooke amendment creates pressures in the opposite direction.

The paymaster will be Uncle Sam's Treasury and that we cannot afford.

One further observation: With respect to the increases in operating subsidies which this bill provides, independent of the Brooke amendment, the total is $425 million of which $379 million or about 90 percent will go to the largest cities.

Mr. President, I ask unanimous consent that a table reflecting that fact be printed in the RECORD.

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

OPERATING AID APPORTIONMENTS FOR MAJOR URBANIZED AREAS

[In millions of current dollars]

Urbanized area	1978 [1]	1979 [2] (current law)	H.R. 11733 [3]	S. 2441 [4] (without Brooke)	Percent increase in authorization (without Brooke)
Atlanta	6.2	6.9	9.4	9.2	+48
Baltimore	11.4	12.6	17.7	17.0	49
Boston	16.9	18.5	31.7	36.9	118
Buffalo	7.9	8.6	11.7	11.6	47
Chicago	49.5	54.4	92.3	95.8	94
Cincinnati	6.5	7.1	9.7	9.6	48
Cleveland	11.0	12.0	16.4	18.9	72
Dallas	6.4	7.0	9.5	9.4	47
Denver	6.3	6.9	9.4	9.4	49
Detroit	27.0	29.7	41.0	40.1	49
Houston	9.5	10.4	14.2	14.0	47
Kansas City	5.5	6.0	8.2	8.1	47
Los Angeles	61.9	67.9	92.7	92.5	49
Miami	8.5	9.3	12.6	12.5	47
Milwaukee	6.7	7.4	10.0	9.9	48
Minneapolis-St. Paul	8.6	9.5	12.9	12.9	50
New York	137.8	151.2	324.6	264.8	92
Philadelphia	29.9	32.8	60.0	69.2	131
Pittsburgh	10.4	11.4	16.1	18.4	77
San Diego	6.8	7.5	10.2	10.1	49
San Francisco	19.9	21.9	31.0	39.4	98
San Jose	6.3	6.9	10.1	9.7	54
Seattle	6.9	7.6	10.3	10.3	49
St. Louis	12.1	13.3	18.1	17.9	48
Washington, D.C.	17.8	19.5	26.7	29.5	66
Total	497.7	546.3	906.5	877.1	[3] +76
Total, all urbanized areas	775	850	1,200	1,200	[4] +48

[1] Sec. 5 only, excludes sec. 17, commuter rail operating subsidy. Source: "Formula Apportionment of Capital and Operating Assistance Funds," Federal Register, vol. 42, No. 192, Oct. 4, 1977 pp. 54126–54145.

[2] Sec. 5 only, excludes sec. 17 and sec. 18, commuter rail operating subsidy. Source: UMTA.
[3] Includes commuter rail subsidy. Source: UMTA.
[4] Includes commuter rail subsidy. Source: UMTA.

Mr. MUSKIE. Mr. President, the committee bill goes a long way without the Brooke amendment to deal with the problem which Senator BROOKE has described through most of his presentation here this morning.

Mr. President, I have nothing further that I need to add to the debate. I think Senator BROOKE indicated he wishes a rollcall vote.

I shall suggest the absence of a quorum so that we might try to corral the number of Senators required to request a rollcall vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. 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. MUSKIE. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Louisiana (Mr. JOHNSTON) and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 74, nays 15, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—74

Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bellmon	Hart	Nunn
Bentsen	Hatch	Pell
Biden	Hatfield, Paul G.	Percy
Bumpers	Hayakawa	Proxmire
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hodges	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chiles	Humphrey	Sasser
Church	Inouye	Schweiker
Clark	Jackson	Scott
Cranston	Laxalt	Sparkman
Culver	Leahy	Stafford
Curtis	Long	Stennis
Danforth	Lugar	Stevens
DeConcini	Magnuson	Stone
Dole	Mathias	Talmadge
Domenici	Matsunaga	Thurmond
Eagleton	McClure	Tower
Eastland	McGovern	Wallop
Garn	Melcher	Young
Glenn	Metzenbaum	Zorinsky
Goldwater	Morgan	

NAYS—15

Brooke	Heinz	Sarbanes
Case	Javits	Schmitt
Chafee	Kennedy	Stevenson
Durkin	Moynihan	Weicker
Gravel	Packwood	Williams

NOT VOTING—11

Abourezk	Ford	Hathaway
Allen	Haskell	Johnston
Anderson	Hatfield, Mark O.	McIntyre
Bayh		Pearson

So the amendment (No. 3458) was agreed to.

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

Mr. HARRY F. BYRD, JR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, may I——

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

Mr. HEINZ. I yield.

Mr. WILLIAMS. I ask unanimous consent that Tom Dougherty of Senator GLENN's staff have the privilege of the floor during the consideration of this measure.

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

Mr. KENNEDY. I make the same request for Jay Urwitz of my staff.

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

Mr. HARRY F. BYRD, JR. Same request for John MacIlroy and John Brooks of my staff.

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Pennsylvania yield so that I might ask a question of the manager of the bill?

Mr. HEINZ. Mr. President, I am going to ask a question of the Senator from New Jersey myself. It is a very brief question.

Mr. President, our colleague from New Jersey (Mr. WILLIAMS) merits the gratitude of the Members of the Senate for his excellent work on this legislation.

Through the Senator's foresight and work, many of the inadequacies of the current mass transit programs were recognized and improved. For the first time, the Senate has directed that cities which have made substantial contributions and which carry many more riders than comparably sized cities should be eligible for equitable assistance.

There is one issue on which I know my distinguished colleague from New Jersey shares my thinking. That issue is people. It is important to me that we bring this issue into perspective. I would guess that we have already spent some tens of millions of dollars for new technology testing in Pueblo. In fact, just to maintain the testing facilities there costs millions of dollars annually. By way of contrast, current UMTA training programs, largely devoted to broad planning concepts, represent an annual investment of only about $2 million.

It is clear that where the significant investment in new technology has had very little feedback, a more modest investment in providing innovative programs for promising employees of a transit system would yield immediate primary and secondary benefits to the public. After all, it makes little sense to continue to provide vast sums of money to rebuild the Nation's transit systems if

there is to be no funding for developing the skills of the men and women who are responsible for their operations.

In the initial legislation submitted to the committee by Senator WILLIAMS, a specific portion of the funds authorized by the bill was to be used to fund section 20, the new human resource program. Unfortunately, this set-aside was removed in the markup of this bill. I strongly supported this original language. It seems to me that if a State or local public transit authority identifies promising employees, or is able to identify minority or female applicants for employment, there should be a means to tailor a specific program which would enable those employees or applicants to experience upward mobility. In many instances, this might well involve on-the-job training or an exchange program with another transit authority, with UMTA, et cetera. Such a program might also enable an employee to continue to work part time. To me, it is important that inner city residents be offered an opportunity to be a responsive part of the systems which are designed to serve their neighborhoods—and that this part not be menial. Those persons who, because of their environment and background, do not have the same opportunities for employment or advancement should be given the chance to assume responsible positions in a public service.

For that reason, I wonder if the Senator from New Jersey could assure me that section 20 programs would, in fact, qualify for funding out of the section 3 discretionary grant program. Would the Senator from New Jersey answer that question?

Mr. WILLIAMS. Yes, I am happy to respond to the question of the distinguished Senator from Pennsylvania.

Where there are provisions in this bill that call for action, and where there is no specific designation of the source of funding—we do have areas that specifically designate the source of funding, section 5 and others—I assure him the section 3 money will be there and available for section 20, purposes.

Mr. HEINZ. Then, if I correctly understand the Senator from New Jeresy, the answer is clearly, "Yes": The section 20 programs, which do not have a separate source of funding identified, therefore would qualify for funding out of the section 3 discretionary grants program?

Mr. WILLIAMS. That is correct.

Mr. HEINZ. I thank the Senator from New Jersey.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from New Jersey yield for a question?

Mr. WILLIAMS. Be happy to.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has a meeting with the Secretary of Defense. Before going to third reading, will the Senator from New Jersey ask the staff to notify the Senator from Virginia? I do not want to hold up the Senate but I would like to be present before this bill goes to third reading.

Mr. WILLIAMS. We are getting close to that time.

Mr. HARRY F. BYRD, JR. It is close to that time now?

Mr. WILLIAMS. Yes. I believe the Senator from Massachusetts (Mr. KENNEDY) has an amendment. I do not know of any others. The Senator from Michigan (Mr. RIEGLE) and the Senator from California (Mr. CRANSTON) have amendments. But it will be shortly.

UP AMENDMENT NO. 1948

(Purpose: To assist meritorious transit systems.)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1948.

Mr. KENNEDY. 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 53, line 13, strike the period and insert the following:

"and for incentive grants to transit systems whose performance the Secretary determines to be particularly meritorious. In making this determination, the Secretary may take into consideration increases in a transit system's ridership, energy conservation and such other factors as he may deem appropriate."

Mr. KENNEDY. Mr. President, this is an amendment in behalf of myself and my colleague (Mr. BROOKE). In section 5 of the legislation, 1.5 percent of the funds are set aside for innovative grants. These grants are for technological innovation efforts, to be made in different transit systems. This amendment would also allow these funds to be used for incentive grants for good performance—for transit systems which have done a good job by increasing ridership, cutting down on energy consumption and the like. Those systems which have performed these tasks are more likely to continue to add to their ridership and to come up with innovations—in service as well as technologically—and so, they should be eligible for incentive grants as well.

I had the opportunity to talk with the manager of the bill. There is no money involved. It seems to me to be a useful addition to this legislation.

Mr. WILLIAMS. Mr. President, I certainly agree and am happy to support this amendment. Obviously, the Senator from Massachusetts (Mr. BROOKE) is, too.

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

The amendment was agreed to.

BUS PURCHASES BY ANCHORAGE

Mr. GRAVEL. Mr. President, there is a change in focus in the section 3 discretionary capital grant and loan program with regard to projects for the routine replacement or purchase of buses. In the committee report, the committee's intentions seem to be to encourage funding for bus purchases to come out of the section 5 capital apportionment program. Section 5 funds in the past have largely been used for operating assistance. In fact, the city of Anchorage used section 5 moneys solely for operational assistance, which is no doubt the case for other municipalities across the Nation.

Anchorage, along with other still-growing communities in the United States, has a public transit system which has yet to pass out of the development stages. It has relied heavily on the discretionary authority granted to the Secretary under the section 3 program to meet its capital needs. The capital needs of a newly developing system are proportionally greater than a system which has been established for some time. Anchorage intends to add 10 buses to its present fleet of 40 buses for each of the next 5 years. Although Anchorage will receive an increase of approximately $200,000 in its section 5 apportionment over last year's apportionment under this bill, you and I know that $200,000 will not purchase many buses. It costs Anchorage $100,000 per bus.

The committee has indicated its desire for flexibility in the administration of the section 3 program in report language stating that "major or substantial expansions of bus fleets" would still qualify for section 3 funds. Anchorage will be increasing its fleet by 25 percent in the next year alone. Is this the type situation intended to qualify for consideration by the Secretary for section 3 funding?

Mr. WILLIAMS. Mr. President, I am pleased to respond to my colleague.

In developing this legislation, the committee was concerned with the need to stabilize and routinize the bus purchase program. At the same time, it was also concerned with the needs of many cities, such as Anchorage, that are taking steps at present to expand their transit fleets.

Specifically, the committee was aware of the greater capital needs of newly developing and growing bus systems. That is exactly why the committee report includes the statement that "major or substantial of bus fleets would be eligible under section 3." While the specific definition of "major or substantial" would be left to the Secretary, it is the clear intent of this language to encompass situations such as the one in Anchorage, where the 40-bus fleet will be more than doubled over a 5-year period.

The section 5 formula grant program in the bill is designed to be the primary resource for bus purchases, particularly routine replacements and minor expansions. I want to stress, however, that it is not intended—nor are sufficient funds provided for—that all bus purchases are to be made out of the formula grant apportionment. Referring once again to the committee report, it states quite clearly that "minor expansions" should come out of the section 5 apportionment "where section 5 is sufficient to meet those needs." I assure my colleague that this language would allow the Secretary to meet legitimate bus purchase needs as a section 3 activity where the section 5 apportionment is insufficient.

So in response to my friend and colleague from Alaska, the answer to his inquiry is yes. This strikes me as precisely

the situation envisioned by the bill and I am pleased we had this illuminating exchange.

UP AMENDMENT NO. 1949

Mr. RIEGLE. Mr. President, I sent 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 Michigan (Mr. RIEGLE) proposes an unprinted amendment numbered 1949:

On page 64, between lines 18 and 19 insert the following new subsection:

"(h) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local public body which is acquiring such buses to provide in advertising for bids for passenger seats specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978."

Mr. RIEGLE. Mr. President, I am offering this amendment, and Senator GRIFFIN of my State is a cosponsor of this amendment.

I ask unanimous consent at this time that Mr. Marc Steinberg of his staff and Gus Franklin of my staff may be granted the privilege of the floor during the course of the debate on this amendment and any other amendments and any votes that may occur.

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

Mr. RIEGLE. Mr. President, I allowed the amendment to be read in toto so that everyone in the Chamber could hear it and understand that this is clearcut, precise language designed to deal with a very specific problem. I want to take a minute to familiarize the people here who are concerned about this question with an aspect of the problem that has arisen that puts in great jeopardy a particular company in my State that is in the business of manufacturing bus seats. The case problem is to me almost a perfect illustration of what happens when the administrative branch of the Federal Government really does not do its job the way I think it ought to and the way I think Congress intends for it to.

The situation we are faced with is this: We are, in this country today, designing, at the Federal Government level, an ultimate bus, transbus, that, at some future date, will be specified in terms of its specific components. At that time, any buses in the country that are purchased, with Federal Government assistance, will have to meet that uniform national transbus design. But that is at some point in the future. We are not there yet. No one knows right now exactly what that design will look like, because we are just not at a point where we are ready to lock in on it in a final sense.

I might say, by the way, that when we get to that point, anybody who wants to bid on a bus or provide components for the bus will have to meet whatever specifications are laid out by the Department of Transportation. That is understood by everybody. No one here has any complaint about that.

But we are not there yet. So there is no way of knowing what, exactly, that design is going to look like. So, for the time being, we are in a "time being" period; we are in an interim period. We do not know how long it is going to last. It may last a year, two, three, it is impossible to say, before we finally decide what this master plan will look like for the transbus.

Obviously, that creates a great deal of uncertainty for anybody who happens to be in the bus business in this interim period, to know exactly what the rules of the game are going to look like when this process is finished and how they can maintain themselves and remain viable in this period. In this interim period, by the way, from the point of view of terminology, the in-between bus is called the advance design bus.

The problem is that the specifications for the advance design bus, at one time, were of a certain sort. But then the people in the Department of Transportation continued to work with the specifications. And, as often happens—in fact, I have never seen it not happen—at a certain point in time, they changed their minds. They decided that the first design they were considering for the interim bus was not really what they wanted, that it took into account too many factors—factors like safety, comfort, life-cycle costs, and a variety of features. That was the initial instruction to people who wanted to be in the bus business, that they would have to meet these specifications.

This company in my State, American Seating, being in the bus seat business and in the seat business for a period of many years, a very reputable firm, proceeded in good faith and took these instructions from the Department of Transportation and built a bus seat—a very good one, I must say.

After they spent their money to tool up for the design work to produce this bus seat and got it completed, what happened? The Department of Transportation changed its mind and decided that it was going to go to a different criteria specification and, at this particular time, instead of these earlier specification items of safety and life-cycle cost and comfort and other things that relate to the design and the construction of a bus seat, they now have come up with what they call a performance standard which is basically a sort of minimum, streamlined, bare-bones kind of seat, which is identified various ways and, some of the time, is the least expensive one that can be built.

There are several problems. First of all, it is changing the rules in the middle of the game.

Second, if that is allowed to stand, that late administrative fiat is allowed to stand, instead of two companies in the bus seat manufacturing business, there is going to be one. Our firm in Michigan has a relatively small share of the market, but nonetheless a significant share, maybe on the order of one-third, with the other company. Flxible, a very substantial firm dominating this particular industry, will have it all, because our firm will not be able to compete. They will have been ruled out of the competition, not because there is not interest in their seat in the marketplace, but because the Government, by this change in the ground rules and by administrative fiat, has ruled their product right out of the competition.

I do not think that is fair. I do not think it is in the public interest.

I think in this interim period we would be much wiser to not reduce ourselves to one supplier, but to maintain two suppliers, which is not coercive to anybody because what has to happen in the end is that a local transportation agency has to decide itself which bus seat it prefers. If in some area of the country a local transportation agency should decide that they would rather have the better seat, one that is more comfortable, one that is safer, one that will last longer, and one whose life cycle cost, not just its initial cost, but its cost over the life of the seat, may well be less, that they would have the option to indicate they preferred that seat to the competitive seat and to put the bids out in that fashion and allow the competition to take place.

But, unless we make some changes here, unless we can work out an agreement on adopting this amendment, the way things are set right now is that that arbitrary change in direction by the Department of Transportation will put this particular firm on the sidelines.

We have working for that company today in the Grand Rapids area of my State about 15,000 UAW employees. They are good people.

But it seems to me that what is happening here is the classic illustration of mindless Government, where somebody in the bureaucracy who is designing this master bus keeps changing his mind, is behaving in a fashion that reputable companies who have been proceeding in good faith get run right out of the game in the middle of the process, and they will not be around at the other end when we get a final decision on what this bus will look like. It just does not make sense.

So we have had a lot of meetings about it. Senator GRIFFIN and I and Members of the House, both parties, have talked to people in the Transportation Department, to people in the White House. They are sympathetic, but they are not quite sure yet what they can do about it, or what they want to do about it.

I remember the discussions with the Department of Transportation. Mr. Bingam came over to see me and said, "You know, you're right, it wasn't really our intent to change the rules in such a way that we knocked out somebody in this business who had been operating on a good faith basis. We didn't mean to do that, so we'll change our specification because that wasn't our intent. It is not our purpose. We don't want to go down to one supplier. We want to maintain competition."

So they agreed to change it. Then, a

few weeks later they got back and said, "We've changed our mind again even though we were prepared to do this before and took that step. We have to reverse ourselves now and go back to where we were previously."

I must say I do not have much patience for what is a special interest case argument. Somebody says, "I don't like this rule because it hurts me or my State in a given way."

I think this particular case cuts much deeper than that. It goes to the issue of whether or not the local people will have any say in the configuration of these buses.

To the question of whether a Federal administrative agency is allowed to change the rules in the middle of the game, and cause bona fide suppliers to sink a lot of money into development and building of a product and then seeing the rules change and all that money go down the drain, the firm and the workers jobs jeopardized, it goes to the efficiency of the decisionmaking in this company.

This company, and I assume any other company, is fully prepared to meet whatever performance specifications are finally going to be required, but they cannot do this every week, or every 2 or 3 months, or every time some part of the bureaucracy changes its mind. That is unreasonable. This situation exemplifies why the Government does not work very well, and the private sector cannot function that way. Not all firms are sitting there with billions of dollars in the cash account where they can afford to participate on that kind of basis. I do not think it is in the public interest.

I certainly do not think it is in the public interest to take a firm that today, in the case of the dominant firm in this industry, has 70 percent of all the business for 1979, 80 percent of all the business of 1977 and 1978 in which there was competition, and expand that market's share to 100 percent. That is exactly what we are talking about here.

My amendment is very straightforward. It does not prejudice anybody. It just keeps the game open and pertains to the firm that has proceeded in good faith and is building a fine seat. If there are people out there at the local community level that want to opt for this seat, they will be in a position to do so.

I think that is a reasonable way for us to proceed.

The basic point I would make is this, we are not talking about doing this over an extended period of time, or permanently. We are talking about an interim period. We are talking about what happens between stage 1 and stage 3. We are talking about what happens between stage 1 and stage 3. We are in stage 2 and we want to keep the competition alive and viable, especially when everybody has been proceeding on the basis of good faith.

I might say, there was a court case in Houston, a Federal court case in which a judge held in a similar situation that the Federal Government had an obligation not to change the ground rules in the middle of the game. To do so in an abrupt fashion causes material, economic damage to that company.

So, there is even a basis in recent legal history to suggest that this kind of behavior by the agencies is not what is intended by the law, and that, when it does damage companies and workers and, in effect, to the whole American economic system, that is something that has to be acted against.

I talked this over with the chairman of the committee. I have talked it over with some other colleagues that have expressed interest in this particular subject. I would hope the committee would see fit to accept the amendment.

I would ask the chairman this question. I know we discussed this before. I know he has had problems of the same sort in the past on other items. We talked one time about Federal specifications on brakes, and the whole question as to how those were arrived at.

I know the chairman is familiar with problems of this kind. I wonder if the chairman would be of a mind to think this would be an amendment the committee could accept.

Mr. WILLIAMS. I was speaking to someone about the railroad situation, and I missed the latter part of the Senator's remarks.

Mr. RIEGLE. We talked about this before, and the chairman has seen other problems similar to this one and knows the difficulty we have with firms trying to remain viable while these specifications are changing all along the way.

I was wondering if the committee would be of a mind to accept the amendment.

Mr. WILLIAMS. I can speak only for myself. I have discussed this problem at length with the Senator from Michigan. He has illuminated it in a way that satisfies me that he is reaching a situation that should be taken care of—and, of necessity, at this point by legislation.

So far as accepting it at this point is concerned, I have been on notice that there is a Member who does want to be called here and discuss this matter with the Senator from Michigan. So unless the Senator wants to proceed further, I would have to suggest the absence of a quorum, to alert the other Senator to be here.

Mr. RIEGLE. Why do we not do this: The cosponsor of the amendment, Senator GRIFFIN, is here, and I believe he wants to make some remarks. Perhaps we could do that while we wait for any other Member who wants to discuss the issue. I hope we can settle it.

Mr. GRIFFIN. Mr. President, I am pleased to cosponsor the amendment proposed by the junior Senator from Michigan.

This amendment authorizes local transit authorities, when advertising for bids on buses, to determine specifications for bus seats based on local requirements of safety, comfort, maintenance and life cycle costs.

Unfortunately, under current regulation adopted by UMTA, this is not the practice. Now, local authorities have no discretion whatsoever in specifying the type of bus seat which local conditions may require nor do local authorities have the prerogative to evaluate product quality, style, comfort, maintenance, and life cycle costs. And, most importantly, local authorities under UMTA regulations have no right to assess the safety quality which a particular bus seat might afford.

I must stress that these procedures established by UMTA were only adopted in April 1977. Before that time, local transit authorities, through the competitive bidding process, had the authority to specify components, including bus seats, to meet their individual needs.

The result of the UMTA standard has been to create a virtual monopoly in the transit bus seat business. Such a situation gravely threatens the survival of one of Michigan's manufacturers which employs 1,400 Michigan employees, American Seating Co. To shut down a viable manufacturer and to cause loss of employment for over 1,400 persons over a nonsensical and bureaucratic regulation is inexcusable.

Let me emphasize that this amendment, which permits local authorities to specify seats based on local conditions, is fiscally responsible. By allowing local authorities to determine their own standards based upon local needs, particularly that of safety, product quality, and life cycle usage, the American taxpayer and public will greatly benefit.

In conclusion, this amendment is not only good for Michigan; it is good for the American public in helping to assure greater safety in our buses. And, this amendment once again tells the bureaucrats that they are not going to get away with promulgating regulations that threaten our American manufacturers and workers.

I urge my colleagues to support this amendment.

Mr. CRANSTON. Mr. President, is it in order to call up an amendment now, without unanimous consent?

Mr. GRIFFIN. Mr. President, could we act on the pending amendment? I have some other business that I have to take care of. I thought we could have a voice vote.

The PRESIDING OFFICER. The Chair advises that it would require unanimous consent to set aside the pending amendment.

Mr. GRIFFIN. For how long?

Mr. CRANSTON. I would take 2 minutes.

Mr. GRIFFIN. For not more than 5 minutes.

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

AMENDMENT NO. 3666

(Purpose: Establishes September 30, 1981, as the expiration date for present maintenance of effort requirements and allows fare increases to be counted in MOE in the interim)

Mr. CRANSTON. Mr. President, I call up my amendment No. 3666.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) calls up an amendment numbered 3666.

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

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

The amendment is as follows:

On page 58, line 9, strike the first sentence of subsection (f) and insert in lieu thereof the following:

(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending no later than September 30, 1981, shall not be in substitution for the average amount of State and local government funds and other transit revenues such as advertising, concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available: *Provided however,* That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure: *And provided further,* That nothing in this sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary) toward the non-Federal share of the cost of the project for purposes of the preceding sentence.

Mr. CRANSTON. Mr. President, this amendment would meet two desirable goals. It would end, in 1981, the complex and cumbersome maintenance of effort provisions in the current Urban Mass Transportation Act. In the interim, my amendment would allow an increase in fares to count toward maintenance of the non-Federal matching funds. This is not allowable under present law.

These two provisions build on the outstanding legislation the committee has brought before us. They provide definite improvements in the way State and local governments will finance public transit in the future, in part by restoring much-needed local flexibility.

Originally, the administration had proposed that not more than one-third of total operating costs should be paid for Federal funds and that maintenance of effort be eliminated. On March 1, 1978, Secretary Adams testified:

The one-third limitation permits elimination of the existing cumbersome matching and maintenance of effort requirements. These changes will produce a significant streamlining of UMTA's administrative procedures and allow the balance of operating costs to be met through a locally-determined mix of farebox revenue and subsidy resources.

The committee bill includes the one-third cap on Federal funds, with a reasonable "hold harmless" provision to prevent a reduction in actual dollars. However, the maintenance of effort provisions were retained, largely in response to the serious concerns of local transit operators. Since passage of our landmark transit legislation in 1974, transit operators around the Nation have been working with their local government officials and with State governments to work out a reasonable and balanced approach to sharing the non-Federal portion of operating costs. Many of these officials feared that an abrupt removal of maintenance of effort would upset their diverse and complex local fiscal situation.

My amendment, therefore, does not eliminate MOE requirements until 1981, thus giving State and local officials 3 years to revise existing contracts and agreements and build a new and stable pattern of transit funding.

The second provision of my amendment will provide, at local option, the counting of farebox revenues as a part of maintenance of effort while MOE is in effect. This gives transit operators a new and highly desirable flexibility. Presently, fares are not allowable in calculating maintenance of effort. So, if a local transit system loses State or local tax revenue support and then raises fares to compensate for the loss, the fare increase revenues cannot be counted in the non-Federal match. I believe this is unrealistic and unfair.

To fill the deficits, many transit systems are facing the tough choice of either raising fares or cutting service. Many are developing skillfull combinations of cuts in less-used services, small fare increases, no cost-of-living pay raises, and other budget-tightening measures.

But a poll conducted by the Southern California Rapid Transit District, which serves greater Los Angeles County, showed that district patrons would prefer a small fare increase to keep current levels of bus service rather than keeping fares the same and thus sacrificing bus routes and service frequency.

Yet current Federal law discriminates against this local decision by not allowing an increase in fares to count toward maintenance of the non-Federal match. My amendment provides a remedy to the lack of flexibility in Federal law by allowing local government and transit operators more independence in choosing the best combination of measures to meet their unique local needs.

My amendment is supported by the American Public Transit Association, the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, the California Department of Transportation, among others.

I understand the amendment is acceptable to the distinguished floor managers of the bill.

Mr. WILLIAMS. That is correct. It meets all the criteria that we have in maintenance of effort. It is a change necessitated by certain situations with which the Senator from California is familiar. I think it makes a lot of sense, and I support it.

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

The amendment was agreed to.

Mr. CRANSTON. I thank the Senator very much.

The PRESIDING OFFICER. The question recurs on the amendment by the Senator from Michigan.

Mr. RIEGLE. Mr. President, I spoke to Senator MORGAN, and I know he does have an interest in wanting to discuss this matter, and I am reluctant to proceed until he arrives. I hope that, between us, we can resolve the issue.

When we spoke earlier—this is not in any way to speak for him—he expressed concern about any situation arising that would lead to a sole source. I agree with his concern about that. I do not want any situation arising, either, that would lead to a sole source situation or to any procedure which would specify that a product would be taken from a particular single manufacturer, because I feel very strongly that that would be inappropriate.

Our amendment goes in exactly the opposite direction. In other words, it is the same concern that Senator MORGAN has expressed to me which is at the heart of our amendment. In fact, that is why we drafted our amendment so that we will not end up in a situation in which there is a single source and, in effect, there is a locked-in monopoly for one supplier.

What we want to do in this interim period is to keep the competition alive. We think it is healthful and constructive and in the national interest that there be at least two firms in the business of competitively developing and offering bus seats.

As I have said, when the Department of Transportation finally makes up its mind as to the ultimate specifications for the transbus, that is fine. When that happens, everybody is locked in, and I fully expect any company in my State or any company in the other 49 States to be locked in and to meet those performance specifications, and they will.

The problem is that we are not there yet. We do not know what those ultimate specifications are going to be; and, because we do not, we are not in a position to see the future.

Mr. President, I wonder whether we could have a quorum call for 2 or 3 minutes, so that we might have a chance to discuss this matter among ourselves. With that expectation, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. 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. PERCY. Mr. President, I ask unanimous consent that Donna Maddox, of my staff, be accorded the privilege of the floor during discussion and votes on the pending measure.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. 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. TOWER. Mr. President, I am pleased to support S. 2441, the "Federal Public Transportation Act of 1978". The

bill represents the kind of forward-looking and balanced approach to public transportation which I believe is vital. The bill as amended strikes a good balance between recognition of the tremendous promise which public transportation holds for addressing problems of urban congestion, energy consumption and the environment, and the constant need to hold Federal spending to reasonable limits.

Public transportation has sometimes been regarded as the province of older cities with established rail systems. However, it is more and more apparent that newer, growing cities have a stake in Federal public transportation programs. The voters of the city of Houston, for example, only a few weeks ago approved a referendum to establish a new transit authority, and other Texas cities are likewise taking steps to improve their transit systems. The referendum in Houston commits substantial local funds through a tax increase to the growth and improvement of its transit system. The tax increase represents an undertaking to devote an estimated $1.3 billion of local funds over the next 10 years to public transportation.

The fact that such a referendum passed in the wake of a movement toward tax-cutting measures elsewhere shows that the citizens of Houston are ready to make a strong commitment to the development of public transportation. Once such a decision has been made locally, it is imperative that the Federal Transportation program be adequate and flexible enough to provide that assistance which is needed, even though the transit needs of a city such as Houston may be far different from those where established transit systems already operate.

The bill is structured in a way which, when properly administered, will accomplish that result. The new formula created by the bill for providing operating assistance as well as certain routine capital expenditures is designed to create a rational and predictable basis upon which local transit officials can anticipate the extent of Federal assistance for transit programs. While expressing a strong Federal commitment to public transportation, the formula will also establish incentives for local transit officials to operate efficiently, so that each Federal dollar spent will yield a return. In addition, the bill provides substantial funds for nonroutine capital expenditures including both expansion of bus fleets and capital expenditures for fixed transit systems. Since it is clear to me that public transportation programs are likely to become more and more important in the future, I believe that it is appropriate to provide sufficient funding now to take meaningful steps to encourage development of good transit systems for tomorrow.

Failure to act in a responsive manner today would have unfortunate consequences, including delay in the time when we will begin to enjoy the benefits of a far sighted transit policy and vast increases in the costs of implementing that policy.

I am on record in support of a substantial Federal commitment to public transportation, because of the great contributions which a properly administered program can make. Recent increases in transit usage in many parts of the country demonstrate that transit systems are likely to be accepted by the public as an alternative to automobile use, if the systems are efficient and reliable, and that those who do not use the system will nevertheless benefit from its existence. But every dollar that is spent must be spent judiciously, and the bill as structured takes steps to assure that this is the case.

The authorization levels recommended by the administration when this bill was introduced were simply not high enough to address the Nation's transit needs responsibly, but the bill as amended strikes an appropriate balance between the country's pressing transit needs and the need to hold down Federal spending. The bill allows sufficient funds for reasonable growth in transit funding without creating the inflationary pressures which would arise from an excessive program.

With the amendments which have been made, the Senate will have produced a responsible, workable public transportation policy capable of addressing effectively energy, environmental and urban problems.

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

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

UP AMENDMENT NO. 1950

(Purpose: A technical amendment)

Mr. WILLIAMS. Mr. President, I offer a technical amendment, and ask that it be stated.

The PRESIDING OFFICER. The Chair will say to the Senator from New Jersey that there is an amendment pending at this time. Does the Senator request unanimous consent to set aside the pending amendment?

Mr. WILLIAMS. I ask unanimous consent that the pending amendment be set aside, and that I may present this amendment. It deals with a subject that has been amended twice. This is a technicality which can be stated. I will explain the problem that arose.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report and the amendment will be considered in order.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted technical amendment numbered 1950.

Mr. WILLIAMS. I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Notwithstanding the fact that the same matter has been amended twice previously, this amendment will be in order.

Mr. WILLIAMS. Mr. President, the situation is this: I had offered an amendment, and it was accepted. Later the Senator from Maine offered an amendment which was accepted. It involved the same section.

The wording of the amendment of the Senator from Maine was such that part of the amendment I had offered earlier was wiped out, erased. This technical amendment will preserve both the amendment I had offered and had accepted and the amendment of the Senator from Maine, which was offered and accepted.

The amendment is as follows:

On page 48, in subsection (f) of the Muskie amendment No. 3458, strike the words "consolidated planning activities" and insert in lieu thereof: "planning activities and technical studies"

After "section 8" strike "(e)"

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

Mr. WILLIAMS. 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. RIEGLE. 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. RIEGLE. Mr. President, we have had a chance to discuss this problem at some length with a number of colleagues who have an interest in it. We have not been able to resolve the matter completely. I think we are at a point with those who have had reservations about what they see as the broad policy implications of this amendment, the fact that it might have a bearing on other issues unrelated to bus seats has caused them to want us not to proceed with an amendment at this time. I can understand some of that concern; that is why we have attempted to draft this amendment in the most narrow possible form.

I think, having discussed it and having had a full exchange of views with those most directly involved, we are in a position with the House of Representatives where, if I were to withdraw the amendment, we could sit down with the House of Representatives, who have passed an equivalent amendment—in fact, a much broader amendment. We could work something out that would deal with the problem, perhaps find a way for us not to be in a position where there is only one firm that would be able to provide bus seats in this interim period.

Therefore, recognizing that there is some desire on the part of the principals here to see if some means cannot be found for solving this problem, and believing that, perhaps, by working together in that fashion, we can make some progress, I am prepared to ask unanimous consent to withdraw the amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, no time agreement having been entered into. Does the Senator wish to withdraw his amendment?

Mr. RIEGLE. I would as soon do it on a unanimous-consent basis and allow the Senator from Ohio to speak.

The PRESIDING OFFICER. Would the Senator like to ask unanimous consent that he have the right to ask unanimous consent to withdraw his amendment?

Mr. RIEGLE. The Senator withdraws his amendment.

The amendment was withdrawn.

Mr. GLENN. Mr. President, I did not plan to object to the unanimous-consent request. I did want to make a couple of comments.

We have had lengthy discussions behind the scenes on this and I commend the Senator from Michigan for withdrawing the amendment, because I think it can be worked out in view of a similar amendment that has already been passed by the House.

I do have concerns about this proposal from several aspects. We are trying to develop a Federal procurement system that sets certain performance specifications, and then lets the free market system go at it. It seems to me we can never and should never address ourselves to all the changes in procurement rules and regulations that may be occurring from time to time in the various departments pursuant to carrying out what they view, from the legislative history and from actual legislation, to be the mandate of Congress. If every firm impacted were somehow to get Federal relief or some special treatment in law that would then extend them a particular competitive advantage during a certain time period, we would be tied up here on the floor of the Senate and in the House of Representatives with literally, and I do not exaggerate, thousands upon thousands of such cases. None of the firms that supply the needs in this particular market are small firms. They are all reasonably large, some larger than others, and have the economic capability to retool.

We have a letter here from Mr. Lester Fettig, Administrator of the Office of Federal Procurement Policy. He has stated that performance specifications are a superior way to assure truly competitive procurement and to keep costs down. He has said that being able to use "brand name or equal" has been used in the past to stifle competition.

That is, in effect, what they would be effecting with the legislation the Senator is withdrawing.

DOT and UMTA have developed current methods of performance specifications over a period of years and feel they are best, although they are still in a changing status. I agree that is unfortunate. I am sorry they have not been able to come up with one final performance specification, but I am not sure such finality is even possible.

GAO and the Office of Federal Procurement Policy have urged all Federal agencies to go to this type of procurement. This type of amendment would prevent UMTA from realizing the advantages of real competition.

While I realize this amendment deals, at least specifically, with bus seats, this approach would reopen the procurement "Pandora's box," literally, and could frustrate current efforts by the GAO and the Office of Procurement Policy to make Federal procurement more cost-effective.

Current Government procurement is about $80 billion. I have very much supported Senator CHILES' work to both simplify and make cost-competitive Federal Government procurement processes and policies.

I have several other questions that I should like to have printed in the RECORD.

Mr. President, while the following questions are not all inclusive, they nevertheless indicate the types of concerns I believe must be addressed regarding this amendment:

First. What would be the cost difference between current-level procurement of seats and if the Riegle amendment were accepted?

Second. If the State or local transportation authority wants the better seat, should the Federal Government have to pay more as its 80-percent share of the total procurement?

Third. What would be the cost increases if "local option" procurement were extended to other components of buses, subway, and light rail rolling stock?

Fourth. Will not this amendment encourage the type of "custom made" procurement which made the cost of BART and Metro rolling stock so expensive?

Fifth. Would it not be better to standardize, as much as possible, procurement specifications and the process itself?

Mr. President, this matter has not been discussed before any committee of the Congress. Senate debate on the matter has not been of a nature which would permit us to vote as carefully as I would like. The House has passed an amendment similar in nature to the one the Senator from Michigan (Mr. RIEGLE) has just withdrawn. The matter will be before the upcoming conference and will be discussed in depth. While I realize the matter will be before the conference, my closing remarks here should not be construed as approval of any conference language which may appear to approve the procurement policy implications of the Riegle amendment or its House companion.

I also ask unanimous consent to have printed in the RECORD the letter from Mr. Fettig which describes the current situation.

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

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 25, 1978.

Hon. DAVID BONIOR,
House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. BONIOR: It is my understanding that you are considering offering an amendment to H.R. 11733 which would affect the manner in which manufacturers of rolling stock for mass transit systems select subcomponent suppliers. Specifically, the Department of Transportation (DOT) would be forbidden to require so-called "performance specifications" for passenger seats, interior lighting, public address systems, and destination and route signs that are subcomponents of rolling stock purchased with grant-in-aid funds.

We believe strongly that the use of specifications that define desired performance characteristics ("performance specifications") are superior to the use of brand name or approved equal. We believe that performance specifications should be used wherever performance criteria can be developed.

The first problem with specifying subcomponents solely by brand name is that it implicitly authorizes a kind of back-door, sole-source procurement. For instance, the new General Motors and Flexible buses have entirely different approaches to the manufacturing of destination signs and both are approvable within the terms of performance specifications. However, a grantee could skew the entire bidding process to one manufacturer by specifying a brand name destination sign that is unique to one bus or the other.

The use of "brand names or equal" has been abused in the past to stifle competition. This had led both the General Accounting Office and our Office to press Federal agencies to abandon their use and go to performance specifications—exactly what DOT has done for bus specifications.

As they developed standard performance specifications for new transit coaches, they consulted widely with transit providers and manufacturers to define the performance characteristics of various components so that they will meet the needs of the user. These specifications provide stability and continuity for both manufacturer and operator by stating at the outset the criteria of eligibility that must be met. The use of brand name or equal could return us to the era when rolling stock was so highly customized that manufacturing economies of scale were lost.

Achieving more effective competition is one of the major objectives of our ongoing effort to update the current statutory and regulatory basis for procurement. S. 1264, "The Federal Acquisition Act for 1977", would establish the use of performance specifications as a norm, and would severely limit the use of detailed specifications. This would facilitate wider participation by commercial firms in bidding on Government requirements. The Office of Federal Procurement Policy (OFPP) testified on behalf of the Administration in support of this bill last year at hearings held by the Subcommittee on Federal Spending Practices and Open Government of the Senate Committee on Governmental Affairs. In addition to our support of S. 1264, OFPP has established the policy of procuring commercially available products whenever they meet the Government's requirements. This policy has already resulted in elimination of hundreds of detailed product specifications which limited competition or in many cases resulted in noncompetitive procurement.

Regarding the issues that American Seating has raised, it should be noted that American Seating seats have always been judged to meet the UMTA performance specifications, and in fact their seats have been furnished in some new buses already delivered. Because transit buses must be procured competitively, the costs of each bus component must be carefully considered by the manufacturers in their selection of suppliers. American Seating seats may not have been selected in some procurements because they are more expensive than other seats which also meet the specification. It thus appears to be largely cost rather than the specification itself which has led manufacturers to select other suppliers or to produce their own seats. I recognize that, in this cost

competitive situation, American Seating may be required to make changes in its current seat, as it had done in the past, to continue to be a leading and successful competitor in this market.

I am seriously concerned with the rising cost of both direct Federal procurement and those programs where cost of products is paid with Federal assistance funds. Real competition among component suppliers is the best way I know to keep down costs to the taxpayer. I respectfully urge you therefore not to place the Department of Transportation in a position where—by legislation—we are prevented from realizing these competitive advantages.

Thank you for the opportunity to comment on the proposed amendment.

Sincerely,

LESTER A. FETTIG,
Administrator.

VISIT TO THE SENATE BY THE FINANCE MINISTER OF SRI LANKA

Mr. GLENN. Mr. President, I understand that we have a distinguished visitor with us. I yield the floor to the distinguished visitor with us. I yield the floor to the distinguished chairman of the Committee on Foreign Relations so he may introduce him.

Mr. SPARKMAN. I thank the Senator from Ohio.

Mr. President, I should like to take this opportunity to introduce the Finance Minister of Sri Lanka, His Excellency, Ronnie de Mel. Most of us old hands remember Sri Lanka as Ceylon. We have had him before the Foreign Relations Committee. (Applause).

RECESS FOR 5 MINUTES

Mr. SPARKMAN. Mr. President, I ask unanimous consent that we might have a 5-minute recess in order that His Excellency may take a position back here and let the Senators greet him.

There being no objection, the Senate, at 2:28 p.m., recessed until 2:33 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CHILES).

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

Mr. WEICKER. Mr. President, I move that the Senate move to the consideration of House Joint Resolution 638, Calendar 1159, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion. As many as are in favor——

Mr. WILLIAMS. Well, I will suggest the absence of a quorum. I am not in the leadership here, but I was on the bill that was up.

The PRESIDING OFFICER. The clerk will call the roll and ascertain the presence of a quorum.

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.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Arkansas without losing my right to the floor.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Ark Monroe and Greg Jones, of my staff, be granted privilege of the floor during this debate and also on S. 3116 when it comes up.

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

Mr. ROBERT C. BYRD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question is on the motion to proceed to the consideration of House Joint Resolution 638, also called the equal rights amendment.

Mr. ROBERT C. BYRD. All right.

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.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in adjournment for 10 seconds.

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

Mr. WEICKER. Mr. President, I ask for the yeas and nays on that.

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 agreeing to the motion to adjourn. 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 Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 54, nays 35, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—54

Bentsen	Cannon	Durkin
Biden	Chiles	Eagleton
Bumpers	Church	Eastland
Burdick	Clark	Ford
Byrd, Harry F., Jr.	Cranston	Glenn
Byrd, Robert C.	Culver	Gravel
	DeConcini	Hart
Hatfield, Paul G.	Magnuson	Ribicoff
Hathaway	Matsunaga	Riegle
Hodges	McGovern	Sarbanes
Hollings	Melcher	Sasser
Huddleston	Metzenbaum	Sparkman
Humphrey	Morgan	Stennis
Inouye	Moynihan	Stevenson
Jackson	Muskie	Stone
Kennedy	Nelson	Talmadge
Leahy	Nunn	Williams
Long	Proxmire	Zorinsky
	Randolph	

NAYS—35

Baker	Hansen	Roth
Bartlett	Hatch	Schmitt
Bellmon	Hayakawa	Schweiker
Brooke	Heinz	Scott
Case	Helms	Stafford
Chafee	Javits	Stevens
Curtis	Laxalt	Thurmond
Danforth	Lugar	Tower
Dole	Mathias	Wallop
Domenici	McClure	Weicker
Garn	Packwood	Young
Goldwater	Percy	

NOT VOTING—11

Abourezk	Griffin	Johnston
Allen	Haskell	McIntyre
Anderson	Hatfield, Mark O.	Pearson
Bayh		Pell

So the motion was agreed to.

ADJOURNMENT

Thereupon, at 2:58 p.m. the Senate adjourned for 10 seconds.

AFTER ADJOURNMENT

THURSDAY, SEPTEMBER 28, 1978

The Senate met at 2:58 p.m., pursuant to adjournment, and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

Mr. ROBERT C. BYRD. Mr. President——

Mr. WEICKER. Regular order.

RECOGNITION OF LEADERSHIP

The PRESIDING OFFICER. 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 be dispensed with.

Mr. WEICKER. Mr. President, reserving the right to object, for the last several weeks this Senator and others on this side of the aisle have sat and listened to some very explicit and inflammatory rhetoric relative to Republican obstructionism on the issue of ERA and the concideration of the equal rights amendment.

I think it important to point out at this juncture what has just transpired. This Senator made the motion to proceed to the immediate consideration——

Mr. ROBERT C. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order.

Mr. ROBERT C. BYRD. The Senator is speaking. He is entitled to be heard.

Mr. WEICKER. The Senator made the motion to proceed to the immediate consideration——

Mr. ROBERT C. BYRD. What Senator?

Mr. WEICKER. Of the Equal Rights Amendment.

The motion to adjourn by the distinguished majority leader was in fact no more than a motion to table or to do away with the motion of the Senator from Connecticut.

I had not had a chance to look over the vote tally, but I think it fairly certain that almost every Member on the Republican side of the aisle voted against adjournment, in other words, for immediate consideration of the Equal Rights Amendment.

Now we know where the blame lies. with the distinguished majority leader, it is a matter of his scheduling. It is a matter of doing everything but getting to the substance of this very important matter.

I am just informed by the distinguished minority leader that the vote on this side of the aisle was unanimous against adjournment; unanimous that we proceed immediately to the consideration of the equal rights amendment.

No amount of rhetoric is going to do away with what just occurred on the floor of the Senate. I have no doubt there are many on the other side who feel just as strongly on the matter of ERA, and it is not to them I direct my remarks but rather to remarks directed at this side of the aisle by the distinguished majority leader, remarks that have no substance, remarks that were political in nature, remarks that were meant to imply fault or lack of sensitivity where none existed.

Now, let an explanation come from the majority leader as to why it is we are not considering the equal rights amendment today.

I have reserved the right to object, and I do intend to object. I do not want to foreclose any comments that the distinguished majority leader would like to make. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will read the Journal.

The assistant legislative clerk proceeded to read the Journal of Tuesday, September 26, 1978.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the Journal be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If there is no morning business, morning business is closed.

EXTENDING THE DEADLINE FOR RATIFICATION OF ERA

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate proceed to the consideration of House Joint Resolution 638.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of House Joint Resolution 638.

The motion to proceed was agreed to.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

Calendar 1159, H.J. Res. 638, extending the deadline for the ratification of the Equal Rights Amendment.

The Senate proceeded to consider the joint resolution.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on H.J. Res. 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

James Abourezk, John Glenn, John C. Culver, Paul S. Sarbanes, Edward M. Kennedy, Harrison A. Williams, Jr., Wendell R. Anderson, Birch Bayh, Patrick J. Leahy, Dick Clark, Donald W. Riegle, Jr., Muriel Humphrey, Jennings Randolph, Edmund S. Muskie, Howard M. Metzenbaum, Spark M. Matsunaga.

Mr. ROBERT C. BYRD. Mr. President, now that we have seen this initiative on the part of the Senator from Connecticut, I want to state that my purpose in adjourning was two-fold: First, to kill a motion to proceed that was made by a Member of the Senate who is not in the leadership. He was, of course, perfectly within his rights to move to proceed to another matter. Any Senator can do that, but traditionally this has been the prerogative of the majority leader.

With adoption of the motion to adjourn that motion died.

It was my intention then to move to proceed, as I did—having seen this sudden spirit of sweetness and cooperation on the part of the Senator from Connecticut—to proceed to take up the ERA resolution.

Because of the cooperation of the junior Senator from Connecticut, I also felt it would be opportune to let morning business come to a close and then move to proceed to call up ERA. That motion was not debatable at the time I made it. So, it not being debatable, the Senate now has before it the resolution, thus eliminating the necessity for a cloture vote next Tuesday on the motion to proceed to take up the resolution on ERA.

I am ready now to enter into a time agreement to vote up or down on the resolution. I regret that I have to say to my friend from Virginia (Mr. SCOTT)—to whom I had given assurance that I would give him notice 2 days before moving to take up the resolution—that events have now overtaken me in this matter. I regret that I cannot live up to the promise which I obviously could not keep under the circumstances that have suddenly been thrust upon the Senate.

REQUEST FOR A TIME-LIMITATION AGREEMENT

So I ask unanimous consent that a vote occur up or down on the resolution itself, tomorrow at 2 p.m., with an opportunity for Mr. GARN to call up his rescission amendment.

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

Mr. ROBERT C. BYRD. May I complete my request?

I will be glad to mold this agreement in any way to suit my friends on the other side who voted solidly against the motion to adjourn. I will recommend that they be given an opportunity to vote on the rescission amendment. I will recommend that we vote on a certain hour tomorrow, which is Friday—I thank the distinguished Senator from Mississippi for correcting me, I was thinking today was Wednesday—but I will be glad to work out an agreement, now that the Senator from Connecticut (Mr. WEICKER) is so eager to reach a vote on ERA. I will try to mold any kind of an agreement for a vote up or down on that resolution. I am quite willing to allow the rescission amendment to be a provision in that agreement.

So, Mr. President, without yielding my right to the floor, I yield to the distinguished minority leader. Perhaps he has a recommendation as to when we might vote up or down on the ERA resolution.

Mr. BAKER. Mr. President, I thank the Senator for yielding. I was about to reserve on his request, but he has graciously given me the chance to speak at this time.

Mr. President, there is not now nor has there ever been a filibuster on the motion to proceed to the consideration of the extension of ERA. There is a serious and significant difference on this side of the aisle, and I suspect on that side of the aisle, about whether and how this amendment should be extended.

But I think, Mr. President, it is entirely possible that we can arrive at a time. I thought we could yesterday. I think the distinguished Senator from Utah tried in good faith to negotiate such a settlement.

I do not think there ever was a threat of a filibuster, nor is there now.

So, Mr. President, my response to my good friend, the majority leader, who has graciously yielded to me at this time, would be the same as it was yesterday and on Saturday, which is that we need to take a few minutes and explore this matter. Let me check with the Members on this side who are directly involved. Let us take, say, 30 minutes to see if we can, in fact, shape and fashion an order that will permit us to vote on the amendments that may be offered and on the resolution itself.

Now that, Mr. President, is my earnest reply to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

So that Senators will have a basis on which to deliberate, I ask unanimous consent that there be 6 hours of debate on the ERA resolution to be equally divided between Mr. BAYH or his designee and the distinguished minority leader or his designee;

That there be a time limitation on any amendment of 2 hours, to be equally divided between the offeror of the amendment and Mr. BAYH or his designee; and

That a final vote occur on the ERA resolution no later than 3 o'clock tomorrow afternoon;

Provided further, that there be a time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its discussion, of 30 minutes; and

That the agreement be in the usual form;

Provided further, that an amendment by Mr. GARN dealing with rescission, even though it not be germane, be in order.

I think that is an excellent proposal. I would hope that the distinguished minority leader and his colleagues would consider agreeing to this request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Would the majority leader consider adding to that that the Senate stand in recess for 45 minutes?

Mr. ROBERT C. BYRD. I do not think the Senate needs to stand in recess for 45 minutes. I would suggest that in the meantime the Senate continue on the mass transit bill. There is no need to recess for a matter of this kind. The Senator will be fully protected against votes, he will be fully protected against any surprise motions, and the Senate can continue its work on mass transit.

I ask unanimous consent that the Senate proceed with the further consideration of the mass transit bill for the next hour. This gives the minority leader an hour. If need be, we can extend that another hour to consider the proposal I have made.

Several Senators addressed the Chair.

Mr. HUDDLESTON. I object.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

The PRESIDING OFFICER. Did the Senator from Kentucky object?

Mr. HUDDLESTON. I have objected.

Mr. ROBERT C. BYRD. Mr. President, I would hope the able Senator from Kentucky would withdraw his objection temporarily.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I have great respect for the majority leader, as the Senate knows and the distinguished Senator from West Virginia knows.

However, I come from an area of the United States 4,500 miles away. The last time I sent a registered letter to my State of Alaska, it took several days to get there, notwithstanding modern transportation and communication. I have been meaning to state this to the Senate for some time, and I think now is a good time to do it.

To date, I have served in the Senate almost 10 years, and, God and Alaskans willing, I will be here a lot longer. But I do not intend to vote for the first or second cloture motion again as long as I serve in the Senate, unless the national security of the United States is involved.

I say that for the reason that I think we are acting in haste. The Senate is supposed to be a deliberative body, and, with all due respect for my good friend from West Virginia, there seems to be a bit of strain and heat overriding the considerations of the Senate in these last days of the session that I fear may jeopardize the very friendships which have endured among members on both sides of the aisle.

I think it ought to be known that as far as I am concerned, a cloture motion to cut off debate on a bill just brought before the Senate, which could lead to a request for a final vote as early as tomorrow, would establish a difficult precedent for those of us who have to travel long distances. Just think what that would mean if we had a bill here, and I am not talking about our Alaska lands bill, but the same conditions could come into play if we had before the Senate a measure affecting the Western States, especially my own State, in terms of fishing, for example. It would be impossible for me or other Senators from far away States to have enough time to let our constituents analyze the possible ramifications of a bill and determine whether or not it serves our best interests. We had an airline deregulation bill that went back and forth to Alaska at least three times before it was finally satisfactory. I do not pretend to know everything about my State which is 4,500 miles away, and whose size is so vast and immense that one can travel an additional 1,800 miles and still be within its borders. There should be some consideration for geography and time in the deliberative process, and I hope the Senate will remember that.

I intend to vote against the cloture motions the first and the second time, on any cloture motion that is filed unless national security is involved. I am for extending the ERA deadline, but I will vote against the first cloture motion and the second cloture motion, and I intend to object to unanimous-consent requests that would serve to accelerate the consideration of extremely controversial legislation before the people of my State can be informed of what the issue is, and before I can ascertain how I can best represent their interests.

I hope other Senators will consider what is going on in terms of this process. We can, in an orderly way, schedule the matters to be considered by the Senate, and take into account the problems that we have with regard to transportation and communication. The precedent that would be involved in this action, with a cloture motion being filed the moment the matter is brought before the Senate, and an attempt to have it voted upon tomorrow at 1:00, would be intolerable as far as most issues of a controversial nature that would affect my State are concerned.

I am, perhaps, out of order to state it at this time, but I think something has to be done to bring about an agenda for the Senate that gives us time to check with our people at home and to get their interpretations on proposed legislation, and to see how that legislation would affect our States, before we consent to vote on matters of such controversy. That is indirectly involved in this issue. As I say, I am for the extension of the equal rights amendment, but I certainly will not vote to cut off debate this quickly.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, there are a number of ground rules that I would have to know about before agreeing to any time limitation.

For example, in my judgment, it would take a two-thirds vote to change the proposed constitutional amendment.

A period for ratification of 7 years is specified in the preamble or in the body of the proposed amendment. Congress, in 1972, did propose a constitutional amendment, the equal rights amendment, and specified 7 years for its ratification. Now we could change that, and I am told that the effort will be made to change it by majority vote.

You do not change an amendment to the Constitution by majority rule; you change it by two-thirds vote of both the House of Representatives and the Senate. The House, I understand, has passed this proposal by a majority vote, and unless the Senate leadership agrees that we will have a two-thirds vote on this, I am not going to agree to any time limitation at any time, and that is as broad as I know how to state it. If it could be stated more broadly, of course, I would. We need only look at article V of the Constitution:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States.

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

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

Mr. SCOTT. Mr. President, I think the Constitution means exactly what it says. I believe that the courts have held——

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A Senator has the floor. A parliamentary inquiry is not in order unless the Senator yields.

Mr. SCOTT. Mr. President, I shall not yield until I finish my statement.

The PRESIDING OFFICER. The Senator does not yield.

Mr. SCOTT. I am going to talk but a very short time. I am certainly not beginning any filibuster. I merely want to state the premise upon which there might be a time agreement.

One would be that this would be considered as an amendment to the Constitution, not as a resolution that could be decided by a majority vote and not even be signed by the President. Whether or not it is signed by the President, to

me, does not make any difference. I think we ought to follow the plain language of the Constitution. I believe Mr. Justice Marshall said that a long time ago, that the regular interpretation, the regularly understood meaning shall apply in interpreting the Constitution. It says a two-thirds vote.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will suspend until we have order.

Mr. SCOTT. Mr. President, I believe that, under the rules of the Senate, an amendment does not have to be germane until cloture is invoked. I have a series of amendments that have been sent to the desk to be printed. I assume that, by this time, they have been printed. Among those are two amendments, stated somewhat differently, with regard to the rights of States to rescind their ratification. Four States have rescinded of the 34 States that have ratified the proposed amendment.

(Mr. DECONCINI assumed the chair.)

Mr. SCOTT. A number of additional States, 20-some, and I am speaking without notes, Mr. President, but 20-some additional States have prefaced their ratification with phrases that ratification be accomplished within the 7 years. So if we extend the time, it would seem reasonable that they should have an opportunity to rescind their ratification.

It was conditional ratification, conditioned upon the necessary three-fourths of the States ratifying within 7 years. I would certainly want the right to offer any amendment that I have had printed or any other amendment that I or any other Senator felt he should offer.

To me, to say that one amendment or one type of amendment shall be in order before cloture is invoked is contrary to the rules of the Senate, because our amendments do not even have to be germane under the rules. This is the real thrust of my remarks, Mr. President. Unless there are some preliminary conditions laid down, then I am not willing to agree, speaking only as one individual Senator. If we can agree on some of these. I have no desire to filibuster. But we have to have a premise of some type—and these are my own thoughts—before a time agreement can be entered into.

Mr. ROBERT C. BYRD. Mr. President, I rephrase my request. I ask unanimous consent that a vote up or down on the ERA resolution occur next Tuesday at 11 o'clock a.m., the time originally set for vote on the cloture petition; provided further that there be a time limitation for debate of 6 hours, equally divided between Mr. BAKER and Mr. BAYH or his designee, and a time limitation for Mr. GARN on his rescission amendment——

Mr. GARN. I should like to reserve the right to object, but I shall not object at this moment. I suggest to the distinguished majority leader that for 2 days on the floor we have knocked about my pursuing a time agreement. This was forced upon all of us. Right at this moment, I could not agree, if I did, on other than my own amendment and not for other people. I would suggest that, rather than propounding the unanimous-consent agreement right now, if the majority leader could give us the guidelines he started to, then the minority leader, Senator SCOTT, and I, and others on this side could have the hour the Senator talked about to discuss our options and clear our amendments, time limits. Mr. SCOTT has some valid concerns. We could all discuss them together. He or I can only speak for ourselves and not for other Members. If he and I could have that hour, discuss it with the majority leader, and come back, perhaps we could reach that agreement and have discussions with other colleagues.

I am perfectly willing to pursue it in that manner. I cannot agree to a time limitation right now until we have discussed it.

Mr. ROBERT C. BYRD. All right.

Mr. President, I shall ask unanimous consent, which would be in the interest of the Senate, in the interest of having this issue disposed of, and in the interest of completing our work by October 14—that there be a time agreement which will provide for a final vote on the ERA at a specific time on a specific date; that there be a provision that would allow a rescission amendment to be offered; that there be a provision for time on each amendment, to be equally divided and controlled; that there be a time limitation on the amendment which would deal with the question of whether this should be adopted by a two-thirds vote or a majority; that there be a time limitation on debatable motions, appeals, or points of order, if such are submitted to the Senate, and that the remainder of the agreement be in accordance with the usual form so as to rule out nongermane or dilatory amendments, and which would also provide for the Senate, in the meantime, to continue with its work on mass transit and other legislation.

The proposal would be for a vote on passage of ERA at some point next week or within the next 3 days, and which would allow for the Senate to continue to work on other matters in the meantime. This would seem to me to be a reasonable agreement. It would give Senators a specific date, a specific time on which to vote; it will allow Mr. GARN to bring in his rescission amendment. And it would not hold up the work of the Senate.

(Mr. GRAVEL assumed the Chair.)

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

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, the majority leader has made a suggestion that, on our side of the aisle, we shall be glad to consider. It will take a while, as I indicated earlier.

I propose now, Mr. President, that we simply proceed either with the recess of the Senate or with other business, and that we confer on this a little later this afternoon.

Mr. ROBERT C. BYRD. Very well.

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

Mr. ROBERT C. BYRD. I have not made a request.

Mr. SCOTT. I misunderstood the distinguished Senator.

Mr. ROBERT C. BYRD. I have only outlined what I think would be a reasonable agreement. I have not made the request.

Mr. SCOTT. Mr. President, I have outlined the basis on which I would object unless there were something worked out in advance and I am not sure that the distinguished majority leader met those conditions.

I am speaking again only as an individual Senator. But I would hope perhaps we could continue with the transportation bill and give us time, and then the distinguished majority leader might renew his request, if he cares to offer it, with an opportunity for those of us who have an interest in this to be on the floor at the time he makes his request.

Mr. ROBERT C. BYRD. Yes.

Mr. President, the Senator makes a very reasonable observation and request. I am sure the distinguished minority leader will be discussing the matter with the distinguished Senator from Virginia.

But if a time agreement can be worked out, Mr. President, it would obviate the necessity for a cloture vote on this matter. By obviating a cloture vote, the Senator from Virginia (Mr. SCOTT) and the Senator from Utah (Mr. GARN) would be assuring themselves an opportunity to vote on a rescission amendment—which, if cloture is invoked, would in all likelihood be nongermane.

I would like to see them have the opportunity to vote on a rescission amendment.

So I hope an agreement can be worked out which would eliminate the need for a cloture vote, and which would allow the Senate to proceed with other business prior to the final vote on the ERA resolution.

Now, Mr. President, I ask unanimous consent that the Senate resume consideration of the mass transit bill and thus give the distinguished minority leader an opportunity to confer with his colleagues on his side of the aisle on the agreement.

Mr. WEICKER. Reserving the right to object, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. This means the ERA is still the pending business?

Mr. ROBERT C. BYRD. Oh, yes.

Mr. WEICKER. Before the Senate?

Mr. ROBERT C. BYRD. Yes.

Mr. WEICKER. Indeed, it is the mass transit legislation coming in under the unanimous-consent at this time?

Mr. ROBERT C. BYRD. The mass transit bill became the unfinished business with the adjournment.

A call for regular order would bring up the mass transit bill.

Mr. WEICKER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. What is the pending business before the Senate?

The PRESIDING OFFICER. Not until the close of morning hour.

Mr. WEICKER. I am sorry, a parliamentary inquiry.

What is the pending business before the Senate?

Mr. ROBERT C. BYRD. After morning hour, of course, mass transit could be brought up by a call for regular order.

The PRESIDING OFFICER. The pending business is House Joint Resolution 638, and will remain pending until the close of the morning hour.

Mr. JAVITS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I think we have a little bit of misunderstanding. I do not think it should persist.

I do not intend to object at all, but I think Seantor GARN is talking about a rescission amendment, and I thoroughly agree with my colleagues, both majority and minority.

But I think the Senator from Virginia is talking about other nongermane amendments.

I, for one Senator, give notice that I would like to know what those are before I agree to a unanimous consent.

Mr. SCOTT. If the Senator will yield, my amendments are printed, or at least I submitted them for printing yesterday.

But I would like the right to offer other amendments, if I see fit.

Frankly, I do not want any time agreement. So the distinguished Senator from New York will not offend the Senator from Virginia by objecting to any time agreement at all.

Mr. JAVITS. Well, the Senator from New York wants the ERA extension and has no desire or purpose to object to a consent agreement.

I will read the Senator's amendments. Obviously, he has already stated they are not all-inclusive, and I just wanted the majority leader to let me know what the deal is before I, as one Senator, agree.

Mr. ROBERT C. BYRD. Mr. President, at what time did the Senate reconvene?

The PRESIDING OFFICER. 2:58.

Mr. ROBERT C. BYRD. 2:58.

Then at 4:58 p.m.——

The PRESIDING OFFICER. The morning hour would close.

Mr. ROBERT C. BYRD. Yes.

The morning hour would close at 4:58, at which time a call for regular order would automatically force the mass transit bill back before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I would hope that would not be necessary.

I ask unanimous consent that the Senate proceed now to resume the consideration of the mass transit bill; and that on the disposition of that measure the Senate resume consideration of the Department of Education bill on which there is a time agreement.

In the meantime, the distinguished minority leader and his colleagues may confer with respect to a possible time agreement on disposition of the ERA resolution, and, hopefully, this will result in an agreement.

The PRESIDING OFFICER. Without objection——

Mr. BAKER. Reserving the right to object, I am advised now that there is one Senator on this side who expressed an interest in being here, or at least to speak on the question of the presentation of the Department of Education bill—Senator GRIFFIN, I believe.

So I would hope the majority leader might delete that reference from his unanimous-consent request, if it was included in his request.

Mr. ROBERT C. BYRD. Is Senator GRIFFIN not here?

Mr. BAKER. We will have to locate him.

Mr. ROBERT C. BYRD. All right. I can make that request later.

Mr. BAKER. That will be fine.

As the majority leader knows, I support the Department of Education and I want to see it brought up, but I have the obligation to check with one other Senator.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Is there objection to the request?

Mr. ROBERT C. BYRD. I modify the request to eliminate, for the time being, the Department of Education bill.

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

Mr. ROBERT C. BYRD. Now, Mr. President, may I ask the Chair, under an order previously entered, is it not within the prerogative of the majority leader to call up the Department of Education bill, to resume consideration of that after consultation with the minority leader?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. I thank the Chair.

FEDERAL PUBLIC TRANSPORTATION ACT OF 1978

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senate will be in order. People will please confine meetings to the cloakrooms.

The Chair recognizes the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. What is the pending business?

The PRESIDING OFFICER. The pending business is S. 2441.

The question is on agreeing to the committee substitute.

Mr. WILLIAMS. Is there an amendment pending?

The PRESIDING OFFICER. Only the committee amendment.

Mr. WILLIAMS. The Senator from Michigan was——

The PRESIDING OFFICER. The Senator from Michigan withdraws his amendment.

Mr. WILLIAMS. It has been withdrawn.

I have no notice of any other amendments, with one exception, and that is the possibility of an amendment to be offered by the Senator from Montana (Mr. MELCHER).

Otherwise, I know of no other Senators who will be offering amendments.

I am happy to yield to the Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate and votes on the ERA extension: Gordon Jones, Lincoln C. Oliphant, Vern Dell-Piana, Jeff Bingham, Dean Grzanka, and Grover Rees.

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

Mr. WILLIAMS. Mr. President, I believe there is an amendment about to be discussed, perhaps offered. I have no other requests at this point. This will be only a matter of minutes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. 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. MELCHER. Mr. President, I ask Tim Lynch, Doug Svendson, and Matt Scocozza be accorded the privilege of the floor.

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

UP AMENDMENT NO. 1951

Mr. MELCHER. 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 Montana (Mr. MELCHER) proposes an unprinted amendment numbered 1951:

On page 72, between lines 17 and 18, insert the following:

AMTRAK ROUTE SYSTEM

SEC. 114. At least 60 days prior to October 1, 1979, if any train or trains or routes are not required under the Final Route Reexamination Recommendations proposed by the Secretary of Transportation, the Corporation shall formally notify the Governor and legislature of each State in which the train or route is operated, and post in every station, depot, or other facility served thereby notice of the proposed discontinuance. If any State, region, or local agency, whether or not it loses service under the Secretary's route restructuring proposal due December 31, 1978, requests continuation of the service and agrees prior to October 1, 1979, to reimburse the Corporation for a reasonable portion of any operating losses and capital costs associated with the continuation of service beyond October 1, 1979, the Corporation shall continue operations of such train, route, or service for the period covered by a contract between the Corporation and the State, regional, or local agency, under the terms of section 403(b) of the Rail Passenger Services Act.

Mr. MELCHER. Mr. President, the amendment is quite self-explanatory.

The Secretary of Transportation will be sending up to Congress at the end of this year his final proposed plan for Amtrak.

After that is received and up until October 1, 1979, the existing Amtrak route and service will be maintained. That is to provide Congress an opportunity to review the proposal of the Secretary and give the Congress a chance to disagree on portions of it or agree on all of it, but if there is a disagreement on portions of it then the Secretary, during that period of time during the next Congress, would be making adjustments.

We know that in some cases in our part of the Northwest the Secretary may very well recommend a discontinuation

of one or more trains. We are trying under this amendment to do two things:

We are attempting to make sure that there is proper notice served on the Governors and the legislatures and serving notice on the public by posting in the depots of the proposed discontinued line that that is going to happen after October 1, 1979. That discontinuation would occur then.

The second part we are attempting to do in the amendment is to draw the attention of the legislatures that will be meeting in these States in January of next year to the fact that they may make application singly or jointly for continuation of the service that would be proposed to be discontinued providing they are willing to pick up a reasonable part of the costs under section 403(b) of the existing act.

I think it is a timely amendment to acquaint the legislators, the Governors, and the people out in these States that this may happen. If they wish to take some action to provide some funds and make application for picking up the reasonable costs, they can do so while they are in session next year.

My State legislature will adjourn after 60 legislative days and will not be sitting probably at the time the final route plan is agreed to sometime next summer.

So, this kind of serves notice on them. If they want to participate by putting up a reasonable share of the costs they better be taking the proper steps during that legislative session next year.

I am sorry to inconvenience the managers of this bill by waiting for this amendment, but I can assure them that it will be most helpful and I hope the managers of the bill can accept it.

Mr. WILLIAMS. Mr. President, it should be noted, of course, that this is subject matter that is not within the legislative jurisdiction of the committee that brought the pending bill to the floor. Housing, Banking, and Urban Affairs has nothing to do with Amtrak, as the Senator knows.

But during the interim period here I did have a discussion with the chairman of the Commerce Committee, and I know that he is familiar with this and has talked to the Senator from Montana about this amendment. While it is not our jurisdiction, this is a transportation vehicle; therefore, it is being presented at this time.

As far as this Senator is concerned, as manager on this side—and I would look to the other side—certainly if this is added, in conference we will do our best to represent the Senate's position here on this amendment. I am agreeable to accepting it.

Mr. SCHMITT. Mr. President, I apologize to both of my colleagues for coming in late on this discussion. I understand there may be some inconsistency between the amendment of the Senator from Montana and some Amtrak legislation which has previously been considered by the Commerce Committee and by the Senate.

I wonder if it would be possible for the Senator to lay this measure aside just for a few minutes so I can find whether or not it is inconsistent.

Mr. MELCHER. I can assure the Senator that the Department of Transportation representatives and the Senate Commerce Committee staff have been going over this for the last hour and they believe it does fit in with the previous legislation. Some of the staff members of the Senate Commerce Committee are on the floor right now.

Mr. SCHMITT. Would the Senator mind——

Mr. MELCHER. I have no objection at all.

Mr. SCHMITT. I understand it may relate to two or three lines in New Mexico, and I would like to understand what that relationship is before we proceed.

Would the Senator from New Jersey mind laying this aside while we examine it?

Mr. WILLIAMS. Lay it aside or just have a quorum call?

Mr. SCHMITT. What is that, a quorum call? I thought there was another amendment——

Mr. WILLIAMS. Yes.

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

The PRESIDING OFFICER (Mr. HOLLINGS). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. 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. SCHMITT. Mr. President, having finally caught up with the train here, I understand that the staff of the Commerce Committee has, in fact, worked out the apparent inconsistency in the original proposal that had been seen relative to the Amtrak conference report. and the wording is consistent with that report. I have no further objection to their proceeding to the adoption of the amendment. I apologize to the distinguished Senator from Montana for this brief delay. There were so many other things going on that I just did not quite catch up with it.

Mr. MELCHER. I thank my friend from New Mexico, and I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. PROXMIRE. Mr. President, this bill, as I understand it, has been amended substantially by the Muskie amendment and other amendments. As reported, however, it authorizes $14.8 billion for mass transit during the next 4 years, an increase of $3.5 billion over the $11.3 billion requested by the administration. The bill is also $800 million over the amount contained in the first budget resolution for fiscal year 1979. The Secretary of Transportation has said in a letter to the committee that he does not believe the President will approve a bill with increases in the amounts approved by the committee.

While I support increased funding for mass transit, I believe an increase of $3.5 billion over the administration's request is clearly excessive. Unrestrained spending increases of the kind embodied in S. 2441 can only lead to larger budget deficits and runaway inflation. I believe the Congress must call a halt to excessive Federal spending increases in all programs, including mass transit.

A case might be made for increasing the administration's requested authorization amounts if these amounts represented a sharp cut from prior levels. However, just the reverse is true. Program obligations for mass transit increased by 14 percent in fiscal year 1978 and the administration proposed a further increase of 13 percent in fiscal year 1979. Under the reported bill, the 1979 authorization is 42 percent over the program level for 1978. I seriously doubt that the Urban Mass Transit Administration has the administrative capacity to assimilate an increase of this magnitude.

I am especially concerned about an amendment which the committee narrowly approved by a vote of 8 to 7. This amendment added $891 million in operating subsidies to be used to guarantee that every transit operator received up to 50 percent of its operating deficit, but not to exceed one-third of operating costs.

This amendment is a formula for inflationary cost increases in our mass transit systems. I agree with the Department of Transportation when it observed to the committee that:

> The acceptance of this provision would create a situation in which an urbanized area can increase its share of Federal funds simply by increasing its costs, since the Federal Government would be required to absorb half of all increases in deficits. The incentive to eliminate such deficits would certainly be reduced . . . Every additional dollar of revenue generated by a transit system or every dollar saved in improved operations would mean a loss of 50¢ in potential federal aid. This plan would decrease the incentive to adopt money-saving efficiencies or to develop fare structures commensurate with cost increases.

By injecting operating deficits into the distribution formula, the committee's amendment departs from an objective measurement of need. This "welfare approach" to mass transit assistance can only undermine efficient management and lead to runaway Federal subsidies.

The Federal commitment under the committee's amendment would essentially be openended. Although the funds to implement the amendment are ostensibly limited to $891 million over the next 4 years, the Department of Transportation is estimating that potential operating deficits of all mass transit systems could increase by billions of dollars into the 1980s if transit operators attempt to maximize their Federal contributions. Once the principle is established that a city is entitled to receive 50 percent of its mass transit deficit, pressures will be created to increasing the funding level under the committee's amendment to support the increase in these deficits.

Accordingly, Mr. President, I want to

congratulate the Senator from Maine (Mr. MUSKIE) and the Senator from North Carolina (Mr. MORGAN) for offering their amendments to reduce the funds in the bill to the amounts contained in the budget resolution and to the amounts approved or likely to be approved by the Appropriations Committees. Even with these reductions, the mass transit program would still enjoy a considerable increase over last year. Moreover, the program would continue to receive increased authorizations in the years ahead.

So we are by no means turning our backs on the mass transit program in approving the Muskie and Morgan amendments. On the contrary, we are providing the program with increased funds. However, at a time when inflation is our number one domestic problem, we simply must find a way to hold back on Federal spending and to reduce the size of our colossal budget deficit. I am pleased, therefore, to support the two amendments offered by Senator MUSKIE and Senator MORGAN.

I thank the distinguished manager of the bill.

● Mr. HART. Mr. President, as the Senate considers S. 2441, which provides new authorizations for urban mass transit systems, we will have before us a delicate task. We must strike a chord between controlling the Federal budget, while providing the necessary financial incentives for the expansion of mass transit.

In the past decade, funding for mass transit has undergone tremendous increases. The total authorization in 1974 was $581 million. We will soon vote on a bill authorizing close to $17 billion over a 4-year period. This, in my view, represents a substantial commitment on the part of the Senate to mass transit. Simultaneously, it represents massive Federal expenditures.

In certain areas of my home State of Colorado, serious air pollution exists, threatening the health and safety of thousands. I have consistently supported strong clean air measures and aggressive mass transit programs. But, I also recognize that the Congress must gain control over the budget. We should establish fiscal goals and objectives, and more importantly, begin the constructive work toward those goals.

The people of Colorado want to control and reduce the "brown cloud" that hovers over Denver and much of the Front Range, endangering the lives of residents.

The people of the Denver area also want a more effective and efficient mass transit system for their city. But, I am equally convinced that those very same people want a balanced Federal budget and controlled Federal spending.

Mr. President, the choices we make today are not easy ones. But, we have a responsibility to control the Federal budget, and we must not shirk that responsibility. The Federal budget process is complex, and reductions should not be made with a meat axe. The deliberations must be thoughtful and precise, with particular consideration given the fine tuning of mass transit procedures.

Mr. President, I am confident the Senate will approve and send to conference, an urban mass transit authorization bill which provides sufficient incentives for reasonable growth, while coupling that directive with a firm stance on responsible Federal spending.●

SMALL URBAN AND RURAL PROGRAM

Mr. LEAHY. Mr. President, I would like to express my strong support for the proposed new program of public transportation capital and operating assistance for small urban and rural areas. This is an important and long overdue addition to our public transportation program. I know that the Senate has tried for a number of years to pass legislation that would create a useful source of assistance for nonurbanized areas. Capital funds have been available for these areas since passage of the National Mass Transportation Assistance Act of 1974. But this program was crippled from birth by the inability to receive operating assistance. The Senate has twice passed legislation that would have the funds set-aside for nonurbanized areas to be used for operating assistance, but neither of those bills were enacted.

I believe that the current proposal to create a specific formula program for small urban and rural areas is the best opportunity we have had to develop effective transportation services to help meet the urgent needs of our small urban and rural areas.

Also, Mr. President. I want to take this opportunity to thank the Senator from New Jersey (Mr. WILLIAMS) for his diligent efforts to make public transportation a reality for a too often overlooked sector of this nation. small town America. His work in this field has been invaluable and I know it is appreciated by the 60 million Americans living in rural and smaller urban America.

Mr. President. I would like to seek some clarification from the Senator from New Jersey and how he envisions the creation and operation of this program. My concerns are twofold—first will we see a rapid start-up of this program so that the many services and programs which are operating now on a shoestring, because no operating assistance is available, will not go under while the Department of Transportation ponders what sort of guidelines. regulations. and other requirements to impose on the program. My primary concern here is the requirement in section 18 that services assisted must be included in a "State plan and program for small urban and rural public transportation programs which is developed in accordance with section 8 of this act." It seems quite possible to me that a State plan of this sort could take many months to develop. If no assistance can be given until this plan is developed and submitted. I fear that, at best, thousands of residents of my State will be deprived of several months of improved service, and at worst many of these existing services may fold for lack of available funding. I hope we can encourage the Department of Transportation to take some interim steps to get this important program going as soon as possible.

My second concern is how this program will be administered. We are concerned with a public transportation program that will serve both rural areas and small urban areas, including some larger cities. In fact, the largest city in my State falls within the category of a "small urban area" since it has a population of less than 50,000. I think it is important that a public transportation program of this nature be administered as part of the overall Federal public transportation program so that the necessary expertise and sensitivity can be brought to bear on the very real problems of providing useful services in these areas.

Mr. WILLIAMS. Mr. President, I welcome the support from the Senator from Vermont on this very important part of the public transportation legislation. Senator LEAHY's contributions to this proposed legislation are many and consistent with his wide-ranging interest in the improvement of life quality for American citizens living in rural and smaller urban areas. From his seat on the Appropriations Committee, Senator LEAHY has helped to insure adequate funding for this program and his efforts have contributed to moving the Department of Transportation toward a firm commitment of getting the regulations for the administration of this program developed and implemented most expeditiously.

It is certainly true that we have not done enough to help develop transportation services in our rural and small urban areas. Our small cities and rural communities contain half our population and it is vitally important that the Federal Government be more responsive to their needs for improved public transportation services. As the Senator from Vermont mentioned, Congress created a program of capital assistance for nonurbanized areas in 1974. But without operating assistance this program has been ineffective. In the 94th Congress, the Senate passed a bill opening up the nonurbanized area funds for use as operating assistance. Last year, the Senate passed S. 208 which contained the same provision. The House never acted on either of these bills.

The Banking Committee hearings on both S. 2441 and S. 208 underscored the need for the program. Last year we had a judge from Greene County, Ala., come up and tell us how important rural transportation services are. He talked about "black market" transportation services by unlicensed private individuals who exploit rural Americans who can't afford their own cars. The Judge told us:

> Unless we can get something done for rural transportation many of our citizens are going to be handicapped. We have found that, in many rural counties, inadequate transportation is the key deterrent to improved health and social services.

This is a good assessment of the problem. Rural residents often must travel great distances for basic necessities, such as work, food and medical services. A recent survey in the publication Country News reported that of 307 low-income residents of Macon County, Ala., who were interviewed, 272 said they needed

public transportation to buy their groceries, 268 said they needed it to get to a doctor, and 184 needed it to get to the food stamp office.

A Department of Transportation study on the problems of transportation in nonurbanized areas concluded that:

> To be without access to a car in a small town is to be immobilized. . . . the elderly, the poor and the handicapped therefore suffer a second disability. The nearly complete dependence on the private automobile is the most difficult and complicated issue facing small towns.

I believe that this new program will help reduce the isolation of rural poor and elderly, and will help lessen the dependence on cars in our small towns and cities.

Mr. President, I would like to respond to the concerns raised by the Senator from Vermont on the implementation of this program.

We intended that the small urban and rural program be one that is very simple to administer, with a minimum of redtape.

Funds will flow through the States to local agencies and operators. The State is required to develop a plan for the use of its allocated funds, which I believe is necessary to assure the fair distribution of Federal dollars, and the coordination of services to maximize the usefulness of the program.

It is not our intent however to delay implementation of this program while DOT creates a complex planning requirement that could take months to fulfill. There is nothing in the language of this section that would prevent DOT from accepting an interim plan, a list in essence, of those services the State intends to fund along with a proposed distribution of the funds. This interim plan could be developed and submitted within a few weeks of passage. I believe DOT would still require development of a more formal and comprehensive plan within perhaps a year, but in the meantime the funds could be flowing to keep these existing worthwhile services operating.

I want to stress my agreement with the Senator from Vermont on the importance of a quick start-up process for this program, and I encourage both the Department of Transportation and the appropriate State agencies to act as quickly as possible once this program is created.

With respect to the Senator's concern about the administration of the small urban and rural program. I share his belief that it should be part of the Federal public transportation program, which is administered by UMTA. In reporting this legislation, the Committee on Banking, Housing and Urban Affairs deliberately chose not to combine this program with a small urban and rural highway program. The committee believed that a separate program, utilizing the expertise and public transportation orientation of UMTA would be the most effective way to focus both Federal and local attention on the need for effective public transportation services in these areas. I have in fact sent a letter to Secretary Adams in which I stressed my belief that the program can be better administered within UMTA.

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

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

Mr. ROBERT C. BYRD. Mr. President, having completed deliberations on S. 2441, the mass transit bill, the three parts of the transportation authorization legislation are ready for conference committee. The legislation renews the Federal commitment to maintain and improve highway and public transportation as well as highway safety. The three titles are innovative, reform-minded, and fiscally responsible.

The Federal-aid highway title will improve greatly the ability of my State, West Virginia, to resolve two of our most serious and long-standing highway problems.

Federal highway assistance to West Virginia will increase by $70 million annually. It will help to construct an essential bridge over the Ohio River at Huntington. It also will facilitate upgrading an 86-mile stretch of a major north-south artery between Charleston and Beckley. At last, the West Virginia Turnpike can begin to be transformed from a hazardous bottleneck to an interstate highway comparable to the standards of two existing interstate routes with which it interconnects, I–64 and I–70.

The very location of these two projects and their traffic mix means that taxpayers other than West Virginians also will benefit. Moreover, of national import are the policies prescribed in this title which authorize Federal contributions to these two projects.

One policy sets a date certain for completion of new interstate construction. It assures that essential segments of the Interstate System are among those completed within the time limit. Almost every State has at least one of these "essential gaps" like the 86-mile stretch between Charleston and Beckley.

The Environment and Public Works Committee found that, in general, States are having difficulty financing maintenance of the Interstate System as well as other highway systems, including bridges. Indeed, the most pressing rehabilitation needs are on bridges. The other project represents an adjunct to the policy to assist in the rehabilitation and preservation of the existing Federal highway network.

In 1970, Senator RANDOLPH, the chairman of the Environment and Public Works Committee, sponsored the special bridge replacement program. He rightly recognized that the highway program would be incomplete without rehabilitating or replacing old or unsafe bridges.

The cost of bridge construction is soaring, particularly bridges over major waterways. Engineers at the Federal Highway Administration estimate that constructing a new bridge over a major waterway could cost between 5 and 10 times as much as constructing a new highway over land. Depending on local conditions, it could be even greater.

The committee realized that in some States bridge needs do not fall into any existing assistance category, yet the bridge is a necessary component of the Federal-aid primary, secondary, or urban network. Considering how strapped the States already are for highway funds, the committee thought it prudent to provide the Secretary of Transportation with discretionary funds.

The purpose is to assist a State with construction of a new bridge over a major waterway which would carry a high volume of urban traffic. The funds could be used when construction is beyond the capability of the State to fund in a reasonable time.

Adjusting Federal-aid highway policies to changing conditions and State needs to a hallmark of the committee's highway legislation since Senator RANDOLPH assumed the chair in 1966. He chairs the committee so that every Senator may make a contribution to the final bill.

I believe this is to the credit of Chairman RANDOLPH and taxpayers in general. Senator RANDOLPH recognizes that although every State has highway needs, the value of a national highway program depends on meeting the specific needs of each State.

Moreover, Chairman RANDOLPH appreciates the imperative of fashioning national highway programs which respond to each State's needs without penalizing a State just because it might not conform to the norm. This appreciation, which underpins Federal highway policy, probably has been influenced by the unique characteristics of West Virginia.

Our State's hilly terrain, among other things, makes highway construction difficult and costly. Its geography makes highway transportation an essential element of accessibility, and its central location makes it a national crossroad.

I believe that every State has benefited from our national highway program in part because of Senator RANDOLPH's perspective and his leadership policies. The modern Federal-aid highway program was initiated in 1965 with the establishment of the Highway Trust Fund. Senator RANDOLPH was first elected to the Senate in 1958 and became chairman of the Public Roads Subcommittee in 1963. His longstanding membership on the committee and his experience as Public Roads Subcommittee chairman also help to explain why Federal highway policies are consistent and coherent, despite adjustments to meet changing needs.

Our national highway policies have been modified just about every 2 years, and the highway legislation is exemplary of the committee's practice to update highway transportation policy regularly.

One of the most notable results of this practice is that the highway trust fund is still intact. Its future health, however, could be jeopardized by declining revenues. Although a greater number of vehicle miles is driven each year, fuel consumption no longer is increasing at the pace to which the Highway Trust Fund is accustomed.

Under the stewardship of Senator

BENTSEN, chairman of the Transportation Subcommittee, the legislation provides that the fund's expenditures and revenues will be kept in balance, thus assuring that any future tax increases would not have to be considered in a crisis context.

The new energy environment which has dampened fuel consumption rates also has necessitated other changes in our Federal-aid highway program. Enforcement of the 55-mile-per-hour national speed limit is strengthened. The legislation permits States to use Federal highway funds for car pool and van pool projects.

It sounds rather easy, but actually it is quite challenging to design a national highway policy yet adapt it to the changing needs of each State. To accomplish this, the committee must inject flexibility and discretion at both the Federal and State level but maintain sufficient standards so that the Highway Trust Fund is used to finance a coherent national program.

Recognizing these challenges in carrying out its legislative responsibilities, it is with great pride that I commend the senior Senator from West Virginia, Mr. RANDOLPH, the distinguished chairman, and the Senators who serve with him on the Environment and Public Works Committee.

The mass transit title contains almost all of the President's recommendations. Under the leadership of Chairman WILLIAMS, the father of the national mass transportation program, the Banking Committee refined and, in some instances, improved upon the administration's original proposal.

For example, the formula to determine the amount of grants or loans has been fashioned so that there is no regional bias. Infant systems which need assistance to expand are on equal footing with longstanding systems which need maintenance and rehabilitation assistance.

The formula provides funds according to the level and kind of public transportation service. It would enable the Urban Mass Transportation Administration to streamline administration. Thus, recipients would have greater certainty of funding over a longer time frame. Their ability to plan would be enhanced significantly. I commend the committee for designing a system which is fair and equitable as well as businesslike.

The committee pursued these same goals by making another reform. Benefits would be extended for first time to small urban and rural areas. This is a reform that the Senate supported in 1975 and 1977. This time the chances of making it to the President's desk look better than ever.

Another very significant reform for which the President and the committee should be credited is putting the UMTA and its programs into the congressional budget process. Congress would be able to scrutinize the UMTA through regular authorization and appropriations processes.

The fiscal discipline built into this measure goes beyond the congressional budget process. Senator Morgan's amendment adopted today by the Senate would limit the growth rate of the capital assistance program. If the underlying rate of inflation exceeds 6 percent, it would represent a no-growth policy over the next 4 fiscal years.

Given the importance of working toward balancing the budget in fiscal year 1983, the fiscal discipline which the Senate has built into this bill is exemplary. Senator William's amendment, also adopted by the Senate today, gives assurance that the Nation's need to build, upgrade, and diversify public transportation services will not go unmet. By adding the fifth year, originally proposed by the administration, mass transportation systems can plan ahead for their capital assistance.

The ability to plan is critical to meeting three overriding goals of mass transportation: energy conservation, environmental quality, and urban revitalization. The bill adopted by the Senate today will further these goals more equitably than under existing law and will tighten fiscal discipline.

I commend Senator WILLIAMS, the floor manager of the bill, and Senator BROOKE, the minority floor manager for their outstanding efforts in guiding this complex bill to passage in such an expeditious manner.

Mr. WILLIAMS. Now, Mr. President, under the unanimous consent agreement, it is my understanding that the majority leader will call up S. 3073. 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.

Mr. ROBERT C. BYRD. Mr. President, I yield, without losing my right to the floor, to the Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. I thank the distinguished majority leader.

HUMANE METHODS OF SLAUGHTER ACT OF 1978

Mr. TALMADGE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3092.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3092) entitled "An Act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Humane Methods of Slaughter Act of 1978".

SEC. 2. Section 3 of the Federal Meat Inspection Act (21 U.S.C. 603) is amended by inserting "(a)" immediately before the first sentence and adding at the end thereof a new subsection (b) as follows:

"(b) For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaugthered or handled in connection with slaughter at such establishment by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.".

SEC. 3. Section 10 of the Federal Meat Inspection Act (21 U.S.C. 610) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) a new subsection (b) as follows:

"(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906);".

SEC. 4. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by inserting after the first sentence a new sentence as follows: "No such carcasses, parts of carcasses, meat or meat food products shall be imported into the United States unless the livestock from which they were produced was slaughtered and handled in connection with slaughter in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906).".

SEC. 5. The Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901–1906) is amended by—

(a) inserting before the period at the end of section 2(b) "and handling in connection with such slaughtering";

(b) repealing sections 3, 4(c), and 5;

(c) striking out "for purposes of section 3 hereof" in section 4(b);

(d) inserting "and" after the semicolon at the end of section 4(a); and

(e) striking out the semicolon at the end of section 4(b) and inserting a period in lieu thereof.

SEC. 6. Nothing in this Act shall be construed to prohibit, abridge, or in any way hinder the religious freedom of any person or group. Notwithstanding any other provision of this Act, in order to protect freedom of religion, ritual slaughter, and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of this Act. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with section 2(b) of the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1902 (b)).

SEC. 7. The provisions of this Act shall become effective one year after the date of enactment. However, such provisions shall not apply to a person, firm, or corporation for such additional period of time, not to exceed eighteen months, as may be determined by the Secretary, if the Secretary, upon application, finds that compliance with the provisions of this Act on its effective date would cause undue hardship on such person, firm, or corporation.

Amend the title so as to read: "An Act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such Act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes.".

Mr. TALMADGE. Mr. President, S. 3092—The Humane Methods of Slaughter Act of 1978—amends the Federal

Meat Inspection Act to require that all meat inspected and approved under that act be produced from livestock slaughtered in accordance with the methods set out in the Humane Slaughter Act of 1958. Under the 1958 act, only meat that is sold to the Federal Government must be produced from livestock slaughtered in a humane manner.

Since the Humane Slaughter Act was enacted, the risk of injury to slaughterhouse employees who must work near animals has been considerably reduced. Humane handling and slaughter also reduce the incidence of injury to animals, which increases the amount of usable product per carcass. Far less meat is condemned due to bruising or other accidents in the slaughter process using humane methods. This means better returns to farmers, lower prices to consumers, and better productivity for the meat industry. Unfortunately, reports of continued cruelty to and abuse of livestock at the few plants that are not already using humane methods justify the imposition of a humane slaughtering and handling requirement for all meat sold in the United States.

In addition, S. 3092 prohibits the importation into the United States of inhumanely slaughtered meat.

The exemptions for ritual slaughter and the handling of livestock in connection with such slaughter, currently contained in the Humane Slaughter Act of 1958, are retained in S. 3092.

The House of Representatives made two changes in S. 3092, which are technical in nature.

In lieu of language in the Senate-passed bill that would permit the Secretary of Agriculture to refuse to provide meat inspection to a slaughtering establishment until it adopts humane methods of slaughter, the House amendment provides that the Secretary may refuse to provide inspection to a new establishment until it adopts humane methods. In this context, "new" would include an existing establishment that begins to slaughter additional species after the effective date of the bill. The authority of the Secretary in the Senate bill to suspend meat inspection at existing establishments until the establishments are slaughtering meat in a humane manner was not changed.

The House also adopted an amendment with respect to the effective date of S. 3092. The bill is to become effective 1 year after enactment. However, under certain circumstances, the Secretary of Agriculture could grant additional time if he finds that compliance with the legislation on the effective date would cause an undue hardship. The additional period of time that could be granted by the Secretary was limited by the House to not to exceed 18 months.

I wish to commend our distinguished colleague (Mr. DOLE) who has worked so diligently on the legislation. He introduced S. 3092 and took an active role during the hearing on the legislation conducted by the Subcommittee on Agricultural Research and General Legislation.

All of the witnesses who appeared at the hearing supported the enactment of the legislation. The witnesses included Sydney J. Butler, Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture; Patricia Forkan, representing the Humane Society of the United States; Christine Stevens, representing the Society for Animal Protection Legislation; and Dewey Bond, representing the American Meat Institute.

With respect to the provisions of S. 3092 relating to ritual slaughter, the Committee on Agriculture, Nutrition, and Forestry received valuable assistance from Mr. Nathan Lewin.

Senator DOLE introduced this bill, and did yeoman work to secure its passage. I congratulate him on it.

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

Mr. DOLE. Mr. President, I support the amendment of the House to S. 3092, the Humane Methods of Slaughter Act of 1978.

The amendment clarifies the way in which an interruption of Federal inspection would be used in enforcing humane slaughter requirements.

Operations in an existing slaughter plant could be temporarily suspended when a Federal inspector finds a violation, and would not be resumed until plant management makes satisfactory changes and assurances that further slaughtering will be conducted in compliance with the law.

Slaughter plants applying for a new grant of Federal inspection would be required to show that slaughtering will be conducted humanely before the Secretary of Agriculture would permit federally inspected operations to begin.

The amendment also sets 18 months as the maximum extra time that could be granted by the Secretary to establishments which show they would suffer undue hardship by compliance with the new law on its effective date of 1 year after enactment.

This provision is designed to give State legislatures sufficient time to change State laws to conform to the new Federal requirements.

Mr. President, I urge the Senate to agree to the House amendment to this bill.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia.

Mr. SCHMITT. Mr. President, I would ask the distinguished Senator from Georgia if he has talked with the other members of the Agriculture Committee.

Mr. TALMADGE. Oh, yes. The ranking minority member (Mr. DOLE) introduced the bill, and it has been cleared with him.

Mr. SCHMITT. Mr. President, if I may, I would like to have a moment to confer with the distinguished assistant minority leader. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that purpose. I do not yield for the purpose of suggesting the absence of a quorum.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. STEVENS. Mr. President, a parliamentary inquiry. What is the procedural situation? Is there a motion pending?

Mr. TALMADGE. Mr. President, there is a motion to concur in the House amendments to a Senate bill. It is a motion which has been cleared with the Senator from Kansas, by whom the bill was introduced.

Mr. ROBERT C. BYRD. Mr. President, this is the normal procedure here. The distinguished chairman of the committee has stated that the ranking Republican member has agreed to it. I would hope the Senator from New Mexico would not question the authenticity of that statement or the integrity of the chairman (Mr. TALMADGE).

Mr. SCHMITT. Mr. President, if the Senator will yield just for a comment, I have nothing against the measure at all, except that on our side neither the secretaries nor the leadership have any information about an agreement, and there is more than just the ranking Republican member of the committee to consider. I am sure everything the Senator from Georgia has said relative to Senator DOLE is correct, but without that additional information, I think it would be inopportune to proceed. If you will just allow us 1 or 2 minutes——

Mr. ROBERT C. BYRD. Mr. President, the distinguished Republican whip (Mr. STEVENS) was on the floor to protect the rights of the minority and was here when Mr. TALMADGE proceeded as he did. I felt that the minority was being adequately protected by the distinguished Senator from Alaska (Mr. STEVENS), who always does a more than exemplary job in protecting the rights of the minority, and is always most cooperative, and understanding. I would hope that the Senator from New Mexico would allow the matter to go forward. The Senator from Alaska is agreeable; I would think that the Senator from New Mexico would not feel compelled to stand in the way of it.

Mr. SCHMITT. If the Senator will yield further, the distinguished Senator from Alaska was not on the floor when the matter was brought to my attention, and I had absolutely no information about it. Being the representative on our side at the moment, I felt it imperative that I ask those questions.

We have now been informed that there is no objection on our side at all to the acceptance of the House amendments, as moved by the distinguished Senator from Georgia, and I have no further need for the floor.

Mr. ROBERT C. BYRD. Mr. President, I would like to ask the distinguished Republican whip if there is any objection to proceeding.

Mr. STEVENS. I say in response that my good friend the Senator from New Mexico has stated it correctly: We are informed that this matter is cleared. We are happy to see it cleared, and appreciate the attention of the Senator from Georgia to matters that affect the Senator from Kansas so vitally.

Mr. TALMADGE. I thank the distinguished acting minority leader, and also the distinguished Senator from New Mexico, and also the distinguished majority leader.

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

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Georgia.

The motion was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader and the distinguished Senator from New Mexico, and I thank the distinguished Senator from Georgia.

FEDERAL-AID HIGHWAY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, with respect to the mass transit legislation, I ask that the Senate proceed to the consideration of S. 3073.

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

The legislative clerk read as follows:

A bill (S. 3073) to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask that the language of S. 2441, as amended, be inserted as title III of S. 3073. This is in accordance with the order agreed to some time ago, when the Senate had before it the Federal highway legislation.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment is agreed to.

Mr. STEVENS. Was the order that the majority leader sought concerning title III of S. 3073, granted in accordance with the order?

The PRESIDING OFFICER. It was.

Mr. ROBERT C. BYRD. Mr. President, I ask for third reading.

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

The bill (S. 3073) was ordered to be engrossed for a third reading, and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, it is not the desire of the leadership to proceed to passage of this bill at the present time. The Senate has now acted in conformity with the order previously entered.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill (S. 991).

Mr. ROBERT C. BYRD. At this time, Mr. President, I ask that the Senate resume its consideration of the Department of Education bill. In accordance with the order previously entered, Mr. President, I was to consult with the distinguished minority leader.

Mr. STEVENS. I may state I have discussed this with the distinguished minority leader and we are prepared to proceed in accordance with the majority leader's wish on this matter.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

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

The legislative clerk read as follows:

A bill (S. 991) to establish a Department of Education, and for other purposes.

Mr. STEVENS. Mr. President, may I inquire? There were orders entered into. It is my understanding the Senator from New Mexico (Mr. SCHMITT) was to call up three amendments under controlled time, and after that my amendment was to be subject to debate and to a vote. It is my understanding that the Senator from North Carolina has a noncontroversial amendment we may wish to consider first. Is that correct?

Mr. RIBICOFF. He is not here. I would like to have the opportunity to look at it. If it is the same amendment we saw last week, we would accept it.

Mr. STEVENS. Is the Senator from New Mexico prepared to present his amendments at this time?

Mr. SCHMITT. I am prepared to present my amendments. I would ask to make an opening statement on the bill, if that is agreeable. It will be short.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I certainly have no objection. If the Senator would allow me, I would like to make a very brief statement.

It is my hope that the Senate will complete action on this bill today. Therefore, I would anticipate a fairly lengthy session today and several rollcall votes. I hope both cloakrooms will announce to Senators that we do expect rollcall votes and expect a late session in an effort to complete action on this bill today. I have no objection to the Senator from New Mexico proceeding.

Mr. STEVENS. Mr. President, are we under controlled time now?

The PRESIDING OFFICER. The Senate is under controlled time now.

Mr. STEVENS. If the Senator from New Mexico calls up his first amendment, he would then have 1½ hours at his dosposal on that first amendment.

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I have the floor now and I would be happy to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

ORDER THAT S. 2441 AND S. 2541 BE INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. I ask unanimous consent that calendar order No. 788, S. 2441, a bill entitled the "Federal Public Transportation Act of 1978," and calendar order No. 800, S. 2541, a bill to amend chapter 4 of title 23 of the United States Code to authorize appropriations for certain highway safety programs, and for other purposes, be indefinitely postponed. This is in conformity with the agreement.

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

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. SCHMITT. Mr. President, while we are getting organized, I will ask the distinguished Senator from Alaska if he wishes to proceed to his amendment. I understand he is under some specific time constraint. I would be happy to present my opening statement and then lay my amendment aside until his amendment is dispensed with.

Mr. STEVENS. I would be happy to do it after the Senator from New Mexico presents his first amendment. I would be very appreciative if the Senator from New Mexico would permit me to call up my amendment so that the vote will take place before 7 o'clock because we do have a markup at 7 o'clock, which I must attend. So any time we can call up the matter before 7 o'clock and have the vote before 7 o'clock, I would appreciate it.

Mr. SCHMITT. Then we will proceed to the first Schmitt amendment with the understanding that the amendment of the Senator from Alaska will be next. I would presume that will take unanimous consent, which I am sure the Senate will grant.

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

Mr. SCHMITT. I am happy to yield.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent for Dr. John Backer of my staff to be granted the privileges of the floor during the consideration of the pending legislation.

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

Mr. HAYAKAWA. I also ask unanimous consent that Eugene Iwanciu of my staff be granted the privileges of the floor during the consideration of this legislation.

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

Mr. THURMOND. And Sally Rogers of my staff and James Lockemy from the Judiciary staff.

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

Mr. DOMENICI. May I ask also for Letitia Chambers of my staff to be granted the privileges of the floor?

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

Mr. DOMENICI. Will the Senator yield further to allow me to make a comment for a half-minute?

Mr. SCHMITT. I am happy to yield.

Mr. DOMENICI. I want to thank my colleagues, Senator RIBICOFF, and Senator PERCY for working out the arrangement which will permit us to conclude this measure today. I have had a genuine interest. Because of time problems, I was concerned that I would not be around when we voted on it. I greatly appreciate the efforts to conclude the matter. Whether we agree or not on the issue, I am very grateful and I want to indicate that.

Mr. SCHMITT. I appreciate the comments of the distinguished senior Senator from New Mexico. His wishes and needs in this matter are a major part

in the consideration of this measure today.

AMENDMENT NO. 3620

(Purpose: To delete the transfer of agencies and functions from the Department of Defense to the Department.)

Mr. SCHMITT. Mr. President, I call up my amendment No. 3620 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3620.

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

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

The amendment is as follows:

On page 49, line 10, strike out "section 203(11)" and insert "section 203(10)".

On page 49, line 15, strike out "(13)" and insert "(12)".

On page 49, strike out lines 17 through 23.

On page 49, line 24, strike out "(f)" and insert "(e)".

On page 50, line 4, strike out "(g)" and insert "(f)".

On page 50, line 6, strike out "(f)" and insert "(e)".

On page 51, strike out lines 7 through 9.

On page 51, line 10, strike out "(9)" and insert "(8)".

On page 51, line 12, strike out "(10)" and insert "(9)".

On page 51, line 15, strike out "(11)" and insert "(10)".

On page 51, line 23, strike out "(12)" and insert "(11)".

On page 51, line 24, strike out "(13)" and insert "(12)".

On page 52, line 5, strike out "(14)" and insert "(13)".

On page 52, line 8, strike out "(15)" and insert "(14)".

On page 52, line 12, strike out "(16)" and insert "(15)".

On page 56, strike out lines 1 through 14.

On page 56, line 16, strike out "SEC. 211." and insert "SEC. 210.".

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214."

On page 66, line 2, strike out, "SEC. 216." and insert "SEC. 215.".

On page 76, beginning with line 1, strike out through line 11 on page 77.

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, line 24, strike out "section 211" and insert "section 210".

On page 83, line 11, strike out "section 211" and insert "section 210".

On page 106, strike out lines 10 and 11.

On page 106, line 12, strike out "(145)" and insert "(144)".

Mr. SCHMITT. Mr. President, this Nation, any democratic nation, in fact, will rise or fall on the quality of its educational system. An informed and literate electorate is the one essential ingredient for the survival of a representative democracy. The society in general, and the electoral process in particular, requires a continuous rejuvenation of the imagination and innovation of the people they serve.

Our success as a Nation is the result of a continuous tapping of a uniquely American reservoir of individual and geographic diversity. This has been accomplished through our ancestors' foresight in the constitutional encouragement of a locally controlled educational system.

Unfortunately, this locally controlled educational system is under attack by those who believe, as Alexander Hamilton did, that there is a national elite which can better govern the people than can the people themselves. I only wish that Thomas Jefferson, Hamilton's protagonist in these matters, could join once again in the congressional debate in the issue of a Federal department of education.

Now, debate in the Senate has focused on a bill which would create a new Federal department for the educational elite. Under the proposed bill, the "E" would be taken out of HEW, and educational programs, which are presently scattered throughout numerous agencies and departments, would be consolidated into a new, all-encompassing unit—a Department of Education. The result, according to proponents of the bill, would mean greater coordination and efficiency in the administration of educational programs.

While its supporters have argued that the new department is nothing more than a "reorganization" which will result in greater efficiency, there is reason to question this view as to both the result and the motivation. John Royer, president of the National Educational Association, the primary driving force behind the creation of this department, stated:

Creating a department of education is, indeed, a profound step in which the Federal Government will be recognizing for the first time, that it has a responsibility for education in and of itself.

Mr. President, this view differs substantially from that of the claim that the proposed department is "just a reorganization." Again, Mr. Royer states:

The Federal Government has a responsibility for education in and of itself.

That is hardly just a reorganization.

Education in the United States has traditionally been the responsibility of local and State authorities. By its silence on education, the Constitution specifically leaves control to the individual States. Thus, it has been the local parents, teachers, and school boards who have set policies and have decided what is to be taught. This diversity of education has helped preserve our reservoir of national diversity. A Department of Education is clearly a long first step toward the destruction of much of this diversity.

During the last decade, the Federal Government has become more and more involved in education. What started out as assistance, primarily financial assistance, to State and local authorities, has emerged as de facto control through the threat of withholding funds upon which local systems had become dependent. The creation of a Department of Education obviously will strengthen this trend toward centralized decisionmaking in the field of education.

Proponents of a separate Department of Education have argued that all major Western nations have an Education Ministry and that it is time for the United States to make a similar commitment to education. Two points must be kept in mind in analyzing this argument. First, education in other nations traditionally has been centralized, while in the United States it has traditionally been decentralized. To quote from the dissenting views of members of the House Government Operations Committee:

In France, a nation with a ministry (of education), one can enter any third or fourth or fifth grade classroom in the country at a given time of day and find the same subjects being taught in the same way. That is the worst possible argument for a department!

I agree. That is the worst possible argument for a Department of Education in the United States.

Then there is the argument that the United States must make a greater commitment to education. I think it is clear throughout the world that this country traditionally has made a great commitment to education, probably the greatest overall commitment to public education of any nation in the world. And I agree that we must make greater commitments to education. But, Mr. President, we must make them as a society, not as a central government.

One need only look at the spending of the Federal Government to know that major new financial commitments have been made in recent years. In special educational needs, and in increasing the equality of educational opportunity, much progress has been made. Ironically, however, as we have been spending more money on education, as we have seen more and more Federal control and manipulation of education, the general quality of education has been declining. Obviously, more money and more bureaucratic control has not improved education overall. Money and lack of Federal control clearly are not the principal problems.

The proposed department is expressly designed to provide more money and more Federal control of education. No one, I think, will deny that. It is not difficult to imagine this department establishing national "advisory" standards at some point in the future. Later, the department could require adherence to the compulsory standards, if Federal aid is to be continued. Next, standard tests, developed by the Federal Government, could be mandated to check whether the compulsory standards are being met. Last, State and local authorities will be coerced into acceptance of a standardized curriculum as the "only possible" guarantee of meeting compulsory standards. This classic bureaucratic process, one which we have seen again and again

in recent decades, is the last thing that education in the United States needs and the last thing most Americans want.

Proponents of the new department will argue that it is clear in both the Senate and House bills that the Department of Education is only to assist State and local authorities, and not to impose regulations upon them in contrast to the arguments I have just presented. This, however, is claimed at the present time by the existing Office of Education and existing educational groups. Yet regulations are being imposed through financial coercion. The proposed Department of Education would accelerate the process of bureaucratic takeover of our educational system. The Federal Government provides about 10 percent of the finances spent on elementary and secondary education in this country. However, as education is marginally financed—Mr. President, I emphasize that phrase, "marginally financed." It is not profitmaking, it is marginally financed. As it is, it permits almost 100 percent control in many school districts, if not most, in the country. No educational system can afford to lose 10 percent of its funds off the top once they have become dependent on them. Thus comes the mechanism of Federal control.

The people of the United States want less government and not more. They want less governmental control and not more. They want less regulations and not more. Yet, the creation of this new department will result in more government, more governmental control, and more regulations in education than we have ever seen before.

A strong indication of the direction that this new department will take is in the proposal regarding Department of Defense schools, to which the pending amendment is directed. The Defense Department operates 267 overseas schools for the children of military personnel. At the present time, there are about 135,000 students enrolled in these schools. These children have very special needs and concerns related to their unique and changing social environment. The Department of Defense has successfully administered these schools for 30 years. The supporters of the proposed Department of Education insist that these schools be transferred under the jurisdiction of the new department.

Proponents of the department argue that the department will only assist education in this country. Yet, they insist that the department administer, on a day-to-day basis, the equivalent of the 11th largest school district in the United States, namely, those of the Department of Defense. Clearly, the camel's nose would be in the tent, with an organized special interest group pushing hard from the rear.

The fear that this education department may become the national school board has prompted from various groups, including Republicans and Democrats, liberals and conservatives, the American Federation of Teachers, and leading newspapers such as the New York Times and the Washington Post.

There is no question that the United States must have a deep commitment to education; our future depends on that commitment. The commitment, however, must be met through local and State control of education with appropriate assistance from the Federal Government to insure that there is equal educational opportunity. Although the goal of equal educational opportunity may require block grants on a selective basis from the Federal Treasury, there is no reason to believe, nor is there any historical evidence to prove, that the quality of education will be improved by the increased Federal control that a new Department of Education would encourage.

If education in the United States is in need, what then is the answer, if a Department of Education is not the answer? The answer may be an independent agency for education that takes over HEW's educational responsibilities, and acts to assist, but not interfere with, local efforts. I shall discuss this concept further in a later amendment. Assistance should be in the form of block grants where equal educational opportunity can only be insured by more money, in the form of research on setting educational standards that meet local needs, and in the form of research on improvement of the quality and quantity of basic education. There is need for improvement there, which is obvious to everyone today in this country. The special educational needs associated with most existing Federal departments and agencies, other than HEW, can be best met by leaving the responsibility for such education in the mission agencies.

That is the thrust of the pending amendment. It will be the thrust of another amendment by the Senator from New Mexico. It will also be the thrust of an amendment by the Senator from Alaska.

Mr. President, it is hoped that our efforts to improve Government will soon lead us to the realization that bureaucratic bigness is not bureaucratic goodness. Thus, we must begin to decrease the number of unnecessary departments in favor of independent agencies with clearly bounded charters. At the same time, the Congress must take on more explicit responsibility for the prior review and approval, or disapproval, of the actions of these agencies.

Mr. President, in these general remarks, I would bring to my colleagues' attention a letter dated today from the American Federation of Teachers. It reads as follows:

AMERICAN FEDERATION OF TEACHERS,
Washington, D.C., September 28, 1978.
Hon. HARRISON H. SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: It has come to my attention that you intend to offer an amendment to S. 991, the Department of Education Organization Act to eliminate the proposed transfer of the Overseas Dependent School System included in the Department of Education Bill.

As you know from previous correspondence, the AFT strongly opposes S. 991 and urges all Members of the Senate to vote against it. We do, however, support your amendment and urge its adoption. The Overseas Federation of Teachers, AFT Local 1470 opposes the transfer of this school system. It is their belief that because of the extremely difficult logistics involved in having a Washington-based federal education department involve itself in the overseas schools that the needs of the children and of the teachers would be better served by improving the relationship that currently exists between these schools and the military bases they serve. They also point out this transfer would place a layer of bureaucracy between the schools who would be administered by a federal education department in Washington and the constituency of these schools, the parents and the children stationed overseas.

We see little value in the transfer and we urge all Senators to vote for your amendment.

Sincerely,

GREGORY A. HUMPHREY,
Co-Director of Legislation.

Mr. President, I would go now into more detail with respect to the pending amendment, relative to the transfer of the overseas schools from the Department of Defense to the Department of Education.

First, Mr. President, the mission of these overseas schools is to serve the military communities and, literally, no one else except for their broader responsibility to serve the Nation. The schools and those communities are intertwined in ways that are unlike schools in the States.

The schools must depend upon the military for many service functions—personnel, travel, supplies, maintenance, and food service. The costs of duplicating those services for the schools alone would be prohibitive, and it is foolish to believe that the bureaucracices of two Cabinet agencies will cooperate to prevent duplication.

There is very little indication in our experience to show that.

Costs very probably would go up 10 to 15 percent in the operation of these schools.

Teaching personnel depend upon DOD for food and supplies through access to base exchanges and, in many locations, for housing. Transfer will cut that access and throw teaching staff on the economy in most areas. Given dollar exchange rate problem, that will be disastrous for many of the individuals, if not most, related to this teaching establishment in the overseas schools.

Schools are used for other base activities. With a transfer, that use will evaporate, or at least be subject to another layer of bureaucracy. The bureaucratic problems of paying for fuel, lights, and maintenance will be overwhelming, again, if our experience with interdepartmental coordination has anything to teach us.

More than 99 percent of new department's energies and attention will be focused on the grants process. That is largely the function now of the Department of HEW. The problems and personnel required to run a school system of 150,000 children are simply incompatible with this other completely unrelated bureaucratic process of grant approval.

Finally, all the Department of Defense needs is another agency helping out on its bases which are critical to our national defense structure.

Mr. President, I would interrupt my remarks at this point to ask unanimous consent that Jim Lockemy and Hugh Hadden of Senator THURMOND's staff be

granted privilege of the floor; and that Senator HAYAKAWA and Senator THURMOND be added as cosponsors to this amendment.

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

Mr. SCHMITT. Mr. President, in addition, there is a great concern among many individuals who may even favor establishment of a Department of Education, but are concerned about the question of the overseas schools, that this new Department of Education will seek to use these schools for experimentation.

These schools are probably unique in our educational system in that there is a crying need for stability.

The reason for this is the transfer of military personnel, after a 2- or 3- or sometimes 4-year period, from one base to another and the need within that environment, somewhat destabilizing in itself, to have stability in the education system of the children of these military personnel.

The normal tour of duty at a given military base for overseas personnel is about 3 years. That results in children changing schools every 3 years. That change may be to another overseas base or to a stateside school.

In either event, the importance of a consistency in curriculum and educational program among the overseas schools is obvious so that the child's educational experiences can proceed with a minimum of adjustment problems.

This has been, clearly, the goal, and it is a goal which has been met, to a large part, by the Department of Defense over the last several decades.

Currently the DOD schools' personnel are staff members in the Department of Defense, have full security clearances, and receive advance information on troop transfers so that plans may be made for school operation when the children arrive at a new base.

Clearly, this transfer of the overseas school responsibility to a new Department of Education would interfere in the educational planning and the related national security problems that come with them.

Under the "split agency" arrangement, those operating the schools might not be apprised in sufficient time to plan for school operation. Transfer to a Department of Education would require security clearances for those personnel involved in the budgetary planning and various other functions related to the operation of the schools.

Additionally, Mr. President, under operation by a Department of Education, cost efficiency factors might dictate closing of a school even though the military interests might be to maintain a school as an evidence of a national commitment to an area or as a means of maintaining a relatively high level of troop morale through the presence of the family. Specific examples at the moment are at Guantanamo Bay and Bahrain on the Persian Gulf.

Budget cutters in a Department of Education might want to close the schools so that the budget could be reduced even though the total national interest might suggest another course of action.

I do not expect, by these remarks, that the budget of the Department of Education ever will be reduced in any significant amount once it is created.

Since the DOD schools would be the only agency operating K–12 schools that would be in the Department of Education, it would be essentially an appendage subservient to the whims of the Secretary and planners of the agency. This could constitute a serious problem of uncertainty if there should be as many Secretaries of Education as there have been Commissioners of Education in the past 16 years—8 appointed and 4 additional as acting. The importance of continued attention to quality education for military dependents suggests that the entity should be in an organization with relative continuity of leadership.

Currently, in the transfer of personnel, when children have a need for a special type of educational program, consideration is given to that particular need of the child in determining the next duty location. A concrete example may be found in the transfer procedures for Air Force personnel. One can only speculate whether or not this cooperation would be maintained under the proposed transfer. If it were not, the Department of Education could be subjected to continuing complaints about program inadequacies.

Perhaps the greatest concern, although there are many who oppose on the outside the transfer of the overseas schools into the proposed Department of Education, is that those schools will suffer because of a divided interest in the agency.

Various concerns have been raised about the new Department being an operating agency, but perhaps the most critical concern would be the divided attention of the top leadership as attention—or neglect—would be required for the effective operation of the DOD schools and evolving functions of the Department with reference to the ongoing elementary, secondary, and postsecondary institutions located in the United States.

Mr. President, I think it would be useful, for the purpose of the record, to have somewhat more detail with respect to the basic relationship that now exists between the Department of Defense schools and military support systems within specific bases and within the Department of Defense as a whole

Currently, the Department of Defense schools are dependent on the military for a wide variety of support services. The transfer of the schools to a new Department of Education would unquestionably endanger the availability of these services.

Housing. In many cases, on-base housing is provided for teaching personnel, particularly in areas where bases are isolated such as in Turkey or where off-base housing is not available to American staff such as in Iceland. Where housing is available off base, teachers have access to the Housing Referral Service which utilizes U.S. standards of housing in determining availability of off-base facilities.

Teacher relocation. Teachers are now able to borrow from the base quartermaster a number of personal household furnishings such as refrigerators, stoves, and cooking utensils until those items are shipped to them from the States. This loan of goods may last up to 90 days.

Base exchange and commissaries. Teachers have access to the base exchange and commissary for the purchase of groceries, clothing, and other personal items. In many countries these are the only places where U.S. goods are available except on the black market. BX and commissary use is carefully controlled by the military.

Officers' clubs and mess halls. In many instances the officers' clubs and mess halls are the only facilities on or near a base that provides three hot meals a day. For single teachers on a base, these facilities are essential.

Health care. The military health facilities are the best available to teachers overseas. Teachers are entitled to emergency care and depend upon the base for health and medical supplies. In many places health care is simply not available offbase.

Personnel services. The military personnel offices process all teachers' personnel papers, including passports, shipping arrangements, and transportation.

Facilities. The construction of new buildings or additions to existing facilities is now worked out with the civil engineer on the military base. Without access to that military expertise, the schools would not have the ability to make those arrangements onsite. Custodial contracts are arranged for by the base commanding officer for the entire base. The cleaning of the school is only a small part of that contract. In many instances it would be economically impossible to arrange custodial services for a single facility such as the schools.

Repair and maintenance. The repair and maintenance of school facilities is handled through the base civil engineer. This includes arrangements for emergency repairs in instances where water pipes freeze, furnaces explode, windows are broken, et cetera. It would be economically impossible for each school to have the personnel and equipment to handle its own repair and maintenance.

Supplies. Schools are entirely dependent upon defense shipping and supply lines for books, equipment, and all other school supplies. Schools receive supplies directly on a drop shipping basis from the military warehouse in Richmond. The duplication of this system would be the most costly and difficult logistical support service.

Bus transportation. In no instance do the schools operate their own buses. Transportation is contracted with the military department at that base with the commander making arrangements with the school superintendent or principal. Transportation is worked out between school authorities and the base transportation officer. Because the schools are able to use military buses already at those facilities, costs are kept to a minimum. Transportation is a very important element of the overseas schools since the vast majority of students are bused to school.

Mail. Currently teachers have access to military mail systems which involve the use of APO and FPO numbers. This reduces cost for mailing and provides for expedited delivery in service.

Teacher transportation. Teachers are able to use military flights on space-available basis for transportation to regional curriculum development meetings, and central office administrators are able to use these military flights in order to maintain contact and liaison with the schools in that area. Teachers are also able to use space-available flights for recreational leave and other purposes.

Other facilities and services. Other facilities and services offered by the military whose availability might be jeopardized include gasoline and automotive services, dry cleaning and laundry facilities, recreational facilities, and the provision of drivers' license and automobile tags. In most areas the military recreation facilities are the only ones which exist within a reasonable distance of the base for use by teachers and their families.

Mr. President, I do not proceed with this list for the sole purpose of saying that those arrangements cannot conceivably be made. In theory, they can. But, again, I remind Senators that we are talking about two major bureaucratic elements of the U.S. Government working out in extreme detail the kinds of relationships between people that now exist very efficiently within the Department of Defense. I do not believe that in many of the cases I have just enumerated such arrangements can be worked out easily or, at the very least, can be worked out efficiently.

Mr. President, there have been a number of hearings on this issue, not only in the Senate but also in the other body; and I think that some of the comments that have come out of those hearings are important for consideration here today.

For example, in a hearing before the Subcommittee on Labor Standards and the Subcommittee on Elementary and Secondary Vocational Education of the House Committee on Education and Labor, on February 1, 1978, in dealing with the Defense Dependents' Education Act of 1978, Dr. Thomas D. Minter, Deputy Commissioner, Bureau of Elementary and Secondary Education, was questioned by Representative John Erlenborn, the ranking minority member of the Subcommittee on Labor Standards. In their discussion, the following took place:

Mr. ERLENBORN. How do you personally feel about the Office of Education or HEW being in the business of operating schools?

Mr. MINTER. Well, I don't believe that we should be in the business of operating schools, certainly. I don't think that it is our function and I don't think that it is the intent of Congress.

Mr. President, obviously, that is the intent of this bill that is before the Senate at this time. It is not only the intent; it will be the law.

Similarly, at a hearing before the Subcommittee on Labor of the House Committee on Education and Labor, on April 24 and 25, 1974, dealing with H.R. 3157, the National Overseas Education Act of 1973, Dr. Anthony Cardinale, Director of Dependents Education, Office of the Deputy Assistant Secretary of Defense for Education, said as follows:

Since all schools are located on military installations or are on leased facilities under control of the local military commander, operation of these schools by an outside agency could possibly create more problems than would be solved.

The department of Defense has a moral commitment to its members, both military and civilian, to insure that the minor school-age dependents continue to receive a quality education.

Personnel residing on military installations or stationed overseas look to the Department of Defense to provide all required support, including education. Thus, we do not consider it feasible or desirable to remove this important responsibility from the Department of Defense.

Through the many resources already available within the Department of Defense, such as transportation, communication, logistical and administrative support channels, the educational needs of the dependents are being met.

The logistical support system necessary to maintain the worldwide dependents education program is now provided by the base commander through the military departments. To remove the budgetmaking process and budget decisions from the military departments and the Department of Defense places both in an inoperative position.

In summary, we have a good educational system. The current management review, which is based on solid sources, will make the system even more effective and responsive to those it serves.

Therefore, it does not appear appropriate at this time to make any additional substantive changes which would result in disruption or the loss of present continuity.

Similarly, Mr. President, in the hearing on the H.R. 3157 Representative JOHN DENT, chairman of the Subcommittee on Labor Standards said as follows:

An overseas school system would not, in my opinion, ever be able to be divorced from the Department of Defense as such but it would be administered as a school system and not, as is now the case, as a small appendage of a defense operation.

Carol Kimmel, president of the National Congress of the PTA said in a letter, October 8, 1975 to Representative ALBERT H. QUIE, ranking minority member, House Committee on Education and Labor:

With control in a central office in Washington, military commanders no longer will have any responsibility for the schools and the schools, as a result, will be denied vital logistical support from the military. Such services, for example, transportation of students would have to be contracted out. . . .

We seriously question whether parents of the children attending Overseas Dependents Schools can be meaningfully involved in the decision making process when control and total responsibility for their schools are placed in a central office in Washington, D.C.

Finally, Rufus E. Miles, Jr., in his article, "A Cabinet Department of Education: Analysis and Proposal," American Council on Education, 1976, said as follows:

The Department of Defense has a system in being that is operated overseas where the logistic support is adjunct to its other logistic support of bases and personnel. A Department of Education would have no such logistic support, nor any other advantage that would make it wise to consider transferring the operation to a Department of Education. The costs would rise because of the need to duplicate such a support system. Again, the argument against the operation of any schools by a Department of Education should, alone, be decisive.

It is recommended that responsibility for dependents schools remain with the Department of Defense and such other agencies as operate them overseas.

And I might add that Rufus E. Miles, the author of the preceding remarks, is a major authority on the Department of Education, and he supports the Department of Education but clearly does not support, and with good cogent argument, the transfer of the overseas schools to that Department.

Mr. President, I also cite as somewhat of an authority the Office of Management and Budget. In their report on the Department of Education they concluded that the Department of Defense schools had many problems. However, steps to straighten out the problems should be made, not transferred to the Department of Education.

They cite the potential disadvantages of moving the dependent schools to include:

1. Problems of coordinating logistical and housekeeping support for the schools would be increased. The schools now rely completely on the military for logistical and housekeeping support. It is the most readily available and seems to be the most efficient and economic source of such support. If the schools were transferred to the Department of Education, the acquisition of these kinds of support from the military would become cumbersome and bureaucratic, and the schools would suffer as a result. A transfer would in effect be recreating, at least in part, an excessively layered structure, which is the very thing DOD is attempting to eliminate. This could require an excessive amount of time of officials in higher reaches of both departments and produce adverse effects on the attainment of goals.

2. Removing control and operation of the schools from the Department of Defense would have a negative impact on military personnel. It is highly likely that the military hierarchy, the Congressional supporters of the armed services, and some of the parents of the school children would see a transfer of the schools as a serious undermining of their control and traditional responsibilities. Some parents of the children, in particular, may see the transfer of the schools as an attempt to set their children up in a vast experimental laboratory. The schools are no doubt seen as being an intricate part of the defense family. They are in effect an employee benefit. From what we have learned thus far, the educational programs are generally adequate. To set off a furor among the military simply for the sake of consolidating the schools with other activities in the Department of Education seems not to make much sense.

3. There is some concern that transfer would lead to intrusion in the educational programs of the schools. The schools might be viewed as an opportunity to experiment by many education staff. At least at the outset, there could be an irrepressible urge to observe, study and tinker with the programs of the schools.

4. There would be no advantages to the large majority of Americans from the transfer of the schools.

The problems highlighted here are being worked on in the Defense Department by tightening management controls and by reorganizing the Dependents' Schools. There seems to be little opportunity for the new Department of Education to address the

problems more effectively than can the Department of Defense. In fact, the new department might find this responsibility to be incredibly burdensome.

Although transfer of the schools is not recommended at this time, the following options are suggested:

The President's Reorganization Project should monitor closely the reorganization of the Overseas Dependents' Schools which is currently underway. Upon its completion, an evaluation should be made of the extent to which it has improved the effectiveness of the operation. Recommendations for further change may be in order.

A linkage should be developed between the Defense Department and the Department of Education by giving the latter legislative authority for oversight and evaluation of the Overseas Dependents' Schools (as well as other Federally operated schools) and to report results to the President and Congress. This oversight relationship should be similar to one between a State Department of Education and a local school district.

There should be created legislatively an Educational Policy Advisory Board composed of Federal and public education officials, administrators and teachers to review and advise the Director of the Overseas Dependents' Schools on the educational directions of the schools. The system seems to border on being a closed society; it could benefit from the insights and experience of those at various levels of public education.

The remarks of the Office of Management and Budget.

Mr. President, I do not concur completely with the recommendations of OMB, although I read them in their entirety. I do feel, however, we should pay very close attention to their analysis of the effect and of the problems associated with the transfer of the overseas schools to the proposed Department of Education.

Finally, Mr. President, in summary of this issue, I think there is no question in all of the expert opinion that I have encountered in my examination of this issue, including that of the Office of Management and Budget, the American Teachers Federation, the numerous individuals around the country and in New Mexico that I have talked to, there can be any value whatsoever derived from the transfer of the school system to the proposed Department of Education.

There is no question that the bureaucratic load on both Departments would increase, and who is ultimately hurt by this bureaucracy? The students, the teachers, and the parents in the school system itself.

The costs will almost certainly increase because of this increased bureaucracy and the need to duplicate in many circumstances the increase of the logistical support of the school system, and I am afraid there is going to be considerably less understanding of the needs, the very special needs, of the overseas schools.

Most importantly, the Department of Education, in this Senator's opinion, should never, if it is created, have an operating school system under its jurisdiction. It is not only beyond the intent of the Constitution, it is beyond any reasonable need, any reasonable perception of need, of this great country.

There is no question but what, at first, there will be a tremendous temptation by the Department of Education to experiment with the school system that they now own lock, stock, and barrel.

Beyond that, it would provide the first step toward a national school system and that, I think, Mr. President, would be one of the worst mistakes this country could ever make.

At the very least, I think we should postpone any consideration of the transfer of the overseas school system to the Department of Education until some time in the future when that department, if it is in fact created—and I hope it is not, but if it is created—has time to get its own act in order, and then let us evaluate the pros and cons of that transfer in the light of the two existing departments, not in the light of the department that does exist, and is operating a school efficiently and well, and a department which does not exist, which is just right now a gleam of hope in the eyes of many of the educational elite.

Mr. President, it is my understanding that the majority leader would like to work on a unanimous-consent agreement, and I would be happy to yield to him if I do not lose my right to the floor, and request unanimous consent that I can proceed after he is through.

The PRESIDING OFFICER (Mr. BENTSEN). The majority leader is recognized.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time agreement on the pending measure, the Department of Education bill, be modified as follows: that there be 1 additional hour under the control of Mr. SCHMITT, and that a final vote occur no later than 9:30 p.m. today with paragraph 3 of rule XII waived.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I am sure I will not object, I will just ask, for the RECORD, and for my colleagues, I presume that takes into account the pending unanimous-consent agreement and for the various amendments and the total time up to the final vote is a cumulative total?

Mr. ROBERT C. BYRD. The pending agreement would not change it in any respect, beyond what I have requested. That the Senator from New Mexico (Mr. SCHMITT) have 1 additional hour and that a final vote occur on the passage of the bill at no later than 9:30 p.m. today.

Mr. HAYAKAWA. Mr. President, will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. If the Senator from New Mexico will yield for that purpose.

Mr. SCHMITT. I have yielded for the purpose of adopting this time agreement. I will yield now to the Senator from California.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. HAYAKAWA. Mr. President, may I ask the distinguished majority leader with respect to my amendment in this unanimous-consent agreement, it does not touch mine?

Mr. ROBERT C. BYRD. I believe, if the Senator will look at the calendar, he will find the answer; the reason I say this is that I am unable to remember just what the details were with respect to Mr. HAYAKAWA's amendment.

The PRESIDING OFFICER. The Senator from California will call up an amendment on which there will be 2 hours equally divided.

Mr. ROBERT C. BYRD. Mr. HAYAKAWA, I believe, would have 1 hour on an amendment and 1 hour on a motion to recommit, equally divided.

Mr. HAYAKAWA. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New Mexico for yielding. I thank all Senators for the agreement that the Senate complete its business before 9:30.

Mr. SASSER. Mr. President, will the Senator from New Mexico yield for a unanimous-consent request?

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

Mr. SASSER. Mr. President, I ask unanimous consent that Howard Orenstein of my staff be granted the privileges of the floor.

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

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time so that the distinguished Senator from Connecticut or the distinguished Senator from Illinois may have a chance to respond.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. Mr. President, I rise to oppose the amendment of the distinguished Senator from New Mexico. The Governmental Affairs Committee gave serious and thorough consideration to the transfer of the Defense Department's overseas dependents schools to the new Department of Education.

We devoted 1 day of hearings to the transfer of these important schools. This transfer is supported by nearly all parties involved, including the Overseas Education Association—which holds exclusive recognition for the 7,000 DOD teachers—the European Congress of American Parents, Teachers, and Students, and the Department of Defense.

If the DOD school system were within the continental United States, it would rank as our 12th largest elementary and secondary school system.

If we are going to create a Federal Department of Education, I think it would be unfortunate not to allow this school system to participate in education programs serving the rest of the country's children.

The DOD schools exist for a specific purpose—to provide education for dependents of our military personnel. They are one of the very few public school systems operated by the Federal Government.

When the committee studied the creation of the Department of Education, we

asked ourselves which agency of the Federal Government would be in the best position to provide the highest quality education to the 135,000 students in the DOD schools.

Looking objectively at the merits of the issue, I think there is an overwhelming case to be made for the transfer.

We should not expect the Defense Department to have the expertise of running a public education system. Obviously, the purpose of the DOD schools is more in line with the mission of the Department of Education than of Defense.

These schools are not integrally related to the maintenance of the national defense posture. The schools do not prepare its students for any purposes related to the military. They are regular American elementary and secondary schools.

The schools are not a priority at the Defense Department. How could a $350 million public school system receive the professional attention it needs in a $100 billion Department?

The expertise in the field of education will be in the Department of Education. The many and varied educational programs in the new Department should be made available for the improvement of these schools. Programs for gifted and talented children, academic facilities improvement, and educational research—to name a few—are all badly needed functions which will benefit the DOD schools in the new Department.

I believe locating the dependents schools in the new Department of Education will result in a wide range of benefits for the schools. Being administered in the Education Department, the schools will be kept in touch with the latest education trends and technologies. The Secretary of Education will be the most knowledgeable Federal official in the field. He or she will have broad access to a wide range of experts and materials which could help with problems in the DOD schools.

The transfer will provide continuity for students alternating from DOD schools and continental U.S. public schools. The average term of duty for members of the military overseas is usually 3 years or less. So there is a great amount of movement for students between the various school systems. Students will learn more if they can simply pick up where they left off after leaving one system for the other.

And, most importantly, S. 991 will provide the DOD schools with a legislative base upon which to operate. As my colleagues know, these schools have been authorized in the past only by the congressional appropriations committees. Congress will then be in a better position to more effectively oversee the efficient and quality operation of the schools, and recommend necessary changes.

Mr. President, the dependents schools have had a troubled history. As late as 1976, the schools were found to have serious deficiencies in curriculum planning, educational testing, teacher qualifications, academic standards, and academic facilities. While the situation has improved somewhat over the years, there is still much room for improvement. I ask unanimous consent that a two-part series of articles of the "Dependents Schools in Europe—A Disorganized System in Danger of Flunking," written by Rick Barnard for the Times magazine, be inserted in the RECORD at this point.

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

DEPENDENTS SCHOOLS IN EUROPE: A DISORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

Marleah Reed, a senior at Nuremberg American High School in Germany, stood in front of her debate class and exhibited her drawings as she delivered a point-by-point argument designed to convince her teacher and classmates that a fetus is a human being and, therefore, abortion is murder.

She then sat and listened as her two opponents read through page after page of technical jargon they obviously had copied verbatim from some medical text. One debater didn't know the meaning or correct pronunication of many of the words she used. Yet no one in the class, including the teacher, seemed surprised that Marleah's opponents had done no original work of their own.

Marleah received excellent marks for her presentation and her two opponents—who had demonstrated little more than the ability to crib—were given passing marks.

"That gives you an idea of what goes on here," said Marleah as she walked down the school's dark, grimy hallway after class. "My last school was in Washington state. The teachers there had us doing term papers in our sophomore year. Here, we never do term papers. Some of the teachers just seem to skim over the top to get you by. In some classes, about all you have to do is show up every day."

ARE THE SCHOOLS GOOD OR BAD?

The debate was a minor episode, a small part of the classwork required of Marleah and her fellow students. But it is an example of the problems faced by the schools operated in Europe for the sons and daughters of American military people.

The results of a four-month investigation of the dependents school system in Europe by the Times magazine indicate that the failure of school administrators to plan and evaluate their academic programs adversely affects the educational growth of military children.

The school system has no educational objectives or academic standards. Its program of standardized tests has been poorly administered and has shown inconclusive results. Therefore, school administrators have no systematic way to monitor the academic growth of their pupils and gauge the effectiveness of their educational programs.

The lack of educational planning and minimum standards of achievement in the dependents school system means that many teachers and students are left to "do their own thing" in the classrooms with decidedly mixed results.

The purpose of the dependents school system in Europe is to provide military children with educational opportunities that are "of high quality . . . comparable in all respects to the better school systems of the United States." according to Department of Defense directives.

Many parents and teachers in Europe believe the schools fail to meet that goal. In interviews with the Times magazine they talked about teachers who hand out "A's" and "B's" like playing cards, principals who say pupils should not be required to take basic academic courses they don't want and children who go to school without the workbooks and texts that students elsewhere take for granted.

The mother of a girl in the second grade at the Nuremberg Elementary School annex said, "my father was in the Army and I went to Stuttgart High myself. Back then, I couldn't see any difference between public schools back home and the dependents schools. I can't say that now. My kid spends every Frday afternoon in school doing macrame or playing chess or going bowling. I just don't feel she's getting the best."

Others disagreed. Emily Johnson, who has a daughter in the Wiesbaden schools, said, "My child is getting as good an education as she could get anywhere."

Despite disagreement over its quality there is one obvious certainty about the dependents school system in Europe: The children of most Army people (and of many Air Force and Navy personnel) will obtain part of their education there.

"Europe is where the action is," said Gen. George S. Blanchard, commander of the U.S. Army in Europe, in a recent speech to parents. "The ambitious guy wants to come here and get into the thick of it.

"But I want him to want to come here because his family is going to get something out of it as well. And that means, among other things, a quality education. [To military people] the schools are the most important thing in the world."

WHAT IS THE DEPENDENTS SCHOOL SYSTEM?

The dependents school system in Europe has been in existence for 30 years. In 1946, 38 elementary schools and five high schools—some no more than a collection of tents and quonset huts—opened their doors to 1297 military children who trudged to class through the ruins of a defeated Germany.

As military families poured overseas at the end of World War II, the military departments opened schools around the world. Most were—and still are—in the European area. Last year there were 211 schools and 110,452 students in Europe compared to 57 schools and 30,557 students in the Atlantic and Pacific areas combined.

For nearly 22 years, the Army, Navy and Air Force each operated the schools on their own bases. In 1968, the Secretary of Defense signed a directive that organized the schools into a single, unified school system under the Department of Defense (DoD).

The military departments were not out of the picture, however. The new system was divided into three school districts along geographical lines and the service with the most money and manpower in each district was to build the schools and supply them. The Air Force took responsibility for schools in the Pacific, the Navy for schools in the Atlantic and the Army took over schools in Europe.

Academically, the schools would be run by a DoD director of dependents education in the Pentagon who would establish educational policy and develop a common curriculum. This was supposed to solve the myriad problems and parental complaints caused by such things as the 31 different reading programs which required different textbooks, different teaching aids and different methods of instruction. Unification was supposed to cut costs and enable military children to transfer from one overseas school to another without falling behind due to the maze of different educational programs.

But that is not what happened, at least not in Europe. The DoD Director of Dependents Education, Dr. Anthony Cardinale, never took control of academic programs there because the Army interpreted the new directive to mean that it would not only build and supply the schools but run them as well.

Cardinale could not communicate directly

with the chief of dependents schools in Europe, Dr. Joseph A. Mason. Instead, any order or suggestion or inquiry from Cardinale had to go to the Office of the Army Adjutant General. Perhaps his missives would reach Mason and perhaps not. Any that did went through 10 separate layers of Army bureaucracy and often toofl 30 days one way.

Cardinale complained to his boss, Roger T. Kelley, then Assistant Secretary of Defense for Manpower and Reserve Affairs, that the Army's reading of the directive left him powerless. Kelley okayed the Army interpretation though he never gave it his formal, written approval, according to a 1973 House Appropriations Committee report on the schools. Thus the unified school system that existed on paper never existed in fact.

The school system in Europe went its own independent way with Mason at the helm. Last year, it had 5600 teachers, a budget of $147 million and ranked in size among the top 25 school systems in the U.S. In size and student population, it is roughly equal to the school system in St. Louis, Mo.

Dependents schools are spread from Norway to Turkey to North Africa. The Army did not build any schools in the Sixties and still has not caught up with the demand for school facilities, despite the expenditure of $58 million on new construction in the last three years.

London Central High School is housed in a converted Air Force barracks. Rumor has it that Frankfurt, Jr. High was once a Nazi women's prison.

Frankfurt Elementary School No. 1 looks exactly like what it is: An outdated, rundown institution painted government gray. The floors are filthy, the water faucets leak and the kids are scrunched nose to nose like those cute little puppies you see in wire cages at the dog pound.

The school was built 24 years ago for 1,000 pupils. The enrollment last year was 1,600. Some teachers had 35 students in their classes, which is far too many by any standard.

Not all of the dependents schools are dilapidated. Upper Heyford High School in England is so new it has the smell of a Cadillac fresh off the assembly line. Its electronic lab, automative shop and home economics center bristle with brand new equipment. Unlike other dependents schools in Europe, Upper Heyford High has a lunch room large enough to feed all the children who go to school there.

EUROPE SCHOOLS: THE REPORTS WERE BAD

After years on its own, the school system in Europe is independent no longer. Following an investigation by the House Appropriations Committee, Congress in 1974 ordered DoD schools around the world unified once and for all.

The committee's 1973 report on the dependents schools in Europe criticized, among other things, the lack of effective counseling to prepare high school students for college and the "proliferation of ineffective curricula." Academic programs that had failed in some schools and should have been shelved were instead spread to still more schools, much like a contagious disease.

That report came hard on the heels of a damning report on the lack of effectiveness of the dependents school system in Europe published in 1973 by the Army Audit Agency (AAA). The AAA report stated that certain educational programs were not effective "because they were not controlled closely enough by management."

The AAA found, for example, that achievement test scores were not analyzed by principals and teachers and that the tests were not used to improve the academic growth of military children.

In one high school, Army auditors selected 83 students who had attended overseas schools for one year or more and compared their achievement test results to their intelligence test results. The auditors said in their report: "We found that 63 of these students were achieving below their ability in one or more of the six areas (such as reading, math, and science) covered by the achievement test."

The poor showing by the 63 students was "an indication that the educational program at the school was not fully effective. . . . If test results had been analyzed, this problem could have been detected," according to the AAA report.

To obtain better management of educational programs for military children, Congress took budget authority for the schools away from the military departments and gave it to DoD effective July 1 this year. From an organizational standpoint, the schools are right back where they started in 1968. Only this time, Congress intends to make the unification stick.

Cardinale, who kept his title all along, is now director of all dependents schools in fact as well as in name. Mason, director of dependents schools in Europe, now reports to Cardinale instead of to the commander of the U.S. Army in Europe. Cardinale has begun organizing the school system's academic programs and plans to give regular achievement tests in all schools beginning in September 1977.

The reports on the schools by the House Appropriations Committee and the AAA were soon followed by a third evaluation, this one published in September 1974 by the General Accounting Office, the investigative arm of Congress. It read much like the first two reports, saying that educational programs are poorly managed and that efforts to evaluate the quality of education provided by dependents schools in Europe "have been sporadic and inadequately coordinated and monitored and have shown inconclusive results."

WHAT SHOULD YOU "GET OUT OF SCHOOL?"

That was two years ago. What have school administrators done to correct problems of the past? How effective are the dependents schools in Europe today? To find out, I visited 14 schools in Germany and England and interviewed 182 people—educators, students and parents—in Europe and Washington.

Some of those interviewed wanted more order and discipline in the schools. Others—parents and teachers alike—wanted "more basics." But most had one thing in common. They were after that slippery, vaporous prize sought by almost everyone concerned about good teaching—"a quality education." Yet finding a solid definition of that phrase is as likely as catching a black cat in a thick fog.

The educators and parents of children in the dependents schools face the same basic questions as their counterparts in the States: What should one "get" out of school? What is the best way to provide it? And what is a reliable way to check and see what kind of job the schools are doing?

Dr. Louis G. Zeyen, deputy director of the American Association of School Administrators in Arlington, Va., said, "For successful teaching, you must begin with four essentials. You've got to have an idea of the abilities of your students, an established set of curriculum objectives, a text and a method of measuring your results."

The administrators of the dependents school system in Europe have failed to provide those four essentials. They have no organizational plan that encourages good teaching. Instead, Mason and his subordinates have produced an educational free-for-all.

They have long overlooked a basic precept of education: That school systems should have a standard set of curriculum objectives—general lists of topics in each subject area to be covered at each grade level.

This and other criticisms expressed here might apply in varying degrees to other school systems as well. The problem with the dependents school system in Europe is that its administrators have an apparent affection for the status quo. They have been told repeatedly over the years that their educational programs are weak but, as we shall see, have done little about it.

WHAT—AND HOW—SHOULD TEACHERS TEACH

A school superintendent without a standard set of curriculum objectives is like a warring general without an attack plan. Both need a way to tell their people what ground they are expected to cover.

Teachers in the States use curriculum objectives to plan their classwork and keep a running check on what their pupils are learning.

In Montgomery County, Md., Public Schools (considered one of the better school systems in the U.S.), for example, one of the 21 general objectives in third grade math is that children should be able to divide two-place dividends by a one-digit number—"Okay, kids, what's 15 divided by 3?" The list of objectives is an indication to teachers that most of their students should master those skills before the year is out.

Each child in Montgomery County has a check-off chart on the basic skills. Teachers use the chart to keep track of what each student learns. The chart is a part of each child's permanent record and follows him from one grade to the next.

That way, Johnny's new teacher can read the chart in September and get a good idea of how much he doesn't know. That's important because the simple knowledge that the 30 children in Miss Custer's class are all in the third grade means little. Some may be at the fifth grade level in reading and at the second grade level in math. Different children with different parents and different backgrounds learn at different rates. That's why curriculum objectives are important. They are an outline of what most children should learn at a given grade level.

But the dependents school system in Europe has no such minimum standard. As a result, some subjects are virtually ignored in many classrooms while course work in others is needlessly repeated. Principals and teachers have only the foggiest notion of what their students learn from one grade to the next.

When asked about her science curriculum, a teacher at Wuerzberg Elementary School replied, "Oh, I hit it a lick every now and then. The administration hasn't sent us a thing on science in years. Sometimes I borrow a science book from a teacher down the hall and type up some lessons." What about history? "I ad lib it," said the teacher. "We didn't have any books this year."

Dick Knapp, a fifth grade teacher at Frankfurt Elementary School No. 1, is slim and short and dresses in muted browns. He has short brown hair, blue eyes and still bounces with enthusiasm for teaching despite his conclusion that doing a good job at Frankfurt is nigh on to impossible.

"Teaching here is really different," said Knapp. "When I first got here, I had no workbooks and no materials. The only thing I had for my class was a few torn-up textbooks. I had never taught fifth grade before so I looked around for a guideline of what should be covered. There was none. We have no structure here, no continuity. In teaching, you've got to have building blocks; you've got to present the material in sequence. In American History, we teach the same thing in the fifth grade as we do in the sixth grade."

Knapp was soon named chairman of the school's curriculum development committee and began pushing for a set of objectives.

But many teachers didn't like the idea, according to Knapp. "They thought it would take away from their flexibility in the classroom," he said. "But that's not true. Objectives are a guideline of *what* to teach. Each teacher decides *how* to put the material across."

An art teacher is Wiesbaden said, "We have a course outline but it's old, old, old. I think it was written in 1956. There's not a lot of planning going on around here."

Bonnie Giles, a fourth grade teacher at Wuerzberg Elementary School, said, "The curriculum is based on nothing. You never build on what the child learned the previous year. Learning is not reinforced and we're not taking the child one more step at each grade level."

Audrey Haynes, a teacher for 13 years including three in dependents schools, said, "In Cleveland, we had curriculum objectives and the teachers met to plan what they wanted to accomplish. But here, every teacher does his own thing. We stay in our classrooms, in our own self-contained little worlds."

WHY SCIENCE TEACHING IS MISSING

Most elementary teachers interviewed admitted they do little science teaching. Traditionally, elementary teachers are weak in science and tend to shy away from the subject, so a strong curriculum is needed.

To provide it, school administrators in Europe purchased a prepackaged science program developed by the American Association for the Advancement of Science (AAAS).

The AAAS program has been successful in other school systems, but in the dependents schools it bombed.

The failure of AAAS—and the waste of $750,000 it cost—is a prime example of how the lack of educational planning in the dependents school system adversely affects the education of military children.

Basically, the AAAS program consists of a teacher's guide and student kits designed to use a series of experiments to teach children about the processes of scientific inquiry. It is a new and somewhat complex approach to science teaching.

The first requirement of AAAS or any other prepackaged course is to train the teachers how to use it. Dependents schools administrators sought to do that by inviting a comparative few elementary teachers to attend voluntary AAAS workshops on their own time. According to many teachers interviewed, there were not enough workshops and the instruction in those that were held was sketchy at best.

However, Dr. Allen Dale Olson, community relations coordinator for the dependents school system in Europe, said, "The AAAS workshops were fairly widespread. The company that sold us the kits provided a training service. They teamed up with our curriculum people and visited the schools on an invitational basis."

Regardless of the number of workshops, many teachers who received the AAAS program didn't know how to use it. Those who did use the program said they were never resupplied with the items needed for student experiments, therefore the AAAS kits soon became useless.

In contrast to the dependents school system, in-service training for AAAS science in the Dade County, Fla., school system consisted of weekly classes throughout the school year. Teachers also were offered a 15-hour crash course in AAAS. "You couldn't say that we required teachers to attend, but they were strongly advised to take the course and most did," said Harriet Ehrhardt, consultant on science education to Dade County Schools.

The Dade County program has met with considerable success. In dependents schools, it was obvious by 1974 that the AAAS program had failed. What have school administrators replaced it with? "Nothing," said Barbara Rudometkin, a fifth grade teacher at Karlsruhe Elementary School. "There's practically no science teaching done in my class or in any other elementary class."

Her principal, Fred Mossinger, said, "Science is our weakest subject. The responsibility for the science curriculum has been laid on the individual teacher."

As a result, when children in dependents schools enter junior high school, "They don't know an ant from a centipede," said Carol Stopplecamp, a seventh grade science teacher at London Central High School. "They [elementary schools] are spending too much time on frills. My boy is in the fourth grade and he has four hours of swimming every Friday."

An elementary teacher in the Amberg, Germany, schools said, "When I was a seventh grade science teacher I always wondered why the kids came into class knowing nothing about science. Now I know why. There is no science teaching in the elementary schools. I'm a biology teacher, but I still need a guide to teach science."

WHY THE SCHOOLS HAVE NO STANDARDIZED CURRICULUM

The administrative staff at the dependents schools central office in Karlsruhe, Germany, includes 14 curriculum coordinators who supposedly help plan educational programs and introduce them into the schools. Yet Mason's method of developing curriculum objectives—a chief function of management—was to tell the principals of each school to form a committee and write their own. Had all the schools done so—some didn't—the dependents school system would have ended up with 211 different educational programs.

Mason, director of schools in Europe, believes that having a standard curriculum for all schools would be a disservice to some pupils.

Mason said, "In some of the schools near our headquarters areas, most of the children want to go to college. In other areas where you have a high concentration of troops, few of the children want to go to college. That is my concern. How can you have a standard curriculum for every school?"

However, many educators and parents the Times Magazine interviewed believe children should be taught the same basic skills regardless of whether they want to be plumbers or engineers.

Dr. Joan M. Gibbons, curriculum coordinator of language arts (English) for the dependents school system in Europe, said teachers know "where the kids are [academically]" and can best decide what curriculum objectives are needed. "You change your curriculum to meet the needs of your students," said Gibbons. "We sometimes have complete shifts in missions at various posts. Our student populations keep changing."

That is precisely why other educators believe curriculum objectives should be systemwide. Dr. Gordon Cawelti, executive director of the nationwide Association for Supervision and Curriculum Development in Washington, D.C., said standardized objectives "are especially important for military children who move around a lot."

And in a resolution passed at its annual meeting last May, the 31,000-member European Parent-Teacher and Student Association (PTSA) called for the dependents school system in Europe to standardize curriculum objectives. It did this because "A wide variation of course content in individual subjects exists even within a single school . . . [which] can be detrimental" to the education of military children who often are transferred from one dependents' school to another.

THE ELECTIVES DEBATE: FUN VS. TOUGH COURSES

The PTSA resolution is part of a sharp and sometimes angry debate being waged in the dependents school system in Europe over what should be taught in the classrooms and how the academic curriculum should be presented.

The debate centers around the decision by school system administrators to permit secondary schools to reduce the number of required basic courses in English and social science. Over the last decade, about 25 of the 37 dependents high schools and many junior high schools have replaced their required courses in those two subjects with electives.

The switch to electives reflected a fundamental shift in educational philosophy. The freedom to choose became a priority in many dependents schools in Europe. To accommodate that priority, the dependents school system three years ago reduced its graduation requirement from four years of English to three so that pupils could take minority studies and more electives, such as art and music, that they would enjoy.

The reduction was made in the face of hard evidence that the ability of dependents school students (and those across the nation) to read and write was on the decline.

The way to stop that decline, some believe, is to concentrate on the essentials of reading, writing and arithmetic.

According to many teachers and parents the Times Magazine interviewed, the electives system does not provide students with enough instruction in the skills crucial to academic development: reading, grammar, mechanics of writing and vocabulary building. And as a result, schools which use electives some times fail to deliver on their fundamental promise to parents: To teach their children how to read a simple article and write a lucid paragraph.

In a series of three resolutions passed last May, the PTSA declared that military children "are not being provided enough instruction in the basics" and demanded that Mason order the schools to abandon electives in favor of a traditional English curriculum in which students "are exposed to comprehensive instruction in the mechanics and technique" of effective writing.

Educators and teachers critical of the electives system say it doesn't work because students skip from one course to the next like so many butterflies in a daisy field, missing much of the instruction they would receive in a program of required courses.

These critics believe students select fun courses such as drama rather than tough courses such as composition, that most teenagers are unable to do the long-range planning necessary to select the courses they need and that the academic curriculum is not presented in a logical sequence.

Nancy McGee, an English teacher at Wuerzburg High School, said, "There comes a time when you have to explain that a sentence starts with a capial letter and ends with a period. Then you teach them how to write an essay."

Sonia Zenk, who last year was executive vice president of the PTSA and had two sons in Frankfurt High School, said, "We have children taking 'Humor in the Media' who don't know how to write a good paragraph. They take grammer in the last quarter of the ninth grade rather than the first quarter of the seventh grade. The elective system just doesn't work."

Some educators in Europe agree and are cutting back on electives. John G. Korslund, principal of Wuerzburg High School, said, "A few years ago there was a swing toward more innovative practices, but we're not really doing right in neglecting the basics. There must be a certain amount of grammar and spelling. This year, we had schoolwide spelling bees for the first time in years."

Korslund is adding required English classes at the seventh and eighth grade level and offering more remedial courses for high school students "who aren't proficient in English."

The principal of Upper Heyford High School, David L. Schlesinger, said, "We're taking a hard look at our electives English program. Teachers in other departments become very concerned when they find the kids can't read and write."

Karen West, a junior at Nuremberg High School, said, "I liked the old way of teaching better. You could learn more. All my friends dodge the harder courses and so do I. My English teacher is really great though. He cares about whether you learn or not."

Her teacher, James H. Mulder, said it once was true that students could pick and choose courses, but that grammar and composition courses have been added in the seventh and eighth grades. Nuremberg will stick with the electives approach, however.

Many teachers in dependents schools say electives work because teenagers who select their own courses and instructors are more interested in their classwork and more receptive to good teaching.

For some people, that's true. The wife of an Army sergeant with a daughter in Nuremberg High School said, "Sherry gets to select her own books now and she's reading lots better."

Karen Beckler, 16, who attended Frankfurt High School for more than a year and now lives in Gwinn, Mich., said electives made school more interesting "because you get to pick your own courses and change classes a lot [every nine weeks]. When I got back to the States, it was the old grind. Everything is taught right out of the book."

Gibbons, language arts coordinator for the school system, said one advantage of electives is that teachers specialize in a single subject instead of teaching grammar, composition and literature in a year-long required course.

"Ultimately, it's not the way you organize the curriculum that counts," Gibbons said. "It's the quality of the teacher and I do not believe for one minute that the basics have been neglected" in dependents schools.

DO ELECTIVES MEAN POOR SCORES?

However, almost every available measure of academic achievement indicates that the ability of high school students to read and write has been declining for more than a decade.

The national average score on the verbal portion of the Scholastic Aptitude Test (taken by most college-bound students) has shown a steady decline over the last 12 years. Recent studies by the National Assessment of Educational Progress show that the essays of 13 and 17-year-olds are far more awkward and disorganized than the efforts of those tested in 1969. The studies also showed that the writing ability of nine-year-olds had improved compared to 1969. And in an investigation of declining academic achievement in the nation's colleges and schools, *Los Angeles Times* reporters Jack McCurdy and Don Speich found that, "It is the fundamental and massive shift from basic academic requirements to an array of electives that seem to be the most direct contributor to the achievement decline in schools and colleges."

McCurdy and Speich examined results from the Graduate Record Examination taken by most college graduates bound for graduate school and found that: "In areas where electives have blossomed, such as the social sciences, the scores have dropped sharply. Conversely, in the natural sciences where there are more requirements and fewer electives, scores have risen."

What about students in the dependents schools? Have their reading abilities declined also? Do they write better or worse than military children who sat in the same classrooms three years ago? The answer is that nobody knows for sure. Neither the teachers nor principals nor Mason himself can demonstrate with any degree of certainty whether or not the dependents schools are effective. The dependents school system does not systematically monitor student achievement in such basic skills as reading and math. Most large school systems in the States use standardized tests to measure student progress in the basics and spot weaknesses in their academic programs.

For example, Dr. Roberta Keiter, coordinator of testing for Montgomery County Public Schools, said, "About six years ago, our overall score on the language arts portion of the tests fell to the 42d percentile [meaning 58 percent of students in a national sample scored higher than Montgomery County students]. And we found it was the way the curriculum was being implemented. They were teaching all this creative stuff in the schools. You know, do your own thing. It was all literature, poetry and drama and nothing to reinforce the English skills. We had to tell them to knock it off."

THE SCHOOLS ADOPT AN ELECTIVE APPROACH TO MANDATORY TESTING

The dependents schools began a mandatory program of standardized tests in 1969 using the Iowa Tests of Basic Skills (ITBS) which measure scholastic achievement in English, math and study skills. The ITBS currently is used by school systems in Houston, Milwaukee and dozens more cities across the country.

The testing program in dependents schools didn't last long, however. When students tested low in certain English and math skills in 1969 and 1970, school administrators in Europe failed to take a hard look at their educational programs to see what, if anything, was wrong. Instead, they simply cancelled the tests in violation of DoD regulations that made the testing program mandatory. DoD officials later suspended the testing program.

In 1974, the suspension was lifted and students in a sample of schools were given the ITBS. Once again, the results were disappointing. In 1975, the same sample testing was done, and the results were the same as 1974—disappointing.

Test results from the dependents schools in Europe were not made available to parents, as is done in many Stateside school systems. But Mason, director of dependents schools in Europe, occasionally announces the results himself. In a speech last May to the European PTSA, for example, he claimed test scores of students in dependents schools compared favorably with the national average.

That is not completely true. Available test results indicate that average scores from dependents high schools in Europe were usually above the national average while average scores from elementary schools were generally below it (see story on page 40).

In 1969 and 1970, the DoD testing program included a series of intelligence tests. Therefore, educators could measure the difference between ability, as measured by the intelligence tests, and achievement, as measured by the ITBS.

At the request of The Times Magazine, all available test results were reviewed by Dr. William E. Coffman, professor of educational measurement at the University of Iowa, and director of the statewide testing program in Iowa.

Coffman said intelligence test scores indicate that pupils in the overseas schools "appear to be at least as able and possibly a bit more able" than pupils in a national sample of students tested by the Houghton Mifflin Co., which publishes the tests.

However, low achievement scores from the ITBS in 1969 and 1970 indicate that "the achievement of pupils was not quite as high as one might reasonably expect" on the basis of intelligence tests, Coffman said.

To find out why achievement scores were low, "One would look at factors in the school situation [such as] the nature of the curriculum, the quality of teaching or the frequent moves [by military children] from one school to another," Coffman said.

The lowest achievement scores were in math. Most dependents schools teach modern math concepts which were not covered by the regular ITBS at that time. When a special modern math supplement to the ITBS was given to 1300 students after the first test results came back in 1969, math scores rose.

Test results from 1974 suggest there still may be a relatively low performance in math problem solving which is covered by the regular ITBS.

However, the comparison of average performance of students in dependents schools to a national sample in any particular year is of little meaning, according to Coffman. What is important is that "by comparing test performance of one year with performances in previous years—or performance on one subject with that in other subjects—[teachers and principals] can begin to formulate educated guesses about what is happening to pupils in the school system."

Used effectively, test results can help teachers and counselors determine the academic level of each pupil and plan their students' classes around the subject they need most. This is especially important in schools that use the elective system.

But that kind of planning doesn't happen in the dependents school system. The students were tested in only four of the last seven years. And in 1974 and 1975, the tests were given in only 20 percent of the schools.

WITHOUT STANDARDS, FEW STUDENTS ARE FAILED

In the interviews with the Times Magazine, several principals admitted they don't know the reading levels of their high school seniors and have no clear idea of what and how much their pupils are learning.

Furthermore, it is impossible to tell exactly what military children are required to learn. The dependents school system has no academic standards. Students are not required to demonstrate proficiency in English, math or anything else. They are promoted from grade to grade and given high school diplomas regardless of their ability to read a book, write an essay or perform basic arithmetic computations. A diploma is little more than a certificate of attendance.

The dependents school system has no grading criteria or standard grading symbols. The "A" math student in one class may be no more proficient than the "C" student down the hall. And without educational goals or system-wide tests or academic standards, neither parents nor educators can differentiate between the two.

Some civilian school systems, worried about declining achievement, are toughening up. In Los Angeles, students must pass a proficiency test in reading before they can graduate from high school. A new Florida law requires proficiency tests in grades three, five, eight and 11. All who fail are given remedial tutoring at state expense.

Students in Maryland must pass proficiency tests every year from the second grade on. Those who fail are retained in grade or receive special help. The school system in Denver, Colo., long has required pupils to pass proficiency tests in English and math before they graduate.

Those who fail receive a certificate of attendance, not a diploma. In years past, proficiency was determined by the classroom teacher. Students who did adequate work were promoted and those who didn't were retained in grade. But it's standing policy in the dependents school system that children may not be retained without permission of the parents and a child study committee. That is the conventional wisdom among most educators today. Few children are held back. Many believe retention does more harm than good. Fred Mossinger, principal of Karlsruhe Elementary School in Germany, said, "If we

had an active retention program, we would just retain the same kids every year. All you do is make the child feel like a loser."

But Lynne Holland, international president of the Overseas Education Association, the largest teacher's union in dependent schools, said the school system's policy against retention "simply promotes illiteracy."

"I'm certain you could come up with lots of empirical data on the emotional trauma suffered by a child who's retained," Holland said. "But compare that to the emotional damage done to a 16-year-old who's in high school and can't read. He's always at the bottom of his class and may be a disciplinary problem too."

An elementary teacher in Wiesbaden said, "If you have a slow learner in the first or second grade, that's the time to retain him. After that, it's too late. The decision is supposed to be made by a child study committee in each school. But even when parents want their own child retained, they [committee members] say, 'Oh, no, your child has an IQ of 130 and we wouldn't think of retaining him.' They talk the parents right out of it. And the child may be low in motivation and everything else."

Ann Hetherman, a social studies teacher at Frankfurt Jr. High School, said, "If the children are a certain age, they're supposed to be in a certain grade. so the [school] system just keeps moving them up. That's why they graduate from high school and still can't read."

In the dependents school system, the lack of academic standards has an obvious effect on some students.

Kenneth Griffith, a retired Army sergeant now living in Security, Colo., who returned to the States last March, said, "I had six kids in the Frankfurt schools and they're still trying to recover from the effects. Before we left, they were all good readers. Now half of them are in remedial reading because they fell behind overseas.

"And they didn't have much to do in class. They rarely had homework and that hurts. They picked up a lot of bad study habits that they have to get rid of."

An administrator for Army schools at Fort Knox, Ky., said, "The elementary children that come here from Germany have a hard time keeping up. They're reading way below grade level. There's been a downhill trend over the last five years."

DESPITE THEIR FAULTS, THE SCHOOLS HAVE THEIR GOOD POINTS

Despite the lack of educational planning in the dependents school system in Europe, the schools have their good points. The system's minority studies program was described by several teachers as second to none. The school system has a strong host nation program in which foreign nationals conduct courses—complete with field trips—about the culture of their country.

Many observers, including the investigative staff of the House Appropriations Committee which evaluated the school system three years ago, have said there are many excellent teachers in the schools. In allowing each school to decide its own objectives and curriculum, Mason, director of dependents schools in Europe, clearly relied on a generally strong teaching staff to develop solid educational programs for military children. Many did.

Zee Spain, a teacher at Wuerzberg Elementary School, developed her own science curriculum, keeps a weekly record of what her pupils learn and sends a report home to parents every Friday. Her teaching methods are burdensome and take extra time, but she thinks the results are worth it.

Two teachers at Wiesbaden Elementary School, Cheryl Peterson and Suzanne Sackett, knocked out a wall in an old classroom to make two large rooms where three had existed. They worked for weeks to develop their own curriculum in every subject area.

Mornings, Peterson and Sackett's children are grouped according to their abilities for three hours of language arts and math. Afternoons, the children learn by doing. They plant seeds to see how things grow, visit a farm to learn how animals are born and inspect the sewer plant and fire station on base to find out how things work.

At first, the parents were horrified. They wanted their children at their desks reciting their lessons. But Peterson and Sackett gradually won them over. They now have a waiting list of parents who want their children in the program.

As I followed two boys down the hall at Nuremberg High School, one chortled that he had just rewritten an article out of Newsweek and handed it in as his own work. His friend said, "Bet you wouldn't try that in Miss Boerchinger's class." When I asked why not, the student said, "She's tough, man. Tough, but fair"—high praise from any 16-year-old.

Mary Boerschinger, chairperson of the social science department, said, "The first thing I tell my students when they enter this class is that everyone has the right to fail." I met lots of other teachers who seemed just as demanding.

Dr. Jerald E. Bloom, principal of Frankfurt High School, said most parents don't care about standardized tests or how the curriculum is organized. "What they care about is can they get their kids into college," he said. "And at this school, the answer is yes; we graduated 400 in June and 45 percent of them will show up at the college door." Bloom keeps a chart showing that many of his graduates are accepted at the military academies, Ivy League schools and state universities across the nation. He said, "The colleges look favorably on our students." Proof, he believes, that his school is as good as any.

WHY THE EUROPEAN SCHOOLS ARE "FUN CITY" FOR STUDENTS

The dependents school system in Europe has some good programs and some excellent teachers.

But the failure of its administrators to plan and evaluate their curriculums and establish minimum standards of achievement for teachers and students has resulted in the near total absence of a science curriculum in elementary schools.

In addition, the low scorces on the English and math skills portions of the ITBS standardized tests cannot be explained away in view of intelligence test results that show dependents school system students are at least average in potential ability.

The tests are inconclusive, but they are a strong indication that school administrators should take a critical look at their educational programs.

In the past, school administrators have failed to do that. A 1970 analysis of test results showed that the ability of dependents schools pupils in grades one through eight to read and write was declining. One year later school administrators began to water down their high school graduation requirement in English so that students could take more electives they might like.

What's important to school administrators, it seems, is not what the children learn in school but how much they enjoy it.

Perhaps the school system's level of concern about academic standards is best exemplified by its attendance requirements. There aren't any. In most states, it is a law that school children have to go to school. In Alexandria, Va., public schools, for instance, students who miss more than 25 days must make up the work or stay back a grade.

But students in overseas schools may miss an unlimited number of days without penalty. When asked why, Dr. Dichard H. Coss, who until July was deputy director of the dependents school system in Europe, replied, "That's a dumb question." Asked why it was dumb, Coss said, "Well, it just is."

How naive. I found out about the lack of attendance requirements because one teacher after another complained during interviews that all too many parents yank their kids out of school for a three-week tour of the Rhine or a trip to sunny Spain.

When the students return, they won't make up the work, their parents won't make them, and there is little the teachers can do about it. In the dependents schools, promotion to the next grade is as certain as the sunrise, and the kids know it.

COMING NEXT ISSUE

As will be reported in the second of two articles about dependents schools in the next issue of the Times Magazine, the problems faced by educators, parents and students overseas do not end with poorly planned curriculums.

An investigation of the school system by the Times magazine shows that some military children go to school in veritable slum conditions and that many teachers are hampered by a serious shortage of textbooks and supplies they need to do their jobs.

In addition, the Times Magazine will explore the complaints of principals who say they cannot remove incompetent teachers from the classrooms.

We also will take a look at the high school dormitories—home to scores of military children whose parents are stationed far from the schools. And we will examine the policies and personality of Dr. Anthony Cardinale, the new director of DOD dependents schools around the world.

DEPENDENTS SCHOOLS IN EUROPE: A DISORGANIZED SYSTEM IN DANGER OF FLUNKING

(By Richard C. Barnard)

As she carefully opened the cardboard box and pushed it slowly across the table toward me, the young woman with light blonde hair, blue eyes and a doleful expression on her face said, You see, sometimes the box comes in December and sometimes it doesn't come until April or May. And when it finally gets here, you open it up and find only half of what you wanted."

She sounded like a disappointed child complaining that Santa is never good to her at Christmas. In fact, the young woman was a teacher at Frankfurt Jr. High School explaining why she often does without the materials she needs to help educate the sons and daughters of American military people.

Other teachers overseas face the same problem.

The results of THE TIMES MAGAZINE'S investigation of the dependents school system in Europe indicate that its supply system operates only slightly better than its academic programs.

The school system has no educational objectives or academic standards. As a result, many students and teachers are left to "do their own thing" in the classrooms with decidedly mixed results. The failure of school administrators in Europe to plan and evaluate their academic programs adversely affects the educational growth of military children (see THE TIMES MAGAZINE Oct. 18, 1976).

In addition, interviews with students and educators in Europe indicate that teachers often receive classroom materials when the school year is almost over rather than before it begins and that some schools frequently run out of such basic supplies as toilet paper, scissors and chalk.

The parents, educators and students interviewed by THE TIMES MAGAZINE also said that many school buildings are rundown and over-

crowded and that principals are unable to fire the few incompetent teachers in Europe.

In addition, our investigation found that the instructional materials that are available are distributed unfairly. Some elementary school children in Frankfurt and Wiesbaden do without the texts and workbooks that children at another school in Germany, Karlsruhe Elementary School, take for granted.

Teachers said that when school funds are exhausted or classroom materials fail to arrive, they sometimes buy supplies with their own money, depend on donations from NCO and officers wives clubs or obtain money from the European Parent-Teacher and Student Association (PTSA).

WHY CAN'T THEY GET BOOKS?

The lack of books and supplies is caused in part by long supply lines and poor coordination between the dependents school system in Europe and the Defense General Supply Center (DGSC) in Richmond, Va.

The 211 dependents schools in Europe are located in 12 countries and spread over 9.5 million square miles, an area more than twice the size of the United States. In addition, school books and other instructional materials have a low priority for military shipment to Europe. These two factors combined often are responsible for the late delivery of teaching materials to the classrooms.

Last summer, for example, 70 tons of books and supplies sat for weeks in warehouses on the East Coast awaiting shipment to dependent schools in Europe. Gen. George S. Blanchard, commander of the U.S. Army in Europe, learned of the delay in August and ordered the materials airlifted to Germany on an emergency basis. Nevertheless, some did not arrive in the schools until after classes began this fall.

Textbooks and instructional materials such as reading booklets and test tubes are ordered through a cumbersome four-step process. Orders placed by each teacher are sent to the dependents schools administration office in Karlsruhe, Germany. From there, they go to the Defense General Supply Center in Richmond and then to book publishers and suppliers. DGSC keeps no classroom materials in stock.

In a 1976 review of management problems in dependents schools, Christopher T. Cross, minority aide to the House Committee on Education and Labor, found that communications between the school system and DGSC "seem to be poor and apparently result in some funds being turned back because ordered equipment was not available and the schools were not told to place other orders."

In an interview with the Times magazine, Cathy Silver, a fourth grade teacher at Wuerzburg Elementary School, said that last year she ordered her reading texts and workbooks months ahead of time. The texts came nine weeks after the beginning of school, but the workbooks never arrived.

In addition to long supply lines and poor coordination with DGSC, Dr. Joseph A. Mason, director of schools in Europe, said that in late May he had received only $2.4 million for books, supplies and maintenance "instead of the $8 to $10 million normally required."

His press spokesman, Dr. Allen Dale Olson, said in September that the school system was still severely short of money for books and supplies.

However, Dr. Anthony Cardinale, director of DoD dependents schools worldwide (and Mason's boss), said the dependents schools in Europe have adequate funds to buy the books and instructional materials needed.

"I sat down with Dr. Mason and his supply people in early May," said Cardinale. "They said they needed $300,000 to cover the costs of outstanding orders for books. I released $500,000. At the end of May, I released another $500,000. Half of that was for books."

In August, Mason received an advance credit of $1.4 million to purchase books and instructional materials for the school year that began in September, Cardinale said.

However, the dependents school system in Europe receives less money than many of the larger school systems in the States, according to a cost-comparison prepared by Cardinale's staff.

Last year, the school system's budget of about $147 million amounted to $1273 for each student. In comparison, the Montgomery County, Md., school system spent $1710 per student while Baltimore spent $1318. Arlington, Va., spent $1771 on each student, and Washington, D.C., spent $1378, according to the school system's analysis.

The cost comparison also showed that 20 of the larger school systems in the U.S. averaged $1687 per student. The school system in Europe had far less money to educate its students than many school systems across the nation."

"WE CALL IT THE BAKE SALE SCHOOL SYSTEM"

Regardless of the amount of money available this year, a shortage of books, instructional materials and supplies has long been a chroic problem for the dependents school system in Europe.

Last May, for example, lack of funds forced administrators at Illesheim Elementary School (which has grades one through eight) to cancel plans to offer a "hands on" science program in the seventh and eighth grades that involved almost daily lab work.

Frankfurt Elementary School No. 1 is one of the largest dependents schools in Europe. Yet its total budget last year for classroom materials—from textbooks to pencils—was $16,000.

"That's an example of why we call this the bake sale school system," said a teacher at the school. "Back in the States, you sell brownies to buy uniforms for the basketball team or horns for the band. Here you do it to buy the basic stuff you need in the classroom.

"Some of the parents are wonderful, but most don't support the school. We have 1,600 kids here but only 40 or 50 parents show up at PTA meetings. Those are the people we depend on and they can give us only so much money and eat only so many brownies."

Several schools in Europe depend on donations from parents to buy library books, reading books, art supplies and underwrite the salaries of a handful of teachers and teachers' aides. At Frankfurt Elementary No. 2, money contributed by parents last year was used to pay the salary of a physical education teacher.

A sixth grade teacher at the school said, "When I walked into class last year, all I had was one set of math books. The covers were gone and some had pages missing.

"We had no reading books—none! So the kids and I decided to buy our own. We sold popcorn until it was coming out of people's ears and bought the Reader's Digest reading kit for $485."

In addition to textbooks and instructional materials, many teachers and principals interviewed said some schools occasionally run short of basic supplies.

"When I taught in Nuremberg, we got two pieces of chalk each year," said an elementary teacher. "We had no Scotch tape, no tacks and no scissors. We just didn't get the basic things you need for a classroom."

The schools buy their basic supplies at local Army supply stores, which are not always well stocked. At a few bases, military supply sergeants get first pick of available supplies and school supply clerks get what's left.

Lynne Holland, international president of the Overseas Education Association, the largest teachers union in dependents schools, said, "The basic problem is the supply system here. The military supply people will let you know right quick that their first job is to support the Army's mission. The schools come second."

Though some schools in Europe sometimes run short of books and supplies, that is not true of all dependents schools. Prior to July 1, when dependents schools were unified into a single school system, schools in the Pacific were operated by the Air Force and those in Europe were run by the Army.

Several parents and educators interviewed said the Air Force provided much better support to the schools than did the Army.

Libby Piercley, an elementary teacher in Stuttgart, said, "When I taught in Okinawa, the Air Force gave us all kinds of supplies and materials that are considered not essential in Europe. Remedial reading texts, for example, are hard to find here, but we had plenty in the Pacific."

WHY ARE SCHOOL FACILITIES SO ANCIENT?

During the winter months, the faculty and students at Nuremberg High School look like studio extras for *M*A*S*H*, the TV show about the wacky adventures of an Army medical unit in Korea.

At Nuremberg, teachers and students on the bottom floor of the school wear their overcoats in the classroom while those on the top floor open the windows to avoid heat prostration.

An erratic heating system is only one of the problems faced by faculty and students at Nuremberg High.

The hallways and classrooms are littered with trash. The electrical wiring is so bad that when one teacher plugs in a movie projector, the lights in nearby classrooms dim and sometimes go out.

The library reading room is out in the hallway. Students who study there are sometimes disrupted by others who use the hall to get to art class. The equipment and tables in the library's tiny audio-visual study room are always covered with a fine layer of dirt simply because no one ever cleans them.

Nuremberg High is not typical of all dependents schools in Europe. Several of the schools are new. Six of the 14 schools I saw were clean and well-equipped. Though Karlsruhe Elementary School is housed in an older building, it is neat and well-run because the principal, Fred Mossinger, and local Army officials have worked hard to keep it that way. Five of seven teachers interviewed in that school described it as "a beautiful place to teach."

School administrators in Europe say that 80 percent of their school facilities are adequate, including Nuremberg High School, which indicates how dilapidated some schools are.

One reason why some schools in Europe are in sad shape is that the Army built no schools in the 1960's except those to replace school buildings vacated when DeGaulle kicked U.S. forces out of France. The Army still has not caught up with the demand for new school buildings despite the expenditure of $58 million on construction in the last three years.

Responsibility for the dependents schools in Europe is divided between DoD school administrators, who run the educational programs, and Army officials, who build the schools and maintain them.

One of the sillier consequences of this divided authority is that school principals in Europe have no power to tell the janitors in their own schools what to do. The janitors report to the local post facilities engineers, not to the principals.

Another consequence is that new schools are not built by the people who are going to use them, which sometimes causes problems. For instance, at Ramstein Elementary School,

completed in 1974, the urinals were built too high for the elementary-age children.

As a result of the slow pace of construction, many dependents schools in Europe are run-down and overcrowded. Lindsey Elementary School in Wiesbaden is housed in an ancient barracks. Last year, several teachers there had 38 pupils in their classes.

The school was so crowded that some single "classrooms" consisted of two small rooms with a door in between, a situation which forced teachers to dodge from room to room in order to keep watch over their students.

Erma Hayes, a social worker at the school, said, "Don't ask me how they teach with all those kids in one little classroom. When a child in the back of the room wants to leave, you have to move the desks so he can get out. It's tragic."

Army Lt. Col. Theodore H. Taylor, chief of personnel and community affairs at Wiesbaden, said, "It's true that there were 38 kids in a class at the beginning of the year. But that was due to a shortage of teachers. We got more teachers within a few weeks and the problem was alleviated."

SOME STUDENTS LIVE IN DORMITORIES

"The facilities here are okay," said Turney Moore, chief counselor at the dormitory at Frankfurt High School. "One of the biggest problems here is that some military families arrive [in Europe] to find out they have to give up their kids for an entire year. Some of them are bitter about it and I don't blame them."

In the dependents school system in Europe, there are 10 high schools with adjoining dormitories. Students in the ninth through 12th grades who live more than one hour's commuting distance from school must live in the dorms Monday through Friday. The Army provides transportation to and from school on weekends.

However, high school students who live more than two hours commuting distance from school live in the dorms from September through June with vacations home only at Christmas and Easter. This year, about 900 of the roughly 21,500 high school students in Europe live in the dormitories.

For students in grades one through eight, the maximum commuting distance is 45 minutes. Families with grade school children who live further than that may send their children to private school at the Army's expense.

"But a problem in Germany is that there are only a handful of private schools that offer what might be called an American education," said Lee Bartley, administrative assistant to the director of DOD schools. Some grade school students who live far from school must make do with correspondence courses.

WHY INCOMPETENT TEACHERS CAN'T BE FIRED

During my interviews in Germany and England, I had a standard list of questions for the dozen or so principals I planned to interview.

And there was always one question that caused them to stop, lean toward me and say in a lowered voice: "I'll discuss that with you, but it'll have to be off the record."

The question was: "You must have a couple of incompetents on your staff—every school does. Why don't you fire them?"

Most principals said they had one or two teachers on their staffs who shouldn't be in the classroom, but that the school system's personnel rules made it impossible to get rid of them. This means that 200–400 of the 5600 teachers in Europe are viewed by principals as being incompetent.

One principal said, "To fire someone, you have to catch them doing something blatantly wrong. It has to be documented. The personnel rules, say that even when you have an obvious incompetent, you have to take a positive approach with him. You have to show that you've counseled the teacher about his shortcomings. That has to be documented too."

Most teachers acknowledged that principals have little power to fire them. A math department chairman said, "The only way they can fire me is if they get me on a morals charge."

The principal of an elementary school in Germany said that firing a teacher "is like preparing for trial. You've got to build a file on the guy. You give him a statement of charges. He gives you a rebuttal. Then there are appeal procedures all down the line. The union gets involved and the teacher may try to get the local IG [inspector general] on your back. Once you've been involved in something like that you'll never try again."

Union president Holland said, "It's not true that principals have no way to weed out incompetents. Six teachers were severed last year.

"Each teacher has a probationary period of three years. If administrators can't weed out incompetents by then, I question their ability to do their jobs at all.

"I question how much [principals] really desire to get involved in the process of evaluating and firing people. I question the quality of administrators [in the dependents school system in Europe].

"Our school system is rather unique in that you don't have to be certified as a principal in order to be hired as a principal. I would guess that 50 percent of our principals aren't certified."

The dependents school system in Europe has no certification standards for principals or teachers and keeps no record of who is certified.

Most state departments of education examine the college transcripts of prospective teachers and principals before certifying them as eligible for employment in the public schools.

Dr. Anthony Cardinale, director of DOD dependents schools, wants to establish new employment standards and certify teachers and principals every five years. Those who can't meet the new standards would be dismissed under Cardinale's proposal.

However, any such program must be negotiated with the union.

Holland said, "Administrators have a right to evaluate us. Our concern is the procedures they use. I'm sure we can come up with something livable."

CONCLUSIONS AND RECOMMENDATIONS

In the last two issues the Times magazine has examined the dependents school system in Europe. We found many weak areas, and a few bright spots. However, if the dependents schools intend to achieve their goal of top-quality education, they should take remedial action in certain parts of the system in Europe where quality is far short of the best.

As shown by our investigation, the dependents school system in Europe has a personnel system which promotes job security at the expense of professional competence in the classroom. The schools system should adopt new employment standards. It also should institute a certification program for teachers and principals.

The Europe schools system has no core curriculum in the basic academic skills. It has no minimum standards of achievement for teachers or students. And it has no systematic way to check on what kind of job each of the 211 schools is doing. One result of this is the appalling fact that teachers and principals in Europe do not have the slightest idea of how well (or poorly) their high school seniors can read.

It is time for school administrators to develop an administrative framework that encourages good teaching. And that means a core curriculum in the basic academic skills, such as reading, that every child needs, regardless of his or her life's goals.

Although most Stateside schools have testing programs, Europe schools do not. It is time for school administrators to provide military children a comprehensive testing program. That means, at the very least, giving aptitude tests and yearly achievement tests. Those test scores should be made available to parents, along with a clear explanation of what the scores mean.

It is time for the Army to get serious about modernizing the school facilities in Europe. In the Wiesbaden area, for example, several classes are conducted in attics and basements. Yet the Army's $25.5 billion budget this year includes a paltry $6.5 million for two elementary schools in Germany.

Parents don't have a say in how the schools are run. In Europe, the schools are organized into five school districts. The school system should have a school board in each one, with all positions elected. And perhaps there should be a big school board for all of the schools in Europe.

The boards should have authority for budget priorities. For instance, should available funds be spent for remedial reading books or remedial reading specialists? School boards also could decide on new school buildings and apply pressure on the Army and DoD to modernize existing facilities. The Army has been dragging its feet on facilities for decades.

In the States, parents have a voice—through elected school boards—in the operation of the schools their children attend. Military parents pay federal taxes which support the overseas schools. There is no reason why military parents should be disenfranchised simply because they're serving overseas.

The DoD director for dependents schools, Dr. Anthony Cardinale, has set up advisory boards. While this is a step in the right direction, it is not enough. The boards should be policymaking, not advisory. Parents should have a say in how money is spent. Money is power, and Cardinale controls the money, and the power.

Dr. Joseph A. Mason, chief of dependents schools in Europe, says parents have a voice in their children's education because they are allowed to sit on curriculum developemnt committees in most schools. But the practice is different from his pronouncements.

Most parents don't know about the curriculum development committees. And in some schools—London Central High School, for example—parent-members can come to committee meetings but they have no vote.

The dependents schools in Europe have come a long way since the postwar days of converted barracks and pioneer hardships. But when compared to many community school systems in the States, the dependents schools are an embarrassment.

Military children deserve better.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent that a letter to our Senate colleagues from Senators HENRY JACKSON and SAM NUNN of the Armed Services Committee be printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES,
Washington, D.C., September 26, 1978.

DEAR COLLEAGUE: We want to communicate to you our opposition to the Schmitt Amendment (No. 3620) to the Department of Education bill (S. 991), which would delete the transfer of the Department of Defense Overseas Dependents Schools to the new Department.

This transfer was unanimously supported by the full Committee on Governmental Affairs and is supported by the Overseas School

Administrators, the Overseas Education Association, the European Congress of Parents, Teachers, and Students, and the Department of Defense. Simply speaking, the proposed transfer is endorsed by all the parties involved.

These schools are regular American public elementary and secondary schools serving the dependents of military personnel who are stationed abroad. Their purpose is to educate American children and is not integrally involved with the mission of the Department of Defense. We believe that the 135,000 students in these schools deserve the opportunity to benefit from the great educational resources of the new Education Department. If they remain under the jurisdiction of the Department of Defense, they will continue to be isolated from the rest of the educational arena in the United States.

We do not agree with the contention by the opponents of this transfer that the DOD overseas schools will become "test tubes" for the experimentation of unorthodox teaching methods. Anyone familiar with the DOD Overseas Schools recognizes that one of the great problems with the schools has been their failure to have minimum educational standards, updated teaching material and innovative techniques for the use of the teachers. It will be the function of the new Department of Education to provide this material and these techniques for the use of these overseas schools so that they can be on a par with educational systems in the United States. The Department of Education, however, will have the authority to provide this information, not impose it on the schools. The availability of such information should upgrade the quality of education for our American children overseas.

S. 991 does not take the schools off military bases. The DOD Schools will always remain an important part of the military community, and it is unrealistic to assume that, as a result of the transfer, parents would take their children out of the only American school in a foreign country. We share the support of the European PTSA for the transfer on the grounds that the schools will fare much better in an agency whose main concern is education.

Finally, transfer of these schools will not make the provision of logistical support more difficult. Interservice support agreements already exist within the Department of Defense between the three Departments of the Navy, Air Force and Army, and they are working well. After the transfer, the same kinds of relationships would continue. Agreements would be worked out between a Cabinet Secretary of Education and three subcabinet secretaries in DOD, thereby improving and elevating the working relationship. Further, the DOD Schools are gradually building up their own support staff and in the near future will become self-sufficient.

We believe that the students in the DOD Overseas Dependents Schools could best be served by the new Department of Education. We hope you will join us in opposing the Schmitt Amendment and in supporting the transfer of this important school system to the new Department of Education.

Sincerely,

SAM NUNN,
HENRY JACKSON,
Senator MCINTYRE.

Mr. RIBICOFF. The legislation before us today provides for a 3-year phase-in period, so that the schools can be transferred with little disruption. The bill requires the Secretary, in the 3-year phase-in period, to make recommendations for increasing parent, teacher, student, and military participation in the schools' operation and administration.

S. 991 also provides for an administrator and an Office of Education for overseas dependent children at executive level V, reporting directly to the Secretary of Education. This will insure a minimum of redtape and a maximum of high-level attention to the schools.

Mr. President, I would hope the Senate would concur with the unanimous recommendation of the Governmental Affairs Committee that the DOD dependent schools be transferred to the Department of Education.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RIBICOFF. I yield to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, with regret, I also must oppose the amendment offered by the distinguished Senator from New Mexico (Mr. SCHMITT) to delete the transfer of the Department of Defense's overseas schools for dependent children. Neither I nor the rest of the committee were persuaded that these schools should continue to be run by the military. These are regular American elementary and secondary schools. The students are the same as students attending schools in any school district in this country. The only difference is that, since they are the children of parents who are serving in the military overseas, their classrooms are located overseas. Other than that, the curriculums, teachers, and other aspects of education are the same.

I would in particular like to bring to the attention of my colleagues the testimony given to the committee by the Overseas Education Association. This organization represents the 7,000 teachers who teach in the overseas dependents schools. In his testimony, Carl D. Moore, executive director of the organization, states:

Our teachers have long felt that important educational policies have been inhibited, ignored, and misconstrued by a bureaucracy whose expertise and objectives are not educationally oriented. Important education concepts, already widely accepted in public school systems in the States, are often difficult to realize even when the Association, teachers and the DODDs administration support them. We cannot help but believe that our system will improve and prosper if it is nurtured in an environment dedicated to education.

Mr. President, I am happy to yield to our distinguished colleague from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Hazel Elbert of my staff be accorded the privileges of the floor during all stages of the consideration of this legislation.

The PRESIDING OFFICER. This date?

Mr. BARTLETT. This date.

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

Mr. PERCY. Mr. President, Mr. Moore's comments should not be regarded as an effort to find fault with the Department of Defense. I continue quoting from his testimony before the committee:

The Members of this Congress, and the people of the United States, do not expect the Department of Defense to make as one of its chief goals the efficient and productive operation of the nation's twelfth largest school district. Nevertheless, it is exactly for that reason that our system does not maintain the quality level of education that it should. And it is exactly for that reason that our system should be moved into a Department whose primary goal is education.

Problems such as the ones cited by Mr. Moore illustrate the need to transfer these schools. Another problem which I would like to mention is the transition of the Overseas Dependents Schools' students to schools back here in the States. The terms of duty for many military personnel is 3 years. As a result, there is considerable movement between the overseas dependent schools and schools here. One of the problems which the committee was told about was the difficulties which students make when they go through this transition between schools. It is important that these students be given a sense of continuity. By placing jurisdiction for these schools with the new Department of Education, the resources available to schools here in the States would be much more readily available to the schools overseas.

Educators, not military personnel, are better equipped to run a school. Educators should be running the overseas dependents schools. Unfortunately, too often untrained military personnel have too much authority over how these schools should be run. For those reasons, Mr. President, I urge my colleagues to vote against this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter that I have received from Hal Mosher, president of the Overseas Education Association, Inc., dated September 25, 1978, in support of the position that the managers of the bill have taken.

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

OVERSEAS EDUCATION
ASSOCIATION, INC.,
September 25, 1978.

Hon. CHARLES PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: It has come to our attention that Senator Schmitt is planning to introduce an amendment to S. 991 to eliminate the Department of Defense Dependents Schools (DODDS) from the bill.

Our Association holds exclusive national recognition for the 7,000 teachers in the DODDS system. We believe the members of the armed services stationed overseas deserve the best possible educational program for their children, and this can be achieved only if education is recognized as the highest priority. The teachers in our system strongly believe that education does not receive the priority consideration within the Department of Defense that it would in the Department of Education. Our view is obviously shared by the military parents inasmuch as the European Parent-Teacher-Student Association enthusiastically supports the transfer of DODDS into the Department of Education. Our informal polls also indicate that most of the school administrators support this transfer. The parents and professional educators involved in the system are almost unanimous in their support of the transfer

of DODDS into the Department of Education.

During the hearings on this legislation, a question was raised regarding logistical support from DOD for a Department of Education organization. Our General Counsel pointed out that for two years DODDS has been separate from direct control by the military departments. Logistical support has been provided through interservice support agreements. The Director of DODDS concurred that support has been equal if not superior to past direct support arrangements. Therefore, any potential logistical support problems are already being resolved and should not be considered a negative factor in considering this transfer.

It is our sincere hope that you will support the transfer of DODDS into the Department of Education, and vote against the Schmitt amendment to S. 991.

Sincerely,

HAL MOSHER,
President.

Mr. SCHMITT. Mr. President, I realize and have attempted to understand the position and belief of the distinguished Senator from Connecticut and the distinguished Senator from Illinois, but I literally fail to see, admitting the troubled history of these schools, how putting them in another bureaucracy will change that, particularly a bureaucracy that is going to have the problems of transition, the problems of creating itself and of dealing with everything else it is almost certainly going to have to deal with in education, including competing demands, and also somehow take over the management of the 11th largest school system in this country or associated with this country, and to do this in association with another bureaucracy—and anyone who has been associated with the military certainly cannot claim it is not a bureacracy. Even the Office of Management and Budget says it is best to work out the problems of the overseas schools within the Department of Defense rather than by transferring them to another department.

I am sorry that the distinguished Senators have not dealt more specifically with how they expect this belief to be realized. I am willing to say that in 2 or 3 or 4 years, after the Department is up to speed, if it is in fact created, and I guess there is some doubt about that, but let us assume it will be created, we might then examine this problem and see whether or not the Department of Defense has solved its problems with the overseas school system, or whether, in the view of a functioning Department of Education, they could be better solved in that group.

I just fail to see how anything worthwhile is going to be realized in that school system, that very special school system, by its transfer into the Department of Education.

I would also remind my colleagues that another group, admittedly smaller, but another group representing about 2,000 teachers within the overseas school system, that is, the Overseas Federation of Teachers, associated with the American Federation of Teachers, AFL–CIO, have come to a different conclusion. That is not a large group, but it is a significant minority, and if the situation is anything like I find in this country, the rank and file of the teacher organizations that support the creation of a Department of Education are not necessarily as strongly in favor or even in favor of its creation. I find that there is really only one organizational group that is strongly in favor of this particular measure, and that is the NEA.

I remind my colleagues that there is a great tendency in the NEA to become, or to attempt to become, an elitist, special-interest group for "education," and it is a special interest that I personally believe goes counter to the long-term educational interests of this country, which comes from the diversity of our educational system and its ability, in turn, to tap the diversity of the American people through local control.

I am tremendously troubled by this creation, now, of a Federal school system specifically within a Department of Education. Obviously the overseas school system is a Federal school system, but it is not under the control, the Cabinet-level control, of a vested interest in education. It is under the control of the vested interest of the Department of Defense, and in fact its schools are run with that vested interest in mind. I have tried to describe what that interest is; it is a legitimate interest, in this Senator's opinion, and one which best serves the students of that school system.

Mr. President, if the distinguished chairman of the committee is willing to yield back the remainder of his time, I would be happy to yield back mine.

Mr. RIBICOFF. The Senator from Georgia wishes to make some remarks; then I will be prepared to yield back the remainder of my time.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I will move, at the proper time, to table the amendment. I ask for the yeas and nays on the motion to table.

Mr. NUNN. Mr. President——

Mr. RIBICOFF. I will not move to table now but I ask unanimous consent that I may now ask for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on such a motion 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. NUNN. Mr. President, I rise in opposition to the amendment by Senator SCHMITT that would delete from S. 991 the transfer of the Department of Defense overseas dependents schools. I do this from a unique position of being a primary sponsor of S. 991, a member of the Governmental Affairs Committee who chaired hearings on this particular aspect of the bill, and a member of the Armed Services Committee.

It is always a difficult decision to move certain programs from one department to another. After carefully considering all sides of this issue, I have determined that the DOD overseas dependent schools could function more effectively and provide a better quality education to the children of our military personnel if their administration were moved to the Department of Education. I support this transfer for the following reasons:

First. There are approximately 135,000 students in 267 DOD dependents schools scattered across 24 different foreign countries. The fiscal year 1979 budget estimate for the schools is $307 million. Altogether, there are approximately 10,000 employees in the school system. Despite the fact there is so much money involved and so many children whose education is dependent on these schools, there is no statutory authority for the schools. In more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bills. S. 991 provides, for the first time, a statutory base for these schools.

Second. Although I firmly believe that the future of our military personnel's children is vitally important, I recognize that the Department of Defense and the congressional Armed Services Committee do not give these schools the attention they deserve. This is not a criticism of DOD or the committees. It is perfectly understandable that the administration of these schools is not the primary function or the No. 1 priority of the Department of Defense or the Armed Services Committees of the House and the Senate. Under this legislation, the overseas defense schools will be administered by a level 5 official in the new Department of Education who will report directly to the Secretary. This high level official will provide these schools with more attention and oversight than they have received in their 30-year history. I believe that such attention will improve the quality of the schools and will make a positive difference in the minimum educational standards, acquisition of pertinent educational supplies and the availability of knowledge into new trends and methods of teaching.

Third. The inclusion in a new Department of Education will also facilitate the transition for these students, who are temporarily overseas and away from our Nation, into our public school systems. Since military families are subject to frequent moves, we should strive to provide a sense of continuity in education for these students. The Department of Education would be more attuned to the trends in American public education than the Department of Defense and could provide valuable assistance to the school administrators in sensing, adjusting and responding to these educational trends.

Fourth. The Department of Education could also bring to these overseas schools the vast educational resources which will be available to schools throughout this Nation. The Department of Education can make strong efforts to encourage the participation of these overseas schools in vocational educational programs, services for the education of the handicapped, gifted children, library and aca-

demic facilities and other Federal programs which could benefit the schools. The children of our Nation's military personnel should not be deprived of participation in these programs just because their families are stationed overseas.

Fifth. There would be no disruption in the operation of these schools during the transition. This legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. Also, section 505(A) of the bill insures that the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer. Also, the committee report recommends that the Secretary of Education investigate the practicality and feasibility of the creation of a board or commission, made up of parents, students, educators, school administrators and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could also serve as an effective insulator to minimize the direct involvement in the future of the schools by the Secretary of Education.

Overall, I believe that the language which was included in the bill will provide a sound, workable administration for the DOD overseas schools. Because of their unique role in educating the children of American military personnel stationed overseas, these schools will, of necessity, be administered by a Federal agency that is far removed from the actual operation of the schools. The quality of education offered these students will receive a higher priority in the proposed Department of Education than it presently does in the Department of Defense.

This proposed transfer is not only endorsed by the Senate Committee on Governmental Affairs. It has the strong support of the administration, the Department of Defense, the Overseas Education Association, the majority of the overseas school administrators and the European PTSA. The need for this change is perhaps further emphasized by the fact that this is probably the only transfer in this bill that is fully supported by all affected parties.

I believe that the aforementioned consensus that these student could best be served by the Department of Education is a fair assessment of the needs in the overseas dependent schools, and I urge the Senate to reject the Schmitt amendment and support the transfer.

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

Mr. SCHMITT. Mr. President, the Senator may want to withhold that.

Mr. President, I am still very greatly troubled by the litany of beliefs that we have heard in support of not only the bill as a whole but particularly in opposition to the amendment of the Senator from New Mexico relative to the transfer of the overseas dependent school system to the Department of Education. Where I have tried to list those factual situations where difficulties more than likely will occur, we have not seen in this debate, at any rate, the rebuttal of why those difficulties will not occur, except the belief that they will not occur. Again, I think that at least a postponement of the inclusion of the overseas dependent school system in the new Department of Education, if it is in fact created, would be the much wiser path to take.

In a measure, I believe, before the other body of the Congress, it is proposed to give statutory authority to the overseas dependent school system. I see no reason why that should be any kind of an argument against my amendment whatsoever. That can be done. Congress can do that at any time. Much more serious, I believe, is the basic constitutional intent. I will not say that a transfer necessarily is unconstitutional. I am not a constitutional lawyer. I would be on very tenuous ground to say that. But I would say that the lack of mention of education in the Constitution, along with the reservation of powers to the States, strongly suggests to this Senator that there was never any intent by the Founding Fathers nor any intent subsequently, through recent decades, to have the Federal Government involved in any significant way in the policymaking, in the administration, or other activities of the educational system of this country.

There is one unassailable fact, that if the overseas dependent school system is transferred to the Department of Education when it is formed, the Federal Government will be in the business of operating a school system, and a large school system.

It has been said that the administration favors this transfer. The favors of the administration are very often transient. Not long ago, the OMB, as I have already read into the RECORD, opposed it. The Department of Defense has opposed it in the past. They now give not strong support as suggested by the Senator from Georgia, but I would say very lukewarm support for this proposal, and I think it may well be provided under duress.

I do not think the majority of the American people have any desire whatsoever to have the Federal Government operating a school system as large, or any size but certainly not one as large, as that which is going to be transferred under S. 991. As a matter of fact, just this morning I inserted into the RECORD a poll taken recently that indicated 45 percent of the American people opposed the Department of Education in general, and only 40 percent supported it.

Anybody who believes that we are dealing with some strong national consensus, or even a consensus, among the military personnel of this country that the Department of Defense overseas dependents schools should be included in a Department of Education is just fundamentally wrong.

If the Senator from Connecticut has no further need of his time, I yield back the remainder of my time. I urge the rejection of his tabling motion and I urge the adoption of my amendment.

Mr. RIBICOFF. Mr. President, I move to table the amendment. I believe I have already asked for the yeas and nays on the motion to table.

The PRESIDING OFFICER. The Chair was waiting for the motion to be laid before it.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. 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 Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "yea."

The result was announced—yeas 65, nays 23, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—65

Bartlett	Glenn	Metzenbaum
Bellmon	Gravel	Moynihan
Bentsen	Hart	Muskie
Biden	Hatfield, Paul G.	Nelson
Brooke	Hathaway	Nunn
Bumpers	Heinz	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Proxmire
Case	Huddleston	Randolph
Chafee	Humphrey	Ribicoff
Chiles	Inouye	Riegle
Church	Jackson	Sarbanes
Clark	Javits	Sasser
Cranston	Kennedy	Schweiker
Culver	Leahy	Sparkman
Danforth	Long	Stafford
DeConcini	Magnuson	Stevenson
Dole	Mathias	Stone
Domenici	Matsunaga	Talmadge
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Ford		Zorinsky

NAYS—23

Byrd, Harry F., Jr.	Hansen	Roth
Cannon	Hatch	Schmitt
Curtis	Hayakawa	Scott
Eastland	Helms	Stennis
Garn	Laxalt	Stevens
Goldwater	Lugar	Thurmond
Griffin	Morgan	Tower
	Packwood	Wallop

NOT VOTING—12

Abourezk	Haskell	McIntyre
Allen	Hatfield, Mark O.	Pearson
Anderson	Johnston	Young
Baker	McClure	
Bayh		

So the motion to lay on the table amendment No. 3620 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order. The Senate will sus-

pend until Senators cease conversations and take seats.

The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Carol Minton of Senator BUMPERS' staff be granted privilege of the floor during consideration and votes on this bill.

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

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I believe that under the agreement, I am to be recognized for the next amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct, and the Senator from New Mexico has been recognized.

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

Mr. SCHMITT. I yield to the Senator from Washington, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I am going to vote for this bill for several reasons, but one of the main reasons is that I happened to handle the very complex Labor-HEW appropriation bill, a big, complex department——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order, and we will not proceed until the Senate is in order.

Mr. MAGNUSON. I said that I was for this bill for many reasons. But one of the main reasons—I think the distinguished manager of the bill understands what I am talking about—is that Labor-HEW is a great, big, complex organization. It is almost bigger than the Defense Department.

They now have 1,144,000 people employed, for whom the Federal Government pays. Within that Department, they have the problems of education.

For housekeeping purposes alone, if that were the only consideration I had, I would vote for this bill. No one knows better what I am talking about than the distinguished manager of the bill, the Senator from Connecticut, who was Secretary of HEW.

The removal of education from this big, complex department is going to do a great job, I think, not only for housekeeping, but also, it is going to save money; it is going to put education where it should be—by itself, independent. It probably never should have been there to begin with.

I just wanted to make that statement as one of the reasons why I am for this bill. There are other reasons, also.

Mr. RIBICOFF. Mr. President, will the Senator yield on my time?

Mr. SCHMITT. I am happy to yield, on the time of the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, when I came to the Senate in 1963, the first conversation I had in this body was with the distinguished Senator from Washington. He said to me:

Abe, you're out of HEW and you're now in the United States Senate. Please help me get education out of HEW.

I said:

Warren, I can tell you that from the first week I was in HEW, I felt that education did not belong there.

HEW was and has become a bureaucratic monster. It is impossible for them to handle all the constituencies affected by it.

We are the only country in the world that puts together in one department health, education, and welfare.

Mr. MAGNUSON. And labor.

Mr. RIBICOFF. What is very interesting is that in a period of 12 years, we have had 13 different Commissioners of Education. A Commissioner of Education goes in HEW with stars in his eyes, feeling he is going to do something for education; and he is so closed in and inundated by the bureaucracy that nothing happens with education.

We are spending billions of dollars for education, and we really are not giving the taxpayers of this country or our children what they should be getting from the taxpayers' money.

In 1963, I introduced a bill for a Department of Education. I felt then and all these years that the time has come, and the time is now, to give the children of this country, a Department of Education to help them, not hinder them, because education has been deteriorating in this country.

Mr. MAGNUSON. I thank the Senator.

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

Mr. SCHMITT. Mr. President, I yield to the Senator from Alaska for the purpose of his moving in sequence ahead of my next amendment and to offer his amendment relative to Indian education.

The PRESIDING OFFICER (Mr. RIEGLE). The Chair will recognize the Senator from Alaska as soon as we have order in the Chamber. I ask the Senator to suspend for a moment.

Mr. STEVENS. I thank the Chair.

Mr. PRESIDENT, I ask unanimous consent that the order for presentation of my amendment be changed so that it will follow the first Schmitt amendment and that his two other amendments follow the vote on my amendment which would then become pending.

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

AMENDMENT NO. 3588

(Purpose: To eliminate the transfer of Indian education programs from the Secretary of the Interior to the Secretary, and for other purposes)

Mr. STEVENS. Mr. President, I call up the amendment again.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment numbered 3588.

The amendment is as follows:

On page 48, strike out line 1.

On page 48, line 2, strike out "(C)" and insert "(B)".

On page 48, line 3, strike out "(D)" and insert "(C)".

On page 48, line 5, strike out "(E)" and insert "(D)".

On page 48, line 7, strike out "(F)" and insert "(E)".

On page 48, line 9, strike out "(G)" and insert "(F)".

On page 48, line 11, strike out "(H)" and insert "(G)".

On page 48, line 12, strike out "(I)" and insert "(H)".

On page 48, line 13, strike out "(J)" and insert "(I)".

On page 48, line 14, strike out "(K)" and insert "(J)".

On page 49, strike out lines 3 through 7.

On page 51, beginning with the word "programs" on line 3, strike out through the word "individuals" on line 6 and insert "certain programs relating to the education of Indians, Alaskan Natives, and Aleuts".

On page 56, line 8, strike out "section 304" and insert "section 303".

On page 56, beginning with line 15, strike out through line 13 on page 58.

On page 58, line 16, strike out "SEC. 212." and insert "SEC. 211.".

On page 59, line 6, strike out "section 305" and insert "section 304".

On page 59, line 11, strike out "SEC. 213." and insert "SEC. 212.".

On page 60, line 4, strike out "SEC. 214." and insert "SEC. 213.".

On page 60, line 12, strike out "SEC. 215." and insert "SEC. 214.".

On page 66, line 2, strike out "SEC. 216." and insert "SEC. 215.".

On page 75, strike out lines 7 through 24.

On page 76, line 3, strike out "SEC. 304." and insert "SEC. 303.".

On page 77, line 14, strike out "SEC. 305." and insert "SEC. 304.".

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 82, beginning with line 23, strike out through line 12 on page 83 and insert the following:

"(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.".

On page 86, between lines 9 and 10, insert the following:

"(J) Office of Indian Education;".

On page 86, line 10, strike out "(J)" and insert "(K)".

On page 86, line 11, strike out "(K)" and insert "(L)".

On page 87, strike out lines 9 and 10.

On page 87, line 11, strike out "(4)" and insert "(3)".

On page 87, line 14, strike out "(5)" and insert "(4)".

On page 106, line 1, strike out "(9)" and insert "(8)".

On page 107, beginning with line 20, strike out through line 15 on page 112.

On page 112, line 18, strike out "SEC. 511." and insert "SEC. 510."

On page 113, line 2, strike out "SEC. 512." and insert "SEC. 511.".

On page 113, line 19, strike out "SEC. 513." and insert "SEC. 512.".

On page 40, in the table of contents, strike out item Sec. 211. and redesignate items Sec. 212. through Sec. 216 as items Sec. 211 through Sec. 215., respectively.

On page 40, in the table of contents, strike out item Sec. 303. and redesignate items Sec. 304 through Sec. 309, as items Sec. 303. through Sec. 308., respectively.

On page 41, in the table of contents, strike out item Sec. 510. and redesignate items Sec.

511. through Sec. 513. as items Sec. 510. through Sec. 512., respectively.

Mr. STEVENS. Mr. President, I ask unanimous consent that Paul Cooksey, of Senator SCHWEIKER's staff, have the privilege of the floor during the consideration of this bill.

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

Mr. MATHIAS. Mr. President, will the Senator yield for a similar request?

Mr. STEVENS. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Polly Gault, Carol Minton, Michael Maloof, and Mary Ann Simpson have the privilege of the floor.

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

Mr. STEVENS. Mr. President, for the information of the Senate, I presented this statement and had a discussion with the manager of the bill last week.

We have 40 minutes on each side. It is my hope that we can agree to have a vote at 6:30, because there are two committee meetings scheduled to start at 7.

I would like to vote on this amendment at 6:30, and we would enter into an agreement to share the time, if the manager would agree.

Mr. RIBICOFF. It is satisfactory to me.

Mr. GOLDWATER. I have spoken at great length on this. I would like to offer a few words.

Mr. STEVENS. I will reserve 5 minutes of my time for the Senator from Arizona.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered.

Mr. STEVENS. Will the Chair inform me when I have 5 minutes remaining, so that I may yield that time to the Senator from Arizona?

The PRESIDING OFFICER. The Chair will do so.

Mr. STEVENS. Mr. President, I am pleased to say that Senator JACKSON, who has been the chairman for many years of the committee having jurisdiction over Indian affairs, as well as Senator GOLDWATER, Senator YOUNG, Senator CHILES, Senator ANDERSON, Senator BARTLETT, Senator CHURCH, Senator HUMPHREY, Senator HANSEN, Senator BURDICK, Senator GRAVEL, Senator MATHIAS, Senator MCCLURE, Senator HAYAKAWA, Senator STONE, and Senator MORGAN support this amendment and are cosponsors of it.

With a few exceptions, we represent Indian country, and we have been asked to speak for the Indian people who, if they were here, would plead with Senators not to transfer the functions of the Bureau of Indian Affairs to the new Department of Education without their consent.

Last week, the National Congress of American Indians, representing 143 tribes, met at Rapid City, S. Dak. They unanimously—I repeat, unanimously—passed a resolution in support of this amendment.

In addition, the National Indian Education Association, the American Indian Higher Education Consortium, the Coalition of Indian Controlled School Boards, the American Indian Scholarships, the Association of American Indian Physicians, and the Governors' Interstate Indian Council all are on record, as well as the National Tribal Chairmen's Association, which represents 190 tribal chairmen, in asking us to present this amendment and to secure its adoption in the Senate.

I could repeat all the arguments that have been made; but, for myself, the argument that makes the most sense is the one they presented themselves when I chaired the hearings of our committee on the subject.

They told me:

> Self-determination and the Educational Assistance Act have not been in place long enough for us to make the progress that should be made on our own in managing and controlling our own destiny.

They asked me for additional time before their programs are combined with those of the Department of Education. It is not a position that says that they would never consent to merging the functions of Indian education with the Department of Education.

They say that if self-determination means anything, the Indian control over Indian issues, on which we promised we would listen to them, then the whole spirit of self-determination, will be violated if Congress does not listen to them as they represent their people in telling us they do not support this move.

The chairman, I am sure, will say there has been consultation. Yes, we sent them questionnaires. He will say, and others will say, there are important Indian people who support the bill and oppose my amendment. That is true. But the overwhelming majority of those who are elected to represent Indian people in their councils and in national organizations support this amendment and pleaded with me as a representative of our committee when just by chance I was selected to chair the hearings that day. I committed to them that I would present this amendment and I would urge the Senate to listen to them as elected representatives of the Indian people in their plea to Congress not to do this, not to transfer the Indian functions of education to the new Department of Education without their consent.

I would be pleased to answer any questions any Member of the Senate might have on this issue, but, as I said, for myself it is a matter of representation. The people, the Indians and the Alaska Natives have elected to represent them in their councils and to come and present their views to Congress did come and they almost without exception—stated to the committee on the record, and have communicated with us since this amendment was filed, the overwhelming mandate they have from the Indians and Native people of the country to oppose this transfer at this time.

I hope the Senate will listen to these people who have been elected to represent those of our citizens who are of Indian or Native descent.

Let me yield to my good friend from Arizona. I am proud to have his support on this amendment.

Mr. GOLDWATER. I thank my friend from Alaska.

Mr. President, what we are dealing with here are not children of families that speak English. In fact, what very few of us realize is that there are 400 Indian tribes living in the continental United States and there are 300 more living in the State of Alaska. The great majority of these tribes still speak their native tongue.

In my State where 20 percent of all the Indians of America live, we have 15 different tribes who speak three different basic languages.

This is a problem that we are not faced with in the non-Indian or white man schools where they speak a common language, but that is only the beginning, Mr. President.

They not only speak a language that is completely and absolutely foreign to us or any of our academics, I know of only two Indian languages that are being taught in this country, and it is virtually impossible to learn one of them.

On top of that, Mr. President, we have their culture, and I have to say this sadly. For many, many years it was one of the purposes of the BIA to try and convince the Indians that their culture had to go. We have been successful, I have to say, in the last 10 or 15 years in convincing the Bureau of Indian Affairs that Indian culture is probably the only basic culture we have in this country.

I do not care whether you live in Maine or California or Texas or North Dakota, the Indians were here first, and the culture that they developed is still the basic culture that affects our lives, affects the names of our States, the names of our cities, and the names of our streets. It is the culture that has developed the beautiful artifacts that we now find almost impossible to buy on the market, the culture that is making it possible for Indians to make a decent living now and it is becoming more and more so.

Then we have the matter of religion. This is something we do not have to put up with with our children. As to our white children, when they go to school, be they Gentile or Jewish, regardless of the religion they are following, the education has no bearing on it. They do not try to influence them.

However, for years it was the effort of the Bureau of Indian Affairs to convince the Indian family that our God was better than theirs. Now, thank that same God, we have been able to convince the BIA that this is bad

I am not convinced that an educational organization such as is being sought here would not go right back to the ideas of the BIA because we do not have enough experienced people in the National Education Association. I do not know one of them who would not have a hard time telling an Indian from a white man.

So I am for this Stevens amendment, representing as I do 20 percent of the Indians in this country. It is not that I am standing up here and saying that the Bureau of Indian Affairs has done a fantastically good job in education. They have done a bad job. In fact, it would be hard to conceive of a worse job being

done. But I do not have the kind of respect for the National Education Association that many people do. I do not think that education in the primary schools of our country has improved one bit under the Department of Health, Education, and Welfare. I think it has gotten worse. I do not think there is a country in the world that has a worse system of education to educate their young people in the elementary levels than we have today.

I do not want to see my Indians turned over to a group like that. I know it sounds good to turn all of these children, regardless of their background, over to one educational system. I would much rather as one individual have something to say about the education of my grandchildren at the elementary level. I do not want somebody sitting back here 2,500 miles away in the city of Washington describing the kind of a teacher or the kind of books or the curriculums that my grandchildren are going to have to put up with in Arizona and California.

I would like to see us doing it the old-fashioned way, and I will guarantee you when I went to grammar school I was not the brightest thing that ever came around the post, but, by golly, I learned how to write and read and get 2 and 2 to come out 4.

Today what do we find in our colleges? Almost every college in America has a noncredit freshman class to teach students who graduated from high school how to read, write, and add. And yet we want to make a Department of Education. Frankly, I would like to do away with any Federal education.

If we are going to give the money, write out a check and send it to the Governor and say, "This is for education." But do not send along a lot of bureaucrats who do not know anything about it to tell the people in our States how to spend it.

And that is particularly true in an area where we are just beginning to know something about what these Indians want in the way of education. They want to learn English. But they do not want to be told that English is the language that they have to use.

They want to learn Apache, they want to learn Hopi, they want to learn Navajo, and at the same time learn English.

They want to be taught about their culture. We have classes out in my State now that will teach a Navajo girl how to weave a blanket, one of the most beautiful basic cultural arts in this country, and yet the BIA was trying to tell them they should not waste their time weaving blankets; they ought to be doing something else. What, I do not know.

The PRESIDING OFFICER. The Senator's time has expired.

UNANIMOUS-CONSENT REQUEST

Mr. STONE. Mr. President, I ask unanimous consent that I be permitted to call up a House message for the purpose of appointing conferees and that the time not be charged to this bill.

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

Mr. STONE. I thank the distinguished Senator from Connecticut, the floor manager, for allowing me to make this request.

AGRICULTURAL TRADE ACT OF 1978

Mr. STONE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3447.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3447) entitled "An Act to strengthen the economy of the United States through increased sales abroad of American agricultural products", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Agricultural Trade Act of 1978".

TITLE I—AGRICULTURAL COUNSELORS

SEC. 101. Title VI of the Agricultural Act of 1954 is amended—

(1) by amending the title to read "TITLE VI—FOREIGN MARKET DEVELOPMENT";

(2) by inserting immediately before section 601 the subtitle designation "SUBTITLE A—GENERAL";

(3) by inserting immediately before section 602 the subtitle designation "SUBTITLE B—AGRICULTURAL COUNSELORS AND ATTACHES";

(4) in section 602(a), by striking out "this title" and inserting in lieu thereof "subtitle A";

(5) in sections 602(b), 602(e), 604(a), 604(b), and 605, by striking out "this title" and inserting in lieu thereof "this subtitle";

(6) in section 602(b), by (A) striking out "Attache" and inserting in lieu thereof "Counselor, Agricultural Attache,", and (B) adding at the end thereof the following new sentence: "An Agricultural Counselor shall be appointed in any country—

"(1) to which a substantial number of governments with which the United States competes directly for agricultural markets in such country assign agricultural representatives with the diplomatic status of counselor or its equivalent; or

"(2) in which—

"(A) the potential is great for long-term expansion of a market for United States agricultural commodities, and

"(B) competition with other countries for existing and potential agricultural markets is extremely intense."; and

(7) in section 604, by adding at the end thereof the following new subsection:

"(c) Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to officers and employees appointed and assigned to a post abroad under this subtitle in the performance of the functions of such officers and employees. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.".

TITLE II—ESTABLISHMENT OF UNITED STATES AGRICULTURAL TRADE OFFICES

SEC. 201. Title VI of the Agricultural Act of 1954 is amended—

(1) by inserting immediately before section 606 the subtitle designation "SUBTITLE D—REGULATIONS AND AUTHORIZATION FOR APPROPRIATIONS"; and

(2) by adding immediately after section 605 the following new subtitle:

"SUBTITLE C—UNITED STATES AGRICULTURAL TRADE OFFICES

"SEC. 605A. (a) The Secretary of Agriculture shall establish abroad not less than six and not more than sixteen United States Agricultural Trade Offices at locations where the Secretary, with the concurrence of the Secretary of State, determine that such establishment could contribute significantly to the development, maintenance, expansion of international markets for the United States agricultural commodities.

"(b) Each United States Agricultural Trade Office shall be administered by a United States Agricultural Trade Officer who by reason of training and experience is exceptionally qualified to carry out the purposes of this title. Such Officer shall be appointed by the Secretary of Agriculture and may be an Agricultural Counselor or Attaché appointed under subtitle B of this title.

"(c) Each Agricultural Trade Officer may be appointed without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that (1) no Agricultural Trade Officer may be paid basic pay at a rate in excess of the maximum annual rate of basic pay then payable for GS-17 of the General Schedule under section 5332 of such title, and (2) no such Officer may be paid at a rate in excess of the highest rate paid to an Agricultural Counsel or Attaché, as the case may be, who is appointed under subtitle B to the country in which such Officer is to serve.

"(d) Each Agricultural Trade Officer shall be responsible for the exercise of the functions of the United States Agricultural Trade Office, and shall have the authority to direct and supervise all personnel and activities thereof.

"(e) In order to carry out the functions of the United States Agricultural Office, the Secretary of Agriculture may appoint such other personnel as he determines to be necessary and may, with the concurrence of the Secretary of State, assign such personnel abroad and employ local nationals for necessary professional and clerical help.

"(f) No employee of the United States Agricultural Trade Office while serving in such position may engage in any business, vocation, or other employment or have other interests which are inconsistent with his official responsibilites.

"(g) Upon the request of the Secretary of Agriculture, the Secretary of State shall request the host country to provide to Agricultural Trade Officers and personnel of United States Agricultural Trade Offices diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

"(h) Each Agricultural Trade Officer shall, through the Agricultural Counselor or Attache appointed under subtitle B who is attached to the United States Diplomatic Mission in each country in which the United States Agricultural Trade Office administered by such Officer exercises its functions, keep the Chief of each such Mission fully and currently informed with respect to all activities and operations of such Office.

"SEC. 605B. In addition to such other functions as the Secretary of Agriculture, in consultation with the Secretary of State, may designate, the functions of each United States Agricultural Trade Office shall be to—

"(1) increase the effectiveness of United States agricultural export promotion efforts, provide services and facilities for foreign buyers and trade representatives, and coordinate market development activities sponsored by the Department of Agriculture;

"(2) initiate programs to achieve the export marketing goals approved by the Department of Agriculture;

"(3) maintain facilities for use by nonresident cooperators, private trade groups, and other individuals engaged in the import and export of United States agricultural commodities where the use of such facilities would aid in the conduct of market develop-

ment activities, and cooperate, to the maximum extent practicable, with such cooperators, groups, and individuals to expand the level of United States agricultural exports:

"(4) develop and maintain a current listing of trade, government, and other contacts for each commodity area and make available such listing to persons with a bona fide interest in exporting or importing United States agricultural commodities;

"(5) originate and provide assistance for exhibits, sales teams, and other functions for the promotion of United States agricultural commodities;

"(6) supervise project agreements with United States cooperators, and coordinate the activities of the United States Agricultural Trade Office with those of the cooperators; and

"(7) publicize the services offered by the United States Agricultural Trade Office through advertisements in trade journals or by other appropriate means.

"SEC. 605C. Each United States Agricultural Trade Office shall carry out its functions pursuant to section 605B in the country where the United States Agricultural Trade Office is located and in such other countries as the Secretary of Agriculture, in consultation with the Secretary of State, may prescribe in order to carry out the purposes of this subtitle.

"SEC. 605D. Upon the request of the Secretary of Agriculture, the Secretary of State may use the authorities contained in the Foreign Service Buildings Act, 1926, to acquire sites and buildings, including living quarters, for the purpose of establishing United States Agricultural Trade Offices.

"SEC. 605E. United States Agricultural Trade Offices should be centrally located in order to facilitate foreign trade contacts and foreign trade reliance on such Offices for assistance in marketing activities.

"SEC. 605F. Upon the request of the Secretary of Agriculture, each Federal agency may make its services, personnel, and facilities available to a United States Agricultural Trade Office in the performance of its functions. The Secretary of Agriculture may reimburse or advance funds to any such agency for services, personnel, and facilities made so available.

"SEC. 605G. Any Agricultural Trade Officer and either the Agricultural Counselor or Attaché assigned to a country, as the case may be, may, under regulations prescribed by the Secretary of Agriculture, be entitled to receive a representation allowance in an amount determined by considering (1) the extent to which such Agricultural Trade Officer, Counselor, or Attaché can effectively utilize such funds to further the purposes of this title, (2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary, and (3) customs and practices in the country where such Agricultural Trade Officer, Counselor, or Attaché is assigned.

"SEC. 605H. The provisions of section 604 (a) of this title shall app'y with respect to personnel appointed and assigned under this subtitle.".

TITLE III—INTERMEDIATE COMMERCIAL CREDIT

SEC. 301. Section 4 of the Food for Peace Act of 1966 (89 Stat. 1538; 7 U.S.C. 1707a) is amended—

(1) by inserting "(a)" immediately after "SEC. 4.";

(2) by striking out the second sentence thereof; and

(3) by adding at the end thereof the following new subsections:

"(b) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. Such credit may be extended only for—

"(1) the sale to a foreign country of grain necessary to establish or maintain a reserve stock of such grain pursuant to obligations of such country under any international grain agreement; or

"(2) the sale of breeding livestock, including the cost of export freight.

"(c) The Secretary of Agriculture shall, before any extension of credit under subsection (b) is approved, consult with the Secretary of State concerning such extension.".

TITLE IV—TRADE WITH NONMARKET ECONOMY COUNTRIES

SEC. 401. Subject to the provisions of section 402, notwithstanding any other provision of law denying nonmarket economy countries eligibility to participate in programs of the Government of the United States, any such country may be eligible to participate in any program carried out by the Commodity Credit Corporation (other than under the Agricultural Trade Development and Assistance Act of 1954) under which credit, credit guarantees, or investment guarantees, not to exceed three years, are extended, directly or indirectly.

SEC. 402. The Commodity Credit Corporation may not extend any credit, credit guarantee, or investment guarantee to any country, as provided in section 401, for the purchase of any agricultural commodity during a calendar year—

(1) unless such country purchases during such calendar year a quantity of such commodity which exceeds the average annual quantity of such commodity purchased by such country during the three-calendar-year period of 1975–1977; and

(2) unless the Corporation receives reasonable assurances from such country of repayment by the country in accordance with the terms under which such credit, credit guarantee, or investment guarantee is extended.

Such credit, credit guarantee, or investment guarantee may be extended only with respect to the excess referred to in paragraph (1).

SEC. 403. No country within the meaning of section 103(d)(1) of the Agricultural Trade Development and Assistance Act of 1954 shall be eligible to participate in any program referred to in section 401.

TITLE V—REORGANIZATION

SEC. 501. It is the policy of the Congress to emphasize the importance of commodity programs and international affairs and to upgrade these functions in the administrative structure of the executive branch.

SEC. 502. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise the functions and perform the duties related to foreign agriculture and to agriculture stabilization and conservation (described in 7 CFR 2.21 (1977)) and shall perform such other duties as may be required by law or prescribed by the Secretary of Agriculture.

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof a new paragraph (67) as follows:

"(67) Under Secretary of Agriculture for International Affairs and Commodity Programs.".

(c) The position of Assistant Secretary of Agriculture for International Affairs and Commodity Programs is hereby abolished.

SEC. 503. The provisions of this title shall take effect on October 1, 1978.

TITLE VI—GENERAL PROVISIONS

SEC. 601. (a) The Secretary of Agriculture shall implement the provisions of this Act as expeditiously as possible consistent with the efficient and effective administration of the programs established under this Act and their integration with related foreign agricultural programs.

(b) The Secretary may issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 602. The Secretary of Agriculture shall submit to the Congress each year a report providing a comprehensive statement of the activities and accomplishments of the Department of Agriculture, including specifically those of the United States Agricultural Trade Offices, in developing, maintaining, and expanding foreign markets for United States agricultural commodities.

SEC. 603. The Secretary of Agriculture shall appoint an interagency task force within the Department of Agriculture for the purpose of analyzing the effectiveness of the export sales reporting provisions of section 812 of the Agricultural Act of 1970. The Secretary shall submit, not later than January 3, 1979, a report of the findings of the task force, including legislative recommendations for improving such reporting provisions, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives.

SEC. 604. Within six months following the enactment of this section, the Secretary of Agriculture shall submit to the Congress a report detailing the impact on American agriculture of title IV of the Trade Act of 1974, including a recommendation as to whether the provisions of such title should be repealed or amended.

SEC. 605. Nothing in this Act shall be construed to diminish the authority of the Secretary of State, or any Chief of a United States Diplomatic Mission, under any other provision of law.

Amend the title so as to read: "An Act to strengthen the economy of the United States through increased sales abroad of American farm products.".

Mr. STONE. Mr. President, I move that the Senate disagree to the amendments of the House on S. 3447 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. CLARK, Mr. STONE, Mr. ZORINSKY, Mr. HODGES, Mr. DOLE, Mr. BELLMON, and Mr. LUGAR conferees on the part of the Senate.

Mr. STONE. Mr. President, I thank the Chair, and I thank the distinguished chairman and floor manager, the Senator from Connecticut.

DEPARTMENT OF EDUCATION ORGANIZATION OF 1978

The Senate continued with the consideration of the bill.

Mr. RIBICOFF. Mr. President, Indian education in this country is a mess. The achievement rates of Indian students are below the national average. Dropout rates for Indian children at the elementary and secondary level exceed 50 percent. Dropout rates for Indian students in posteducation institutions exceed 75 percent.

I would like to read from a letter sent to all our colleagues by Senator ABOUREZK who is chairman of the Senate Select Committee on Indian Affairs. I do not be-

lieve there is another Member of this body who has been devoted and so involved with the problems of Indians. I quote:

There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.

For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education.

The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the government and the Indian tribes and Indian people in any way.

I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal Government to improve the quality of Indian education in this country.

Mr. President, I ask unanimous consent that the letter of Senator ABOUREZK, dated September 26, 1978, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., September 26, 1978.

DEAR COLLEAGUE: Within the next few days the Senate is expected to vote on final passage of S. 991, the Department of Education Bill. S. 991, as reported by the Senate Governmental Affairs Committee, provides for the transfer of both HEW's Office of Indian Education and the education functions of the Department of Interior's Bureau of Indian Affairs (BIA) into the proposed Department of Education.

Currently pending is an amendment by Senator Stevens which would delete the transfer of Indian programs out of the BIA in the Department of the Interior into the newly created Department of Education.

My position on this amendment represents one of the most difficult decisions I have made since I have been in politics. As Chairman of the Senate Select Committee on Indian Affairs, my policy has always been to attempt to accomplish legislatively what the tribes have indicated they want done to further their progress toward self-sufficiency. This marks the first time that I have significantly departed from that policy.

As you are aware, a great many of the Indian tribes—not all of them, but a great many—are opposed to the transfer of Indian education functions out of the BIA. The relationship of the Indian tribes and the BIA is a kind of love-hate relationship. In fact, the tribes severely and vehemently dislike the BIA and the patronizing attitude and manner with which the BIA treats tribes and Indian people. Yet, they are protective of the BIA because they feel that it is all they really have. There is not an Indian in this country who can honestly say that the BIA has been sufficiently responsive to the educational needs of Indian people.

Without doubt, the quality of educational programs being offered to Indian children today is simply and unjustifiably bad. There is no comprehensive Federal strategy for Indian Education. Under existing policy, there is a Deputy Commissioner for Indian Education in the Office of Education in HEW and a Director of Education in the BIA—with little or no coordination between the two. Since 1966 the average tenure of the Director of Education in the BIA has been nine months.

For the past 130 years, the BIA has failed miserably in providing Indian people with a quality education. I have no reason to expect that it will ever make any real effort to improve Indian education. No amount of in-house reorganization in the BIA will ever correct the severe institutional deficiencies which thwart the delivery of effective educational services. Clearly, the BIA's record over the past 130 years does not warrant maintaining educational programs in that agency.

The proposed transfer does not represent a long-term attempt to dismantle the BIA. Nor will such a transfer change the special relationship between the Government and the Indian tribes and Indian people in any way.

The goal of S. 991 is to improve the delivery of educational services to Indian people, while maintaining these special relationships. It is my sincere hope that by placing the various Federal educational programs in one Department, the Congress will for the first time mandate a comprehensive and responsible approach to the delivery of Indian education services.

As someone who has been active in Indian issues for a great many years, I take particular interest in this piece of legislation. I believe that S. 991 protects the interests of Indian people and represents a sincere effort by the Federal government to improve the quality of Indian education in this country. It is for these reasons that I urge you to support S. 991, as reported by the Senate Governmental Affairs Committee, with the improving Dominici amendments, and to oppose any efforts to delete the transfer of Indian education programs from S. 991, the Department of Education Bill.

If you have any further questions or need any additional information on this matter, please feel free to contact Mimi Mager of my staff (45852).

Sincerely,

JAMES ABOUREZK,
Chairman, Senate Select Committee on Indian Affairs.

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have spoken on this issue before. I am particularly concerned about the high rate of unemployment among the American Indians. We have had a great many migrate to Chicago, and our principal problem is one of finding employment for them. We have some 20,000 there, and their biggest problem has been the lack of education.

Our primary responsibility now, I should think, would be to insure, after all these years, that we find a method of giving the highest possible quality education to them. Unfortunately, education is not the primary responsibility of BIA.

Just like with the Department of Defense, where an amendment to delete that transfer was tabled by an overwhelming margin just a few moments ago, the same reasoning prevails here. BIA's responsibility is not education. In S. 991 we do establish an Office of Indian Education headed by an Assistant Secretary for Indian education, thus assuring priority attention in the new department.

I would simply say, as one Senator deeply concerned about the state of the American Indians—and we have our distinguished colleagues who know a great deal about it and who have lived with it most of their lives—we have a great responsibility in the Senate, if we do move Indian education into the Department of Education to oversee, to make absolutely certain that very high priority is placed on Indian education by the Department of Education, and that we do not have a continuation of the abysmal situation we now have.

For these reasons, and the reasons I have previously given, I do oppose the amendment offered by our distinguished colleague.

Mr. RIBICOFF. Mr. President, I yield the remainder of my time to the distinguished Senator from New Mexico.

Mr. GOLDWATER. Mr. President, will the Senator yield so that I might answer one small point the Senator has made?

Mr. DOMENICI. Surely.

Mr. GOLDWATER. Mr. President, the figures the Senator from Illinois has used are correct. But you have to look at the basic problem. The largest Indian tribe in this country is the Navajos. Almost 22 percent of all the Indians we have are Navajos. They are a semi-nomadic people. They do not live in towns. They live in little groups, family groups, maybe 10 or 12 people.

It may be 150 miles to the nearest school. This is the problem you have in Chicago, we have in Phoenix, you have in Los Angeles. When an Indian leaves the reservation and you say he is not educated, it is virtually impossible under any system to get these children to go to school, No. 1. The families need them to herd the sheep; they need them to pick the piñon nuts, so they grow up to be young men and women without having been exposed to school.

When they have the chance to go to school they are superb students. There is no child in America with a higher IQ than the Hopi child.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield? I only have 5 minutes left and all this is being charged to us.

Mr. GOLDWATER. I thank the Senator.

Mr. DOMENICI. I was delighted to yield to my good friend from Arizona.

It is not with great pleasure that I am here opposing two of my best friends who know a lot about Indian problems, my good friend from Arizona and, as I indicated the other day, Senator STEVENS from Alaska, whose interest in Indian problems is second to none. But I come from a State also with a substantial Indian population. I have 19 pueblos. They are a different kind of Indian than the Navajo, but, nevertheless, they are native American Indians.

There is a substantial disagreement among Indian people on what we ought to do. But those particular Indian people, the 19 pueblos in my State, support the transfer. I am going to just tell the Senate why I think they do.

First of all, I believe they are completely convinced that while the Bureau of Indian Affairs may have great expertise in some areas, there can be no question that they have run a less than second-rate Indian education program. It is absolutely a disgrace. The facts have been cited.

My Indian people are saying, "So long as you protect certain rights that are ours, the trust relationship, the fact that there will be Indian preference, the fact that Indians ought to be involved in advising, the fact that there will be a department or a special arm of this new department that will help with Indian education," they say, "we cannot lose."

The reason they say it is because things are not working now. I know the good Senator, Senator RIBICOFF, had the same problem on Indian health. At some point in American history we decided that the way to help our Indian people was to have a Bureau of Indian Affairs, and then as delivery systems evolved in this country we put them all under this Bureau, so we had them delivering health when they did not know anything about health.

We finally took it away from them and gave it to the professionals who deliver health. There is nobody who can argue that their health problems are such that they are not significantly better off than they were under the Bureau of Indian Affairs.

The same thing exists here, and I believe the Senate ought to exercise the responsibility here to say since it is not working, since we protected the Indian people's rights, and their rights are very peculiar and sacred, since we have a trust relationship with them nationally, it is not just whether or not we want to educate; with the Indian people we have a trust relationship that we are going to furnish them with education.

I think there is little gamble here. As Senator ABOUREZK indicated the other day, some Indian leaders are afraid because the Bureau of Indian Affairs has them worried that this is the beginning of the dismantling of the relationship. It is dismantling nothing in terms of the trust relationship. We are just saying, "Let us try the Department of Education to professionally run education for Indian children."

It is with regret that I have to oppose the good Senator from Alaska, but I believe the Senate would be making a decision in favor of helping the young Indian people of our country have a chance at education, where we have failed miserably to this point.

I fail to see the risk. If it does not work, it is not working now. If it does not work, they have not lost a trust relationship, they have not lost any of the things that they have.

Maybe we can find some other way to deliver the service. but all the risks are on the side of right here, of trying to do what we should have been doing from the beginning in spite of the difficult circumstances.

I agree with the good Senator from Arizona that it is difficult to develop a program of education in this field. But why should we assume that the Bureau of Indian Affairs under the Department of the Interior is apt to do a better job than the Department of Education?

I do believe this is one instance when we ought to go ahead and do what is right.

The only argument I have heard is that we did not counsel with them in advance, and that does have an impact on me. But I believe in the process of developing this legislation they have been counseled with. I have read the record and they have been here from all over the country. They have appeared and testified and stated their concerns.

I say to my good friend from Alaska that every one of their major concerns, as they testified in opposition, has now been included in this bill either as it came to the floor or when we proposed and adopted the Domenici amendment, which added four additional protections and desires they were talking about in the hearings.

So I truly believe that there is no gamble here at all, because when there is a gamble usually you think there is a chance of losing. I submit there is no chance for the Indian people to lose here. What can they lose, when we have done such a poor job to this point? We protected their rights in committee, and we are giving them a fresh start and a golden opportunity for finding ways to provide education for the young Indian people of our country.

I hope that the Senate will vote against the Stevens amendment, and transfer this function to the Department of Education.

The PRESIDING OFFICER. All time has expired.

Mr. STEVENS. Mr. President, I ask unanimous consent to have 30 seconds to put in the RECORD a resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. The National Congress of American Indians passed a resolution last week which took note of the Domenici amendment, and stated this:

Whereas, there is pending legislation to create a separate Department of Education (S. 991/H.R. 13343) that would transfer many education programs presently housed in other agencies into this Department, and

Whereas, the overwhelming majority of Tribes have gone on record in opposition to transferring B.I.A. Education into the new Department, and

Whereas, the U.S. House of Representatives has respected the wishes of Tribes in its actions thus far by deleting the transfer of B.I.A. Education from their version of the bill (H.R. 133430), and

Whereas, Senator Stevens and twelve other Senators have cosponsored an amendment in concert with the wishes of the overwhelming majority of the Tribes, which will delete the transfer of B.I.A. Education from the bill, and.

Whereas, Senator Domenici and Senator Melcher have introduced a conflicting "Indian" amendment that transfers B.I.A. Education, and

Whereas, the simultaneous introduction of two different "Indian" amendments has created confusion for Senators who do not know which Indian amendment the Tribes want them to support;

Now therefore be it resolved, that the Tribes of the National Congress of American Indians oppose the Domenici/Melcher Indian Amendment;

Be it further resolved that the Tribes of NCAI endorse and support the Senator Stevens Indian Amendment.

The resolution was adopted by representatives of 143 tribes on September 19, 1978.

● Mr. KENNEDY. Mr. President: I applaud consideration on the Senate floor of legislation to establish a Department of Education. As a cosponsor of this measure and a member of the Subcommittee on Education, I strongly urge my colleagues to support it.

Education is essential to the well-being of our democracy, for, in an ignorant country the people cannot choose. And. education is essential to the well-being of the people who reside in our democracy for it is the basis of the developments in the arts and sciences which are the hallmark of a progressive and civilized society.

That is why the people of America care so much about education. State and local governments spend more on education—close to 40 percent of their budgets—than on any other item. Schooling is universally available and universally required. The proportion of children who start school earlier and continue longer has increased year by year.

It is time, Mr. President, that we show the same concern on the Federal level. The Federal Government must not usurp the place of the States and localities in providing education. But, we must insure that we do all that we can to help the States and localities provide equal opportunity education of high quality. Education in this country needs help today, and we must give our assistance. The bill which the distinguished Senator from Connecticut has crafted and brought to the floor does this admirably.

It is difficult to focus Federal attention on educational needs within the HEW context. HEW is overwhelmingly concerned with health and welfare issues and the Secretary has little time to devote to education. Education should become the focus of a Cabinet official, who has the resources and the time to devote to making the Federal effort more effective. The offices that have been established within this new Department indicate the increased attention we will be able to give to the various aspects of education: offices for elementary and secondary education; postsecondary education; occupational, adult and community education; civil rights; research and improvement; special education and rehabilitative services.

Mr. President, this legislation not only increases Federal attention to education but achieves many other objectives as well

The bill emphasizes the need for citizen involvement in the educational process. Such involvement can be the touchstone for better education. It has always been a primary concern of mine—from parental involvement in the education of native Americans, to parental involvement in education for the educationally disadvantaged. As the committee report notes:

One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students and the public in the development and implementation of the Department's programs.

The bill strengthens our ability to insure equal educational opportunities for all individuals. The Office of Civil

Rights in the Department is given more prominence, is insulated from programmatic pressures, and its Director will report directly to the President, Secretary, and Congress.

The new Department will allow for much better coordination of Federal programs for elementary and secondary education. In addition, an assistant secretary who is responsible for the delivery of all services to students, schools, and boards of education will have the capacity to respond to the overall needs of these people. The current fragmentation leaves educators on the local level no one to turn to when their problems go beyond the specific legislation administered by some official. An important focus of the new Assistant Secretary will be to insure the availability of Federal programs to all those who are eligible. Fewer than half the eligible students are being served through title I of the Elementary and Secondary Education Act; fewer than 10 percent of the eligible students are being served by bilingual education programs. The Assistant Secretary should see how we can most effectively utilize our resources in these areas.

The new Department would also be able to make substantial contributions to the effective support of post-secondary education and of occupational, adult, and community education by the Federal Government.

Altogether, a new Department of Education will indicate that we, at the Federal level, recognize the Federal responsibility to assist local and State governments in their educational efforts. No more should education take a back seat. For, in education lies the future.

Mr. President, I have two concerns with the Department of Education bill before us. One, the transfer of Indian education to the new Department, I will address now. The other, the place of science education, I will address at the appropriate time.

In the 91st Congress I chaired the Special Subcommittee on Indian Education of the Committee on Labor and Public Welfare. The hearings and investigations of the subcommittee filled 4,077 pages in 7 volumes. We found the condition of Indian education was no less than shocking. Compared to other Americans, far more Indians were illiterate; the average level of education was far lower; the dropout rates in secondary schools were far higher; far fewer Indians went on to college and far fewer of those who went subsequently graduated.

In response to our findings, the subcommittee made 60 recommendations for changes in the way Indian education programs are run. Among them, we recommended a series of specific objectives for educational opportunities for Indians and the establishment of a Select Committee for Indians. We suggested vastly increased participation and control by Indians of their own education programs; that the BIA Commissioner in Interior be raised to an Assistant Secretary; that a National Indian Board of Indian Education be established with the authority to set standards for Federal Indian schools; and that Indian boards of education be established for Indian school districts. We recommended special programs to meet the needs of Indian children—for culturally sensitive curricula and bilingual educational efforts. Stimulated in part by these recommendations, then Senator WALTER MONDALE and I authored title IV of the Indian Education Act of 1972. But our special subcommittee made no recommendation as to whether educational efforts should be removed from BIA, stating instead:

> Because we believe it critically important that the Indians themselves express their voices on this matter, we have suggested that it be put high on the agenda of the White House Conference on American Indian Affairs.

That conference never took place and the position of Indian education in the Federal structure was left open.

The bill reported by the committee moves all of the educational programs currently run by the Bureau of Indian Affairs to the new Department of Education. It establishes an Assistant Secretary position and a separate office to run Indian education programs.

I understand the concerns being addressed by the committee in making this change, nonetheless, I disagree with the decision and will vote against the transfer.

The Governmental Affairs Committee notes in its report on this bill that Indian education is divided between programs in BIA and the Office of Education. The quality of the programs run by BIA is still not acceptable. The Director of Education is submerged within the BIA and Interior bureaucracies, meaning that educational concerns are not given the attention that they deserve. The position of education in this hierarchy is reflected in the fact that Directors of Education have lasted an average of 9 months each in the last 12 years.

But, when these facts are considered in context, the argument for transfer is seriously weakened. Educational quality has increased in BIA in the last 10 years. Changes in the structure of the BIA and its educational efforts have recently been enacted by both the House and Senate in the Elementary and Secondary Education Act and these changes promise an even more responsive BIA program.

Bifurcation of Indian programs between Education and BIA will make it more difficult for tribes to develop comprehensive tribal planning. Most importantly, the vast majority of the tribes deeply desire for the programs to stay in BIA. This last consideration—the voice of the Indian people—was the consideration which moved us 9 years ago; it is the consideration which must be most powerful now.

While we must do all we can to further improve the educational opportunities for Indian children, we should not denigrate those strides which have been made in the last 10 years, under BIA. The number of students in the higher education grant program has gone from 2,660 to 20,000; the daily attendance in BIA schools is now up to an average of 82 percent. This is still too low, but is better than attendance in many big city systems. The number of tribally operated contract schools has gone from 2 to 35; in the past 5 years the number of Johnson-O'Malley contracts has gone from 4 to 121. Boarding school enrollment has decreased by 9,000. Changes in BIA structure, incorporated in the ESEA reauthorization, which make the local educators responsive to the national Director of Education rather than the BIA Area Administrator promise a better performance in the future.

So, too, we must consider the place of education in the total tribal context. Separation of programs and their dispersal throughout the Federal bureaucracy will hinder Indian self-determination efforts. Different regulations, different forms, different definitions will make it more difficult for tribal governments to enter comprehensive government-to-government relationships with the Federal Government. So, too, the fragmentation of Federal efforts for Insponsibility. This must be a grave consistent application of Federal trust responsibility. This must be a grave concern. There must be a place in the Federal Government which is primarily responsible for overseeing the Federal relationship with Native Americans.

Finally, the most important factor which leads me to conclude that education should stay in BIA is the overwhelming desire of those affected by the program that it stay there. There is an elementary principle of self-determination. While it is true that the Federal Government can organize itself as it wishes, the fact is that, in this instance, we are organizing to be of service to Indians; their views on how we can best be of service should receive foremost consideration. The groups which reflect the concerns of Native Americans have stated their desire that education stay in BIA: the National Tribal Chairmen's Association wants it there, the National Congress of American Indians wants it there.

Mr. President, for these reasons I believe that this body should decide to leave education of Indians in BIA, and should not transfer it to the Department of Education. There is no question that the Governmental Affairs Committee has addressed itself to real concerns in making the transfer. There is no question that the committee has tried to meet many of the concerns which have been voiced about the transfer. But many of the concerns cannot be safeguarded in the new Department, but inhere in the transfer itself. Their concerns are fundamental. Native American education should stay in the Bureau of Indian Affairs.●

The PRESIDING OFFICER. All time has expired.

Mr. GOLDWATER. Mr. President, I ask unanimous consent to have 30 seconds to respond to the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. I do not want the Senator from New Mexico to think I am defending the BIA. If you want to introduce an amendment to do away with the BIA, I will support it, or vice versa.

I have talked with six different Presidents to do away with the BIA.

But my argument is that American elementary education being in the mess it is in, I do not want to mess up Indian education further by turning it over to a bunch of people who are making our American educational system the worst in the world.

Mr. DOMENICI. Now I want 30 seconds, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. If we had a resolution in to get rid of the Bureau of Indian Affairs, we would have unanimous Indian resolutions here, just as we do in this case, saying "Don't get rid of them."

Mr. GOLDWATER. No, you would not.

Mr. DOMENICI. Yes, you would, because the fear of God has been put into them that if the Bureau goes, they lose all their rights. So it would have no more support from the Indian people than the transfer proposal before us has.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment (No. 3588) of the Senator from Alaska (Mr. STEVENS). 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 Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Arkansas (Mr. HODGES), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Idaho (Mr. MCCLURE) would each vote "yea."

The result was announced—yeas 47, nays 39, as follows:

[Rollcall Vote No. 423 Leg.]

YEAS—47

Bartlett	Garn	Morgan
Brooke	Goldwater	Nelson
Bumpers	Griffin	Packwood
Burdick	Hansen	Sarbanes
Byrd, Harry F., Jr.	Hart	Sasser
Byrd, Robert C.	Hatch	Schmitt
Chafee	Hatfield, Paul G.	Scott
Chiles	Hayakawa	Stafford
Church	Helms	Stennis
Cranston	Hollings	Stevens
Curtis	Humphrey	Stone
DeConcini	Inouye	Thurmond
Dole	Jackson	Tower
Durkin	Kennedy	Wallop
Eastland	Laxalt	Weicker
Ford	Lugar	

NAYS—39

Bellmon	Heinz	Pell
Bentsen	Huddleston	Percy
Biden	Javits	Proxmire
Cannon	Leahy	Randolph
Case	Long	Ribicoff
Clark	Magnuson	Riegle
Culver	Matsunaga	Roth
Danforth	McGovern	Schweiker
Domenici	Melcher	Sparkman
Eagleton	Metzenbaum	Stevenson
Glenn	Moynihan	Talmadge
Gravel	Muskie	Williams
Hathaway	Nunn	Zorinsky

NOT VOTING—14

Abourezk	Haskell	Mathias
Allen	Hatfield, Mark O.	McClure
Anderson	Hodges	McIntyre
Baker	Johnston	Pearson
Bayh		Young

So the amendment (No. 3588) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Knox Walkup of Senator SASSER's staff be granted the privilege of the floor.

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

When we proceed, we have additional amendments by the Senator from New Mexico. As soon as we are in order, I shall recognize the Senator for his amendments.

AMENDMENT 3621

(Purpose: To delete the transfer of programs from the National Science Foundation to the Department)

Mr. SCHMITT. Mr. President, the next amendment I shall offer, I shall try to go through as briefly as possible. I think some setting of the record is important. It has to do with the transfer of the education programs from the National Science Foundation to the proposed Department of Education.

The PRESIDING OFFICER. The Chair has to interrupt to ask the Senator to call up his amendment so it may be reported.

Mr. SCHMITT. Mr. President, I shall do that if the clerk can pick that amendment out. I have lost track of the number right now.

The PRESIDING OFFICER. The Chair asks, Is it the one that deals with the transfer of the National Science Foundation?

Mr. SCHMITT. It deals with the National Science Foundation.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT proposes an amendment numbered 3621.

Mr. SCHMITT. 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 58, beginning with the word "Improvement" on line 21, strike out through the dash on line 23, and insert the following: "Improvement all functions transferred from the Secretary of Health, Education, and Welfare—".

On page 58, line 24, strike out "(A)" and insert "(1)".

On page 58, line 26, insert "and" after the semicolon.

On page 59, line 1, strike out "(B)" and insert "(2)".

On page 59, line 3, strike out the semicolon and the word "and" and insert a period.

On page 59, strike out lines 4 through 6.

On page 77, beginning with line 12, strike out through line 10 on page 78.

On page 78, line 12, strike out "SEC. 306." and insert "SEC. 305.".

On page 78, line 21, strike out "SEC. 307." and insert "SEC. 306.".

On page 79, line 3, strike out "SEC. 308." and insert "SEC. 307.".

On page 79, line 12, strike out "SEC. 309." and insert "SEC. 308.".

On page 40, in the table of contents, strike out item "SEC. 305. Transfers of functions from the National Science Foundation.".

On page 40, in the table of contents, renumber items SEC. 306. through SEC. 309. as items SEC. 305. through SEC. 308., respectively.

Mr. SCHMITT. Mr. President, the importance of science and technology in providing for both the high standard of living which we find in the United States and the defense needs of our Nation cannot be overestimated. The answer to many of the problems which we as a Nation face lies with advances in science and technology. The transfer of science education programs from the National Science Foundation will not meet the goal of improving science education in this Senator's opinion. As Charles Saunders of the American Council on Education stated in testimony before the House Subcommittee on Legislation and National Security:

> The location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both . . .

Mr. President, I have to agree wholeheartedly with that statement, having had most of my active professional career and associated both with science education and scientific research.

The science community is strongly opposed to this proposed transfer. The American Association for the Advancement of Science, the National Science Board, and Representative RAY THORNTON, chairman of the House Subcommittee on Science, Research and Technology testified against this transfer, as have many others.

Higher education associations are also opposed to this provision of S. 991. Ten organizations including the American Association of State Colleges and Universities, the American Council on Education, and the National Association of State Universities and Land-grant Colleges were represented in House testimony against the proposed transfer.

The House subcommittee by a vote of 5 to 2 deleted from the House version of S. 991 the provision which transfer science education programs from the National Science Foundation to the Department of Education. The full Committee rejected an attempt to reinstate this transfer into the bill by a vote of 3 to 21.

I hope my colleagues will find that they can support this particular amendment.

Mr. President, as I have indicated, the science community is strongly opposed to the proposed transfer. This includes the American Association for the Advancement of Science. Up until very recently, it included the National Science Foundation and it does include the National Science Board.

Mr. President, I should like to quote extensively from the statement by the National Science Board relative to this matter as adopted unanimously at their April 21 and 22, 1977, meeting:

The possible establishment of a Department of Education in the Federal Government involves a wide variety of considerations, most of them not primarily involving science. The National Science Board therefore takes no position on the issue of establishing such a Department.

THE NATIONAL SCIENCE FOUNDATION AND THE SUPPORT OF SCIENCE

It has been recommended by some that the National Science Foundation (NSF) be made part of a new Department of Education. The National Science Board strongly opposes any such suggestion. The fundamental objective of the Foundation is and should remain the health of basic science in the Nation, including both its research and education components.

This Senator emphasizes the expression "both its research and education components."

Science focuses on the creation of new knowledge, and its effective teaching depends on that knowledge. The process of research is an activity distinct from education, and its impact extends far beyond education. Hence, an independent agency is science effectively.

The present organization has served the Nation well, in part because of the special nature of the policy oversight and quality control responsibility of the National Science Board. Through the National Science Board and the peer review process, a close and effective relationship between the scientific community and NSF has developed. The Board and the Foundation have been remarkably successful in effectively using limited resources to support and develop a high quality basic science program in the United States.

The National Science Board concludes that this would not be in the best interests of science or the Nation, because activities in scientific research and science education are inextricably linked.

In particular, the National Science Board believes that it is important that the initiatives for science education remain close to the science community, for at least three reasons:

Science education must reflect current scientific knowledge and techniques.

The science content of science education must be accurate as well as current.

A major purpose of the science education enterprise is to ensure an adequate and continuous flow of talented people into scientific work.

The present arrangement provides for an effective linkage between science education and research. It has achieved maior successes in the past two decades, despite quite limited resources. The National Science Board strongly recommends that this arrangement be maintained.

Mr. President, the Vice Chairman of the National Science Board, my good friend, Dr. Grover E. Murray, formerly of Texas Tech University, testified before the Subcommittee on Legislation and National Security in the House of Representatives. I should like to present now excerpts from that testimony:

The National Science Foundation deals with educational institutions of all levels and at all locations. Science education, therefore, contributes substantially to the geographic distribution of NSF funding.

For these and other reasons, therefore, the National Science Board considers science education an integral part of the Foundation's scientific activities, as has the Congress since 1950.

In its wisdom in 1950, the 81st Congress, which included at that time my Congressman, Mr. Mahon, passed Public Law 507, the NSF Act of 1950. In that Act the Congress welded together scientific research, technology, and science education, and directed the National Science Board and the director to do certain things, which are spelled out in the statutory act, sections 3(a)(1) to (5), 3(d) and 3(e), and others, and I would appreciate it if they are entered into the record.

Mr. President, I ask unanimous consent to have those sections printed in the RECORD at this time.

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

EXCERPT FROM SECTION 1 (PUBLIC LAW 507—81ST CONGRESS) (64 STAT. 149) (S. 247) AS AMENDED.

FUNCTIONS OF THE FOUNDATION
(42 U.S.C. § 1862)

SEC. 3. (a) The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups.

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

This union has worked well. For nearly 30 years the National Science Foundation has contributed significantly to the improvement of education in science, engineering, technology, and related fields.

Quoting again:

Additionally, Mr. Chairman, and gentlemen, the National Science Board believes that pluralism in science education is as important as pluralism in science support. Neither will profit from a single centralized support base. We believe that monopoly is as bad and as detrimental as duplication; that neither is strictly desirable, and that an intermediate position is needed, for example, some pluralism, plus coordination.

The Board believes additionally that science should be represented in any Department of Education which is created. But we do not believe that it should be concentrated or isolated there. We feel that science and technology are too important to the Nation to be organized or to be structured in such a manner that they could conceivably be dominated detrimentally by other things or activities.

Quoting again:

Finally, I am deeply impressed that a very large, vast majority of the national higher educational organizations of this country which have testified before you to date, representing all levels and qualities of performance and including the 50-odd Land Grant Colleges and State Universities, have advocated that continuation of the present system would be in the interest of the health of our scientific and technological educational efforts. And I speak only about the National Science Foundation and science education programs there and not about the Department of Education.

Mr. President, I think, although one might argue the scientific community is speaking with a vested interest, the unanimity of this vested interest has to carry a great deal of weight in this deliberation.

If we in the Congress and in the Government are going to ignore the recommendations of all of the people most expert in a given field, then we are going to do so at very great peril to the Nation.

Mr. President, initially, as late as April 10, 1978, the National Science Foundation was on record as opposing the transfer of its educational functions to the Department of Education. Since that time they have come into line with the administration position.

But let me quote from the April 10, 1978 letter by Richard Atkinson, Director of the National Science Foundation, to the President:

NATIONAL SCIENCE FOUNDATION,
Washington, D.C., April 10, 1978.

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

DEAR MR. PRESIDENT: I agree with your view that a Department of Education could enhance the ability of the Federal Government to serve the cause of quality education for all of our citizens.

Given a well-conceived plan for a Department of Education, an argument can be made for transferring the National Science Foundation's (NSF) Science Education programs to that department. However, the new department, as proposed by the Reorganization Committee, does not have a discernible rationale and does little more than add the

science education programs of NSF to the general education programs of HEW. Such a department would not provide effective management for science education activities. I urge you to reject the Reorganization Committee's recommendations regarding the transfer of NSF programs for the following reasons:

NSF's Science Education programs are highly specialized activities and qualitatively different from the education programs of HEW. If NSF's Science Education programs are kept intact in the new department, they will form an anomalous unit that will be too small to be effective (less than 1/200 of the department's budget); if instead they are dispersed throughout the new department, they will lose their identity and effectiveness.

Science Education at NSF, though relatively small (about $78 million or 1/12 of the NSF budget), continues to have an enormous impact on the quality of American education. This is because of the thorough integration of NSF's education programs with its research activities and because science education at NSF attracts and encourages the Nation's best scientists to become active in education. Uncoupling science education and scientific research would have a negative effect at all levels—elementary schools, high schools, and colleges.

For these reasons, the National Science Board joins me in strongly opposing the transfer of the NSF Science Education programs to the proposed Department of Education.

Sincerely yours,

RICHARD C. ATKINSON, *Director*.

Mr. President, since that time, of course, it is only fair to say Mr. Atkinson has changed his mind.

Finally, Mr. President, I would direct the attention of my colleagues to the testimony of Charles B. Saunders before the Subcommittee on Legislation and National Security, Committee on Government Operations, House of Representatives.

Mr. Saunders is vice president for governmental relations, American Council on Education, a council that represents many of the major associations and councils involved with education, particularly education at the college and university level.

Mr. President, I ask unanimous consent that a list of those associations be printed at this point in the RECORD.

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

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of American Universities.

Association of Catholic Colleges and Universities.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

Mr. SCHMITT. Mr. President, I quote briefly from Mr. Saunders' testimony:

H.R. 13343 would transfer a number of programs from other agencies to the new Department. We oppose transfer of the National Science Foundation's Education Directorate (or for that matter any other part of that appropriately independent Foundation), as provided in Section 305. Most members of the higher education community believe that the location of the Education Directorate within the National Science Foundation affirms the importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.

These programs should be developed and administered with a sensitivity to the science and research environment on campus in which they will function. They should be staffed by professionals, some on temporary assignments from colleges and universities, who are familiar with existing NSF academic science research and training programs and with emerging educational needs and training opportunities. A staff in a separate Department, isolated from the Foundation's research environment, in our view, would neither bring the same perceptions and experience to these programs nor attract the quality of experienced individuals drawn to them by the unique research environment of the Foundation. We see no reason to disrupt the present relationship, with the reduced effectiveness which would be bound to occur, for the sake of adding another agency to the new Department of Education.

Mr. President, there is one consistent theme throughout everything that has been said by others on this issue. It is a theme I personally would reemphasize again and again.

Again quoting from Mr. Saunders, as well as others:

The importance of the interdependence of science education and scientific research. To separate the two would inevitably damage the quality of both, by depriving them of their mutually supportive relationship.

Mr. President, I do not know what else can be said but to emphasize that that is the essential unanimous opinion of everybody who has been involved in science, scientific research, and scientific education.

I have been involved in all of those for most of my professional life. I am still involved in it. I cannot say too strongly to my colleagues that this is probably one of the most serious mistakes we are going to make if we continue along this line with the creation of the Department of Education.

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

Mr. RIBICOFF addressed the Chair.

The PRESIDING OFFICER (Mr. BIDEN). The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I oppose the amendment of the Senator from New Mexico. It should be kept in mind, the total science education programs in NSF are $77.6 million. The programs transferred are $56.3 million of that amount—approximately 7 percent of the overall NSF budget this year. The programs transferred are concerned with faculty development, school and undergraduate programs, which include science teaching and curricula. The graduate research training and scientists-nonscientist communications programs and certain ethical, value and science policy issues which are applicable to NSF's broader agency mission would remain at NSF.

The transfer does not preclude the NSF from launching new science education initiatives. S. 991 specifically states that NSF's authority is not prohibited from initiating any new programs with respect to science education. NSF would be in a position to complement Department of Education activities by focusing on innovative projects. The new department will work closely with NSF.

Basic research is a highly important national investment, and NSF will pioneer some major new research projects in the physical and biological sciences over the next decade. During these years, the Department of Education will concentrate on translating the research information and findings to school-age students and their teachers.

Responsibility for encouraging more women, minorities and persons who are physically handicapped—all of whom are terribly underrepresented in scientific and technical careers, will also remain in the NSF.

Thus, this move will not take NSF out of those areas of priority to which Congress has designated in both authorizing and appropriation language.

The transfer of these programs was supported unanimously by the Governmental Affairs Committee. The committee's support includes that of Senator JOHN GLENN, whose subcommittee has jurisdiction over Government research joins with me in supporting this transfer.

The bill provides for an Office of Educational Research and Improvement. The science and education functions would be transferred intact to this Office. This Office will be involved in assisting educational research, development, and improvement. These science education programs transferred are concerned with these activities and, because they are transferred intact, will be highly visible in this Office. Thus, the programs transferred fit well with the entire mission of this Office and with the new Department.

The education division now supports projects worth millions of dollars which deal with science education and curricular development, such as environmental education, metric education, and science and math projects. It supports research relating to teaching subjects including science, math, and the use of instructional technologies. For example, the Department of Education can be expected to assist with problems associated with the poor quality of science and mathematics programs in our schools, but only if it has the appropriate resources and scientifically trained staff—which this bill provides. The programs transferred to the new Department would help provide a unified focus in this area and will allow teachers and educators to work with the scientific community so that scientific curriculums and materials are well developed. Thus educators will be able to lend their support for science education.

We are aware of declining trends in scientific achievement among school-aged children. The National Assessment of Educational Progress reports this year that "in high schools, youth continue downward trend in science despite the ever-growing demands of a technological society."

The main responsibility for improving science knowledge and skills among all youths and adults will lie with our 16,000 schools systems, community colleges, and

State departments of education. These are the institutions that will work closely with, and will be served by, the Department of Education. The priority and emphasis of improving science in our schools can be reinforced by establishing at the outset a strong and visible science unit in the Office of Educational Research and Improvement, established by S. 991.

In testimony before the committee Phil Smith, Assistant Director, Office of Science and Technology Policy testified that the transfer of these programs would offer distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies and the training of professionals, such as teacher training programs. The programs transferred are consistent with this approach.

In summary, science education transfers from NSF, which represent less than 7 percent of NSF's entire budget, will not change the overall mission of the NSF.

Our transfer will assure visibility and status for science education, as Science education programs will be no less than one-fourth the size of the newly created "Research and Improvement Office."

The opportunity to influence and improve science education and related programs by their placement in the new Department will be increased. Programs relating to science education already existing in the Office of Education would be combined with NSF's programs to give science education even more prominence in the new Department. Committee report language assures close linkages between the Department of Education and NSF.

NSF will continue its role to initiate science education programs deemed necessary, and to monitor the research and science education programs of all Federal agencies, including the Department of Education.

Continuation of graduate-level fellowships and traineeships and almost all of its science and society education programs (over $20 million of funds) would remain in NSF.

I urge defeat of the Schmitt amendment to delete this transfer.

Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. KENNEDY), together with attachments, be printed in the RECORD.

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

STATEMENT BY MR. KENNEDY

I comment on the pending amendment to remove from the Department of Education legislation those provisions which require the immediate transfer of science education programs from the National Science Foundation to the new Department.

The Subcommittee on Health and Scientific Research, which I chair, has had the opportunity to review science education programs in considerable detail over a period of close to ten years. During that time we have heard extensive testimony on the accomplishments which have been made in science education through N.S.F. support, as well as on some areas where improvement still remains to be made.

Most recently, we heard testimony from a number of science education groups, from the Director of the National Science Board and from the Director of the National Science Foundation. They pointed out some very valid concerns with regard to the proposed transfer.

Following the hearings, the Subcommittee heard from a wide range of individuals and groups who expressed strong opposition to the immediate transfer of these programs. These groups include:

American Association for the Advancement of Science.

National Science Teachers Association.

American Association of State Colleges and Universities.

American Council on Education.

Association of American Colleges.

Association of Jesuit Colleges and Universities.

Council for the Advancement of Small Colleges.

National Association of Independent Colleges and Universities.

National Association of State Universities and Land-Grant Colleges.

National Catholic Educational Association's College and University Department.

National Science Board.

Director, National Science Foundation.

Committee on Minorities in Engineering, National Research Council.

American Chemical Society.

Mathematical Association of America.

American Mathematical Society.

We have also been in touch with the Science Advisor to President Johnson, Dr. Donald Hornig; the Science Advisor to President Kennedy, Dr. Jerome Weisner; and the Science Advisor to President Nixon, Dr. Edward David. All have expressed their opposition to the proposed immediate transfer. The text of Dr. David's letter together with a recent editorial from Science magazine follows:

AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE,
Florham Park, N.J., July 31, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing to urge you to oppose the reorganization legislation which would transfer NSF's principal science education programs to the new Department of Education.

Over the years, the Science Foundation has been quite successful in putting genuine science and mathematics into the school curriculum. The Foundation has also had a substantial beneficial effect on teaching at all levels. This effectiveness of the NSF Program is to be admired because of the narrow line they have to tread between federal and local authority in determining the curriculum content. As you well appreciate, NSF has not always avoided such politically-based pitfalls, but overall its performance has been remarkedly good in my opinion. Today there is a new role to be played by NSF in science education. It is that of educating the non-science student for living in a technologically-based world. This goal of technological literacy will in my opinion be even more difficult to achieve than bringing true science into the curriculum as NSF has already done.

I believe that the transfer of these programs to a new large Department of Education would submerge them to a low priority and relegate them to ineffectiveness. The primary concern of the education people is and will continue to be instructional techniques, teaching theory and educational evaluation, not the substance of new curriculum materials. The essential interaction between the NSF education programs and the research activities of the Foundation would be lost. This is a critical coupling for first rate science education development.

I would be glad to amplify these remarks should you so desire. I hope you can play the important role of maintaining science education programs where they can be most effective; namely, in the Science Foundation.

Yours sincerely,

EDWARD E. DAVID, Jr.

SCIENCE

ANOTHER GO AT FEDERAL EDUCATION

There is something beautiful and good in the vision of Cabinet rank for education. There is to be a seat at the table at last, in the heady company of defense, foreign affairs, and energy. There is a hopeful glimpse of new political power, built on a unified education constitutency. Such is the spell wrought by the sorcery of reorganization.

Whether a remodeled government architecture ensures more equality and vitality in education in the United States is by no means clear. To paraphrase Thomas Huxley, size is not grandeur and territory does not make an educated nation. In the past three decades, federal education priorities have zigged and zagged and it is hard to put a name to what has come out of them, although there is evidence that federal leverage played a large role in opening up educational opportunity and that science curricula took a turn for the better. But given the built-in aversion to federal authority over the education process, expectations for striking change were too optimistic. The President sees balkanization of federal responsibility as a problem, and to an extent he is right. But pretentious efforts at reorganization are unlikely to make a difference unless driven by new consensus strategies, which to date have not turned up.

If little is to be gained by reorganizing federal education programs, the next question is whether something is to be lost. It is not an idle question, given the jarring news that the National Science Foundation is to be stripped of most of its science education programs. Although science education in NSF is not what it once was, it still commands and deserves respect in the scientific community. The prospect of its assimiliation by the conglomerate department of education is unsettling, since no bill of particulars has been presented to show that a superagency would do more than distribute mediocrity uniformly.

Time was when science education made up half of the NSF budget, compared with only 8 percent of a larger budget now. If we understand the government's intentions, NSF's statutory charter for science education would not be revoked even though its programs would be handed off. Puzzling as that may be, what is even more troubling is the severing of science education from the major-purpose agency concerned with the state and progress of science. In a new education department dispensing $18 billion the forlorn science education component would amount to two-tenths of a percent. One recalls a cherished footnote in federal budgets: "Totals may not add due to rounding." It is hard to believe that so frail a unit in so vast an empire could compete effectively in a contest of priorities.

In the absence of wars and space competitions, the importance of science education may not seems impressive to the reorganization experts. But only weeks ago the President was stressing the importance of science to our principal national purposes and calling for a new surge of technological innovation. He was right on both counts. If scientific research is a necessary public investment, surely it follows that science education is an equally necessary investment. Indeed, if a choice had to be made between more dollars for research and greater efforts in science

education, the case for the latter would be stronger. Human resources make or break investment in research.

Science education is not a priority that we have outgrown. As the knowledge base expands, increasing pressure is put on teaching. Both the proficiency of instruction at the secondary level and the effectiveness and competence of career counseling have profound meanings for higher education. A public which is asked to cope with difficult problems of choice in matters of health, consumerism, energy, and environmental balance can hardly assess uncertainty in the absence of better science education. There is a large and vexing job to be done. Government, which calls most of the signals for science, should be the first to understand this.

Mr. KENNEDY. Moreover, earlier this month the Office of Technology Assessment, on whose Governing Board I serve, issued a report entitled "Impact of a Department of Education on Federal Science and Technology Activities". That report which was issued just a few days before the beginning of the floor debate in the Senate, raises some serious concerns about the impact of the proposed immediate transfer.

The following excerpt from our most recent Committee Report on scientific research and education programs summarizes our Committee's view of the problems which must be taken into account in considering the transfer of science education programs from the NSF to the Department of Education:

DEPARTMENT OF EDUCATION

The creation of a separate Department of Education has potential for improving the quality of education and expanding educational opportunities. Nevertheless, the committee is concerned about the advisability of transferring the Nation Science Foundation's science education programs to the new Department. The committee will want to be assured that science education functions are placed where they can be of the greatest value and where they can be managed most effectively. Experience gained in almost three decades of funding science through the NSF shows that science education benefits greatly from close ties with basic and applied research. These ties must be retained if quality science education is to be achieved.

The National Science Board, in a statement regarding the role of science in the proposed Department of Education, has pointed out that activities in scientific research and science education are inextricably linked, and that science education can only be kept current when direct and continuous contact is maintained between the research and science education communities. Maintaining accuracy as scientific research reports and results are transformed into materials suitable for scientific instruction also requires close contact between the scientific research and science education communities. Well balanced programs with adequate numbers of well prepared students in appropriate courses at the elementary, secondary, undergraduate, and graduate levels are also required in order to insure that the Nation's scientific research effort does not falter.

Major successes with limited funds can be achieved only through careful agreement on objectives and personal communications among scientists and science educators. The committee is concerned that this balance may not be maintained in an agency with the divergent priorities and restraints that would be inherent in the much broader mission of general-purpose assistance to education.

The committee is concerned that science education might not receive sufficient emphasis in a large departmental setting. Federally supported science education efforts are a very small fraction of total educational costs funded at the national level. They account for less than one half of 1 percent of more than $17 billion in programs that are now planned for transfer to the new Department of Education. It is important that science education not be submerged or subordinated to other educational goals. Continued U.S. scientific and technological strength depend on a vigorous and healthy science education enterprise. To promote the necessary leverage to effect beneficial change, science education activities must have clear visibility in any reorganization of federally supported education activities. While these concerns could be met in a new Department of Education, they raise questions concerning the advisability of transferring the NSF science education programs to the new Department. For these reasons, the committee advises caution in reorganization actions involving the transfer of science education functions which are now the responsibility of the National Science Foundation.

The transfer of NSF's science education activities to a new Department would also have a dramatic effect on the distribution of NSF support. Science education programs account for total NSF support to more than 300 colleges and universities now participating in NSF activities. These institutions are widely dispersed geographically, and a transfer of the Foundation's science education activities to the new Department would significantly narrow the geographical distribution of NSF awards. NSF has used science education as a means for upgrading the capacity of academic institutions in various fields of science. These efforts have been closely integrated with Foundation supported basic and applied research activities. These coordinated efforts have made it possible to involve these institutions in a wider range of NSF activities. Separating science education from the Foundation's research activities would seriously impair these complementary activities.

The committee recognizes that the structure and format of the new Department of Education might satisfy all of the above concerns. However, since the future strength of U.S. science is at stake in the proposed reorganization, the committee urges all involved to take note of the concerns expressed in this report. An objective should be to maintain a highly visible and strong science education program that will retain close ties with the U.S. scientific community.

Before proceeding to a more detailed discussion of the persuasive arguments which have been made against the proposed immediate transfer I would like to thank the distinguished and able Chairman of the Committee on Government Affairs (Senator Ribicoff) for the dedicated efforts that he and his staff have made to make S. 991 responsive to the concerns of scientists and science educators. His Committee Report makes it very clear that there will be a continuing role of N.S.F. in science education. The bill itself specifies that the following N.S.F. supported programs are to be exempt from the proposed transfer:

(1) fellowships and traineeships integral to the support of scientific research and development

(2) ethical, value, and science policy programs

(3) programs which communicate science information to nonscientists.

The bill maintains the N.S.F.'s statutory authority to initiate and conduct science education programs, and provides for consultation between the Secretary of the new Department and the Director of the N.S.F.

I appreciate the effort the Committee has made to adjust the provisions of S. 991 to meet some of the concerns which have been raised. Nevertheless, I continue to feel that the Senate should work for final approval of legislation which does not include immediate transfer of science education programs. Some of the most persuasive arguments in support of this position follow:

(1) The transfer of science education programs from the National Science Foundation may result in reduced participation by the scientific community in the substance of science education programs. This participation has been a key element in the success of N.S.F.'s science education programs. It is carried out smoothly and effectively by the Foundation, which is in continuing contact with the Nation's leading experts in all fields of science. Mr. President. I am concerned that in the new Department this close cooperation will be difficult to achieve. The scientific research community is not expected to have the same kind of on-going contacts with the new Department that now exist with the N.S.F. And although the Committee report calls for continuation of this participation, this directive will be extremely difficult to implement.

(2) Science and science education should not be separated. The N.S.F. has been able to achieve significant improvements in science education because the Foundation is involved not only in the educational process but in new developments in all disciplines of science. The Foundation has a strong record in assuring that its efforts to stimulate pre-college and college students to pursue careers in science are undertaken in a manner which takes into account emerging fields of science and the need for a balanced scientific workforce. N.S.F. programs provide a continuum of encouragement beginning in a student's earliest years and follow that student through graduate, post-graduate and research activities. I am concerned that the proposal to place graduate and undergraduate science education programs in separate agencies of government will stand in the way of the development of the scientific human resources we need to maintain our nation's preeminent position in scientific research.

(3) N.S.F.'s pre-college and college science education programs have helped to strengthen the awareness of the scientific research community of the need for stronger ties and cooperation with the public as a whole. In the past, the scientific research community has not placed high priority on the participation of non-scientists or on the need to increase public understanding of the impact of science and technology. This is a responsibility to which the research community is now beginning to respond. In recent years, significant steps have been taken towards resolving the lack of communication which has characterized relationships between scientists and non-scientists. An important element in that process has been the presence in the N.S.F. of programs which focus on the needs of persons who require a sound understanding of scientific principles—even though they may not plan to go on to careers in science. To move these programs—programs conducted primarily in two and four year colleges—away from the N.S.F. and out of the immediate sphere of concern of the scientific community may stand in the way of continued progress in the constructive dialogue which has developed in recent years.

(4) the statute of N.S.F. as an independent agency contributes importantly to the ability of science education and research programs to be free of partisan considerations. Through its 25 year history as an independent agency. Its Director serves a 6 year term. The legislation authorizing its programs and their implementation by the

Foundation have been moved forward with a minimum of partisan differences and have won wide support on both sides of the aisle. The scientific community, the public and experts in a wide range of science and science education fields have played key roles in assuring that N.S.F. programs respond not to partisan pressure but to needs evaluated and met through careful peer review and consultation with independent experts. This process, while it has not always been without short-comings, is a far better one than a process which may be susceptible to inappropriate intervention. The new Department may not provide this remarkable nonpartisan atmosphere and may result in a situation in which inappropriate intervention could threaten the integrity of science education.

(5) The N.S.F. Science Education Directorate is now headed by an educator with both scientific and educational credentials. The appointment of Dr. James Rutherford to be Assistant Director of N.S.F. for Science Education was a major step toward further strengthening these programs. Dr. Rutherford is highly respected in both the scientific research and education communities. Since he came to the Foundation, science education programs have increased their focus on a range of issues too long neglected. This new emphasis includes increased participation by minorities, women and handicapped in science. It includes a new awareness of the needs of precollege students—both those who will go on to careers in science and those who need a fundamental understanding of the principles of science in order to function effectively in a society in which science and technology are playing an increasing role. An interruption in this new emphasis and strong direction should be avoided in order to maintain the important progress which has been made.

(6) The $56 million in N.S.F. science education programs proposed for transfer in the Committee bill would have little or no leverage or visibility in a Department with a budget of close to $20 billion. The science education program is a small one. It has been able to maintain its momentum in the N.S.F.—a much smaller agency than the agency envisioned in the Committee bill. Placing this small program in a very large agency may result in a lack of oversight and weak direction. The science education programs may be lost in the efforts of the Congress and the Executive Branch to come to grips with a new multi-billion dollar agency. This situation could seriously affect the continued progress of science education and the ability to monitor emerging needs.

(7) The N.S.F. Act assigns N.S.F. the responsibility for science education. Without a change in the enabling legislation, a shift of N.S.F.'s operating programs could place N.S.F. in an untenable position. N.S.F. will continue to be responsible for science education—but will have virtually no programs through which to carry out that responsibility. This split in authority could cause significant problems in assuring a concerted effort to strengthen science education—and may make it impossible for N.S.F. to carry out its statutory mandate.

(8) The proposed transfer is not essential to the success of the new Department and could be accomplished once the new Department is in place and the future of science education programs could be better assured. The success of the new $20 billion Department does not hinge on whether or not $56 million in science education programs become a part of its authority at the outset. A hasty transfer may result in a situation in which the transferred science education programs are brought to a standstill for a period of 12 to 18 months while the new Department gets underway. There is no compelling reason for this kind of interruption. Once the new Department is established, it may be possible to move the science education programs smoothly to it, without the kind of disruption which would be caused by an immediate transfer. This nation cannot afford an interruption in the improvement of science education—particularly when transfer at a later time could be accomplished without this kind of disruption.

I have discussed these concerns with the Chairman of the Senate Committee on Governmental Affairs. He has assured me that every effort will be made to respond to them.

We have agreed that a good opportunity to deal with these issues, rather than through the amendment being offered today, would be in the House-Senate Conference on S. 991 and the companion bill in the House has eliminated the N.S.F. from the new Department. This was done in the House by roll call vote in Subcommittee and reaffirmed by a roll call vote in the full Committee.

I want, at this time, to give my full support to the efforts of Senator Ribicoff to go into that Conference with the most comprehensive legislation possible. The pending amendment would remove one key element from the agenda for negotiation with the House. I do not support this course.

Rather, I urge the Chairman and the Senate Conferees, if we are successful in turning back the pending amendment, to evaluate carefully the position taken by the House when they go to Conference. It is my own view, as well as the view of virtually every science educator with whom I have spoken, that the correct policy position would be one which resulted in a final bill which did not require immediate transfer of science education programs to the new Department.

I hope this objective can be achieved through Conference with the House, after the Senate conferees have had the opportunity to review the information which has been developed since the Committee's initial action on S. 991.

I urge my colleagues who support the concept of a Department of Education to join in the position I have taken with regard to resolving the science education issue in conference.

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

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

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I have comments that probably would take 3 or 4 minutes. I will be happy, if there is any time pressure on our colleagues, to yield for a colloquy at this time.

Mr. ROTH. Mr. President, during consideration of S. 991 in the Governmental Affairs Committee, I was pleased that my colleagues unanimously consented to amendments offered by Senator Danforth and myself to clarify the language in the bill to assure the rights and prerogatives of State and local governments in the educational process. There has been a long tradition in this Nation of local control over education. This tradition is guaranteed by the constitutional requirements of the 10th amendment, which have been underscored by the Supreme Court in the case of National League of Cities against Usery. In that case the justices held that the States have the freedom under the 10th amendment "to structure integral operations in areas of traditional governmental functions." The court said these functions are those "which governments are created to provide, services which the States have traditionally afforded their citizens." (*Usery*, 426 U.S. 833, 851, 852 (1976).) No tradition in this country is stronger than local control over schools, and no local governmental function in America is more traditional than education. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. It should be made explicitly clear that the intention of S. 991 is to preserve the prerogative of the traditional role of education as a function of State and local governments and private institutions.

There are currently approximately 300 Federal education programs scattered throughout 40 Federal agencies. In creating a Cabinet Department of Education it is hoped that the management and coordination of these programs can be substantially improved and ease the burden on the State and local governments of the multiple, duplicative, and often conflicting regulations which have resulted from this fragmentation of the education effort. It should be noted, however, that effective management does not mean more control. The responsibility for education policy and curriculum will remain at State, local, and private levels. The rights of State, local, and tribal governments and public and nonpublic education institutions shall be maintained and protected in the areas of program content and administration of programs as well.

A Cabinet-level Department of Education should supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve the quality of education for all Americans. This is where the resources at the disposal of the Federal Government can best be used. The bill establishes an Intergovernmental Advisory Council on Education. The purpose of this council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education. It will serve as a forum to bring the opinions and ideas of those persons involved in the educational process to the attention of the Department. From this perspective the Council is a valuable component of the new Department to supplement and complement State and local efforts to meet the Nation's education needs.

I can think of nothing else that so affects all Americans as education. I can think of no other area where Americans insist more upon a strong local control than education. Education is vital to our country's sustenance and well-being. Education is crucial for good government as it provides the road for an informed public which is the key to an effective democracy. I believe that education is a priority which deserves Cabinet-level status and thus I have cosponsored this bill. My distinguished colleague Mr. Ribicoff, as chairman of the

Governmental Affairs Committee and chief architect of this bill has once again demonstrated his leadership ability and his continuing concern with the important issue of education. I believe my able colleague Senator DANFORTH would also like to address the concern of local control over education, and following his remarks, I would be interested in the chairman's observations on this important matter.

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

Mr. ROTH. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my hope that in this colloquy which I hope will transpire with both the majority and minority managers of the bill, we can establish a clear legislative history on this bill.

On August 6, an article appeared in the Washington Post entitled "Uncle Sam's Growing Clout in the Classroom." The subtitle was "Creating a New Department as a Backdoor Way To Establish a U.S. Responsibility for Education Itself."

The article begins as follows:

With virtually no public debate over the central issue at stake, the Carter administration and the Congress are moving toward creating a federal department of education with the potential to transform the way education is governed by the United States.

Contrary to widespread belief, the proposed department is not chiefly an issue of reorganizing or consolidating federal education efforts, of increasing the time or money spent on education, or of deciding which existing agency should or should not be absorbed by a new department. Establishing a Cabinet-level department is a backdoor way of *creating* a national education policy, of breaking with the long tradition of a limited federal involvement in education and of virtually no federal responsibility for schools and colleges themselves.

Mr. President, it is my hope in this colloquy to establish clearly the fact that this article is not true; that it is absolutely not correct; that, as a matter of fact, this question was covered very carefully in committee hearings and during the markup; that Senator ROTH offered an amendment to the bill which provided that the Federal Government is available to assist and supplement, but never supplant State and local and tribal governments in developing educational policies.

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

Mr. DANFORTH. I yield.

Mr. RIBICOFF. The Senator is absolutely correct. The article has no basis whatsoever.

As the chief author of this bill, it was never my intention, and still is not my intention, to carry forward the thesis made by the writer of that article. I reject that completely. Wherever that comes from, it certainly does not come from the author of the bill or the respective cosponsors.

There is no question of the contribution that the Senator from Delaware and the Senator from Missouri have made. It is clearly set forth. The colloquy we have will reemphasize our positions.

I thank the Senators for their contribution. Before we are through with the colloquy, the record and the legislative history will reject clearly the thesis in the article just quoted.

Mr. DANFORTH. I want to make clear, speaking for one Senator who ended up voting to report the bill out of the Governmental Affairs Committee and who will vote for the bill on final passage, that this was the main concern I had, going into consideration of the bill: That by consolidating the Federal effort on education we were somehow vesting the Federal Government with a greater role in making decisions for education which heretofore had been made at the local level.

And that is something that I think would be a very, very bad step in the wrong direction.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I thank both Senators ROTH and DANFORTH for their outstanding contribution in further clarifying the intergovernmental functions of the Department and in reaffirming the fundamental notions upon which the Department will be founded.

S. 991 specifically states:

The primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities and families.

The purpose of the bill states that the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents and students to improve the quality of education. This is done acknowledging the right of these entities to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs.

The Federal presence in education does not mean control. Local control of schools is traditional and historical. The Federal Government is involved in assisting State and local governments to insure equal opportunity and equal access to education programs. It provides assistance to States and localities for programs for the disadvantaged and handicapped. It funds programs to assist with educational research, environmental education, community education, and provides assistance to needy children.

Senators ROTH and DANFORTH improved in the committee's markup the functions and purposes of the Intergovernmental Advisory Council on Education. The Council established in the bill provides a vehicle to improve Federal-State and Federal-local relations in education programs. The Council will provide a forum for representatives of State and local government to discuss and impact on Federal education programs and policies. Its representatives would be 22 nonpartisan representatives from State and local government, State and local education agencies, and private citizens. It will review the impact of Federal education policies, including rules and regulations, upon State, local, and tribal governments and public and nonpublic educational institutions.

In addition to the Council the intergovernmental relations functions of the Department will be performed by an Assistant Secretary who will have direct access to the Secretary and will work with the Council. These structures will help to insure that Federal policies recognize that education is primarily a State and local responsibility and that State and local governments have a strong voice in determining Federal education objectives.

The Department will lead to improved assistance and support for education programs at the State and local levels by increasing the visibility and status of education and improving the management and coordination of education programs. It will also provide a mechanism where input can be provided from among citizens, particularly parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required and to encourage the involvement of parents, students, and the public and the implementation and development of all the Department's programs.

I believe no other groups fear Federal encroachment in the area of education more than parents, teachers, students, and administrators—those people closest to education. Such groups as the American Association of University Professors, American Association of School Administrators, National Committee for Citizens in Education, National Governors Association, National School Boards Association, National Student Association, and National Student Lobby support the Department. These groups do not fear that a Cabinet Department of Education means Federal encroachment upon their prerogatives to develop their own curriculum and policies. The National Congress of Parents and Teachers' (PTA) testimony on the Department of Education legislation reflects the importance as well as the limitations of the Federal involvement in education.

The PTA has long endorsed the concept of the local control of education and continues its support of this concept. The Federal role in education, however, has assumed increasing importance since the passage, in 1965, of the Elementary and Secondary Education Act. Since then the nature and extent of Federal involvement in education has changed. Far from being an obstacle to the local control of education, the National PTA feels that the establishment of a Department of Education would produce successful cooperation among Federal, state, and local education agencies in their appropriate roles.

The establishment of a Department of Education would make clear the lines of Federal responsibility and authority in the educational effort. It would make it more possible for parents, educators, and other citizens . . . to make [education programs] more fully responsive to their needs.

A Department of Education will increase accountability for education—it will provide a mechanism for State and local governments to impact upon administration of Federal education programs—it will, in other words, provide for improved management of Federal programs—it will not in any way lead to Federal control or dominance of education.

Mr. ROTH. I say to Senator RIBICOFF, from our colloquy on the subject of local control of the educational process, I am given to understand and wish to make explicitly clear for all of those persons who have an intense interest in this subject that:

First. The formulation of policies in our schools in regard to education is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Second. The choice of curriculums is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Third. The administration of educational programs in our schools is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Fourth. The choice of program content is the right and responsibility of State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students.

Fifth. Educational objectives in our schools are to be determined by State, local, and tribal governments, the private sector, public and nonpublic educational and educational research institutions, parents, and students and not the Federal Government.

Sixth. And finally, in the establishment of a separate Cabinet-level Department of Education we are in no way suggesting, condoning, or implementing and entity to exercise Federal influence over the formulation of policies, choice of curricula, administration of programs, choice of educational objectives and program content, or anything which could be construed as the establishment of a national educational policy.

Mr. RIBICOFF. Yes; that is correct, I agree with the Senator that education is a State and local matter. It is not the intent of this bill, nor will this bill change the present intergovernmental relationship in education. The Government does of course, have special responsibilities in operating schools for Indians and dependents of military personnel where education is not otherwise available. It does not seek to change or enlarge the Federal Government's role in education in any way or to erode State or local control.

Mr. SCHMITT. Mr. President, I wish to enter into this colloquy very briefly, if the Senator will yield on my time, because I think it is far one-sided, and I commend the Senator from Delaware and the Senator from Missouri for their initiatives in this area.

I think it is exactly an appropriate initiative and I support their initiative wholeheartedly and would have if I had been in the committee. However, I am afraid they are doomed to failure, because they established purposes in this bill that are completely inconsistent with the statutory language in the bill, as well as the creation of a new bureaucracy.

They think HEW has been overzealous. Wait until they have the Cabinet-level Department doing the same thing. I hope they are right, but I am fraid they are going to be wrong. The bill and the bureaucracy are just inconsistent with the kind of colloquy that has just taken place.

I am sorry to add that downbeat note to a very positive colloquy, but I just am seriously concerned that it will not come about the way these Senators hope it will.

I thank the Senator for yielding.

Mr. GARN. Mr. President, will the Senator from Delaware yield?

Mr. ROTH. I yield to the Senator from Utah.

Mr. GARN. Mr. President, I associate myself with the remarks of the Senators from Missouri and the Senator from Delaware.

As a former mayor, I share their concerns for the interference of Federal agencies with local government.

One of the most difficult things I had to deal with was the various agencies like HUD and HEW, so I want to emphasize how much concern I have about the creation of this new department, and if it does make possible more interference.

The Senator from Delaware mentioned the Fair Labor Standards Act Amendments of 1974 that were taken to court. I came back as the first vice president of the National League of Cities, lobbied Congress not to impose those new work rules on local government. They turned us down.

It bothered me so much that I went home and decided I was going to start a suit in Salt Lake City and took it to the National League of Cities. So I was very familiar with that suit. I originated it in the National League of Cities, and I was fortunate to have it result in our favor in the U.S. Supreme Court.

The PRESIDING OFFICER. I apologize to the Senator for interrupting, but can we find out on whose time he is speaking?

Mr. GARN. The Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware does not control the time.

Mr. RIBICOFF. I am willing to yield to the Senator on my time. Have I used up my time?

The PRESIDING OFFICER. The Senator from Connecticut has 10 minutes remaining on this amendment.

Mr. GARN. I will only take 30 seconds to say, on whomsoever time this is, that I support this view and I hope the new department, when it is created, will not infringe more on the right of local governments. The revenue-sharing approach does make a great deal more sense than the control that goes with categorical programs.

Mr. RIBICOFF. Mr. President, may I comment that the Senators from Delaware and Missouri had the findings and purposes of the original bill changed to assure that local control would be preeminent, and this new department would really supplement, complement, and assist local governments.

The Danforth-Roth amendments were adopted unanimously by the committee. If you know the makeup of the Governmental Affairs Committee, I believe it is the least doctrinaire of any committee in Congress, with all due respect to the other committees. It is a committee that is concerned with realities. It is concerned with organization. It is concerned with the encroachment of the Federal Government on localities and States.

We do work out these problems, and you will find that practically all the legislation that comes out of our committee comes out unanimously because we worked out a basic common philosophy.

The contribution of the Senator from Delaware and the contribution of the Senator from Missouri was adopted.

As you listen to the colloquy—and I think even the fears of the Senator from New Mexico, Senator SCHMITT, who is concerned with what is happening at the present time with education—those complaints should be lodged against the present HEW.

One of the concerns of the Senator from Washington, Senator MAGNUSON, as expressed earlier in the evening, was due to the fact that, as chairman of the Subcommittee on Appropriations that always had jurisdiction over HEW appropriations, his concern was with the way these problems were handled or adopted. As I stated then, and still state, he is the man who has been after me more than anyone in the Senate to do something and to have a separate Department of Education so that we can remedy some of the defects of education with respect to HEW. The way to do it was to do it this way.

I think that by enactment of this bill, we will have a very substantial improvement. The irony is that what the Senator from New Mexico complains about should be lodged really against the present Department of HEW in the way education is presently treated.

I think what we have done in the bill is to obviate some of his concerns, and that is why you will find the strong support of the Senator from Delaware and the Senator from Missouri, who are as concerned with these problems as the distinguished Senator from Utah and the Senator from New Mexico and, may I say, the Senator from Connecticut.

Mr. GARN. I thank the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I should now like to comment on the amendment of the distinguished Senator from New Mexico.

Mr. President, I do oppose the amendment offered by my distinguished colleague from New Mexico to delete the transfer of the science education programs.

I would like to remind my colleagues that the entire Science Directorate of the National Science Foundation is not being transferred, as was originally proposed. Following our hearings on this issue, the committee recommended that the research and training programs

aimed at recruiting and training scientific researchers remain in NSF. Only those programs aimed at students and teachers at the elementary, secondary, and postsecondary levels will be transferred.

The reason why these particular programs should be transferred is the need to upgrade and expand science education in our schools, particularly at the elementary and secondary levels. Presently, this effort is divided between the Office of Education in HEW and the Science Directorate in NSF. This division has led to a fragmentation of the Federal effort directed at science education.

At a time when our country is faced with many problems which require technical and scientific answers, for example, our search for alternative energy sources, we need better coordination of Federal science education programs if we are to develop the scientists and researchers who will be needed.

Placing these programs in one department will greatly facilitate the achievement of this goal.

Mr. President, the legislation which established the Office of Science and Technology Policy provided a role for the OSTP Director in assessing the strength of science and technology, and also the education and training of scientific personnel and the citizens of a nation highly dependent on science and technology in all of its activities.

In testimony before the Governmental Affairs Committee on April 18, 1978, Philip M. Smith, Assistant Director, Office of Science and Technology Policy, strongly supported including science education in the Department of Education. He said:

> We in OSTP were led to conclude that a broadly based Department of Education such as that proposed in S. 991 and which is proposed by the President, would offer very distinct advantages in those cases where there is a desirability of implementing on a wide basis activities characterized by knowledge dissemination, the widespread introduction of new educational technologies, the training of professionals such as teacher training programs, or special assistance programs to help improve the opportunities for sectors of our society such as minorities, women and the handicapped. The widepread implementation or dissemination of either education or research, especially applied research, has never been a major function at the NSF. The NSF Act, in fact, prohibits such activities, thus focusing the NSF or its primary role—the one that it fulfills with a high degree of excellence—namely the support of innovative, experimental projects in basic and applied research and in science education. We have concluded that it is desirable to have a continuing role for NSF in those programs most closely related to science such as the fellowships or those programs where there is a close tie between science and learning. We expect therefore that the NSF will have a continuing and important role in educational research specifically directed at science, knowledge and understanding for both formal education and in broader education of our citizenry concerning science and technology.

For the reasons given I urge my colleagues to vote against the amendment, although I do so with some concern always because my distinguished colleague is a preeminent expert in the field of science and technology. However, I would in this case defer to those who are experts in the field of education.

Having lived through the experience of seeing what can be done to strengthen the role of science and technology in our entire educational process, that it should be an integrated whole, I feel that a Department of Education would be incomplete if we did not make this particular transfer.

Mr. SCHMITT. Mr. President, I appreciate the colloquy that has occurred and the statement just made by the Senator from Illinois. I feel that I not only personally have been involved in science and technology, I have been a part of the science education system ever since I can remember. That system has been closely integrated with science and scientific research.

To sever that integration, as will almost certainly happen with the cleavage as is proposed in the bill before us, will, I think, only accelerate the downward trend that has been taking place in the deterioration in the quality of basic science, mathematical education within our elementary and secondary school system.

That downward trend, by the way, coincides directly with increased Federal involvement, both monetary and in terms of control. I see no way that immersing science in a new fledgling Cabinet-level bureaucracy is going to do anything but make matters worse.

I realize that is a judgment call, but I think it is a judgment call based on experience in the outside world of science education rather than on the judgment of the Washington community, and that community that has the most to gain from their own vested interest, the educators in this kind of transfer.

So I strongly recommend to my colleagues that they support my amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico yield back the remainder of his time?

Mr. SCHMITT. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield back the remainder of my time. I move that the amendment be laid on the table, and I ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. EAGLETON assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 62, nays 23, as follows:

[Rollcall Vote No. 424 Leg.]

YEAS—62

Bartlett	Griffin	Moynihan
Bellmon	Hart	Muskie
Bentsen	Hatfield,	Nelson
Biden	Paul G.	Nunn
Bumpers	Hathaway	Pell
Burdick	Heinz	Percy
Byrd, Robert C.	Hodges	Proxmire
Cannon	Hollings	Randolph
Case	Huddleston	Ribicoff
Chiles	Humphrey	Riegle
Church	Inouye	Roth
Clark	Jackson	Sarbanes
Cranston	Javits	Sasser
Culver	Kennedy	Schweiker
Danforth	Leahy	Stafford
DeConcini	Long	Stennis
Durkin	Magnuson	Stone
Eagleton	Matsunaga	Talmadge
Ford	McGovern	Wallop
Glenn	Melcher	Williams
Gravel	Metzenbaum	Zorinsky

NAYS—23

Baker	Garn	Morgan
Brooke	Goldwater	Packwood
Byrd,	Hansen	Schmitt
Harry F., Jr.	Hatch	Scott
Chafee	Hayakawa	Stevens
Dole	Helms	Stevenson
Domenici	Laxalt	Thurmond
Eastland	Lugar	Tower

NOT VOTING—15

Abourezk	McClure	Pearson
Allen	Hatfield,	Sparkman
Anderson	Mark O.	Weicker
Bayh	Johnston	Young
Curtis	Mathias	
Haskell	McIntyre	

So the motion to lay on the table was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, if the Senator will yield for a comment, the Senator from Illinois would certainly have not put his name to this legislation if there were the vestige of possibility that the events outlined in the article that has been read could possibly occur.

The Senator from Illinois has always felt that additional financial assistance is required because there is a ceiling on how much you can extract from property owners. There is a limit on how much you can get, how high you can take other taxes that are levied at the local and State level, and we do have a 90-percent Federal monopoly on the progressive income taxation system in this country.

The Senator from Illinois has constantly used the revenue-sharing principle we do what we can do best at the Federal level. We raise money extraordinarily well. We ought to grant that money with the least strings attached. The absolute preeminent program in this

field is revenue sharing, the administrative costs of which are one-thirtieth of 1 percent. That I think is an example of what can be done if we really set our minds to granting funds but without strings and without controls.

Mr. DANFORTH. Mr. President, if the Senator will yield at that point, I think that is a very important point to make because it has been something of a tradition of the Federal Government in its distribution of funds to condition the granting of funds to local governments on local governments' meeting certain requirements and, as a matter of fact, in the field of supporting local education some of those requirements have at times been really ridiculous. For example, prohibitions against boy-girl choirs or father-and-son picnics, and that sort of thing.

It seems to me to be an almost irresistible impulse for Federal agencies to condition their assistance to local governments or to local school boards on meeting certain requirements that we in Washington may think desirable but that people in the local school districts think are far from desirable, and I hope that this bill in no way could possibly be construed as in any way expanding the opportunity of a Federal department or Federal officers to manipulate decisions which really should be made at the local level.

Mr. PERCY. In this particular case, I point out a fact that my distinguished colleague from Missouri well knows. We have the most unique possible situation in the creation of this department because the author of the legislation who has worked so long on it is the floor manager of the bill and not only that but he was a former Secretary of HEW in the executive branch of Government. The legislative history that we are now making is being made by a man who has been on both sides of the fence, the executive branch and the legislative branch, and his imprint and his oversight over this activity and this creation of this new department will be an extraordinary opportunity for us to see that the intent of Congress is fully carried out.

Mr. RIBICOFF. Mr. President, if the Senator will yield, the complaints and the concerns of the Senator from Missouri are addressed to the present HEW that is giving these guidelines and conditions and not the Department of Education, so it is in existence without the Department. What we have done in creating this Department is spell out specifically our concerns, our protections, and our affirmations of local control. So once this Department is created with this legislation, the language, the report, and the legislative history, we are really in a position to assure that the mistakes that HEW is guilty of in, I think, their overzealous grab for power will be eliminated, and I think it is being accomplished on the floor right now.

Mr. DANFORTH. I thank the floor managers.

On the basis of these representations and on the basis of the amendment that Senator ROTH offered successfully in the Governmental Affairs Committee I am supporting the bill.

Mr. PERCY. I only add this to Senator ROTH's initiative in this regard. The bill does establish an Intergovernmental Advisory Council on Education. The very purpose of it would be to conduct studies, make recommendations to the Secretary, the President, and Congress for improving the intergovernmental system for developing and carrying out educational policies. But represented there would obviously be the various layers of government, Federal, State, and local, tribal governments, public and nonpublic institutions, communities, parents and students, who must be participants in the Federal education process.

The Federal Government role is one of many roles, not the least of which is our dependence upon family structures and organizations, parent-teachers associations, and others, the assets of which we simply do not want to destroy. We want to enhance those, but again add a sense of direction and a focus and a sense of importance by the creation of a full department to put high priority on education, far higher than it is now.

I hope to overcome some of the great problems we have had with a multiplicity of categorical programs that force educational institutions at the local and State levels to twist and conform their structure to what the Federal Government apparently in its omniscience wants them to do.

It should be the other way around. We should be, in a sense, greatly responsive to the leadership we have at the local level, but certainly not be a director.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, the distinguished Senator from California has asked to move ahead in sequence prior to the introduction of my next amendment. I ask unanimous consent that the amendment of the Senator from California be considered at this time without prejudice to the time agreement relative to my amendment No. 3619, which would normally be pending at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from California is recognized.

UP AMENDMENT NO. 1952

(Purpose: To require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education)

Mr. HAYAKAWA. Mr. President, I am most grateful to my distinguished colleague from New Mexico for his consideration in this matter.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1952.

Mr. HAYAKAWA. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 39, beginning with line 19, strike out through line 10 on page 115 and insert the following: That this Act may be cited as the "Department of Education Study Act of 1978".

STATEMENT OF FINDINGS

SEC. 2. The Congress finds that—

(1) education is fundamental to the development of the individual and to the growth of the Nation;

(2) the current structure of the executive branch fails to give adequate recognition to the importance of education;

(3) the responsibility for education has and must continue to reside primarily with State, local, and tribal governments, public and non-public institutions, communities, and families;

(4) there is a continuing need to insure equality of educational opportunity, and to improve the quality of education; and

(5) the number, fragmentation, and complexity of Federal education programs have created management problems at the Federal, State, local, and institutional levels.

STUDY BY THE NATIONAL INSTITUTE OF EDUCATION

SEC. 3. (a) The Director of the National Institute of Education (hereinafter referred to as the "Director") is authorized and directed to undertake a thorough evaluation and study concerning the organization of education and education related programs within the Federal government. The study shall specifically examine the need for a separate cabinet level department devoted to eucation and education-related programs. The study shall examine—

(1) the effect of the establishment of a cabinet level department on State and local control of education;

(2) efforts for equal educational opportunity, including the appropriate Federal structure for insuring such efforts;

(3) the relationship between education programs and programs relating to vocational rehabilitation and training and child nutrition;

(4) the special relationship between the Federal government and Indian peoples and the maintenance and protection of that relationship with respect to educational services;

(5) methods for the promotion by the Federal government of quality education and education relevant to individual needs, with a special emphasis on basic skill development;

(6) the improvement of effective partnerships among Federal, State, local, and tribal governments, the private sector, public and non-public institutions, community organizations, and families in order to improve the vitality and quality of education; and

(7) such other issues and areas as the Director finds to be appropriate.

(b)(1) Within 90 days after the date of enactment of this Act, the Director shall submit to the Congress a plan for the study required under this section. The Director shall deliver such plan to both Houses of Congress on the same day and to each House while it is in session. The Director shall not commence the study required under this section until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For purposes of paragraph (1)—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty day period.

(c) Within one year after the date of submission of the plan to the Congress under subsection (b), the Director shall make a

final report to the Congress. Notwithstanding any other provision of law, the Director shall submit the report directly to the Congress without prior review by any officer or employee outside the National Institute of Education.

FUNDING

SEC. 3. Amounts necessary to carry out the provisions of this Act shall be transferred to the National Institute of Education from funds appropriated to the President for contingent expenses.

Amend the title so as to read: A bill to require the Director of the National Institute of Education to conduct a study concerning the establishment of a department of education.

Mr. HAYAKAWA. Mr. President, the amendment to S. 991 which I am offering reflects my lifelong professional and conscientious concern with the creation of a Department of Education. It is my understanding that the bill has the enthusiastic support of President Carter, the somewhat less than enthusiastic support of Secretary Califano and—most important—the support of 52 Members of the Senate. I am told, however, that the situation in the House is quite different and that in the other Chamber the forces opposing the bill will probably prevail. I wish them luck because I, too, feel obliged to oppose this bill, at least at the present time.

Some of my colleagues may not be aware that the United States had a Federal Department of Education before. Its record was certainly not inspiring. Created by legislation in 1867, it was headed by Henry Barnard, one of America's foremost spokesmen for education. The Department, however, accomplished so little that within a short time, it was reduced to the status of a bureau in the Department of the Interior. The experiences of that time may not be relevant today, but this first failure is certainly not a good omen.

Mr. President, the issue emerged again in 1923 when a congressional Joint Committee on Reorganization published a report that called for a Department of Education and Relief. President Harding, as well as President Coolidge, endorsed the report, but Congress decided to take no further action. The idea of a Department of Education came up again in 1964 when President Johnson appointed a task force on Government reorganization. Since that time, all of the studies of the issue have reached negative conclusions. Among them were the Corson study of HEW and the Heineman Task Force study, both completed in 1966 and the Ash Council study reported in 1971.

So far, Mr. President, I have not a single scholarly study which suggests that the creation of a Department of Education at this time would be a desirable step. Among educators, the issue has, of course, been discussed for many years, and I always had a great interest in the topic. It, therefore, came as a surprise to me to see how this terribly important question has been approached by the Senate. Under the rules of this august body, the Governmental Affairs Committee has considered and reported S. 991. I was given the opportunity to read some of the extensive testimonies which I found quite unconvincing. There were also some modest efforts—I believe from the Republican side—to refer the bill subsequently to the Human Resources Committee where the subject could have been explored in more depth. For reasons unknown to me, there were some consultations, but the referral did not take place.

Mr. President, I wish to go on record as protesting a procedure by means of which the Committee on Human Resources was entirely omitted from the consideration of this very, very important matter which has to do with education. I thought the bill, S. 991, had to do, among other things, centrally with education, but it was just skipped over.

As a result, Mr. President, I find myself today in the position of having to vote without adequate information on an issue which is of great concern to me. There can be no doubt that we have serious and complex problems in this general area. Our national efforts to improve public education have been largely ineffective. Federal outlays for education in the last 10 years have tripled while at the same time, our educational standards have deteriorated even further. Is the creation of a Department of Education going to be the answer? I frankly do not know. Moreover, I imagine the great majority of my colleagues do not have the answer, either. It is precisely for this reason that my amendment has been introduced.

Mr. President, before asking for a vote, I want to mention my principal reservations about this bill. The most fundamental one, of course, pertains to the Federal role in the field of education. Article I, section 8 of the Constitution lists the powers given to Congress. As we all know, the power to regulate education is not among them. We also know that the Federal Government, regardless of constitutional restrictions, has often been able to encroach on States rights. The reasons why this was done were actually honorable. When millions of GI's returned after the Second World War, the GI bill of rights was the logical answer to the threat of widespread unemployment. The post-sputnik programs supported science education, teacher preparation and graduate education. They were enacted in the fifties under the National Defense Education Act as parts of America's defense efforts. And when the enforcement of civil rights and the war on poverty became national goals, the Elementary and Secondary Education Act of 1965 became the tool to implement national policies. In all of these huge programs, aid to education was an incidental aspect. The problem of education policy did not come up, nor was there a need to the fundamental question who actually would make policy.

Mr. President, I am obliged to point out that the drafters of S. 991 sidestepped this issue of the Federal role in education. On one hand, they expressly say that "the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families."

On the other hand, the authors of the bill state that "the Department of Education will supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, and so forth." The crucial questions how policies will be arrived at and under whose authority policy decisions for all the States will be made are left open.

Mr. President, our public education is built upon a system of control by local school boards. The impact of a Federal Department of Education on the existing structure is hardly mentioned and not seriously discussed in this strange bill. Moreover, to the best of my knowledge, none of the plans to create a new department addresses this crucial and complex question.

What then, are the respective roles of the Federal Government and of the States in establishing educational policies going to be? I do not believe anybody in this Chamber is able to offer a clear and unequivocal answer. Have the supporters of this bill given any thought to the significant fact that the United States has not a single Cabinet-level department which is responsible for an area that the Constitution has left to the States? I wonder.

As indicated, Mr. President, the Federal Government has found a method of getting around this important provision in our Constitution by lavishly distributing money with categorical strings attached. In other words, the objections of the States to Federal involvement were usually silenced by increased funds. But let us not forget, the conflict remains. There is a tendency on the Hill to pay lipservice to the relevant basic prerogatives of the States. At the same time, the 50 States of the Union remain very much aware of these prerogatives and will promptly resist transgressions against them wherever and whenever they might be. This year, I personally had a significant experience in this regard when I recently attempted to introduce legislation authorizing voluntary—not compulsory—national tests in reading, writing, and arithmetic. Voluntary tests, Mr. President. The States and individual school boards could have used or rejected the tests. Up went a hue and cry that the Federal Government was trying to take over education. Today, they cried, the tests would be voluntary, tomorrow obligatory, and the next step, there would be nationally mandated curricula. I am citing the example because it shows the prevailing complex conditions.

They do not want Federal intervention in education, even supplying of voluntary tests for achievement and competency, saying that is going to lead to Federal control of education, and now we want to set up a Federal Department of Education.

The American Council on Education offers the following significant comment in this regard: "The Federal Government is perceived by various state officials as contributing some 8 percent of elementary and secondary school budgets and behaving as if it were the senior and managing partner of the educational enterprise. Governors, legislators, chief State school officers, and State boards

concerned with all levels of education generally feel that they have been inadequately consulted and even ignored in considering the design of legislation and the development of regulations affecting the programs for which they have primary responsibility."

Is it not irresponsible to set up a Department of Education before this thorny and fundamental conflict has been resolved? Are we not putting the cart before the horse?

Mr. President, there is one more point I would like to make. Supporters of the bill argue that there are about 300 separate Federal educational programs spread over 40 different departments and agencies with a total expenditure of about $25 billion. Only about 120 of these programs are currently administered by HEW. It is asserted that by putting most of the Federal educational programs under one roof, we will increase coordination and accountability in education programs. This argument has some superficial appeal, but it disregards the fact that there were excellent reasons for assigning these programs to the places where they presently are. These reasons are equally valid today.

There are good reasons why child nutrition and the USDA graduate school should be a responsibility of the Department of Agriculture. It is equally logical why the educational programs of the Bureau of Indian Affairs ought to be administered by the Department of the Interior. There are excellent reasons why overseas dependent schools should be under Defense and so on.

Mr. President, I have, so far, seen no unbiased scholarly analysis which examines the pros and cons of the suggested transfers. It should be clear to any objective observer that by transferring overseas dependent schools to a new agency, we create the problem of how to coordinate this program with the Department of Defense. By transferring science education programs, we create a problem for the National Science Foundation and by moving the responsibility for college housing construction loans, we make operations more difficult for HUD. These are only a few examples. The point I am trying to make is that the advantages and disadvantages of the transfers have not been properly and systematically studied. We have seen contradictory and often politically motivated testimonies, but no systematic and distinterested analysis of the complex issues involved.

Mr. President, once the suggested study has been made, I may still be able to come out in favor of a Department of Education. There can be no question that our national educational efforts ought to be reviewed and strengthened. We are spending, on the Federal level, about $20 billion annually for education and Johnny still cannot read. Clearly, something is wrong. I believe a thorough and extensive examination of the issue is urgently needed and this is what my amendment, if accepted, would accomplish. It seems to me that the creation of a Department of Education without such an inquiry would simply be a bureaucratic escape from reality.

Mr. President, I ask for the yeas and nays and I reserve the remainder of my time.

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

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, I do not know whether the distinguished Senator from California is through.

The PRESIDING OFFICER. Does the Senator from California yield the floor?

Mr. HAYAKAWA. Yes, indeed.

Mr. RIBICOFF. Mr. President, I have the highest respect and admiration for the distinguished Senator from California. In his own right, he is a great educator and a great realist who understands not only education, but human nature.

Long before I met him in this body, I read his works. I use his textbook "Language in Thought and Action," and my admiration is of the highest.

I would like to point out to the distinguished Senator from California, when he talks about referring this bill to the Human Resources Committee, that 11 members of the Human Resources Committee are cosponsors, including the chairman (Mr. WILLIAMS) and the chairman of the Subcommittee on Education (Mr. PELL).

When we were ready to report out this bill, we deferred the reporting out of the bill for 2 weeks. We referred the bill informally to the Human Resources Committee where it was examined. Yet they came back with recommendations, and we modified the bill to incorporate the recommendations of the Human Resources Committee.

I would also like to point out that the concept of a separate Department of Education has been around since the late 1860's. There may be more, but I know of 15 different studies over the last 60 years which touched on the issue in some detail. The last comprehensive study was by Rufus Miles, sponsored by the American Council on Education. This study recommended the creation of this Department. In addition the Office of Management and Budget's reorganization project has been studying education reorganization for more than a year.

I would also like to point out that the chairman of the Appropriations Committee (Mr. MAGNUSON), who has had the responsibility for appropriations for HEW, which, of course, includes Education, is one of the most ardent, consistent, and impassioned pleaders for this department, because he feels the time is long overdue.

I came out of the HEW secretaryship with the feeling this was a desperately needed creation, because it was lost in the Department of HEW. It is absolutely important that we create it.

I think the distinguished Senator from California can realize the low status that the Commissioner of Education now has when he considers that in the last 12 years there have been 13 Commissioners of Education. There has been complete frustration by these men of outstanding character and ability and national reputation as educators. When they saw that their position of commissionership was lost in the Department, they quit in frustration.

I want to point out, too, that the Governmental Affairs Committee has been engaged in a serious, thorough, and ongoing study of the issues since January 1977. We heard testimony from 100 witnesses in 10 days of hearings, and we have debated the bill for a long period of time. I think it is time for Congress to act.

All I know is that from more than 40 years in one way or another with Government, the only way to kill something and get rid of it is to create another study. I would say the archives of this Government have gathered thick with dust with the various studies made, and nothing has ever happened until another study covered the same ground.

So I see nothing to be gained by another study, and I oppose this amendment.

Mr. PERCY. Mr. President, I know our distinguished colleague from California is, himself, a preeminent expert in the field of education and has distinguished himself. But I think he would probably be the first to say that we can study things to death sometimes.

When I read carefully the statement of findings of the Congress as embodied in his amendment, I certainly concurred with many of those. But also when I looked to see what the study he proposes shall accomplish and do, it would seem to the Senator from Illinois a great many of those studies have already been carried out ad infinitum and that we have now, finally, reached the stage where we are ready to bite the bullet and come down and reach a conclusion.

I think the Department of Education Act has been well thought through for many years, as my distinguished colleague, the manager of the bill (Mr. RIBICOFF), has said.

Certainly, education has always been one of my own highest priorities. I have been privileged to serve on the board of Cal. Tech. and the University of Chicago, now, for 30 years. I have worked intimately with primary and secondary education through the years and still consider it, as a U.S. Senator, one of the highest priorities on my own time that I should assign.

I think it should be one of the Nation's highest priorities, as well.

That has not always been the case, however. Presently, education has a relatively low status in the Federal Government.

It is a malnourished component of the Department of Health, Education, and Welfare, where only 6 percent of that Department's budget is devoted to education. In addition, the bulk of education programs in HEW are administered by a Commissioner of Education, and the Assistant Secretary of Education has few responsibilities and even less weight within HEW.

This is a question of national priorities.

I think it is about time we really state that education must be one of our highest priorities. It is the duty and the responsibility of the Governmental Affairs Committeee of the U.S. Senate to

take a look at the structure of the Government for education to determine whether or not the structure assigns a high enough priority to education when it is buried so deep in a department that spends 95 percent or 94 percent of its resources in some other areas.

Three-tenths of our population is in some way involved in education—either as students, teachers, or administrators. Governmental expenditures for education at all levels will be more than $100 billion during this fiscal year.

In a Harris survey of last year, 89 percent of the public felt that "achieving quality education for children" was very important.

What has been the Federal response? Federal expenditures for education have actually declined, from approximately 12 percent in the late 1960's to a little more than 8 percent today. This has occurred at a time when school districts throughout the country are faced with severe financial difficulties. Many schoolchildren will miss valuable days in school simply because their school system is broke.

For some reason or other, we are not able to get adequate impact in school district after school district. Local referendums are turning down money for education. Education facilities are being contracted at a time when we should be strengthening them, if we assign high priority to them.

In addition, the Federal education effort is greatly fragmented, resulting in an uncoordinated approach to solving the many problems facing our Nation's schools.

Just as we acknowledge that the strength of a nation rests with its people, we must also realize that its greatest natural resource is its children. We must do more to develop that precious resource. Raising education to a Cabinet-level position in our Government will symbolize our commitment to provide quality educations to all of our children. For that reason, I believe that the passage of S. 991 will be one of the most significant acts of this Congress, and urge its support by the full Senate.

It is extraordinarily difficult to know how a study will turn out. The Senator from Illinois really cannot imagine that we would not somehow have a study that would end up with the same conclusion, that what we really need in this country is a Department of Education. I think the time has come. The idea is here. This is the time to implement it.

For that reason—with deep regret and great respect—I oppose the amendment offered by the distinguished Senator from California.

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

Mr. HAYAKAWA. I am glad to yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, with this amendment, I have a chance to sit back and listen to the colloquy, and a couple of additional thoughts come to mind.

One is that I cannot help listening to what the distinguished Senator from Illinois has just said, and I refer back to the colloquy that occurred previously among the Senator from Delaware, the Senator from Missouri, and the two distinguished floor managers of the bill.

I keep hearing two different signals. The first signal in the colloquy was that we were going to maintain State and local control. The second signal I heard was that we are going to increase Federal control and Federal funding and Federal priorities of education.

That is what has so disturbed me about this whole process: that in spite of the good intentions written into the purposes of this bill, unfortunately, the attitudes and the words and the statute itself are going entirely in the opposite direction.

I would only add to that an additional concern I have about this body, in my first session in Congress, and the distinguished Senator from Illinois has made the comment, also. We have access to the background and experience of the distinguished Senator from California. He is an educator par excellence in this country, in his field and related fields, and there is no one who anybody would put up against him. And what do we do? We reject his advice.

Time and time again in this body I have noted that when somebody has background and experience in a subject, that weighs for not one ounce in the deliberations of something that has been around for a long time.

That is what I am afraid, I say to the Senator, is the problem. The idea of a Department of Education has been around for a long time, and a few people who were questioning that idea as an idea whose time has come cannot question it on the basis of our own background and experience in this field and say, "Hey, let's wait; let's pause and let's consider," as the Senator has proposed in his amendment.

Is this really the right study for this time in our history? Maybe it is. But, I, for one, am unconvinced. I think the Senator's amendment would give us that additional time to pause, to look at the issue objectively, if that is now possible, and I think it is, to look at the attitudes of our distinguished friends in the other body which are different from many of our own here. We can then decide whether this is really an idea whose time has come.

I think we will find that some polls now show that it certainly is not an idea whose time has come with the American people. I will discuss that shortly. The polls are not with the proponents of this bill. The polls are against them.

I certainly would take that into account in this election year, but it should be taken into account every election year, when it comes to creating a new departmental level bureaucracy.

I thank the distinguished Senator from California for yielding.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HAYAKAWA. Mr. President, I am grateful to the Senator from New Mexico for his comments and his raising the question about whether or not this is an idea whose time has come.

As the distinguished Senator from Connecticut has said, this idea has been around for a long, long time. It has been discussed over and over again. It has not been acted upon for the precise reason that it is an idea whose time has not come and will not come for some time. It certainly has not come to the House.

The fact that the Commissioner of Education does not have a lot of power and authority does not mean that education has a low priority in this country. Education has enormous priority in every city, town, and village, most of whose taxes go to education.

It has enormous priority in every State budget which supports such enormous educational systems as the University of Texas system, the University of Wisconsin system, the two systems of the University of California. Education has enormous priority in this country, independently of the actions of the Federal Government.

I was told not long ago that the State of California was putting up one new community college a month, for the past couple of years. That may be an exaggeration, but it certainly is true that, all over California, we have seen community colleges proliferating.

Education has enormous priority in this country, and it is not dependent upon the commissioner of education in Washington nor upon a putative Secretary of Education in Washington.

What I am saying is that we should leave as much of it as possible in the hands of the regents of the various State university systems, in the private hands of the Governors and regents of the distinguished private universities, such as Harvard or Yale or Stanford or Cal Tech.

There are many people who are taking responsibility and pouring money into this.

The idea that all this activity can be coordinated by a Federal Secretary of Education seems to me totally illusory, and that is why this idea has been around a long time without having been acted upon.

I reserve the remainder of my time.

Mr. RIBICOFF. Mr. President, I would like to make one comment.

The distinguished Senator from California asked, "Why can't Johnny read?" All I can say is that if school districts required as part of their curriculum that every student read the works authored by the distinguished Senator from California, my feeling is that every Johnny and Susie in America could read.

Mr. PERCY. Mr. President, I should like to comment on a statement made by the distinguished Senator from New Mexico, in which he said a great deal has been said about increasing control and increasing the intervention of the Federal Government in the educational process in this country.

I want it a matter of record that at no time in the 30 or 40 years the Senator from Illinois has addressed himself to the problems of education has there been even the slightest hint of that. In fact, it has been totally to the contrary.

I do feel that we will have to increase our funding of education, and I have stated that flatly many times throughout

the course of my travels in the country as well as in the State of Illinois.

I again point out the shining example of how the Federal Government can grant money without strings and without controls in Federal revenue sharing. Let that be a shining example of how we collect money and then dispense it in such a way that we allow State and local government and the federal system of Government to use that money in a way which will best benefit the children for whom they have the direct responsibility.

Mr. SCHMITT. Mr. President, if the Senator will yield, I hasten to add that his record in this area is absolutely clear and commendable. I was merely listening to the words, and I would be the first to commend the distinguished Senator from Illinois on his efforts to move equality of opportunity into the educational system.

Equality of opportunity, I think the Senator will agree, does not always mean equality of funding. It means putting the funds in the places where equality can be bought, if you will. It is equality of opportunity by Federal funds.

I only add, though, that if primarily the Senator's intention is to have a department that distributes funds, then I think it is a mistake to make it a department. We can talk about that in connection with my next amendment having to do with agency.

However, unfortunately, that is apparently the primary focus of the creation of a Department of Education. It appears to be dominated in fact in terms of sheer numbers by the takeover of the overseas schools now administered by the Department of Defense. It also has many other facets brought into it where projects and programs, Federal projects and programs, are being undertaken rather than the idea that we are going to take those steps necessary without interference with State and local programs to improve the quality of education.

I know that is the Senator's goal. I commend him for it and I hope that in other ways we can work together to see that that happens. I just find that I will have to disagree with him that this is the mechanism at this time.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. RIBICOFF. Mr. President, has the time been consumed?

The PRESIDING OFFICER. Time remains on the amendment.

Does the Senator yield back his time?

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from California yield back the remainder of his time?

Mr. HAYAKAWA. I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I move to table the amendment of the Senator from California and 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 motion is not debatable.

The question is on agreeing on the motion to lay on the table the amendment of the Senator from California.

On this question, 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 South Dakota (Mr. ABOUREZK), the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 70, nays 14, as follows:

[Rollcall Vote No. 425 Leg.]

YEAS—70

Bartlett	Gravel	Moynihan
Bellmon	Griffin	Muskie
Bentsen	Hart	Nelson
Biden	Hatfield, Paul G.	Nunn
Brooke	Hathaway	Packwood
Bumpers	Heinz	Pell
Burdick	Hodges	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Case	Humphrey	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Kennedy	Schweiker
Cranston	Leahy	Stafford
Culver	Long	Stennis
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Matsunaga	Talmadge
Domenici	McGovern	Thurmond
Durkin	Melcher	Wallop
Eagleton	Metzenbaum	Williams
Ford	Morgan	Zorinsky
Glenn		

NAYS—14

Baker	Hansen	Proxmire
Byrd, Harry F., Jr.	Hatch	Schmitt
Garn	Hayakawa	Scott
Goldwater	Helms	Stevens
	Laxalt	Tower

NOT VOTING—16

Abourezk	Haskell	McIntyre
Allen	Hatfield, Mark O.	Pearson
Anderson	Johnston	Sparkman
Bayh	Mathias	Weicker
Curtis	McClure	Young
Eastland		

So the motion to lay on the table UP amendment No. 1952 was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SCHMITT. Mr. President, I would be happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

Mr. President, I am about to propound a unanimous-consent request on the ERA extension.

Mr. SCHMITT. Mr. President, may I ask a question? This is not on my time. I do not know how rapidly this request is going to go. If it begins to impact on the 9:30 time agreement, I hope there will be no objection to the continuation of our discussion on the Department of Education bill and amendments thereto.

The PRESIDING OFFICER. The Chair observes there are 1½ hours on the Schmitt amendment; 2 hours on the amendment by Mr. HELMS; 1 hour on a motion by Mr. HAYAKAWA to recommit, 4½ hours of time, and final passage no later than 9:30.

Mr. SCHMITT. That was my purpose in bringing this up.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time utilized in discussing the proposed unanimous-consent agreement not come out of the Senator's time, and that the time for final vote be modified accordingly, which means that if we take 10 minutes in this discussion the final vote will occur no later than 9:40 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—(HOUSE JOINT RESOLUTION 638) ERA EXTENSION

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has consulted with his colleagues and has come back with the following proposal, and I think it is a good one. I therefore propound it.

I ask unanimous consent that there be a 4-hour limitation on each of two amendments on rescission by Mr. SCOTT;

That there be a 4-hour time limitation on one amendment by Mr. SCOTT dealing with the question as to whether or not a two-thirds majority or a simple majority is required in this situation;

There there be 4 hours on one amendment by Mr. GARN dealing with prospective rescission;

That there be 6 hours on the bill, the 6 hours to be equally divided between the Senator from Indiana (Mr. BAYH) and the Senator from Tennessee (Mr. BAKER) or his designee;

That there be 1 hour on any other amendment;

That the agreement with respect to the control and division of time be in the usual form;

That only amendments relevant to the issue be in order;

That the consideration of the resolution begin no earlier than 10 a.m. on next Tuesday;

That at no later than 10 p.m. on next Wednesday, the measure be advanced to third reading;

That the vote on final passage be put off until Friday morning at 10 a.m., with paragraph 3 of rule 12 waived;

That there be 1 hour of debate begin-

ning at 9 a.m. on Friday, to be equally divided in accordance with the usual form between Mr. BAKER or his designee and Mr. BAYH or his designee.

And that in the meantime, of course, other measures may be called up.

This would mean that only Tuesday and Wednesday of next week would be taken for debate and amendments, and that the final vote would occur, as stated, on Friday at 10 a.m.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, I am happy to say that this agreement has been worked out over a period of time with Members on this side and with certain Members on the other side. I think it reflects an accommodation to the maximum of our ability of the requirements of many Senators. I think it is a good agreement. I think it presents to the Senate an opportunity to dispose of this issue on a fair and just basis, and I hope and trust there will be no objection to it.

I might say, Mr. President, that I intend to assign the control of the time on this side to the distinguished Senator from Virginia (Mr. SCOTT), who is the ranking Republican member of the Jurisdictional Subcommittee.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I believe a great deal of effort has taken place to try to accommodate me, and I am grateful; but I think we left one thing out of the unanimous-consent agreement, and that has to do with the Garn prospective rescission.

It is my understanding that the timing is right as far as how much time is allowed; but the consideration of that amendment is to occur on Wednesday at all events, and I do not believe that is in the unanimous-consent request as propounded.

Mr. ROBERT C. BYRD. I had not been informed of that. I modify my request to include that proviso.

Mr. DOMENICI. Could I ask——

Mr. ROBERT C. BYRD. Is that to be Wednesday morning or Wednesday before a certain hour?

Mr. GARN. Mr. President, reserving the right to object, and I will not object, we did overlook saying in the agreement that it would occur on Wednesday. I have no objection to setting a time to vote on that amendment to accommodate the Senator from New Mexico. I would suggest possibly—I know there is a problem on your side after 12. I would suggest possibly an 11:15 or 11:30 a.m. vote on Wednesday on my amendment.

Mr. ROBERT C. BYRD. Could we make it 11?

Mr. GARN. That would be fine.

Mr. DOMENICI. Would that be it? At the hour of 11?

Mr. ROBERT C. BYRD. A vote on the amendment by Mr. GARN would occur on Wednesday, on the prospective rescission amendment, at 11 a.m.

Mr. BAKER. Mr. President, reserving the right to object, I see the distinguished Senator from New York (Mr. JAVITS) on the floor and on his feet. I believe this germaneness language was of his derivation; I wonder if we could ask him what that means, please.

Mr. JAVITS. Mr. President, the unanimous-consent request calls for the agreement to be in the usual form. The Senator from Tennessee said that all the amendments were to be relevant to the issue. I do not think he quite means that. Let me explain, and see if he and others will adopt this formulation:

The amendments are to be in the usual form, except for germaneness. As to germaneness, the identified amendments will be germane according to the unanimous-consent agreement. As to other agreements, covered by the 1-hour rule, which are not identified, they are to be relevant to the issue of equality of rights under the law for women.

I am using the words of the amendment. That would exclude, which was my desire and everybody seemed to agree, things like abortion, busing, prayer, et cetera.

I have checked that with the Parliamentarian, and he agrees with that formulation of words as expressing our purpose. So may we consider the unanimous-consent request to be phrased that way?

Mr. ROBERT C. BYRD. Yes, indeed. I believe the unanimous-consent request as propounded would cover the precise language the Senator from New York has stated, because I said, with respect to the words "usual form," they would be effective only in controlling division of time. But I think the Senator's explanation is pertinent, it is needed, and it makes perfectly clear exactly what is intended.

Mr. JAVITS. I thank the majority leader.

Mr. SCOTT. Mr. President, so that certain matters may be clarified further, I have an amendment with respect to women in the military. Of course, that would be considered germane, and the Senator from New York indicated that it would be. But we were talking about final passage at 10 on Friday.

If the distinguished Senator from West Virginia will recall, I brought up the question of a possibility of 1 hour on Thursday. I do not care whether we have the 1 hour or not, but if we had 1 hour after the third reading to be equally divided, then I would suggest that we begin the 1 hour at 10, and then vote at 11. I do not care whether we have the 1 hour or not.

Mr. ROBERT C. BYRD. Mr. President, if I said Thursday with respect to the 1 hour, which I do not believe I did, I meant Friday.

Mr. SCOTT. Friday, I am sorry. My mistake.

Mr. BAKER. Mr. President, if the Senator will yield to me, that, I must say, will cause some problems on this side that I am aware of. I wonder if we could do one of two things: either have the hour on Thursday evening before the vote——

Mr. SCOTT. Or we could waive it altogether, and not have any discussion whatever on Friday morning before the vote.

Mr. ROBERT C. BYRD. Yes, that would be all right. I will so modify the request, if it is in accordance with the wishes of the Senators present, that on Friday there be no further debate, simply a vote up or down, at 10 a.m.

Mr. SCOTT. If the Senator will yield further, there was discussion of my proposal with regard to a two-thirds vote. I would offer an amendment to require a two-thirds vote on final passage. I just wanted to clarify that. It would be in the nature of an amendment.

Mr. ROBERT C. BYRD. Yes. But the amendment would be offered and voted on on either Tuesday or Wednesday, is that correct?

Mr. SCOTT. That is correct.

Mr. PERCY. Will the Senator yield for a question?

Mr. SCOTT. Yes.

Mr. PERCY. It was the understanding of the Senator from Illinois after talking with Senator GARN that we would finish this by Wednesday night. In a sense, that is true, and there is no purpose in having the final vote delayed until 10 a.m., Friday, other than to accommodate certain Senators who would not be here that late on Wednesday.

Mr. SCOTT. The Senator is correct.

Mr. PERCY. So there is not sense in the space intervening other than to insure the maximum number of Senators present.

Mr. SCOTT. That is correct.

Mr. HUDDLESTON. If the Senator will yield, would it be more accommodating to have it later on Friday? The last word I heard was that the vote would be Wednesday.

Mr. ROBERT C. BYRD. Mr. President, I will be glad to get the distinguished Senator a pair if he has any problem, and I will vote any way just to give him a pair on Friday.

Mr. HUDDLESTON. That will not be necessary.

Mr. ROBERT C. BYRD. I would hope that this would meet with the approval of the Senate. It is possible it will discommode someone, but the Senate will be in session on Friday and Saturday. I would hope that by next Friday the Senate will be discussing the tax bill. That will probably require a good many votes on that day.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, might I just once again thank the leader, Senator BAKER, and Senator GARN. I have to be in my State on Thursday and my turn-around time is a half day to get back and forth. I do thank the majority leader. I will make arrangements for my vote on final passage.

Mr. ROBERT C. BYRD. I thank the Senator. The Senator from Nevada (Mr. CANNON) has the same problem, coming from a very far distance. The vote was put over to Friday to accommodate Senators in that situation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

I ask unanimous consent that the motion to invoke cloture on the ERA resolution, which under the rule would automatically be voted on this coming Saturday, now be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—I do not need to do this because the motion to invoke cloture on the motion to proceed which would have occurred next Tuesday is automatically negated. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. There are several important bills in conference and many of those conferences will be concluded during the time this is going on. Do I understand that a conference report has priority if one wants to bring it to the floor during the course of this discussion on ERA?

Mr. ROBERT C. BYRD. Conference reports are privileged and can be brought up at any time. However, if the Senate is working under a time agreement, they can only be brought up if Senators in control of time will yield time. There could be a problem, but I will point out that under the agreement the debate on the measure is not to begin any sooner than 10 a.m. on Tuesday. It could begin at 10, it could begin at 11, it could begin at 12.

Mr. MAGNUSON. The conference reports on the appropriation bills may not be concluded. I do not think many of them will be controversial, but at midnight on Sunday the fiscal year ends and people will not get paid. They involve the life of HEW, for instance. If we can get a conference report, I would like to have some kind of an agreement, if not under the rules sort of a gentleman's agreement, with these people who are more interested in ERA than Health, Education, and Welfare at this particular time. I am interested in it, too. but we do have to get these bills through. I am sure we can get a time agreement on most of them.

The Senator from Mississippi has the most important conference going on. It is on defense. Otherwise, when we come to October 14 we will be working under continuing resolutions, which are not good. In HEW it is the same way.

I was just hoping that the Senator from Virginia, the Senator from Utah, or others, if we find we have a conference report, and we would not take it out of their time under this agreement, would allow us to go ahead. Say there was a time agreement for 1 hour on the conference report. Allow us to do that and it would not be taken out of the time under the unanimous-consent agreement. We really have to get these appropriations bills finished.

Mr. ROBERT C. BYRD. Mr. President, I believe as we reach each of those situations as it arises——

Mr. MAGNUSON. We will take them one at a time.

Mr. ROBERT C. BYRD. I feel we will be able to deal with them. I believe the Senator from Kentucky will have a conference report, hopefully this week. I do not believe we will have a problem. If we do, we will deal with it at the time.

Mr. MAGNUSON. I am only suggesting to the Senator from Virginia and the other people who are so interested in this ERA thing, and I am, too, if we do come up with a conference report and we can get a time agreement of an hour, without taking it out of the time of the agreement just made, we want to bring it up. The Interior report may be ready. I am hopeful we will have HEW next week, but I think it will come right in the middle of the debate. In the meantime, many of the people in Virginia who work in Washington will not get paid. I would think we would have some priority, even if we have to stay here until midnight on a certain night.

If the majority leader will allow us at 10 o'clock at nght to bring up our conference report, we can finish it by midnight.

Mr. ROBERT C. BYRD. We are going to bring up two of them tonight.

Mr. MAGNUSON. I just want to warn the Senate that we have about five conference reports on appropriations bills. There is also the one on which the Senator from Mississippi has worked so hard. We ought to get those passed before we get out of here.

Mr. STENNIS. Mr. President, reserving the right to object, I think the Senator is making a very important point. We have an authorization bill for the military to replace the one which was vetoed, which is the foundation for the appropriation bill. It supports the whole Defense Department all over the world. It would be tragic, Mr. President, for us to have to go through with a continuing resolution and run that huge Department just to get up a bill of this kind. This agreement has displaced almost everything else. Now "must" bills will have to stand by. These other bills could be taken up later, but the bills to which I refer must be taken care of. I feel some provision has to be made so that the conference reports can be taken care of.

Mr. ROBERT C. BYRD. Mr. President, I do not see any problems. If we will just wait until the problems arise, we will deal with them. I do not see any problems.

Mr. MAGNUSON. Sometimes the problems arise around here and we cannot deal with them.

Mr. ROBERT C. BYRD. I agree with the Senator.

Mr. MAGNUSON. It is not the fault of the majority leader.

Mr. ROBERT C. BYRD. No. But I think we will be able to work these things out. I believe with a little luck, and we always bet on a little luck, we will be able to adjourn on October 14. Mr. President, I yield the floor.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement we will vote on final passage not later than 9:50.

The Senator from New Mexico has the floor under the agreement.

Mr. SCHMITT. In honor of this great feeling of cooperation and comity which has suddenly appeared in the Chamber of the Senate, I will do everything I can to get the vote off by 9:30 as we originally had thought would happen. I will also say that I do not believe I will call up my third amendment and, instead, will speak for a few minutes in general terms about the bill. We can move to final passage hopefully by 9:30, depending upon the response of any of the distinguished floor managers.

Mr. President, I guess it is fairly obvious by now that a few of us who have been involved in education as much as or maybe more than most have some very serious reservations about the action the Senate appears to be about to take if previous votes are any indication.

We have largely had our say. I just want to add to the final record a few of the comments of those who live outside these Chambers and offices.

I begin with the editorial comment of two of the major newspapers of this country, which, strangely enough, in recent years, I have found myself not agreeing with very much, but which illustrate the great diversity of ideologies that now seem to be joining together in opposition to this move toward a Department of Education.

The Washington Post, for example, wrote:

> The collection of various bureaucracies and instrumentalities into one seemingly logical place is a fairly common element of governmental-reform schemes—that has had at best mixed results. The bureaucratic bits and pieces that became HUD, for example, hardly underwent a galvanic revitalization by virtue of sharing a roof and a set of executive managers. And to look at either the Labor Department, say, or the Commerce Department is to know that gathering units of government around a single large, controlling subject hardly guarantees their energy or efficiency.
>
> We don't cite the Labor and Commerce departments casually: To the extent that they are basically one-constituency organizations of government, they provide another cautionary note. One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the schoolchildren and their parents affected by the federal government's education programs. Much more probably it would be the National Education Association, the organization of teachers and school administrators who already exert a great deal of influence on education policy in Washington. In a way, this would be giving them their own department.

The New York Times, in its editorial of January 16, 1978, wrote as follows:

> We welcomed the creation of the Department of Energy last year; it meant not fragmentation but centralization of functions scattered around the Government and dealing with an issue of overriding importance. There is no such sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance; it could, at best, make present education programs more orderly and efficient. But it is hard to see, beyond that, what such a reorganization would do to benefit actual education.

Mr. President, I also add that just the problem of having an additional Cabinet-level person seeking the attention of the White House and the very concept of a cabinet has been eroded with the proliferation of executive departments. The original Cabinet of five departments in-

creased to just nine departments in the first 160 years of our history. Yet, in the past 25 years, we have created four new departments with proposals pending for two more. Before long, the Cabinet will need to be superseded by another entity just to be manageable.

I draw my colleagues' historical attention to what the Romans learned empirically many, many centuries ago; that the No. 10 seems to have a very magic managerial connotation. That is that it is about the limit that human beings can deal with at any particular level. We are already at 12 Cabinet positions. We are seeking to create a 13th. As I said, there are proposals for even more.

The President, frankly, is saturated. All you have to do is look at the attention the President and the White House staff can give to certain other departments. They cannot give attention to departments nearly as much as we would like them to, depending on our own particular interests. This is not going to make the problem any easier. It is going to make it much worse. Rather than creating departments, we should be looking at how to break up some of the more unmanageable ones into independent agencies that can be responsible within certain bounds of the charter to the Congress. I hope that will become the trend once we have dealt with this particular problem of creating a Department of Education.

Mr. President, earlier today, I discussed the other organization of teachers and administrators who are opposed to this bill. The NEA has often been cited as being in favor of it. Well, the American Federation of Teachers of the AFL–CIO is very undisposed toward this kind of legislation. I quote again:

S. 991 will not result in increased coordination of Federal education efforts. What is likely is that a new Federal education department would magnify the Federal role in education policy decisions that have previously been viewed as state and local matters. Federal departments are designed to deal with policy and administration. There is, of course, a Federal system of justice for the Department of Justice to administer. The obvious need for national control over Defense and Foreign policy speaks for itself. Education, however, has traditionally been a state and local responsibility supplemented by an important but clearly limited Federal role. The Federal responsibility in education has been primarily to promote equal educational opportunity for historically neglected and unserved populations, such as educationally disadvantaged and handicapped youngsters, and to provide poor- and middle-income families with the financial aid necessary to pursue post-secondary education.

Implicit in the creation of a Federal department is a new Federal role that exceeds these previous limitations.

Mr. President, I again emphasize and underline everything the AFT has said. Of course, the inclusion of the overseas school system as a major system of 135,000 pupils in the Department of Education exceeds these previous limitations on the Federal role. The inclusion of other educational activities of mission agencies in this Department again exceeds these previous limitations on the Federal role.

I think the AFT is particularly well qualified to discuss this matter, because, as the statement of Gregory Humphrey, codirector of legislation of that organization has said before the House Subcommittee on Legislation and National Security:

The AFT represents more college professor members than any other organization in this country, we are deeply concerned with their point of view and they tend to be even more skeptical of this proposal than other AFT members. Twenty-five percent of higher education funds come from the federal level while only 9% of elementary and secondary education funds are federal. Research funds for institutions of higher education come from practically every department in the federal government. Their administration probably never could, or should be consolidated. We do not believe that post-secondary education would benefit from a federal department that encompasses an education division, of HEW and little else.

I add only in slight correction to that statement the fact that it includes much more than HEW. That is the education system now run by the Department of Defense, which, in fact, will constitute more than a majority of employees of the new department in its initial phases.

Mr. President, we have tended to forget those people out there in this debate who have to deal with the Federal bureaucracy. I should like to bring one such individual onto this floor by proxy, a Mr. Walter E. Smith, of the Los Alamos, N. Mex., School System, who, on his own, independently, having had a great deal of experience in that system, did a study which he entitled "Federal Regulations and Paperwork; What Is the Cost to Local Educational Agencies?"

I quote now from his introduction to that study:

Educators welcomed federal aid to education because it permitted program expansion and improvement. However, greater direct federal involvement in education has created additional work for educators at all levels. Local educators are questioning the value of the funds received because of the problems created by regulatory demands.

More and more regulations have been imposed upon school districts for project preparation and evaluation, which has resulted in increasing demands on educators' time. The amount of required paperwork is astounding, and becoming greater each year. An example of burdensome federal regulatory demands is evident in the redundancy of project applications. The school district must prepare and submit demographic information for each and every federal project. Educators must comply with these regulations—there are no alternatives. Complaints of these redundant procedures seem to fall on deaf ears.

Mr. President, somehow, I am supposed to assure Mr. Smith that joining all of this together in one big super bureaucracy is somehow going to improve or eliminate the problem they are faced with.

I would just quote to my colleagues here on the floor Mr. Smith's compilation of the cost of complying with Federal regulations by State at the present time, and based on a weighted sample cost per student of $3.46. This would be the figures, I believe, for 1977.

Connecticut—the distinguished Senator from Connecticut is managing this bill—it costs something on the order of $2.2 million.

Illinois,the cost was almost $7.9 million.

Missouri, $3.4 million.

Oklahoma, $2.0 million.

New Mexico came in under $1 million, just barely, though; $968,000.

So the cost now, just with the activities within HEW, is running in those kinds of figures.

Again, I do not see right now that I can assure Mr. Smith that is going to change. In fact, I can only probably assure him it will probably get worse with the new Department.

But what about the people as a whole? We are getting close to the final vote on this, how are the people now looking at us—some of us, at least, as a condition for reelection—going to perceive this particular vote this evening?

Well, the question was asked by Mr. Gallup in his polls recently, published in September, 1977:

In your opinion, should education be taken out of the present Department of HEW and made a separate department of the Federal Government, or not?

Mr. President, the national totals were as follows: Those who favor making education a separate department, 40 percent; those opopsed, 45 percent. The don't knows and no answers were 15 percent.

If we look at a breakdown of that in terms of those who have children in schools, it was 40 to 42 opposed. Those public school parents, 40 to 49 opposed. Those parochial school parents, 42 to 47 opposed.

So, however we look at it, the people now appear to be close, but still significantly opposed to this particular effort.

Finally, Mr. President, all the evidence that I am familiar with, after many years in the educational systems and many years as an observer and researcher on educational problems outside the context of the committees of the Congress, indicates to me that the Federal presence in education should be reduced and not increased.

There is no question that the efficiency of education, that is, the time a good teacher has to spend with a child, is going down, largely because of the Federal presence in education, there is no question in this Senator's mind, after working with the educators and teachers of New Mexico.

In addition, it is claimed in the report on this measure that there will be no new regulatory impact because of this bill. If there will not be, why do we need 50 new supergrade positions attached to this agency?

I am afraid, Mr. President, every parent will regret our actions if they lose more and more controls over the lives of their children to the Federal Government.

We are, in fact, bucking the general trend that I think all of us are beginning to feel very strongly against big, impersonal Government.

Our casework that we perform for our constituents is almost entirely dealing with the impersonality of Government.

Local school boards are elected and

parents have some control over their election. I am afraid my constituents are asking what control they will have over the Department of Education, another large group of unelected bureaucrats.

The feeling is in this Senator's mind, and I believe in the minds of many others, that national standards will come, that national tests will fall, national curriculum will soon fall behind.

The Federal control and the concept of big brother in education is very rapidly coming upon us.

As I said earlier when I first began this discussion, it is diversity in education and local control of that diversity that has made this Nation's educational system second to none. It should be our attempt to improve and increase the ability of our educational systems to tap diversity, rather than taking any step such as this one toward the homogenization of the educational system of this great country.

Mr. President, I appreciate the indulgence of the managers of this bill. I think we have had a good discussion. I think the record will be useful for whatever purposes our friends in the other body may put it.

I do hope they will protect us from ourselves on this issue, at least for this year, and maybe next year, with due consideration, some other means can be found to better coordinate, better control, the educational activities that are presently somewhat out of control in the Federal Government.

The distinguished Senator from Connecticut, the distinguished Senator from Illinois, are to be complimented for their sincere efforts in putting together a bill of this kind. I am very sorry that I cannot agree with them that this is the right approach. I would much rather agree with my colleagues than disagree. But, nevertheless, they have put in a great many years on this effort and that effort must be recognized for its sincerity.

Mr. President. I reserve the remainder of my time and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The amendment has not been called up.

Mr. SCHMITT. I request the yeas and nays on final passage.

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

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, the Schmitt amendment strikes at the very heart of this legislation.

The 62 Senators who have cosponsored this bill recognize that education is an important, fundamental function in the United States. It directly involves more than one-quarter of our population every day.

Cabinet status means improved accountability—something we rarely get from the education officials buried in the bureaucracy of HEW.

Cabinet status drastically improves the access of our highest ranking education official to the President. It actually encourages and demands Presidential involvement. When the President wants to get involved in education at the Federal level, who can he go to? The HEW Secretary will be too busy administering the other $170 billion in his large department. The education officials four levels below have virtually no policy responsibility.

Education in the Federal Government has the size, scope, and character to deserve Cabinet status. This new Department, which will not gain any new programmatic authority under this bill, will rank in size larger than six existing Cabinet departments.

Cabinet status attracts the most capable and qualified leadership. I consider the U.S. Office of Education an "independent agency" within HEW. But that agency has a hard time holding onto its leaders. The Commissionership of Education, for example, has changed hands 13 different times in the last 12 years.

In our hearings on this bill, most State education officials told the committee they could not afford to take the top Federal education post. It is a terribly frustrating job. Giving education continued independent agency status would do little to improve this situation.

Cabinet status means improved coordination of Federal education programs. It has been said that the greatest coordinating body of all is the Cabinet. This bill consolidates more than 170 education programs in one department. Another 100 will stay outside, mainly because they are integrally related to the mission of their parent agency. Coordinating all these programs will be a difficult job which only a strong, high-level Cabinet Secretary can do.

If education is relegated to independent agency status, I fear the chances are great we will never hear or see our top education officials again. They would be ignored and forgotten by higher-ranking Cabinet Secretaries and the President.

Making education an independent agency would only serve to isolate education even more from all the other agencies and departments having related human services functions, when what we really should be doing is developing more linkages.

Cabinet Secretaries can relate to one another because they are on an equal footing with one another, and they all share in the high honor and duty of being a member of the President's Cabinet. These good working relationships simply would not exist between Cabinet Secretaries and the head of an independent education agency.

The Governmental Affairs Committee, which is charged with creating and abolishing agencies, has studied this bill thoroughly. The committee unanimously recommended the creation of a Cabinet post, because the institutional deficiencies can only be remedied through Cabinet status.

We could have recommended Cabinet status for the consumer protection agency, or a Cabinet Department of Administration in place of GSA—but Cabinet status was clearly not warranted in those instances.

But in the case of education, there is a sore need for a Cabinet department.

Basically, the whole point of this legislation is to elevate the status and improve the management of education in the Federal Government. The Schmitt amendment would have the effect of maintaining the status quo.

As floor manager of the bill, I strongly oppose the Schmitt amendment.

Mr. President, I ask unanimous consent that Leon Billings and Jim Case of Senator MUSKIE's staff, Al From and Jim Davidson of the Governmental Affairs staff, and Karl Braithwaite and Robert Van Heuvelen of the Environment and Public Works Committee staff be accorded privileges of the floor during consideration of and votes on S. 991, the Department of Education bill, S. 3077, the Export-Import Bank bill, and House Joint Resolution 638, the equal rights amendment extension.

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

Mr. RIBICOFF. After the colloquy, I will yield 7 minutes to the distinguished Senator from South Carolina.

I yield to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I appreciate the courtesy of the Senator from Connecticut.

I am concerned, as others are, about transferring responsibility for vocational rehabilitation at the Federal level to the new Department. I support the creation of the new Department. I am concerned about the effect the transfer may have upon the administration of vocational rehabilitation at the State level.

I believe that it is critically important that we interfere as little as possible in decisions such as State government organization. There are dramatic differences among States, constitutionally and in terms of organizational necessities. I want to be certain that we are not treading on this dangerous ground. To this end, I would like to ask the distinguished floor managers two questions: first, am I correct in my understanding that Senator CHILES' amendment specifically precludes the Federal Department of Education from attempting to influence State decisions as to where the vocational rehabilitation program will be administered?

Mr. RIBICOFF. The distinguished Senator from Oklahoma is absolutely correct. The committee believed that because the focus of many of the programs at training, and training is directly related to education, these programs would best be joined with those administered by the Buerau of Education for the Handicapped in the Department of Education at the Federal level. However, the committee intentionally did not suggest where these types of programs would best operate at the State level. In fact, Senator CHILES' amendment, adopted unanimously by the committee, specifically states that nothing in the section establishing the Office of Special Education and Rehabilitative Services shall require any particular organizational structure of vocational rehabilitation programs at the State level.

Mr. BELLMON. I thank the distinguished floor manager.

I should like to propound an additional question:

Do the managers agree with me that the Senate's decision to move vocational rehabilitation into the new Federal Department of Education reflects no judgement at all about the proper locus of responsibility for that program at the State level, and that, to the contrary, it would be advisable to accept the judgements of Governors and State legislatures about organizational arrangements for the program?

Mr. RIBICOFF. Once again, the Senator from Oklahoma is correct. The transfer of vocational rehabilitation programs to the Department of Education was made by the committee because it believed such a move would consolidate Federal programs directed toward the education of the handicapped and would provide a continuum of rehabilitative services for the handicapped children and adults at the Federal level. This transfer makes no judgment at all about the locus of responsibility for these programs at the State level. I certainly agree it is advisable to accept the judgments of Governors and State legislatures about organizational arrangements for these programs at the State level.

Mr. BELLMON. I thank the floor manager of the bill. I am greatly reassured by his response.

Mr. RIBICOFF. Mr. President, I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I have always been a supporter of a strong and effective educational system in this country. With the insight provided as a former school teacher, high school coach, and county superintendent of education, I can attest that the education of our children is one of the most important goals of a continuing free society. As a State senator and as Governor, I initiated and supported many laws advancing education in our State, such as the area trade schools, which were the foundation of our present technical school system, the best in the Nation.

Over the years, as a citizen, I have illustrated my deep concern for education by using my honorariums, and other funds which I obtained, to establish 27 scholarships in 23 educational institutions in South Carolina for the benefit of needy, worthy students. Also, I established the Strom Thurmond Foundation to aid needy, worthy students to attend college or technical schools, and it is now assisting between 40 and 60 young people a year to further their education and training.

Therefore, Mr. President, as I rise today in support of S. 991, which establishes a separate Department of Education, I speak not as a politician in Washington aloft from the real needs of education in this country, but as one who has been there and who is aware of the needs and importance of education.

Yesterday, this body passed the Labor/HEW appropriations measure, the second largest appropriations bill to come before the Congress. The budget of HEW will rise to about $180 billion this year, which is more than one-third of the entire Federal budget. In such a large department, it is understandable that one segment could be the victim of neglect.

An examination of the hearings on this bill illustrates time and time again that the primary interest of HEW has been with health and welfare programs and not with education. In the $180 billion budget I mentioned earlier, at least $168 billion will be expended for health and welfare. Mr. President, that leaves only $12 billion, or a mere 6 percent of the total HEW budget for education. This is not, of course, to cast a bad light on health and welfare programs because they are very important parts of the Department; but the point is that education needs to be placed in a separate department not dominated by these other programs.

There are other concerns which mandate a separate department of education. The $25 billion that this Government will spend on education this year will come from more than 300 separate programs operated by nearly 40 different Federal agencies. Under this system, each agency promulgates its own rules and regulation and its own paperwork requirements.

The overlap and duplication that inevitably occurs due to these administrative burdens are a tremendous hindrance to the educators over this country in performing their duties. This legislation will stop this fragmentation and duplication and join all of these functions under one roof where they can be administered more efficiently and effectively.

Mr. President, with the creation of this new Department, we will have a responsible, high-level Federal official whose only concern will be education. This person will be held accountable not only when there are advances in education, but also when there are failures. Education will have an advocate in Washington for its needs and to work hard toward solving its problems. When the Congress or the public desires to inquire into the status of education in this country, there will be one central office, a Cabinet-level Department, from which the information can be obtained.

Finally, Mr. President, I want to emphasize my understanding that this bill, with all of its benefits through centralization and effective management, will not mean more control. I am bitterly opposed to Federal control of education. By this, I mean that the policy decisions and curriculum to be taught in local schools will remain at the State and local level where it belongs. A new Department of Education can do an important job by assisting the States and localities without infringing on their rights to establish their individual educational needs.

Mr. President, today we have a great opportunity to advance the role of education in our country more significantly than ever before. The establishment of this new Department will be a sign of our unabating commitment to education. I urge my colleagues to examine the need for this legislation closely, and then I am confident they will do as I will do and vote favorably on this bill.

In closing, Mr. President, I compliment the able and distinguished Senator from Connecticut and the able and distinguished Senator from Illinois for the excellent job they have done on this bill.

● Mr. ROTH. Mr. President, I would like to clarify a matter with the distinguished chairman of the committee about this bill regarding the applicability of the Eagleton-Biden anti-busing amendment to the expenditure of funds by the new Department of Education. Mr. President, the fiscal 1979 Labor-HEW appropriations bill, H.R. 12929, as passed by both the House and the Senate, contains language identical to that contained in previous HEW appropriations bills. This language prohibits HEW from using any funds to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Section 501(a) of the Department of Education bill we are considering today provides for the transfer of unexpended funds for education functions to the new Department as follows:

> Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

It is my understanding from this language in S. 991 under section 501(a) that the Eagleton-Biden amendment as enacted as part of the fiscal 1979 Labor-HEW appropriations bill prohibits the new Department of Education from using any unexpected funds transferred to the Department to require, directly, or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

Furthermore, because the language in section 501(a) stipulates that unexpended funds which are transferred to the new Department may be used only for the purposes for which they were originally authorized and appropriated, I am given to understand that functions which are transferred to the new Department that have been funded through other different appropriations measures may not be used to circumvent the intent of the language of the Eagleton-Biden amendment by using the moneys contained in these measures to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, in order to comply with title VI of the Civil Rights Act of 1964.

I wish to ask the Senator from Connecticut if I am correct in my understanding of this matter.

Mr. RIBICOFF. Mr. President, I would answer the Senator from Delaware's question on the application of the Eagleton-Biden antibusing amendment as enacted, to the use of appropriated funds by the Department of Education, as follows: Yes, it is clearly the intention of this legislation and the intention of the committee in drafting the bill that section 501(a) of this legislation clearly re-

quires that any appropriated funds transferred to the new Department shall be subject to the identical restrictions and requirements they were subject to when originally authorized and appropriated. As far as the Eagleton-Biden language is concerned, this means the new Department of Education would be prohibited from expending any funds transferred to it from the HEW appropriations bill so as to require busing of schoolchildren under title VI of the Civil Rights Act of 1964. We would expect that no funds which have been appropriated under different measures for any functions transferred to the new Department could be used to circumvent the intent of the language of the Eagleton-Biden amendment.●

● Mr. CULVER. Mr. President, as a cosponsor of S. 991, I am pleased that the Senate is considering this legislation to create a U.S. Department of Education. After years of discussion, the concept of a separate Department of Education has finally received the serious consideration and widespread endorsement it deserves, and its consideration by the Senate today indicates the high priority of our educational needs.

The Committee on Governmental Affairs has conducted extensive hearings on S. 991, which demonstrated the broad support for this proposal. During the course of these hearings, excellent arguments in support of such a Cabinet-level agency were made by many experienced educators and administrators.

While there have been varied opinions as to the structure of the new Department, I am confident these differences will be resolved during this debate, and that we will move closer toward our goal of assuring effective and equal educational opportunities for all Americans. The needs of education have greatly increased during this century, and today it is one of our most important public investments. More than 50 million people in the United States are directly involved with education today. When HEW was first established in 1953, the budget of the Office of Education was $400 million, and today it has a budget of $12.8 billion.

S. 991 is designed to consolidate and coordinate the education programs which are currently scattered throughout the Department of Health, Education, and Welfare (HEW) and other departments. The Secretary of HEW must deal with such vital public issues as social security, welfare reform, and health care in addition to education, and cannot always give the necessary attention to the demands of contemporary education because of the complexity of these other responsibilities.

In addition to the vast educational network at HEW, there are over 100 educational programs scattered and fragmented throughout more than 40 other Federal agencies. This legislation would provide an effective framework for managing these programs and for reducing the present waste and duplication that ultimately lowers the quality of education.

A major goal in establishing a separate Department of Education is to provide a cohesive structure which will simplify the administrative procedures for recipients of Federal education funds. I have heard countless complaints from State and local school officials in Iowa about the confusing mandates being passed down to school systems and about administrators going from agency to agency for program support. S. 991 is designed to eliminate these unnecessary problems and provide for improved cooperation between Federal, State, and local education agencies. Our educational services would be more efficient.

This legislation would strengthen the Federal Interagency Committee on Education to assure coordination of Federal programs affecting education, and would establish an Office of Inspector General to supervise auditing and investigative activities in the Department. In addition, it establishes an Intergovernmental Advisory Council to assist the Secretary in the formulation of education policy and to review the administration and operation of Federal education programs.

Mr. President, by giving Cabinet-level status to education, we are not only providing an uninterrupted focus for establishing a coherent Federal policy but we are also expressing a national commitment to meeting the educational needs of all Americans. Many Iowans have expressed their strong support of this vital legislation to me, and I am confident it will greatly enhance the quality of education in the United States. I commend Senator RIBICOFF and the other members of the Senate Governmental Affairs Committee for their dedicated efforts to bring this bill to the floor of the Senate this year, and I urge my colleagues to approve S. 991.●

● Mr. NUNN. Mr. President, I rise in support of S. 991, the legislation to create an independent Department of Education in the executive branch of the Government.

As an original sponsor of S. 991, I feel that the establishment of a separate Department of Education is a needed and sensible step in our efforts to improve the administration and oversight of all educational programs and policies for the Federal Government. S. 991 is not the first legislation which has been introduced in Congress to create such a Department.

Senator RIBICOFF, the primary sponsor of this bill and the able chairman of the Governmental Affairs Committee, introduced such a measure in the 89th Congress. But I believe that the need for such a Department has become more apparent in the last 10 years when the role of the Federal Government in education has expanded. Today, we bring this bill to the Senate floor with over 50 bipartisan cosponsors who share the view that our Government has no national educational policy and no coordinated system of providing educational services to the State and local educational agencies, our colleges and universities, and most importantly, our Nation's youth. It is our hope that a separate Department of Education will help alleviate this problem and bring some guidance to our fragmented educational programs.

The able floor manager of this bill, Mr. RIBICOFF, has already described the provisions of this measure, and I do not intend to repeat the details of this reorganization. I would, however, like to make some comments as to why I feel strongly that we need a Cabinet-level Department of Education.

I believe that the Federal involvement in education, with its primary goal of equalizing opportunities for all citizens, is a commendable one. These programs have made a great difference in the education of many socially, physically, and economically handicapped children.

But the price for these benefits has often been confusion, fragmentation, duplication, delay, and general frustration with the paperwork and painstaking slowness of Federal bureaucratic processes.

Federal regulations require days, even weeks, of administrative time, often at great expense to school systems. But the mandates do not stop at the administrative levels. Teachers also must spend hours of their time in complying with Federal requirements and completing nebulous and often inane forms when time and effort could be better expended in fulfulling the educational needs of the students.

And all of this time and effort is expended at a price. Only 8 percent of the cost of public education is assumed by the Federal Government.

There is a reason for the burdensome paperwork, for the regulations and for the guidelines. It may not be a good reason, but it is a simple one. The paperwork, the regulations and the guidelines fill the vacuum created by the unconscionable absence of a Federal education policy.

This is not the fault of the executive branch alone. In a very real sense, Congress must share the blame, because Capitol Hill is responsible for the extraordinary fragmentation in education programs that is now so severe that only a reorganization of Government can respond to the problem.

For example, in addition to the education division of the Department of Health, Education, and Welfare, 37 other departments and agencies run 130 education programs of their own. We have also played musical chairs with our Commissioners of Education—there have been 13 individuals holding this position in the past 13 years. With continuity of leadership like that, there is little wonder that bureaucrats write regulations, guidelines and prepare new forms to their hearts content.

And, although the Secretary of HEW is ultimately responsible, it is difficult for even the most competent and concerned HEW Secretary to be a real spokesman for education when the massive health and welfare needs, with their concurrent extraordinary expenditures, demand all his time and energies.

But not only is the Commissioner of Education's responsibilities fragmented his voice and opinion have little authority and receive little attention. In hearings on the Department of Education which I chaired in the Governmental Affairs Committee, former Commissioner of Education Terrel Bell, testified:

The Commissioner is an executive level 5 in the government structure, and in HEW that is one of the lowest forms of human life.

He also stated that during his 2 years' service as Commissioner of Education, he had the opportunity to meet directly with President Nixon on only one occasion and that was when he was appointed.

This is just one sad example of the frustration of being U.S. Commissioner of Education, and is perhaps one reason why this job changes hands so much. The Commissioner of Education has almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. He is buried within the HEW bureaucracy with very little access to the Secretary of HEW, much less anyone higher.

All the aforementioned problems describe a generally deplorable situation, yet, such is the state of education at the Federal level. It is incumbent on us now to take steps to remedy this problem.

I believe that the first step we must take is to establish a Cabinet-level Department of Education. I am not going to pretend that I believe that a separate Department of Education will solve all our educational problems or guarantee that the quality of these endeavors will be improved. But I do strongly believe that an identifiable, Cabinet-level department which consolidates existing programs, streamlines administration and establishes direct lines of authority can go a long way toward the improvement of education.

But even more importantly, Congress and the American people need a visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies at the Federal level. Education also needs a strong advocate in the executive branch to delineate its priorities and to assist in solving its problems. A Department of Education can go a long way toward meeting these needs.

But I feel I must take a moment to emphasize that the effective management which will accompany a Department of Education should not mean more control. The Committee on Governmental Affairs, with my strong concurrence, has stated emphatically in its report on the Department of Education bill that the responsibility for education policy and curriculum will remain at the State, local and private levels. However, a Secretary of Education can mean improved accountability, coordination and advocacy, all of which are important if the Federal Government is going to make its involvement in education meaningful.

As I previously stated, the Department of Education is by no means a new idea, but during the 95th Congress, it has come to life. The Governmental Affairs Committee held 10 days of hearings on this measure and heard from more than 100 witnesses. The committee has also received excellent cooperation from the administration in the development of a workable reorganization proposal.

I would like to commend Senator RIBICOFF for his excellent leadership in introducing and encouraging the passage of this measure. I would also like to thank Miss Marilyn Harris and Mr. Bob Heffernon of the Governmental Affairs Committee staff for their dedication, cooperation, and diligence in formulating a measure which will best serve the needs of education in our Nation.

Education is an investment of no small measure in our Nation. In 1977, the American people spent $140 billion on education—this is 8 percent of our gross national product and more than we spend on national defense. Today, nearly 3 out of every 10 Americans—63.7 million citizens—are directly involved in education. And, education is by far the largest expenditure of State and local governments, accounting for more than one-third of their budgets.

The bill which we are considering today reflects the goals and concerns of citizens throughout our Nation who are interested in improving education opportunities and wisely spending our educational dollars. I believe that the result of the long months of work on S. 991 is an excellent measure which will reorganize our Federal educational effort, reduce fragmentation, give priority attention to these urgent needs and provide more responsive educational services to the youth of our Nation.

Mr. President, I urge that the Senate adopt this important legislation.●

● Mr. DOLE. Mr. President, I support S. 991, a bill which would create a new cabinet level Department of Education. The impetus behind a separate Department of Education has been growing for approximately 125 years. Nourished with this record of longevity, the idea of a new Department of Education has grown more attractive in recent years as we have watched the proliferation of education programs become entangled in the bureaucracy of the Department of Health, Educaton, and Welfare.

Much work has gone into this bill, and I appreciate the efforts of my colleagues as they have worked to insure that just those programs which are most pertinent to education are included in the new Department. I especially want to thank the Senator from Illinois (Mr. PERCY) for his efforts to delete the nutrition programs from being included in the Department.

Several Members were quite concerned that if this component was in fact transferred to the proposed Department as the original bill mandated, nutrition programs would no longer have the heavy emphasis placed on them which they are now beginning to receive within the Department of Agriculture. I just want to take this opportunity to express my appreciation to Senator PERCY and his staff for all of their efforts on the amendment to delete nutrition programs from the list of services being transferred.

PROBLEMS IN EDUCATION

Most parents and educators have serious concerns about the state of education in the United States today. Few persons, if any, are satisfied with their public school system. Students are often disruptive, teachers often unmotivated, and parents often apathetic. The results of standardized achievement tests show a steady decline in test scores. In reaction to this phenomenon, any number of theories have been formulated to explain where education has gone wrong. Over and over again, the suggestion is made that a separate Department of Education would help the situation. If this were to be done, education would receive a new visibility and an enlarged realm of influence which should help bolster education programs.

FEDERAL SPENDING

Federal spending has increased many times over from the days the Office of Education was created within the Department of Health, Education, and Welfare in 1953, and when it operated on a $400 million budget. Under President Johnson and his initiatives in social legislation, Federal spending for education increased 10 times over, reaching $4 billion. Now, Federal spending in this area is about $10 billion annually. Given this tremendous surge in Federal spending, it is clear that the Congress perceives education as a legitimate national concern, and one which merits Cabinet level attention.

Mr. President, I do not think it is overstating the situation to say that the future of our country rests on our educational system. Every day, millions and millions of children—the Presidents, Senators, professors, journalists, and engineers of the future—sit in classrooms across America and absorb or fail to absorb intellectual concepts and ideas. I believe it is our responsibility to see that these young citizens receive the best education we can provide, and I feel that a new Department of Education is one way toward that goal.

CONCLUSION

When I look at the many studies which have been done on the question of whether or not a separate Department of Education is in our Nation's best interest, I am impressed with the near unanimity with which researchers have answered "yes." This topic has been debated throughout this century, and I am hopeful that by a favorable vote on S. 991, we are taking a sizeable step toward improving the educational structure in our government.

I share with the sponsors of this bill a feeling of anxiety over the future of our educational process, and am pleased to join with them in this effort to come to grips with the programmatic shortcomings found in the Office of Education.●

● Mr. HEINZ. Mr. President, I join my colleague and the distinguished chairman of the Governmental Affairs Committee, Senator RIBICOFF, in support of S. 991, the Department of Education Act of 1978, and I strongly urge its passage by the Senate.

As one of the original cosponsors of the bill, I am committed to the idea of giving education the high status and visibility it rightly deserves in the Federal Government.

Education in the United States is the key to higher living standards for millions of people. We must work therefore to provide equal education and training opportunities for all Americans. At pres-

ent the Federal Government's effort to improve our educational system is disorganized. Today there are more than 300 separate Federal education programs involving expenditures reaching nearly 25 billion dollars. These programs are spread out over at least 40 Federal departments and agencies which are involved in educational grants, services and regulations. This fragmentation of Federal education programs results in ineffective and inefficient leadership in our Federal education effort. We as a nation must focus more attention on assigning the task of coordinating education programs, raising the priority of education in our Federal Government, as well as giving status to education in America.

During these times of decreased public confidence on the part of the American people in the capabilities of our education system, improved management of Federal education programs is needed now more than ever. The creation of a Cabinet-level Department of Education to centralize as well as coordinate the Federal effort should provide the constructive direction necessary to bring order out of chaos. The best efforts of the Department of Health, Education, and Welfare, have not been sufficient to provide an answer to the distinct and unique problems that exist in our educational system. We need only look at the declining competency levels in our Nation's schools to realize that a major change is necessary. While the proposed Department of Education will not entirely solve the problem, it is the necessary first step in the right direction.

I am pleased that President Carter has given his full support to the creation of the Department of Education. It is my strong hope that, in the spirit of cooperation and compromise, we can complete action on this legislation before the end of the 95th Congress.●

Mr. BAKER. Mr. President, as a cosponsor, I am pleased to rise in support of S. 991, legislation which would create a new Department of Education. I want to commend my colleagues for the imagination and exhaustive effort that has gone into this landmark legislation, particularly the distinguished chairman of the committee, Senator RIBICOFF.

S. 991 marks a new and exciting day for education in the United States. I believe it will help to usher in an era of improved coordination and cooperation in education programs across the country.

One need only look at the declining test scores in our schools and the multitude of education programs to realize that a change in this area is necessary. As an ardent advocate of high educational goals, I wholeheartedly embrace the concept of a separate Department of Education.

It is essential that the Federal Government be organized in such a way as to maximize the educational opportunity for everyone. While I generally oppose expansion of the Federal bureaucracy, I am more concerned with the effect of unorganized, uncoordinated and inefficient Federal education programs. That is the system that exists today. Our present education system consists of hundreds of Federal programs which are now located in more than 40 different agencies. This bill will bring the vast majority of these programs into a central and cohesive working organization at the Cabinet level.

While differences may exist as to which programs ought to be included under the umbrella of the new Department of Education, the need for a separate Cabinet-level Department is unquestionable.

Education like charity begins at home. For this reason I feel that the decisions concerning education should remain as close to home as possible—that is in the hands of local school boards. I have no desire to see the Federal Government assume a central or controlling role in our educational structure. Rather I believe that we must maintain a decentralized approach to education.

At the same time I realize that many Federal programs are not being effectively utilized because of a failure on the part of the Federal structure to coordinate its role in the educational system. It is my sincere hope that this Department will allow the Federal Government to become an effective and efficient partner in the educational process.

Mr. President, S. 991 has had a broad base of support since it was first introduced in this Congress. Members on both sides of the aisle have joined as cosponsors of this legislation. Educators and educational organizations have joined in enthusiastic support of this measure.

In my own State, the Tennessee Education Association feels that this legislation is the most important education measure we have considered in many years. I share that view and am proud to cast my vote in favor of the establishment of a new and necessary Department of Education.

● Mr. WILLIAMS. Mr. President, I am pleased to support this legislation to create a separate Department of Education. As chairman of the Human Resources Committee, I wish to commend the Governmental Affairs Committee for their efforts in working with us on this legislation.

The education of our children and students is vital to the future of the United States. Since the beginning of the Republic, our Nation's leaders have recognized the importance of education for the sustenance of a free democratic society. We can be justly proud of the accomplishments of our educational system. It has provided opportunities for economic advancement for generations of citizens and provided the skills and knowledge required to make the United States competitive in business and commerce with the rest of the world.

Early in the history of this country the tradition of State and local control over our schools was established. This tradition must be perserved, and the Federal commitment to education strengthened. We can assist in accomplishing this goal by establishing a Cabinet-level Deparement of Education. It is time for us to create new partnerships and reinforce old ones that will enhance the role of the States and local communities in educating our Nation's children.

As our society has developed, the economic aspects of education have undergone a radical transformation. By the mid-1980's the United States will be spending more than $150 billion annually on education—the primary activity of more than 63 million Americans. With a population of over 200 million people, nearly 3 out of every 10 persons are directly involved in the schooling of our citizens. If any area requires national attention and Cabinet-level status in our Government, it is education.

Education is the most valuable instrument at our Nation's disposal to enrich individual lives, offer economic opportunity and to enhance social justice. And the contemporary educational system goes far beyond our formal schools, colleges, and universities. Ancillary educational resources at our disposal are both diverse and substantial. We cannot ignore the important role of other institutions such as families and churches, libraries and museums, radio and television networks, journals, books and newspapers, the workplace, cultural and arts institutions and community organizations. In order to reflect more accurately the reality of education in today's America where learning and teaching are lifelong activities, we must recognize the need for broad and innovative approaches and opportunities for learning experiences outside the traditional classroom and educational institution. Similarly, the responsibility for our students does not stop at the classroom, but extends to all of the services provided by our schools.

One responsibility of a Cabinet officer is to bring a departmental perspective to solving our Nation's problems. For example, during the national gas shortage 2 years ago, the Secretaries of Treasury and Commerce stepped forward to minimize the negative effects on business that gas allocations would cause. However, there was no one to consider the effect on the public schools, hence a number of schools were unnecessarily closed during the energy crisis, temporarily bringing classes to a halt. Paradoxically, more energy was consumed by students at home than they would have experienced in schools with moderately lowered temperatures.

Further, changes in the way the Unemployment Trust Fund treats State and local governments could seriously affect the ability of schools to provide services. Yet when such changes are proposed, no Cabinet officer has the interests or the undivided time to represent the interests of education.

Education, as an enterprise, is experiencing a period of enormous revision. Competition for resources has increased, severe inequities in financing education still exist, while demands for increased excellence and ouality must be addressed. The establishment of a Department of Education will provide a better administrative mechanism through which the Federal Government can tackle these national problems.

I am especially pleased with S. 991's

creation of the Office of Occupational, Adult and Community Education. This Office will provide for the effective administration of Federal vocational, adult and community education assistance to State and local programs. A broad-based Department of Education will bring into sharper focus the wide range of Federal educational programs.

A Department of Education must also have a strong science education component. My colleagues well know the current decline in the quality of science and mathematics education in our schools. The program being transferred will provide the Department with an opportunity to grapple with this problem especially in the areas of teacher training, student orientation to science, institutional support, science education research and development, and public understanding of science programs. These programs fit well into the scope of the new Department and can enhance the Department's Office of Educational Research and Improvement.

We in the United States are concerned with the lives of our youth and the future of our Nation. It is our obligation to correct the persistent problems that prevent students from achieving their potential and from obtaining the best possible preparation for life that our country can offer. A Department of Education can provide the kind of leadership and coordination necessary to approach these goals. I strongly urge my colleagues to support this legislation.●

● Mr. BIDEN. Mr. President, I support the proposed Department of Education bill.

I have had my doubts about the need for a Department of Education.

I do not believe that creating a new department in and of itself will make a substantial difference in improving the quality of education in our schools.

It will not make our children read better, it will not curb grade inflation in our universities and colleges and it will not insure that parents are actively involved in our schools.

While the committee has listed a number of advantages which the Department of Education is supposed to provide; for example, higher visibility, greater access to Congress and the President, many of these advantages are problematic.

What we may be doing is simply creating another Federal bureaucracy which seeks greater involvement in the affairs of local schools.

I believe that giving education greater focus and higher visibility is a desirable goal.

There are many problems in education today and unfortunately too little attention has been paid to these problems.

The Federal Government can play a valuable role in pointing out the problems but not at the expense of experimenting and intervening in such local educational matters as curriculum and school assignment.

This raises a second point of concern.

For many of the proponents of the Department of Education, the department is just a first step toward establishing a "national educational policy."

I believe that it is necessary to reexamine educational policies periodically.

However, I do not agree with the argument that to have a national educational policy it must be financed and promulgated in Washington, D.C.

Historically, our education system has been founded on the premise of neighborhood schools and community control.

The lack of parental and community involvement plus changes in student attitudes toward learning have been the primary factors contributing to the decline of educational standards in our schools.

The Federal Government has played a constructive role in solving some educational problems such as underachievement by disadvantaged children by providing compensatory aid.

But other Federal initiatives such as busing have caused massive disruption and very little positive educational benefit.

There is a natural tendency within bureaucracies once they have identified a problem, to label existing efforts as inadequate and fragmented.

The "solution" then is to establish a comprehensive national policy to deal with the problem.

The national policy almost inevitably calls for more Federal spending and a greater Federal Government role in local affairs.

In the case of education I have doubts as to whether a greater Federal role is desirable.

Our greatest need is for a fundamental rededication of parents, teachers, students, administrators, and the Federal Government to the concept that our schools are the primary place for learning basic educational and occupational skills.

That, I believe, is the key to revitalizing American education.

Devoting additional resources to education may help.

Consolidating educational programs under a single existing authority may improve the management of these programs.

But until this rededication to basic education occurs, I doubt whether we will see improvement in the ability of our children to read, and write.

The Department of Education can play a large role in promoting revitalization of American education.

By creating a separate, Cabinet-level Department of Education the problems of American education will be brought into greater focus and will have a higher visibility, both here in Congress and in the executive branch.

Perhaps the greatest single benefit of this bill will be to make the delivery of health, education, and social services more manageable within the Federal Government.

The Department of Health, Education, and Welfare, no matter how capably administered, cannot give adequate consideration to health, education, and human services.

It is just too big a job.

I do not share the view that there will be a significant loss of coordination between health and social services programs and education programs.

This coordination has never been adequately achieved in the past and I am not sure that it will ever be achieved within the context of the present framework of HEW.

By creating a separate, Cabinet-level Department of Education, it may also be possible to attract the leadership and personnel necessary to enable the Federal Government to perform its role in the area of education.

Holding onto the services of first-rate educators has been extremely difficult in the past.

During the past 12 years we have had 13 Commissioners of Education.

This is not the type of educational leadership we need.

In conclusion, Mr. President, I believe that it is desirable to create a Department of Education.

S. 991 provides an efficient and simple framework for creating such a Department.

But I do have misgivings about establishing an entity which could unnecessarily increase the role of the bureaucracy in education.

If we are to make significant progress in improving the quality of education in the United States it must be because we get involved at the grassroots level and commit ourselves to improving our schools.

Increased Federal involvement in education will not do it alone.

What we can do is to create a supportive environment in the Federal Government for these renewed efforts at the State and local levels.

The Department of Education could provide this supportive environment.●

UNANIMOUS-CONSENT AGREEMENT TO STRIKE DOMENICI UP AMENDMENT NO. 1841 FROM THE BILL

Mr. RIBICOFF. Mr. President, in conformance with the Stevens amendment, which was adopted a few moments ago, I ask unanimous consent that Senator DOMENICI's unprinted amendment No. 1841, with respect to Indian education, be stricken in its entirety from S. 991.

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

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

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think it is very near the time to vote. I certainly hope we have a reasonable turnout for that vote.

I shall finally add two points to the record before the vote.

One is that we are dealing with a constitutional issue, and I think that will be discussed further in the next Congress, assuming that our colleagues in the House of Representatives do their duty.

Second, the taxpayer is going to find an additional burden imposed upon him.

The estimate is now that the additional cost of this department in fiscal year 1979 will be $3.3 million; fiscal year 1980, $5.7 million; fiscal year 1981, $8.6 million; fiscal year 1982, $10.441 million; and fiscal year 1983, $11.1 million.

I think Senators can see where that trend is going to. It is going to have a

significant economic impact and have a significant regulatory impact.

I urge my colleagues to consider twice and vote against final passage.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

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

Mr. RIBICOFF. Mr. President, I think that we have before us no committee amendment.

Mr. SCHMITT. I think there is some confusion on that.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. The Senator from New Mexico did not offer his third amendment.

The PRESIDING OFFICER. That is correct.

The vote was on the committee amendment, as amended, in the nature of a substitute.

Mr. RIBICOFFF. The Senator from New Mexico did not offer his amendment?

Mr. SCHMITT. I did not offer my third amendment. I am sorry. I guess the Senator from Connecticut missed that point.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. The vote now is on final passage.

The PRESIDING OFFICER. The Senator is correct.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

Mr. STENNIS. Regular order, Mr. President.

The PRESIDING OFFICER. 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 Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from Utah (Mr. GARN) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Utah would vote "yea" and the Senator from Arizona would vote "nay."

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 72, nays 11, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—72

Baker	Griffin	Nelson
Bartlett	Hart	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield, Paul G.	Pell
Biden	Hathaway	Percy
Brooke	Heinz	Randolph
Bumpers	Hodges	Ribicoff
Burdick	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Sarbanes
Case	Inouye	Sasser
Chafee	Jackson	Schweiker
Chiles	Javits	Stafford
Church	Kennedy	Stennis
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stone
Danforth	Magnuson	Talmadge
DeConcini	Mathias	Thurmond
Dole	Matsunaga	Wallop
Domenici	McGovern	Weicker
Durkin	Melcher	Williams
Eagleton	Metzenbaum	Zorinsky
Ford	Muskie	
Glenn		

NAYS—11

Byrd, Harry F., Jr.	Helms	Proxmire
Hansen	Laxalt	Schmitt
Hayakawa	Morgan	Scott
	Moynihan	Tower

NOT VOTING—17

Abourezk	Garn	Johnston
Allen	Goldwater	McClure
Anderson	Gravel	McIntyre
Bayh	Haskell	Pearson
Curtis	Hatfield, Mark O.	Sparkman
Eastland		Young

So the bill (S. 991) was passed, as follows:

S. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

TABLE OF CONTENTS

TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institution, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, which acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8)(A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

SEC. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

SEC. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Elementary and Secondary Education;

(C) an Assistant Secretary for Postsecondary Education;

(D) an Assistant Secretary for Occupational, Adult, and Community Education;

(E) an Assistant Secretary for Educational Research and Improvement;

(F) a Director of the Office for Civil Rights;

(G) two additional Assistant Secretaries;

(H) an Inspector General; and

(I) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education, including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to postsecondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of programs pertaining to career education;

(5) administration of education grants and other programs for which the Department has responsibility under law;

(6) administration of programs relating to special education and rehabilitative services;

(7) administration of certain programs relating to the education of Indians, Alaskan Natives, and Aleuts

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department and development of policies to promote the efficient and coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Secretary, through the Assistant Secretary for Occupational, Adult, and Community Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agenices. The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

SEC. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(xi) (including the functions of the Bureau for the education and training of the handicapped) and 301(b)(2)(H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

SEC. 209. There is established in the Department an Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 303, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 210. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301(b)(2)(F), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 304.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 211. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301(b)(2)(D), and shall perform such functions with respect to all functions of the Secretary or of the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 212. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regula-

tions in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS-17 of the General Schedule contained in section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 214. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c)(1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2)(A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;

(ii) Department of Commerce;

(iii) Department of Defense;

(iv) Department of Energy;

(v) Department of Justice;

(vi) Department of Health and Human Services;

(vii) Department of the Interior;

(viii) Department of Labor;

(ix) Department of State;

(x) National Aeronautics and Space Administration;

(xi) National Endowment for the Arts;

(xii) National Endowment for the Humanities;

(xiii) National Science Foundation;

(xiv) Veterans' Administration;

(xv) Commission on Civil Rights; and

(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b)(5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b)(1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the

Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act;

(xiii) under the Vocational Education Act of 1963; and

(xiv) under the Career Education Incentive Act.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H) (i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

SEC. 302. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent childern of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under subsection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recomemndations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

SEC. 303. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs, as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 304. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 305. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 306. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but

notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Educational Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees; without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Dement seventy-one additional positions in the competitive service at levels GS–16, GS–17, and GS–18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.

(e) Nothing in this Act shall be construed to prevent the application of any Indian preference law in effect on the day before the date of enactment of this Act to any function transferred by this Act and subject to any such law on the day before the date of enactment of this Act. Any function transferred by this Act and subject to any such law shall continue to be subject to any such law.

(f)(1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

ANNUAL AUTHORIZATION OF PERSONNEL

SEC. 403. (a) Notwithstanding any other provision of this Act—

(1) Congress shall authorize the end strength as of the end of each fiscal year for personnel for the Department. Except as provided in subsection (b)(1) for the fiscal year beginning October 1, 1978, and ending September 30, 1979, Congress shall authorize the end strength for any fiscal year by prescribing the maximum number of personnel that may be employed by the Department on the last day of such fiscal year. No funds may be appropriated for any fiscal year to or for the use of personnel of the Department unless the end strength for personnel of the Department for that fiscal year has been authorized by law.

(2) The end strength for personnel authorized by law for the Department for any fiscal year shall be apportioned among the offices and agencies of the Department in such numbers as the Secretary shall prescribe. Except as provided in subsection (b)(2), the Secretary shall, within 120 days after the enactment of legislation authorizing the end strength for personnel of the Department for any fiscal year, prepare and transmit to the Congress a report showing the allocation of such personnel among the offices and agencies of the Department. Such report shall include explanations and justifications for the allocations of personnel made by the Secretary among the offices and agencies of the Department.

(3) In computing the authorized end strength for personnel of the Department for any fiscal year, there shall be included all direct-hire and indirect-hire personnel employed to perform functions of the Department whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth, including temporary summer employment.

(4) Whenever any function, power, duty, or activity is transferred or assigned in any fiscal year after the effective date of this Act to the Department from a deparment or agency outside of the Department, the end strength for personnel authorized for the Department for such fiscal year shall be adjusted to reflect any increases or decreases in personnel required as a result of such transfer or assignment.

(h)(1) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Department is authorized an end strength for personnel equal to the sum of (A) the number of personnel to be employed by the Department under the authorizations provided by other sections of this Act, and (B) the number of personnel transferred, under authority of this Act, to the Department from other departments and agencies of the Government during such fiscal year, as determined by the Director of the Office of Management and Budget. If the Secretary determines such action is necessary for the effective administration of the Department, he may employ additional personnel during such fiscal year in excess of the number authorized under the preceding sentence, but the number of such additional personnel may not exceed 1 per centum of the number authorized under the preceding sentence.

(2) For the fiscal year beginning October 1, 1978, and ending September 30, 1979, the Secretary shall prepare and transmit the report required by subsection (a)(2) within one hundred and twenty days after the effective date of this Act.

PART B—GENERAL PROVISIONS

AUTHORITY OF THE SECRETARY

SEC. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

SEC. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

SEC. 413. (a) Subject to the provisions of section 202(g) of this Act and subsections (b) and (c) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;

(B) Teacher Corps;

(C) Community College Unit;

(D) National Center for Education Statistics;

(E) National Institute of Education;

(F) Office of Environmental Education;

(G) Office of Consumers' Education;

(H) Office of Libraries and Learning Resources;

(I) Office of Indian Education;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) The Secretary may not alter, consolidate or discontinue the Office of Career Education, or reallocate the functions vested in such Office by the Career Education Incentive Act, section 406 of the Education Amendments of 1974, or any other statute prior to October 1, 1983 unless (A) funds are not appropriated to carry out the provisions of such Act for any fiscal year preceding such date and (B) a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action. After October 1, 1983 such Office shall not be altered, consolidated or discontinued, or its functions reallocated unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of the proposed action.

(d) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(4) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patients), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a)(1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 (e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. gifts, bequests, and devises of money and

proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments. expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of

the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capactiy of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (8).

"(123) Director of the Office for Civil Rights of the Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Human Services, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SEC. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND HUMAN SERVICES

"SEC. 306. The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or human services character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 510. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 511. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of thist Act shall be deemed to refer and apply to the Department of Health and Human Services, the Secretary of Health and Human Services, or the appropriate official of the Department of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 512. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title and

(2) the Secretary may promulgate degulations pursuant to section 50(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secertary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on

the effective date of this Act and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

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

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

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 991.

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

Mr. RIBICOFF. Mr. President, I would like to especially thank Senator PERCY and all the Senators and their staffs on the Governmental Affairs Committee. I want to especially thank Senator MURIEL HUMPHREY for her support. Senator Hubert Humphrey had been such an ardent supporter of this legislation for so many years. I want to also thank those on the Human Resources Committee, and the other Senators of this body and their outstanding staff who have worked so hard to make this legislation possible. Their dedication and hard work has brought this department into reality.

I want to pay special tribute to Marilyn Harris of the Governmental Affairs staff who worked so tirelessly and constructively throughout the entire conception up to final passage of this bill.

I also want to pay tribute to Richard Wegman and Jonathan Greenblatt who worked diligently to see this bill to completion tonight, and special tribute to Robert Hefferman, who devoted tireless energy and provided valuable assistance.

Mr. President, I ask unanimous consent that the names of the following staff members who worked so diligently on the bill be printed in the RECORD.

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

Lawrence Grisham, John Childers (Senator Percy).

Brian Conboy, Alan Bennett, Greg Fusco (Senator Javits).

Nancy Anderson, Link Hoewing (Senator Roth).

Jill Porter (Senator Mathias).

Mary Anne Simpson, Carl Flair (Senator Stevens).

Martina Pearson (Senator Heinz).

Chris Brewster and Harrison Fox (a former member of Senator Danforth's staff) (Senator Danforth).

Carnie Hayes (Senator Chiles).

Terry Jolly (Senator Muskie).

Cheryl Davis (Senator Nunn).

Reg Gilliam (Senator Glenn), and Evelyn Jacobs (a former member of Senator Glenn's staff).

Marcia McCord (Senator Eagleton).

Howard Orenstein and Dru Smith (Senator Sasser).

Charlotte Tsoucalas (Senator Jackson).

Tom Cator (Senator Humphrey).

Letitia Chambers (Senator Domenici).

Franklyn Zweig (Senator Williams).

Jean Frohlicher (Senator Pell), Patria Forsythe (Senator Randolph).

Mr. ROBERT C. BYRD. Mr. President, with the passage of S. 991, the Department of Education Organization Act of 1978, the Senate has taken what can legitimately be regarded as a giant step forward toward the goal of upgrading and improving this country's educational system.

For too long now our schools and educational programs have been the poor stepchildren of a huge Department of Health, Education, and Welfare. With a budget only one-eighteenth that provided for health and welfare programs, it was almost inevitable that the Department's Education Division would "get lost in the shuffle" and that our educational programs would not receive the attention or be given the priority that they deserve. This is precisely what has happened.

At the same time, with a current budget of over $10.5 billion, the Education Division itself is easily large enough to constitute a separate department. This budget already exceeds that of the Departments of the Interior, Commerce, Justice, and State.

S. 991, which the Senate has passed today, will serve to correct this situation and further evidence this Nation's commitment to provide the people of this country with the best possible education. For the first time our Government will have a Cabinet-level Department of Education devoted solely to the needs of the educational system.

The creation of the new Department of Education will insure that education receives appropriate emphasis at the Federal level and help to end the piecemeal approach to education-related problems that presently exists. It will also serve to continue and strengthen the Federal commitment to insuring access to equal education opportunities.

Mr. President, the passage of this legislation by the Senate today is directly attributable to the tremendous effort on its behalf by the distinguished chairman of the Governmental Affairs Committee, who has so skillfully managed the bill, Senator RIBICOFF. Senator RIBICOFF's longstanding interest in and concern with the entire field of education and ways in which it can be improved are well-known to every Member of this body. His expertise in this area is exceeded by no one and goes back well beyond his service as Secretary of Health, Education, and Welfare in the Cabinet of President Kennedy. Thanks to his hard work, diligence, and skill, what has been the goal of so many for so long will hopefully become a reality in the near future. He is deserving of a great debt of gratitude.

Credit must also be given, of course, to the distinguished Senator from Illinois (Mr. PERCY) for the role that he has played in bringing this bill to passage today. His skill and cooperation, which go beyond this particular legislation, have made a great contribution to what we have achieved today.

Mr. President, I wish to congratulate the distinguished Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on their signal accomplishment. This was a bill that was supposed not to pass, that it would not pass, but due to the fine and splendid cooperation of everyone on both sides of the aisle the bill has now been enacted.

Mr. RIBICOFF. Mr. President, I want to pay special tribute to the majority and minority leaders. During the closing days of the session, I know how difficult it is to program legislation, and it is only because of the cooperation of the majority and minority leaders and their commitment to this bill that it was possible to bring this bill up and get the Senate to take action. My feeling is that because the Senate has acted so overwhelmingly, we can now expect positive action in the House, and then the signature of the President of the United States.

Mr. BAKER. Mr. President, I would like to join the majority leader in extending my congratulations and thanks to the distinguished manager of the bill, the able and distinguished Senator from Connecticut (Mr. RIBICOFF), and the distinguished manager of the bill on behalf of the minority, the senior Senator from Illinois (Mr. PERCY), my classmate. They have worked diligently and hard to bring us to this point.

I have had the privilege of conferring with both of them on the question of scheduling this matter. It appeared, as the majority leader indicated earlier, for a while that it could not be scheduled. But by their perseverence and persistent effort and cooperation, it has now been scheduled and disposed of in the Senate. I think this is a milestone piece of legislation, and I commend them for their efforts; and I thank the majority leader for his cooperation.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I want to include in my expressions of gratitude a special measure of thanks to the distinguished minority leader and those on the minority side for their cooperation in arranging for a time agreement on this matter, which enabled it to be considered and concluded.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, in order that the Senator from South Carolina and others may speak and call up conference reports, et cetera, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. 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. Marks, one of his secretaries.

REPORT OF PROPOSED RESCISSION IN EMPLOYMENT AND TRAINING FUNDS—MESSAGE FROM THE PRESIDENT—PM 222

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with accompanying papers, which was referred to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $10.8 million in employment and training funds appropriated to the Department of Labor.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

PROPOSED LEGISLATION TO WAIVE APPLICATION OF COUNTERVAILING DUTIES—MESSAGE FROM THE PRESIDENT—PM 223

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Finance:

To the Congress of the United States:

I am today submitting to the Congress a proposal for legislation to extend for a brief period the authority of the Secretary of the Treasury under Section 303 (d) of the Tariff Act of 1930 to waive the application of countervailing duties. I hope that the Congress will be able to enact the necessary legislation before adjournment *sine die*.

If not extended, the waiver authority will expire on January 2, 1979. This would seriously jeopardize satisfactory conclusion of the Multilateral Trade Negotiations (MTN) underway in Geneva. Unless the waiver authority is extended to cover the period during which the results of the MTN will be under review by the Congress, our ability to press ahead with the negotiations would be sharply limited.

As stipulated by the Congress in the Trade Act of 1974, negotiation of a satisfactory code on subsidies and countervailing duties is a primary U.S. objective in the MTN. The United States is seeking through such a code improved discipline on the use of subsidies which adversely affect trade. In our view, a satisfactory subsidy/countervailing duty code must include (1) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and (2) more effective provisions on notification, consultation and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

My Special Representative for Trade Negotiations has informed me that the prospects for reaching agreement by year end on a subsidy/countervailing duty code which meets basic U.S. objectives are good—provided that the waiver authority can be extended until such a code has been submitted to, and acted upon, by the Congress under the procedures of the Trade Act of 1974. In this connection, the legislation I am proposing would provide that the countervailing duty waiver authority will expire as scheduled on January 2, 1979, unless we are able to report to the Congress before that date that a subsidy/countervailing duty code has been negotiated among the key countries participating in the MTN and that the MTN itself has been substantially concluded.

Under the countervailing duty waiver authority, the imposition of countervailing duties may be waived in a specific case only if "adequate steps have been taken to eliminate or substantially reduce the adverse effect" of the subsidy in question. This provision and the other limitations on the use of the waiver authority which are currently in the law would continue in effect if the waiver authority is extended. Thus, U.S. producers and workers will continue to be adequately protected from the adverse effects of subsidized competition.

A successful conclusion to the MTN is essential to U.S. economic policy. If the waiver authority is not extended, such a successful conclusion will, as I have noted, be seriously jeopardized. Accordingly, I urge the Congress to act positively upon this legislative proposal as quickly as possible.

JIMMY CARTER.

THE WHITE HOUSE, *September 28, 1978.*

FIRST ANNUAL REPORT ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 224

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, with an accompanying report, which was referred to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources, jointly, by unanimous consent:

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on science and technology as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976.

Science and technology contributes in significant ways to many of our social needs—maintaining economic growth and productivity, feeding the world's people, improving our health and environment, and preserving our national security. They also reveal the basic structure of nature. Moreover, our science and technology draw the respect and admiration of nations throughout the world.

I believe this report, and its successors, can play an important role in providing a foundation for informed debate on scientific and technological issues, and thereby can help assure that our scientific and technological capabilities remain strong.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting the first annual report on science and technology, as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources.

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

STATUS REPORT ON INTERNATIONAL WOMEN'S YEAR RESOLUTIONS—MESSAGES FROM THE PRESIDENT—PM 225

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary, jointly, by unanimous consent:

To the Congress of the United States:

By mandating International Women's Year, Congress set in motion a series of fifty-two regional meetings that brought together women of all races, incomes, ethnic backgrounds and religious beliefs to consider the major issues confronting women. The culmination of International Women's Year was the National Women's Conference held in Houston on November, 1977. That conference was a turning point in American Women's long struggle for equality. In Houston, delegates elected at the regional meetings developed the *National Plan of Action*—a national agenda to achieve women's full rights and equality.

In response to the Plan's recommendations, the Administration has reviewed our programs designed to improve the opportunities for women. This Message summarizes the results of that review and forwards to the Congress the more detailed status report on Administration action on the IWY resolutions.

A keystone toward achieving equality for women would be the addition of the Equal Rights Amendment to the Constitution. By passing this Amendment, the Congress recognized the need to provide Constitutional guarantees against discrimination on the basis of sex. More than any other single act. ratification of the Equal Rights Amendment will affirm the right of women to participate fully in American life. To ensure that women do not lose the opportunity to secure that precious right, the deadline for ratification should be extended.

Because I feel very strongly about women's equality, I sent a Memorandum last month to the heads of all departments and agencies. In that Memorandum, I directed the head of each department and agency (1) to emphasize the Administration's commitment to the Equal Rights Amendment; (2) to review the Federal Women's Program in their agency or department to determine how it can be strengthened; (3) to designate a policy-level representative from their agency or department to serve on the Interdepartmental Task Force on Women; and (4) to provide adequate staff for that representative.

However, we must not stop here. We must make every effort to help women

assume their rightful place in every part of American life. This is in the national interest, for we cannot meet the important challenges of the coming decades without full participation of all our citizens, including women.

As President, I have acted upon my firm commitment to equity for women in my appointments, programs, and policies. I believe that the Federal Government should serve as a model of nondiscrimination, and I shall continue to take steps toward that goal. In my Administration, women are serving in the Cabinet and at all levels of government. Still, much more remains to be done. That is why I have set in motion the Interdepartmental Task Force on Women, National Advisory Committee for Women, other key task forces, and departmental studies to recommend additional action.

My Administration is dedicated to eliminating discrimination against women. Among the crucial issues which demand our attention:

Passage of the Equal Rights Amendment and the Resolution for Extending the Deadline for Ratification;

Passage of pending legislation which improves the status of women as recommended in this report;

Enforcement of all civil rights laws, particularly Title IX of the Education Amendments of 1972, which prohibits sex discrimination in Federally-financed education programs; and

Development of improved statistical information to permit adequate evaluation of the impact of Federal programs and practices on women.

THE STATUS REPORT

International Women's Year helped raise the expectations and consciousness of American women, who now look to government, private industry, and the community for bold and energetic responses. In accepting the final report of the National Commission for International Women's Year, I reaffirmed my commitment to equality for women and my determination to help keep the spirit of Houston alive. At that time, I directed that a status report be prepared on the Administration's initial steps to implement the *National Plan of Action*. Today I am pleased to present that report with my recommendations to the Congress.

To assess our progress toward the goals described in the *National Plan of Action*, each department and agency was asked to report all current legislative and executive actions reflecting the aims and spirit of Houston. More than three hundred women, both from inside and outside the Federal government, and representing a wide range of interests, reviewed the agency surveys. Many of their suggestions were incorporated into the final report, and I am grateful for their help.

A set of detailed recommendations for implementation of the *National Plan of Action* separate from this report was developed as part of this week. I shall transmit these recommendations to the Interdepartmental Task Force on Women and the National Advisory Committee for Women for review and advice.

Part I of the report sets forth those portions of the *Plan's* twenty-six resolutions calling for Federal action, and indicates the major Administration legislative and executive initiatives in the first eighteen months in those areas. In the months ahead we shall continue to *start* new initiatives to improve equity for women in areas included in *The Plan of Action* and beyond. Part II of the report describes other legislative measures which represent efforts to approach these issues in different ways.

REPORT HIGHLIGHTS

The report summarizes more than seventy-five important initiatives taken during the first eighteen months of this Administration to provide greater equity for women. These include new laws and programs, increased funding, and improved administration in areas addressed by the *National Plan of Action*. Let me highlight some of our major steps:

More than 21 percent of my appointments within the White House and the executive branch have been women, an all-time high for any Administration. In response to my instructions, Cabinet members and agency heads also sought out and appointed women to important positions. We shall continue to do so.

My Administration has acted:

(1) to improve Federal employment opportunities for women;

(2) to examine and make recommendations to address the problems women business owners face in obtaining Federal grants and contracts;

(3) to enforce existing civil rights laws (*i.e.*, The Equal Credit Opportunity Act of 1974, the Fair Housing Act, Title IX of the Education Amendments of 1972, and The Civil Rights Act of 1964);

(4) to improve the collection and dissemination of data on the status of women; and

(5) to increase funding and visibility of programs serving women's needs.

My Reorganization Plan #1 of 1978, a major reorganization effort of the Administration, strengthens and consolidates within the Equal Employment Opportunity Commission Federal enforcement of laws and executive orders against job discrimination based on sex and race.

I have signed and am fully implementing several important new laws—Protection of Children Against Sexual Exploitation Act of 1977, The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, the Social Security Amendments of 1977, and The Age Discrimination in Employment Act Amendments of 1978.

My Administration in its first eighteen months has initiated and supported legislation aimed at meeting the needs of women in many areas identified in the *National Plan of Action*. I urge Congress to act upon this legislation quickly.

Some of the resolutions in the *National Plan of Action* require structural as well as policy changes. My Administration has developed new operations to improve the Federal government's response to women's needs:

The Interdepartmental Task Force on Women and the National Advisory Committee for Women were created by Executive Order in March, 1978, to advise me of additional action necessary to implement the *Plan of Action*.

The Department of Justice Task Force on Sex Discrimination is working with each agency to survey and eliminate sex discrimination from programs and procedures throughout the Federal government. The Task Force will recommend needed changes in existing laws.

The Interdepartmental Task Force on Women Business Owners, coordinated by the Department of Commerce, has identified barriers to business ownership for women and has made recommendations to remove them. On July 10, 1978, I asked my Cabinet to respond to the Task Force recommendations.

The Department of Commerce Office of Federal Statistical Policy and Standards was established to coordinate data collection and to set guidelines and definitions for demographic variables.

During my Administration, other Federal programs designed to meet the needs of women have been expanded:

The Women's Bureau in the Department of Labor, which focuses on the needs of women in the labor force, was upgraded, giving the Bureau Chief direct access to the Secretary of Labor. The Women's Bureau provides support for the Interdepartmental Task Force on Women and the National Advisory Committee for Women, operates significant programs designed to serve women, and publishes information on employed women.

The Federal Women's Program which is in the Office of the Chairman of the Civil Service Commission, aids Federally-employed women. In conjunction with the Federal Women's Task Force on the U.N. Decade for Women, the Federal Women's Program is playing a more active and visible role in shaping Federal employment policy.

The National Advisory Council on Women's Educational Programs is a Presidentially-appointed council which makes recommendations to Federal officials on equity for women and girls in education. During my Administration, the Council has been given an expanded mandate to help implement laws prohibiting sex discrimination in Federally-assisted education programs.

These are only a few high points of the report which surveys our progress over the past eighteen months. My Administration has been able to achieve this record in large part because of the unstinting efforts of the many dedicated women within the Government. For these efforts I am grateful.

RECOMMENDTIONS TO THE CONGRESS

For 131 years after the ratification of the U.S. Constitution, American women could not vote. Since women's suffrage in 1920, there has been considerable progress in legislative and executive action to provide equity for women. That progress has accelerated in my Administration. From 1923 to 1972, the Equal Rights amendment languished in Congress. In 1972, Congress took a bold and affirmative step to guarantee equal rights for women. It only remains for three more states to join the majority of our nation

in passing this historic amendment. ERA must be passed not only for ourselves, but to free our sons and daughters to participate fully in our, (,offio

Our nation benefits when women, as well as men, are freed from stereotypes and given a broader range of choices. Our nation benefits when all women may enter the mainstream of American life, and their talents and abilities are valued and rewarded. Our nation benefits when the freedom of all Americans is enhanced by greater freedom for American women. We can increase this freedom.

I ask you now to join with me in guaranteeing full equity for women in the United States, and to pass in an acceptable form without delay:

H.J. Res. 638 and S.J. Res. 134 *Extension of the Deadline for Ratification of the Equal Rights Amendments.*

H.R. 11086 (H.R. 12452) and S. 2570 *Comprehensive Employment and Training Act.*

H.R. 50 and S. 50 *Full Employment and Balanced Growth Act of 1978 (Humphrey-Hawkins Bill).*

H.R. 6075 and S. 995 *Pregnancy Disability Act.*

H.R. 11280 and S. 2640 *Civil Service Reform Act.*

H.R. 9030 (H.R. 19050) and S. 2084 *Better Jobs and Income Act (Welfare Reform).*

These bills, which are pending before Congress, will greatly enhance the civil rights, employment and economic opportunities of women. Extension of the Deadline for Ratification of the Equal Rights Amendment recently passed the House by an overwhelming majority. I congratulate the House and call upon the Senate to take similar action. The Equal Rights Amendment is needed as a constitutional protection against discrimination on the basis of sex. The Comprehensive Employment and Training Act (CETA) and the Better Jobs and Income Act (Welfare Reform), will, among other things, enable employment training and support services for displaced homemakers and low income women. In addition, CETA will protect against sex role stereotyping in Federal training programs and sex discrimination in placement in Federally-subsidized jobs. The Civil Service Reform Act and the Humphrey-Hawkins Bill will improve employment opportunities for the most recent entrants to the labor market—women and youth. And, the Pregnancy Disability Act, which is now in conference, will protect the health benefits of pregnant workers by making it unlawful for employers to discriminate on the basis of sex.

Through enactment of these bills in the appropriate form, we ensure continued progress toward the goal of full equality so that future generations of Americans—male and female—have choices and opportunities not fully realized today.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States, transmitting a status report on the action on International Women's Year resolutions, be jointly referred to the Committee on Banking, Housing, and Urban Affairs, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary.

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

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on September 26, 1978, he approved and signed the following acts:

S. 3075. An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal year 1979, and for other purposes;

S. 3119. An act to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; and

S. 3120. An act to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia.

The message also reported that on September 27, 1978, he approved and signed the following acts:

S. 1103. An act to permit any State the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due such State; and

S. 2556. An act to change the name of the District of Columbia Bail Agency to the District of Columbia Pretrial Services Agency.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 4:24 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center";

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired);

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3274. An act to designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center";

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the "Standing Bear Lake"; and

S.J. Res. 154. A joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Oklahoma, from September 10, 1979, through September 13, 1979.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has agreed to Senate Concurrent Resolution 106, authorizing the printing of 5,000 additional copies of the eulogies to the late Senator Hubert H. Humphrey, without amendment.

The message further announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn; and

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, each with amendments in which it requests the concurrence of the Senate:

S. 274. An act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, and for other related purposes;

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration and to require due process in the confirmation of such rates by the Federal Energy Regulatory Commission;

S. 2466. An act to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes;

S. 2534. An act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations;

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in United States agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings;

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of American agricultural products;

S. 3467. An act to designate the United States Department of Agriculture Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station", and to designate the United States Department of Agriculture Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat and Animal Research Center"; and

S.J. Res. 16. A joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

The message further announced that the House insists upon its amendments to the bill (S. 2493) to amend the Fed-

eral Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. JOHNSON of California, Mr. ROBERTS, Mr. ANDERSON of California, Mr. RONCALIO, Mr. LEVITAS, Mr. HARSHA, and Mr. SNYDER were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to H.R. 8588, an act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing, and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to H.R. 10965, an act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

The message also announced that the House agrees to the amendments of the Senate to H.R. 10581, an act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation.

The message further announced that the House agrees to the amendments of the Senate to H.R. 11886, an act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for their survivors, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 7010, an act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. RODINO, Mr. MANN, Ms. HOLTZMAN, Mr. HALL, Mr. GUDGER, Mr. EVANS of Georgia, Mr. WIGGINS, and Mr. HYDE were appointed managers of the conference on the part of the House.

The message further announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 3816, an act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters, and for other purposes; and that the bill and the amendment of the Senate are hereby laid on the table.

The message also announced that the Speaker has appointed Mr. PICKLE a conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, vice Mr. BURLESON of Texas, excused.

The message further announced that the House disagrees to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, and 8, and the amendment to the title of H.R. 9251, an act relating to extensions of time for the existing tax treatment of certain items; that the House insists on its amendment to the amendment of the Senate numbered 3; insists on its disagreement to the amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. WAGGONNER, Mr. CORMAN, Mr. CONABLE, and Mr. FRENZEL were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 9214, an act to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund.

The message further announced that the House agrees to the amendment of the Senate to H.R. 8200, an act to establish a uniform law on the subject of bankruptcies, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills and joint resolution in which it requests the concurrence of the Senate:

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy;

H.R. 9486. An act to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes;

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970;

H.R. 10661. An act to amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal years 1979 and 1980, and for other purposes;

H.R. 11002. An act to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies;

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes;

H.R. 12631. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes;

H.R. 13488. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of United States citizens and resident aliens from sources outside the United States, and for other purposes;

H.R. 13643. An act to provide for the striking of medals in commemoration of the life and ideals of Doctor Martin Luther King, Junior; and

H. J. Res. 1139. A joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission, to effect certain changes to comply with other changes in the law, and for other purposes.

HOUSE BILLS HELD AT DESK

The following bill was read by title and held at the desk pursuant to order of September 26, 1978:

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were read twice by title and referred as indicated:

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 9486. An act to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreement, and for other purposes; to the Committee on Foreign Relations and the Committee on Armed Services, jointly, by unanimous consent.

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes; to the Committee on the Judiciary.

H.R. 12631. An act to provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes; to the Committee on Governmental Affairs.

H.R. 13488. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of United States citizens and resident aliens from sources outside the United States, and for other purposes; to the Committee on Finance.

H.R. 13643. An act to provide for the striking of medals in commemoration of the life and ideals of Doctor Martin Luther King, Junior; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 1139. A joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 352. A bill for the relief of Benjamin N. Mascarenas (Rept. No. 95–1247).

S. 809. A bill for the relief of Chatchai "Rick" Chatranon (Rept. No. 95–1248).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 487. A bill for the relief of Samson Kossivi Kpadenou (Rept. No. 95–1249).

S. 536. A bill for the relief of Reynaldo S. Miranda (Rept. No. 95–1250).

S. 652. A bill for the relief of Reina Estela Olvera (Rept. No. 95–1251).

S. 3109. A bill for the relief of Ricardo Rosas Salazar (Rept. No. 95–1252).

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

S. 540. A bill for the relief of Doctor Rolando Reyes Perez and his wife, Aurora Sevilla Alonzo Perez (Rept. No. 95–1253).

S. 1292. A bill for the relief of Doctor Francisco Dozon and his wife, Luzviminda Dozon (Rept. No. 95–1254).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments, and an amendment to the title:

S. 147. A bill for the relief of Doctor Antonio Panganiban Serrano, his wife, Doctor Lesley B. Tiongko Serrano, and their son Kenneth Neil Serrano (Rept. No. 95–1255).

S. 454. A bill for the relief of Nick F. Flangas (Rept. No. 95–1256).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Res. 572. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3309. Referred to the Committee on the Budget.

OMNIBUS JUDGESHIP BILL—CONFERENCE REPORT

Mr. EASTLAND, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes (Rept. No. 95–1257).

WHITE HOUSE PERSONNEL AUTHORIZATION—CONFERENCE REPORT

Mr. SASSER, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes (Rept. No. 95–1258).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

H. Brooks Phillips, of Mississippi, to be U.S. marshal for the northern district of Mississippi.

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

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

John Gunther Dean, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Lebanon.

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

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: John Gunther Dean.
Post: Ambassador to Lebanon.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, not applicable.
5. Grandparents names, not applicable.
6. Brothers and spouses names, not applicable.
7. Sisters and spouses names, not applicable.

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

Richard T. Mulerone, of Minnesota, to be a Commissioner of the U.S. Parole Commission.

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

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. LAXALT:

S. 3532. A bill for the relief of Gisella Maria Johanna Dunfield; to the Committee on the Judiciary.

By Mr. McCLURE:

S. 3533. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Finance.

By Mr. CURTIS:

S. 3534. A bill for the relief of Teodoro A. Ando; to the Committee on the Judiciary.

By Mr. DOLE:

S. 3535. A bill for the relief of Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim; to the Committee on the Judiciary.

S. 3536. A bill for the relief of Reginald Carlson Lim; to the Committee on the Judiciary.

By Mr. HUDDLESTON:

S.J. Res. 167. A joint resolution authorizing and requesting the President to issue a proclamation designating the month of October of each year as "National Fire Prevention Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE:

S. 3533. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Finance.

SAVINGS ACT OF 1978

● Mr. McCLURE. Mr. President, Americans are saving far less of their money than citizens in other industrial countries. Studies indicate that American willingness to save has been diminishing over the last 10 years. This trend is especially alarming at a time of growing uneasiness over the U.S. economy. Today I am introducing a bill which I believe will reverse this dangerous trend.

The bill is entitled the Savings Act of 1978. It is designed to encourage and assist Americans to save and invest. These activities have become next to impossible for many of our citizens because of the rate of inflation we are experiencing.

The bill allows a tax credit of 50 percent for additions to all types of bank and savings accounts, stock and taxable bond holdings, insurance, and assets of small businesses. For many years our tax system has encouraged consumption by penalizing savings. This bill will sharply increase the reward for saving, and will, for the first time in years, allow many of our citizens to have a real return after taxes and inflation on their savings. Many Americans have attempted to set aside sufficient funds for the purchase of a home, payment of tuition or medical expenses, a secure retirement, as well as many other goals, only to be robbed of their hard work by taxes and inflation. This bill will enable Americans to reap the fruits of their hard work.

Much of the inflation we have faced today is a result of attempting to fund investment and economic growth through money creation by the Federal Reserve. This bill, by adding to the supply of saving, facilitates far more investment in plant and equipment out of savings and therefore would reduce inflation. We have declared full employment and no inflation as national goals. These goals can be achieved through economic growth—greater investment in plant and equipment, the modernization of thousands more factories, and the creation of hundreds of thousands of additional jobs each year all can be accomplished as this bill creates the incentives to reallocate savings into projects of the greatest value in terms of economic growth.

The United States has long had the lowest rate of saving and investment in the Western World. As a consequence, every other major Western nation has a better employment record, and a faster rate of growth of real wages and fringe benefits than the United States. The U.S. after-tax rate of saving hovers around 5 percent while Canada has a saving rate of 9.8 percent, West Germany 14 percent, and Japan over 21 percent. It should not be surprising to note that these nations actively encourage saving. For example, Canada permits tax exempt deposits in special savings accounts. Germany subsidizes interest rates in a similar program. Japan, as part of its new budget package to promote more rapid growth, will allow a tax deduction for stock purchase of up to $5,000. The nationwide benefits from such programs appear to be high. There is no reason why the United States should not enjoy the same gains.

Last year, before the Joint Economic Committee, a panel of experts on growth and capital formation focused on the

bias our tax code has against savings. Income is taxed when earned. If it is saved, the service—interest or dividend—is taxed a second time at higher tax rates. The experts recommended removing saving from taxable income as the best way to return the tax code to neutrality between consumption and saving. Taxes would remain on the earnings of saving, but we would no longer be double-taxing both savings and its earnings. This bill is a major step in that direction.

We all recognize the difficulty lower income taxpayers have in saving. This bill recognizes that by providing a progressive tax credit rather than an exemption or deduction. Lower income taxpayers would receive a credit on all eligible savings. While middle and upper bracket taxpayers, who have historically saved higher percentages of their incomes, would receive a credit only on eligible savings done in excess of the normal percent of income saved by people in their income bracket. By establishing this credit on the marginal savings, we sharply reduce the cost of the bill, while encouraging additional savings.

The savings credit will result in a shifting of saving from the current ineffective but tax-sheltered projects to a straightforward savings in basic U.S. industry, small business and homebuilding. A 50 percent credit restores the attractiveness of straightforward saving by doubling the reward to such taxable investment and saving for any given interest rate or dividend. Thus, this credit will produce a reallocation of saving into projects of the greatest value in terms of economic growth and modernization of American plant and equipment.

An increase in saving is essential to capital formation and would achieve the orderly and sustained growth of the economy we all seek. Removing tax disincentives to employment and investment is an essential precondtion for meeting the Nation's social and environmental goals. This savings proposal will spur the Congress to get right to the heart of our economic problems. It will provide the key to full employment, rising living standards, and produce a substantial increase in the U.S. growth rate for years to come.

I ask unanimous consent that my bill, a technical explanation, and a Wall Street Journal article which documents the poor performance of the United States in saving and growth be printed in the RECORD.

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

S. 3533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter I of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. Eligible Net Savings.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the excess of—

"(1) the eligible net savings of the taxpayer for the taxpayer year, over

"(2) the threshold saving amount of the taxpayer for such year.

"(b) THRESHOLD SAVING AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'threshold saving amount' means an amount equal to the modified adjusted gross income of the taxpayer for the taxable year multiplied by the applicable percentage determined in accordance with the following table:

"If the modified adjusted gross income is:	The applicable percentage is:
Not over $10,000	0
Over $10,000 but not over $12,000	1
Over $12,000 but not over $15,000	2
Over $15,000 but not over $20,000	3
Over $20,000 but not over $25,000	4
Over $25,000 but not over $50,000	5
Over $50,000 but not over $100,000	6
Over $100,000 but not over $200,000	8
Over $200,000	10

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income minus the deductions allowed by section 151 (relating to personal exemptions).

"(c) ELIGIBLE NET SAVINGS.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible net savings' means the excess at the close of the taxable year of net savings over ineligible debt.

"(2) INELIGIBLE DEBT.—For purposes of paragraph (1), the term 'ineligible debt' means the sum at the close of the taxable year of net increases in debt of the taxpayer other than debt for—

"(A) the purchase or repair of real property,

"(B) the repair of property, and the purchase of insurance, securing any debt of the taxpayer, or

"(C) the payment of medical and tuition expenses of the taxpayer, his spouse, or any dependent of the taxpayer.

"(d) NET SAVINGS.—For purposes of this section, the term 'net savings' means the sum of items described in paragraphs (1), (2), (3), (4), and (5).

"(1) SAVING IN CERTAIN BUSINESS.—The taxpayer's share of the change in the book value of a farm or nonfarm proprietorship, partnership, or closely held corporation, plus new money invested in such businesses, plus purchases of new businesses less sales, plus changes in loans to such businesses in the taxable year.

"(2) SAVING IN LIQUID ASSETS.—

"(A) SAVING IN CHECKING ACCOUNTS.—The change in the balances in the taxpayer's personal checking accounts between the end of the preceding taxable year and the end of the taxable year.

"(B) SAVING IN SAVINGS ACCOUNTS.—The change in the balances in the taxpayer's savings accounts at savings and loan institutions, mutual savings banks, credit unions, and commercial banks between the end of the preceding taxable year and the end of the taxable year.

"(C) SAVINGS IN U.S. SAVINGS BONDS.—The purchases of nonmarketable bonds issued by the United States minus redemptions in the taxable year.

"(3) SAVING IN CERTAIN INVESTMENT ASSETS.—

"(A) SAVING IN PUBLICLY TRADED STOCK.—Purchases of common and preferred stock in domestic corporations (other than closely held corporations), shares in mutual funds and other investment companies, and shares in investment clubs, plus increases in credit balances at security dealers, less sales of such stock and shares, less increases in debit balance at security dealers, less increases in loans secured by such stocks either newly purchased or formerly held, in the taxable year.

"(B) SAVING IN CERTAIN MARKETABLE SECURITIES OTHER THAN STOCK.—Purchases of bills, certificates, notes, bonds, and debentures, issued by the United States or by domestic corporations, less sales of such securities, less increases in loans secured by such bonds either newly purchased or formerly held, in the taxable year.

"(4) SAVING IN MORTGAGE ASSETS AND INVESTMENT REAL ESTATE.—The saving in mortgage assets and investment real estate, consisting of—

"(A) the net of amount loaned less the principal payments received during the year on loans secured by mortgages, and

"(B) the net of purchases of, plus improvements in, less sales of, and less changes during the year in debt secured by, real estate owned by the taxpayer, other than owned homes and real estate connected with a business or profession. Included are houses owned for investment purposes, properties put to commercial use, structures used for industrial purposes, and undeveloped land held for investment or building purposes.

"(5) SAVING IN COMPANY SAVINGS PLANS, RETIREMENT PLANS, AND LIFE INSURANCE.—The saving in company savings plans, retirement, and life insurance, consisting of—

"(A) the net contributions by members of the consumer unit to savings plans sponsored by companies for which they worked, less lump sum withdrawals;

"(B) the net of the taxpayer's contributions to retirement plans less lump sum withdrawals from such plans, not including social security contributions; and

"(C) premium payments on, less borrowing against, whole life or term life insurance.

An amount shall not be taken into account under this subsection for the taxable year if a deduction for such amount is allowed under this chapter for such year.

"(e) INCREASE IN TAX WHERE ELIGIBLE NET SAVING IS LESS THAN ZERO.—

"(1) IN GENERAL.—If for any taxable year the eligible net saving of the taxpayer is less than zero, the tax imposed by this chapter for the taxable year shall be increased by an amount equal to the lessor of—

"(A) an amount equal to 50 percent of the excess of—

"(i) zero, over

"(ii) the eligible net savings of the taxpayer for such year,

"(B) an amount equal to the amount of the credit allowed by subsection (a) for the period of 5 taxable years preceding the taxable year.

"(2) EXCEPTIONS.—

"(A) INDIVIDUALS WHO ATTAIN AGE 65.—

"(i) IN GENERAL.—Paragraph (1) shall not apply to any individual who has attained age 65 before the close of the taxable year and who makes an irrevocable election, at such time and in such manner as the Secretary may by regulations prescribe, not to seek the benefits of this section for all subsequent taxable years.

"(ii) SATISFACTION OF AGE REQUIREMENT BY ONE SPOUSE.—In the case of a husband and wife who file a joint return under section 6013 for the taxable year, if—

"(I) one spouse satisfies the age requirement of subparagraph (A), and

"(II) both spouses make the election under such subparagraph,

both spouses shall be treated as satisfying such age requirement.

"(B) NO DOUBLE RECOVERY OF CREDIT.—For purposes of applying subparagraph (B) of paragraph (1) for the taxable year (hereinafter in this subparagraph referred to as the 'computation year'), if—

"(i) there was an increase in tax under paragraph (1) for any taxable year preced-

ing the computation year (hereinafter in this subparagraph referred to as a 'prior computation year'), and

"(ii) any taxable year in the 5-year period described in such paragraph (hereinafter in this subparagraph referred to as a 'base period year') is taken into account under paragraph (1) both with respect to the computation year and a prior computation year, then the amount taken into account under such subparagraph (B) for the computation year shall be reduced by the increase in tax for the prior computation year to the extent that such increase exceeds the credit allowed by subsection (a) for base period years described in clause (ii).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) INFLATION ADJUSTMENT FOR MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—Not later than December 1 of each calender year, the Secretary shall prescribe a table which shall apply in lieu of the table contained in subsection (b)(1) with respect to taxable years beginning in the succeeding calendar year.

"(B) METHOD OF PRESCRIBING TABLE.—The table prescribed under subparagraph (A) with respect to subsection (b)(1) for taxable years beginning in a calendar year shall be the same as the table contained in such subsection except the amounts of modified adjusted gross income (as in effect for the immediately preceding calendar year) shall be increased by an amount equal to the product of each such amount of modified adjusted gross income and the price index percentage for such preceding year.

"(C) DETERMINATION OF PRICE INDEX PERCENTAGE.—

"(i) PRICE INDEX PERCENTAGE DEFINED.—For purposes of this paragraph, the term 'price index percentage' means, with respect to any calendar year, the percentage (if any) by which—

"(I) the price index for such year exceeds

"(II) the price index for the immediately preceding calendar year.

"(ii) Price Index Defined.—For purpose of this paragraph, the term 'price index' means, with respect to any calendar year, the average of the monthly Consumer Price Indexes for All Urban Consumers published by the Bureau of Labor Statistics for the 1-year period ending on September 30 of such year.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the amount of tax imposed by this chapter for such year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43."

(b)(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44B the following new item:

"SEC. 44C. Eligible net savings."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43."

(3) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

DESCRIPTION OF SAVINGS ACT OF 1978

The first part of the bill creates a nonrefundable credit against the personal income tax equal to 50 percent of Eligible Net Saving (defined below), insofar as the saving exceeds certain required levels.

The required levels, called Threshold Saving Amounts, are based on the taxpayer's adjusted gross income less personal exemptions. The thresholds (see Table) rise with income to reflect the fact that as a family's income rises, its saving, as a percent of its income, also rises. Only saving in excess of the threshold level is eligible for the credit.

Adjusted gross income less exemptions:	Percent of income less exemptions which saving must exceed to qualify
Not over $10,000	0
Over $10,000 but not over $12,000	1
Over $12,000 but not over $15,000	2
Over $15,000 but not over $20,000	3
Over $20,000 but not over $25,000	4
Over $25,000 but not over $50,000	5
Over $50,000 but not over $100,000	6
Over $100,000 but not over $200,000	8
Over $200,000	10

Thus, a family earning $9,000 which saves $500 in eligible assets receives a 50 percent tax credit on the full amount. A family earning $18,000 would be expected to save 3 percent, or $540, before being eligible for the credit. If it saved $1,000, it would receive a credit on the $460 in excess of the required $540. A family earning $36,000 would be expected to save 5 percent, or $1,800, before being eligible for the credit. If it saved $3,000, it would receive a credit on the excess $1,200.

The bill then defines Eligible Net Savings as the sum of Net Savings less Ineligible Debt.

Net Savings is:

(1) Saving in Certain Business—

The taxpayer's share in the increase in book value (largely cash increases, inventory increases, investment in additional equipment and structures) of small businesses such as partnerships, proprietorships, and closely held corporations, plus purchases of and loans made to small business. These amounts are readily available, since they are already calculated for tax purposes;

(2) Saving in Liquid Assets—

Saving in checking accounts, savings accounts, and savings bonds. Amounts in accounts at commercial banks, savings and loan institutions, mutual savings banks, and credit unions at the end of the year would be compared to the amounts on deposit at the end of the previous year. The net increase would be part of Eligible Net Savings, as would savings bond purchases less redemptions;

(3) Saving in Certain Investment Assets—

Stock purchase minus sales, and purchases of taxable bonds (Federal or private sector) minus sales are eligible. These records are already kept for tax purposes;

(4) Savings in Mortgage Assets and Investment Real Estate—

Investment in mortgages or real estate, plus improvements, less loans repaid or property sold; and

(5) Saving in Company Savings Plans, Retirement Plans, and Life Insurance—

Payments into plans or on premiums, less withdrawals from or borrowing against such plans or policies.

Ineligible Debt must be subtracted from Net Saving. Not only is debt a form of "negative" saving, but this provision prevents borrowing on existing assets to make deposits solely to get the tax credit. Ineligible Debt is debt acquired in the tax year other than for the purchase or repair of a home or other property or the payment of medical or tuition expenses of the taxpayer or dependents.

Another safeguard is a recapture provision for credits on savings not left in some form of eligible assets for five years. This provision would not apply to withdrawal from savings for retirement income.

The income levels attached to each threshold percent would be indexed to prevent inflation from making the credit harder to receive over time.

[From the Wall Street Journal, May 17, 1978]

AMERICANS SAVE FAR LESS OF THEIR EARNINGS THAN CITIZENS ELSEWHERE, AND THE GAP GROWS

(By Alfred L. Malabre, Jr.)

Americans are saving far less of their money than citizens in other industrial countries.

At a time of growing uneasiness over the U.S. economic outlook, the disparity has received few headlines. Yet, it is enormous, and it has grown over the years. Many economists find the pattern deeply disturbing.

A willingness to save, of course, is fundamental to economic growth. Paul A. Samuelson, the Nobel-laureate economist at Massachusetts Institute of Technology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

DIVERSE TRENDS

American willingness to save is low, as the accompanying chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following table traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of saving

[In percent]

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

It is impossible to know whether the propensity to save will continue to decline in America, or keep expanding abroad. Inevitably, much will depend on the extent to which governmental policies tend to encourage or discourage saving. And who can foresee with precision the economic plans that political leaders may be hatching?

Whatever does develop, the present disparity is significant on a number of counts. It suggests a greater *potential* for economic growth abroad than in America. "If people don't save, there can't be sufficient investment, and eventually economic growth suffers," says Martin S. Feldstein, president of the National Bureau of Economic Research, a nonprofit business-analysis organization based in New York.

Noting the remarkable rise of savings in Canada, Robert Baguley, an economist at Royal Bank of Canada in Montreal, declares: "Canadians possess the capability to increase their spending sharply." No such cushion exists in the U.S., says Paul Wachtel, an economics professor at New York University. "There is a strong argument that Americans should be saving more."

To many analysts, the relatively low rate of saving in America suggests that the U.S. economy is particularly susceptible, in the event of brisk expansion in coming months, to interest-rate increases. By the same token, these analysts maintain that interest

rates are likely to rise relatively little in countries where a large portion of income is being plowed into savings. Sharply climbing interest rates, of course, act to inhibit economic activity inasmuch as they discourage borrowing for business expansion projects, homebuilding and other endeavors.

Economic growth in America has indeed tended to lag during the last decade. This is apparent, for instance, in data showing industrial production, an economic indicator expressed in physical terms and therefore not distorted by rising prices. Since 1967, industrial production in the U.S. has risen slightly over 40 percent. Among the major countries, only Britain shows a smaller gain. The comparable increase in Japan is 97 percent. West Germany, France and Canada also show far larger gains than the U.S.

By no coincidence, capital spending in the U.S. is relatively small in terms of overall economic activity. Last year, according to a U.S. Commerce Department analysis, capital investment amounted to 17 percent of America's gross national product. This was a lower percentage than for any other major nation. The report shows the latest comparable rates to be 30 percent in Japan, 23 percent in France and Canada, 21 percent in West Germany and 19 percent in Britain.

International comparisons of economic data, to be sure, involve a particularly high degree of risk. It is easy to find oneself comparing oranges and apples. Different countries compile statistics in different ways. Definitions vary from country to country. Statistics involving savings are no exception.

ORANGES AND APPLES

"These are somewhat messy statistics that should not be taken as precisely accurate," warns Gerard Villa, consulting economist of Banque Bruxelles Lambert in Brussels. He notes, for example, that in much of Western Europe "spending by self-employed small businessmen on their own businesses is counted as a part of personal savings." This would not normally be so in the U.S., he adds.

Such distinctions, however, are hardly sufficient to explain the large lag in savings in America. "This is not simply a case of comparing oranges and apples," declares Edward F. Denison, an economist at the Brookings Institution, a nonprofit business-research group based in Washington. "People really do save much higher percentages of their incomes abroad than in the U.S."

There is no single explanation for this U.S. tendency to spend or the propensity elsewhere to save. Various factors appear to be at work.

Mr. Feldstein, who also teaches economics at Harvard University, maintains that Americans have relatively extensive insurance against old age through such programs as Social Security. He finds the U.S. coverage "substantially greater" than, for example, in Japan. Not surprisingly, he says, the typical Japanese worker feels obligated to set aside a relatively large fraction of pay for the retirement years.

BIG BONUSES

Mr. Denison notes that workers in some countries derive a considerable percentage of their yearly pay through annual or semi-annual bonuses. In Japan, he says, bonus money recently has approximated one-quarter of annual earnings. No precise figures are available, but he estimates that the comparable U.S. rate is "far lower." Bonus money, he explains, is likelier to be put into savings than regular pay.

The sharp rise of saving in Canada apparently reflects in part governmental efforts to induce thrift. Mr. Baguley of Royal Bank of Canada mentions, for example, the advent of government-sponsored plans, set up within the last decade, that provide tax breaks on various forms of saving. One plan encourages saving for retirement and another saving for home-buying.

Tax considerations are cited by many analysts. U.S. taxation of capital gains, for instance, is deemed relatively heavy. And this, many observers claim, acts to discourage key forms of saving in America. Mr. Villa maintains that the absence of a Belgian capital-gains tax on individual savings is a major reason that his country's saving rate is up around 18%. Countries that either exempt such gains from taxation or levy less of a tax than Uncle Sam also include Australia, West Germany, Italy, Japan, the Netherlands, Britain, Sweden, France and Canada.

Proposals have recently been in the Congress to trim capital-gains taxation in the U.S. However, the Carter administration makes clear that it opposes such measures. The dispute has caused a delay in congressional consideration of President Carter's entire tax "reform" package.

Demographic factors may also work to hold the U.S. saving rate below levels elsewhere. Over the next decade, forecasters project an increase of only 470,000 among Americans aged 45 to 64, a group that tends to save a relatively high percentage of income. In the period, a 6.4 million increase is foreseen among Americans aged 25 to 44 years when only a small portion of income typically is saved. Generally, these demographic patterns are more pronounced in the U.S. than in other industrial countries.●

By Mr. DOLE:

S. 3535. A bill for the relief of Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim; to the Committee on the Judiciary.

S. 3536. A bill for the relief of Reginald Carlson Lim; to the Committee on the Judiciary.

● Mr. DOLE. Mr. President, today I am introducing two private relief bills, one of which will provide permanent residence for Dr. Carlo Lim, his wife Cecilia, and son Ronald Christopher, and the other for the child this family has had to leave in the Philippines due to their present status, Reginald Carlson Lim.

Mr. President, Dr. Lim, accompanied by his wife and first son, came to the United States from the Philippines in 1974 for the purpose of taking postgraduate training in internal medicine at Bethany Medical Center in Kansas. Dr. Lim completed his training and went on to become a licensed physician in both Kansas and Missouri, and in conjunction his wife became a licensed registered nurse.

Mr. President, we are all familiar with the shortage of physicians in the United States, particularly in rural areas. Because of the acute shortage of medical care for rural communities, many universities, like the University of Kansas, have established outreach programs that will place physicians in these needy areas. In 1978, Dr. Lim applied with the University of Kansas outreach program and was informed that the community of Sedan, Kans., was in need of a physician. However, the problem of a foreign-born practicing medicine in the United States does not depend on his securing a license to practice, but on securing a permanent visa. Mr. President, this barrier has confronted many of these physicians wanting to practice medicine in these areas.

Mr. President, I have been contacted by numerous townspeople and those physicians involved with the Kansas University outreach program regarding Dr. Lim and his family. I have no doubt that this family would not only meet the medical needs of the community and surrounding area, but serve as a significant addition to the community itself.

Mr. President, it is my hope that this bill, along with the one submitted for the son remaining in the Philippines, be given immediate consideration.

I ask unanimous consent that the text of these two measures, along with supportive documents, be printed in the RECORD at this point.

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

S. 3535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (14) and (32) of section 212(a) of the Immigration and Nationality Act, for purposes of such Act, Carlo Lim, M.D., his wife Cecilia Lim, and his son Ronald Christopher Lim shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of such Act.

S. 3536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That notwithstanding the provisions of section 203(a) of the Immigration and Nationality Act, in the administration of such Act, Reginald Carlson Lim shall be granted a visa and be lawfully admitted to the United States for permanent residence, if otherwise qualified, upon filing an application for a visa and payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of such Act.

PLEASANT VALLEY MANOR,
Sedan, Kans., August 22, 1978.

Hon. ROBERT DOLE,
2327 New Senate Building,
Washington, D.C.

DEAR SENATOR DOLE: As Administrator of Pleasant Valley Manor Nursing Home in Sedan, Kansas, I wish to express my feelings on our desperate need of physicians in our community. I am informed we now have two doctors who are waiting to practice in Sedan but because of legal technicalities with their visas, we are unable to obtain them. We are in a critical position with only two physicians for this community.

We have a 56 bed hospital and a new 66 bed Intermediate Care Home which is filled to capacity at its present licensure.

With a community population of 1,500 and a large percent being 60 years of age and older, you can readily see our concern and need.

If there is any possible way to speed up the legal process on these visas, we would appreciate your influence and efforts on this.

Sincerely,

CARMALETA LORENZ, *Administrator.*

CHAUTAUQUA COUNTY COMMUNITY UNIFIED SCHOOL DISTRICT NO. 286,
Sedan, Kans., August 24, 1978.

Senator BOB DOLE,
4213 Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: As superintendent of schools, I believe Sedan is in dire need of additional physicians. We have two physicians at this time and they do a tremendous job but there is not enough time in the day for them to handle all the needs of the district.

USD No. 286 covers three hundred eighty-two square miles and we bus 330 of a total of 545 students into Sedan. The need for additional physicians to provide medical service, counseling services and occupational guidance is quite apparent.

Any help you and your staff can provide in helping Sedan to secure additional physicians will be greatly appreciated.

Sincerely,

JIM HARRIS, *Superintendent.*

ROBBINS & HOUSE,
Sedan, Kansas, August 24, 1978.

Hon. ROBERT DOLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: The City of Sedan, Kansas, has for the last several years attempted to recruit physicians to come to our community.

We now have an opportunity to obtain the services of Dr. Carlos Lim and his wife, Mrs. Lim, who is a registered nurse.

The Lim's are citizens of the Philippine Islands, and it is our understanding that the present immigration laws might create some obstacles in either or both of them coming to Sedan. I am also told that a similar situation exists concerning two doctors recruited to come to Howard, Kansas, which is approximately 25 miles north of Sedan.

I have been advised that your office is considering special legislation to remedy the situation in Sedan and Howard so that we can obtain the badly needed help of these physicians, and your assistance in the matter will be greatly appreciated not only by the citizens of Sedan, but also the surrounding area which is served by our hospital.

Yours truly,

GARY HOUSE.

SEDAN, KANS., *August 18, 1978.*

U.S. Senator ROBERT DOLE,
Washington, D.C.

HON. SENATOR DOLE: As a member of the health profession, I see a definite need for another physician here in Sedan, Kansas.

We have been able to locate a gentleman, Dr. Lim, who is serving a residency at Truman Medical Center in Kansas City. He seems to be willing to come to our county to practice medicine, but he is not a natural citizen of the United States.

As a result of the above situation, Dr. Lim is unable to come to our town with assurance of being able to stay.

We at Sedan would like to ask for your help in resolving Dr. Lim's immigration problems.

Sincerely,

Dr. JOHN L. BROWN, D.D.S.

SEDAN CITY HOSPITAL,
Sedan, Kans., August 18, 1978.

Hon. Senator ROBERT DOLE,
Dirksen Building,
Washington, D.C.

HON. SENATOR DOLE: I would like to share a few moments of your time to discuss a matter very important to me and the community of Sedan.

While being Administrator of Sedan City Hospital, I have been witness to a steadily declining annual patient census. In 1970 Sedan lost a Physician and to date has been unsuccessful in replacing him. Coincidently, since that point in time the patient census at our Hospital has steadily declined.

At present we have two Physicians working in Sedan and doing an excellent job. Both Physicians are, however, approaching that point in time when they will want to retire.

Looking back on the situation and seeing how difficult it has been for us to even get a Physician to look at our Community, I feel it extremely important that we give every applicant to our Medical Community the necessary consideration and support available.

At present we have a Physician interested in coming to Sedan, his name is Carlo Lim. Dr. Lim is from the Philippines and here on a temporary Visa. This becomes our greatest problem to overcome. We need your support and help in dealing with the Immigration authorities and make it possible to locate Dr. Lim in our Community. Any and all support you can give will be greatly appreciated.

Sincerely,

GARY MARTIN, *Administrator.*

SEDAN, KANS., *August 24, 1978.*

Hon. U.S. Senator ROBERT DOLE,
Dirksen Senate Building,
Washington, D.C.

DEAR SENATOR DOLE: In reference to physician placement in the rural communities, I am one of the physicians covering Elk and Chautauqua County for medical care and have done so for 30 years.

There is an acute need for additional physician coverage in this area because we physicians here have too many patients to adequately take care and examine thoroughly. I also feel the need to slow down and morally can hardly see how this can be done until we get an increase in the physician coverage of the area.

Our hospital is adequately equipped for broader patient coverage but is severely under staffed for physician coverage.

We are 40 miles or more from a medical center in any direction and the need for patient care in a rural hospital is definitely in Sedan and I feel that a physician in Howard and one in Sedan would be a great asset to the hospital, the nursing homes and the communities involved.

I have tried for 15 years with transient success to get another physician into the community.

Dr. Carlo Lem has expressed his interest and desire to come to this community and I am willing to sponsor him for a reasonable length of time. Hopefully there can be a speedy clearance on his visa so he can practice on his own.

Sincerely,

WM. K. WALKER, M.D.●

By Mr. HUDDLESTON:

S.J. Res. 167. A joint resolution authorizing and requesting the President to issue a proclamation designating the month of October of each year as "National Fire Prevention Month"; to the Committee on the Judiciary.

NATIONAL FIRE PREVENTION MONTH

● Mr. HUDDLESTON. Mr. President, although the United States has the most effective and dedicated firefighting forces in the world, we still suffer greater fire losses per person than any other industrialized country. Too many fires get started in the first place—an estimated 32 million every year. Carelessness and indifference are major factors affecting the increasing incidence of potentially serious fires. Fire prevention activities have received relatively little emphasis up to now, but they certainly deserve a great deal more attention if our fire losses are to be substantially reduced.

The Federal Government's role in fire prevention has grown quite a bit in the past 25 years. The Federal fire program now includes education and training programs, improved data collection, and fire research and technology.

Despite these efforts, fire protection remains primarily a community responsibility. A large portion of the costs of fire prevention and control is paid through municipal resources. These costs are staggering: The total, including destruction of property, fire department operations, medical care, and productivity losses, could exceed $13 billion this year. Every year fires cause 7,500 deaths and over 300,000 injuries.

It is impossible to calculate the extent of human suffering these figures represent. In addition, hard-pressed taxpayers and local governments surely cannot continue to pay this price.

Much of the appalling waste of life, health and resources is due to negligence and ignorance. What we may think of as "minor" fires, those started through cooking accidents and cigarette smoking, cause the most residential fire deaths and injuries. Setting aside a special month devoted to fire prevention should encourage the development of educational programs and other activities which will show citizens what they can do to prevent fires.

The Commonwealth of Kentucky has permanently established October as "Fire Prevention Month." Activities planned by the fire prevention committee of the Campbell County Firefighters Educational Association in northern Kentucky provide an example of how communities might choose to take advantage of such an occasion. Their program includes memorial services for firefighters; instruction for teachers, cooks, and others whose jobs might suggest the need for a thorough knowledge of fire prevention; and demonstrations of various fire safety techniques to heighten the public's awareness of this issue.

The expansion and further development of such activities throughout the Nation could provide direct, inexpensive, effective ways to reduce the number and seriousness of fires. Therefore, I am introducing a resolution which would establish October as "National Fire Prevention Month."

By setting aside a full month, we will encourage an emphasis on public educa-

tion, community involvement, and cooperation between the public and private sectors in finding innovative solutions to the devastating problem of destructive fires. I urge the support of the Senate for the speedy passage of this joint resolution.●

ADDITIONAL COSPONSORS

S. 3414

At the request of Mr. WALLOP, the Senator from Alabama (Mrs. ALLEN) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 3414, a bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates.

S. 3426

At the request of Mr. DOLE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3426, a bill amending title XX of the Social Security Act.

S. 3433

At the request of Mr. TALMADGE, the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. ROTH), and the Senator from Iowa (Mr. CLARK) were added as cosponsors of S. 3433, a bill to eliminate disputes over what agricultural structures are eligible for investment tax credits.

S. 3503

At the request of Mr. SASSER, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 3503, a bill to amend certain provisions of the Tennessee Valley Authority Act of 1933, as amended, relating to the charge rates for power of the Tennessee Valley Authority.

AMENDMENT NO. 3581

At the request of Mr. SCHWEIKER, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of Amendment No. 3581 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3582

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Amendment No. 3582 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3583

At the request of Mr. SCHWEIKER, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of Amendment No. 3583 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3584

At the request of Mr. SCHWEIKER, the Senator from Texas (Mr. TOWER) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Amendment No. 3584 intended to be proposed to H.R. 5285, Tariff Treatment of Film, Sheets, and Plates of Certain Plastics or Rubber.

AMENDMENT NO. 3588

At the request of Mr. STEVENS, the Senator from Florida (Mr. STONE) and the Senator from North Carolina (Mr. MORGAN) were added as cosponsors of Amendment No. 3588 proposed to S. 991, a bill to establish a Department of Education, and for other purposes.

SENATE RESOLUTION 571—SUBMISSION OF A RESOLUTION CONDEMNING VIOLENCE IN LEBANON

Mr. DOLE (for himself and Mr. HOLLINGS) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 571

Whereas, the nation of Lebanon has been violently disrupted by the illegal intrusion of Palestinian terrorist groups;

Whereas, the army of the Government of Syria presently occupies a large portion of Lebanon;

Whereas, the Christian community in Lebanon is threatened with violence and destruction at the hands of Palestinian terrorists, Arab extremists, and the Syrian Army; and

Whereas, the violent situation in Lebanon threatens the lives of thousands of civilian Lebanese; Now, therefore, be it

Resolved, That the Senate of the United States:

(1) Deplores and condemns the activity of the Syrian forces in Lebanon;

(2) Appeals to the Syrian military forces in Lebanon to cease the destruction and persecution of the Christian community in that country;

(3) Appeals to all nations of the world to assist in bringing the violence and disruption caused by Palestinian forces to an end;

(4) Urges the Attorney General to use his parole authority under Section 212(d)(5) of the Immigration and Nationality Act to allow for the emergency immigration to the United States of those refugees able to escape the situation in Lebanon.

Mr. DOLE. Mr. President, I have a resolution which addresses a situation that approaches civil war and demands the attention of all responsible nations. I am referring to the situation in Lebanon.

LEBANON AN IMPORTANT LINK IN MIDDLE EAST PEACE

Mr. President, the situation in Lebanon deserves special attention in light of the recent events at Camp David. Lebanon continues to be ravaged by a conflict which threatens to break out into open civil war. While both Israel and Egypt stand behind fairly secure borders, Lebanon is ridden with Arabs, Christian, and Palestinian Forces whose fighting threatens to cast Lebanon into another bloody civil conflict.

SYRIA A DISRUPTIVE FORCE

Throughout this conflict, the Government of Syria has played a major belligerent role, through their support of Arab terrorist groups in Lebanon and hostile elements of the Lebanese community. The Christian community has been put under tremendous pressure by the presence of Syrian Military Forces. The Christian suburbs of Beirut have been shelled heavily by the Syrians, ostensibly to knock our Christian snipers, causing great loss of human life and destruction of property, and creating Christian refugee communities. The Syrians have also moved against the Christian communities in the north, using helicopter forces and paratroopers. The Syrians have been entirely destabilizing and aggressive.

THE PLO SUPPORTED BY THE SYRIANS

For the past 2 months, the Palestinian Liberation Organization, under the obvious direction of the Syrians, and the Syrian Army itself, have been involved in military action in Lebanon, where they are attempting to eradicate the Christian Militia, with whom the PLO and Arab terrorist groups have been fighting for a long time. In the process, Lebanon has been torn apart, thousands of Lebanese civilians have been murdered, and a United Nations peace-keeping force has been beleaguered. Syria's military operations, designed to destroy or disrupt the Christian population, have been a gross violation of human rights, and are detrimental to U.S. objectives of regional stability.

CONCERN FOR LEBANESE FOREMOST

Mr. President, my greatest concern in this matter is the safety and future of the Christian people of Lebanon. These people, represented by Christian Militia groups fighting for their lives, are being terrorized by the PLO, other terrorist groups, and the Syrian Army. The Syrian Army has been implementing a campaign of kidnaping, threats, and killing of civilians in the Christian villages to control the population through terror. The hostile fragmentation of Lebanon, so close to breaking into civil war again, is being unjustly capitalized upon by the Syrians, who are supporting their own Arab factions and are directly fighting the Christian Militia under the ruse of a "peace-keeping force." Israel has warned the Syrians against pressing the Christians further.

ARE THE LEBANESE TO BE MARTYRED?

The military action and shelling of the Syrian Forces has cost, in the last month alone, at least 800 lives to the Christian community of Lebanon. The occupation of that country by the forces of Syria has caused the destruction of a great deal of property and the exodus of some 200,000 persons, including women, children, and the elderly, into refuge in schools, monasteries, or makeshift camps. This kind of slaughter and disruption cannot be allowed to go on without protest and some kind of positive sign of concern on the part of the United States. Are we to let the Christian people of Lebanon be martyred? If we do not give these people a way out, they will most certainly join the ranks of the many victims of Middle East violence.

The Syrians and Palestinians have the Lebanese Christians limited to approximately 50 square miles of territory in Lebanon. It is feared that in a short period of time these people may be eliminated. Just this week the Syrian Forces poured more than 700 rockets and mortar shells into the Christian sector of Beirut, directed against the strongholds of the Christian Militia. This type of unwarranted action shows no sign of ceasing.

On the contrary, this conflict has been steadily escalating, and dangerously threatens to overwhelm the Christian communities.

LEBANESE RESOLUTION

Mr. President, with these concerns in mind, I submit a resolution of appeal on the behalf of the Lebanese people, a people who appear to have been forgotten in the flurry of activity surrounding the Camp David summit. This resolution condemns the violent action of the Syrian Forces and the Palestinian terrorist groups in Lebanon. At the hands of these people, the Lebanese Christian community is threatened with destruction. I also appeal to all nations of the world to use any means at their disposal to assist in bringing this tragedy to an end. Finally, I think the United States should offer sanctuary to those Lebanese Christians who are fortunate enough to escape the encirclement of the Syrian and Palestinian forces. The United States has always shown itself willing to fulfill its responsibility as a defender of freedom by helping those in need and providing shelter and sanctuary to those refugee victims of violence and destruction. Our hand was extended to the Hungarians in 1956, to the Cubans in 1961, and to the Vietnamese in 1974. I urge the Attorney General to use his parole authority to allow the immigration of those Lebanese who can find a way to escape the murder and destruction being wrought on their country. I call upon all Americans to pray for these people and to appeal for their rescue.

SENATE RESOLUTION 572—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. SPARKMAN, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 572

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3309. Such waiver is necessary to allow the authorization of $36,000,000 in funds to assist in the resettlement of Indochinese refugees.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 15, 1978, deadline because the continuing and unexpectedly large influx of Indochinese refugees precluded computation of exact costs and depleted funds already authorized for smaller numbers of refugees. Thus, the Administration did not send S. 3309 to the Congress until July 17, 1978. Further, in light of the swollen numbers arriving in 1978 and likely to continue into the future, a new formula was necessary to enable states to effectively organize their programs. This formula was not agreed to by the Administration until late August 1978.

The effect of defeating consideration of this authorization will be to severely curtail support services from the states to Indochinese refugees and exacerbate domestic welfare services. Refugees are likely to remain on welfare rolls given their inability to obtain language and skill training as provided by the various state programs.

The desired authorization will not delay the appropriation process and could be accommodated in a supplemental appropriation.

This authorization is sufficiently small that it will not significantly affect the Congressional budget.

SENATE RESOLUTION 573—SUBMISSION OF A RESOLUTION OF CONCERN OVER THE SHORTAGE OF CATTLE HIDES

Mr. HATHAWAY (for himself and Mr. MCINTYRE) submitted the following resolution, which was referred to the Committee on Banking, Housing, and Urban Affairs:

SENATE RESOLUTION 573

Whereas the United States supplies 70 per centum of all cattle hides found in world commerce; and

Whereas the United States provides Japan with 85 per centum of its supply of imported cattle hides; and

Whereas a reduced U.S. slaughter and constant world and domestic demand have resulted in sharply increased prices for hides; and

Whereas foreign consumption of U.S. hides deprives U.S. tanners of their primary raw material and deprives U.S. manufacturers of a supply of leather suitable for shoes, boots, bags, and other manufactured products; and

Whereas the Japanese market is open to imported hides but not to shoes, leather, or other finished products made from leather; and

Whereas the export of hides is of great importance to American cattlemen; and

Whereas Japan has been unwilling to this time to consume more than token amounts of beef and other edibles; and

Whereas the United States has the ability to reconcile these interests and reach a solution satisfactory to tanners, ranchers, manufacturers, exporters, and consumers: Now, therefore, be it

Resolved, That is the Sense of the Senate that the President ought to take such action as may be necessary:

(1) to assure domestic tanners of an adequate supply of hides; and

(2) to enlarge export possibilities in Japan for footwear and tanned leather; and

(3) to maintain favorable opportunities for domestic cattle producers in the export of hides.

● Mr. HATHAWAY. Mr. President, I am pleased to submit today a resolution expressing to the President the concern of the Senate over the present shortage of cattle hides—a situation which affects tanners, shoe and boot manufacturers, and other consumers of leather. And Senator MCINTYRE joins me in sponsoring the resolution.

It is indeed ironic that one of the principal causes of this problem is the ability of the United States to export cattle hides.

Several years ago, low beef prices and high feed grain prices made cattle ranching a discouragingly expensive proposition for the Nation's ranchers. Naturally, the result was an increase in the slaughter of cattle to enable the rancher to obtain short-term relief in the form of reduced expenses. And, for the long run, ranchers needed a better market for their steers.

As a result, there are fewer cattle being brought to slaughter today than there were several years ago.

The United States is the major exporter of hides, supplying about 70 percent of all hides traded on the international market. Most other countries which produce hides keep them for domestic manufacture. Even Argentina, once a substantial exporter, now retains its hides for tanning, production of shoes, bags, and clothing and ultimate export of manufactured goods made of leather.

For the foreseeable future, therefore, demand for U.S. hides will be intense.

Japan, for example, imports most of the hides which its tanneries require. The United States supplies Japan with 85 percent of its hide imports.

However, in order to aid its tanning and shoe industries, Japan is reluctant to import our leather or our shoes.

Thus, the price of hides rises, putting up prices for our tanners, shoe manufacturers, and consumers, while potential export markets for our tanners and footwear manufacturers remain under severe restriction.

This seems like the worst of all possible worlds.

My resolution is intended to underscore our concern for the well-being of all the parties to this problem.

Focusing attention on this matter will help the President to take steps to give domestic tanners an adequate supply of hides so that industries using leather will be able to continue to operate on a competitive basis.

At the same time, we must not penalize the ranchers. Their momentary good fortune only partially compensates for recent bad years. And for the future, we need a solution that encompasses rancher, tanner, and manufacturer together—since it is destructive to all if any one is neglected.●

AMENDMENTS SUBMITTED FOR PRINTING

EQUAL RIGHTS AMENDMENT DEADLINE EXTENSION—HOUSE JOINT RESOLUTION 638

AMENDMENTS NOS. 3674 THROUGH 3676

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

Mr. GARN submitted three amendments intended to be proposed by him to House Joint Resolution 638, a joint resolution extending the deadline for the ratification of the Equal Rights Amendment.

NOTICE OF HEARING

COMMITTEE ON THE JUDICIARY

● 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 4, 1978, at 9:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Carin Ann Clauss, of Virginia, to be U.S. district judge for the District of Columbia vice Howard F. Corcoran, retired.

B. Avant Edenfield, of Georgia, to be U.S. district judge for the southern district of Georgia vice Alexander A. Lawrence, retired.

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and

southern districts of Iowa vice William C. Hanson, retired.

Any persons desiring to offer testimony in regard to these nominations 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.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold on oversight hearing on national export policy.

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

ADDITIONAL STATEMENTS

BETHLEHEM STEEL IN SPARROWS POINT, MD.

● Mr. MATHIAS. Mr. President, Charles Frederick Abbott once said that—

To manage a business successfully requires as much courage as that possessed by the soldier who goes to war. Business courage is the more natural because all the benefits which the public has in material wealth come from it.

That courage is reflected in what happens at Sparrows Point, Md. today.

Bethlehem Steel unveils today the largest, most modern blast furnace in the Western Hemisphere. It will produce 8,000 tons of molten iron a day. This step in modernization by Bethlehem represents a commitment to the community. It represents an effort on the part of Bethlehem, as part of its $4 billion national program of expansion and improvement, to keep pace with requirements of harsh competition. I applaud this effort and extend congratulations to Bethlehem Steel.

I ask that a message about this new furnace which appeared in this morning's Washington Post be printed in the RECORD.

The material follows:

TODAY, AT SPARROWS POINT, MARYLAND, BETHLEHEM WILL UNVEIL THE LARGEST, MOST MODERN BLAST FURNACE IN THE WESTERN HEMISPHERE

Towering almost 300 feet above ground level, blast furnace "L" is the first in the U.S. of the world's new generation of blast furnaces. It will produce 8,000 tons of molten iron a day.

This new blast furnace represents one of the largest single expenditures in the history of Bethlehem Steel.

"L" furnace will replace four old furnaces. In addition to providing the economies of the latest ironmaking technology, it will aid our Sparrows Point plant in its environmental control efforts. "L" furnace is equipped with advanced air and water quality control facilities.

This new blast furnace is a multi-million-dollar investment in Bethlehem's future . . . and in the future of the American steel user who wants the reliable source of supply only a strong domestic steel industry can provide.

NEARLY $4 BILLION IN TEN YEARS

In the past ten years, Bethlehem has invested nearly $4 billion to modernize, expand and maintain production facilities and install environmental control facilities.

In 1978 alone, a number of other efficient Bethlehem production and service units were also completed. For example:

A new steel plate mill—a marvel in steel technology—at our Burns Harbor, Ind., plant.

A new steel bar mill—the world's most technologically advanced—at our Lackawanna, N.Y., plant.

A new 1,000-foot-long Great Lakes boat that carries 60,000 tons of iron ore pellets—and unloads itself.

Modernizing is something we work at all the time at Bethlehem—to the best of our financial ability.

A capital expenditure of nearly $4 billion over the past ten years isn't peanuts—especially when you consider that our investment in recent years was made in the face of record tonnages of low-priced steel imports, rising costs, heavy expenditures for environmental controls, and inadequate profits.

We're proud of the job we're doing. We've moved ahead under difficult circumstances to modernize our facilities and upgrade productivity. Today Bethlehem is lean and technologically advanced. We intend to remain so.●

REDUCING NONPOINT SOURCE POLLUTION

● Mr. CULVER. Mr. President, the conference report on the agricultural appropriations bill, H.R. 13125, which was considered late yesterday, provides funding for many urgently needed programs. It does not, however, include appropriations for the rural clean water program.

The rural clean water program was created by an amendment I offered last year to the Federal Water Pollution Control Act of 1972. My amendment established a program of financial and technical assistance to farmers and other rural landowners to implement "best management practices," those conservation measures specifically identified by the Environmental Protection Agency (EPA) and the Soil Conservation Service (SCS) for reducing the pollution of our streams, lakes, and rivers caused by runoff from highly erosive farmland. The administration of this program was delegated to the Secretary of Agriculture. In order to make this program consistent with the broader water pollution control effort, the Administrator of the Environmental Protection Agency must concur in USDA's design and management of the program.

Two hundred million dollars was authorized for fiscal year 1979 and $400 million was authorized for fiscal year 1980 under this program. It is designed to assure that these conservation funds be applied to those areas with the most critical nonpoint source water pollution.

Hearings I held in Le Mars, Iowa, and hearings held by other members of the Environmental Pollution Subcommittee last year on nonpoint source pollution established firmly the need for Federal assistance to help farmers meet the forthcoming requirements for controlling nonpoint source pollution—agricultural runoff—from forest and cropland. In addition, GAO recently indicated that the 1984 goal of "fishable and swimmable" waters "cannot be achieved in many regions because of nonpoint pollution."

Pollution from agricultural land is a problem that has to be addressed primarily by farmers themselves and by the Department that most thoroughly understands the needs and characterics tics of our great food production system. In addition, the U.S. Department of Agriculture is the only department with a nationwide network of technical experts in controlling agricultural runoff—the Soil Conservation Service. Any program aimed at establishing good soil conservation to reduce nonpoint source pollution must call on the technical expertise of the SCS.

The hearings also demonstrated the need for a high degree of State and local control over this program to make it consistent with section 208 of the Federal Water Pollution Control Act of 1972. The States must have the primary responsibility for developing area- or State-wide plans for reaching our clean water goals. Section 208 of the Federal Water Pollution Control Act of 1972 established a framework within which we can address this increasingly critical problem. Many States will begin to implement the area-wide plans for controlling nonpoint source pollution in fiscal year 1979, which starts on October 1, 1978. A Federal cost-sharing program, however, must also provide a mechanism for evaluating areas of greatest need nationally if funds are going to be targeted to the severe problem areas.

The rural clean water program would provide for a priority targeting of funds according to the magnitude of the problem.

The legislative history of the rural clean water program clearly establishes that it is not the intention of Congress to create another federally run cost-sharing program. The statute explicitly states that:

The Secretary shall, where practicable, enter into agreements with soil conservation districts, state soil and water conservation agencies, or state water quality agencies to administer all or part of the program . . .

The chief Federal role is intended to be that of making technical evaluations of need and providing technical assistance to local administrators and landowners participating in the program. SCS was named in the original Senate amendment as the agency to carry out the Federal role in the rural clean water program because of its technical qualifications.

As this provision was considered by Congress last year, concern was raised that the Secretary of Agriculture's ability to employ the full resources of the department in implementing the program might be constrained by naming only the SCS in the statute. To assure the needed flexibility, the conference committee on the Clean Water Act of 1977 decided to modify the provision by indicating that the Secretary of Agriculture would act through the Soil Conservation Service and "such other agencies of the Department of Agriculture as the Secretary may designate."

Responding to this statutory authority, Secretary of Agriculture Bob Bergland, on February 3, 1978, designated the SCS as the agency responsible for "leadership and program design to im-

plement section 35 of the 1977 Clean Water Act." He also established a Rural Clean Water Coordinating Committee, to be chaired by the Administrator of the Soil Conservation Service. Other members of the committee include the administrators of the Agricultural Stabilization and Conservation Services (ASCS); the Economics, Statistics, and Cooperative Services; the Farmers Home Administration; the Forest Service; the Science and Education Administration; and the Environmental Protection Agency.

In addition to its role as a member of the coordinating committee, the ASCS was delegated other specific responsibilities in the rural clean water program. While our nonpoint source pollution control effort is primarily a State responsibility, Secretary Bergland recognized that some States would not have the capability to disburse funds to numerous individuals over large areas of the State. Consequently, Secretary Bergland decided that in such cases the local ASC county committees could make the cost-sharing payments. He also provided that the local ASC committees would, in those counties selected for participation in the rural clean water program, "represent the Secretary of Agriculture in determining priority of assistance among individual landowners and operators."

I believe, Mr. President, that this administrative structure offers the greatest potential of achieving the goals of the Federal Water Pollution Control Act without imposing unnecessary and unrealistic demands on American agriculture. A recent series of articles, entitled "Environmental Crisis Down on the Farm," by Mr. James Risser in the Des Moines, Iowa, Register, makes it clear that our national efforts to control soil erosion and other sources of pollution from agriculture have been inadequate. The responsibility for this failure cannot be laid entirely upon the farmer. Many farmers have long practiced good conservation. On the other hand, some farmers have not, either because of a lack of concern or, more prominently, a lack of resources to carry out this expensive undertaking.

We have received evidence in recent years that our Federal investment for soil conservation programs has been misdirected. The USDA and many farmers themselves have worked to put these cost-sharing funds to better use, but more needs to be done. The fiscal year 1979 agricultural appropriations bill makes important reforms in this regard, too. Improving the use of inadequate funds, however, is only part of the answer. It does little to close the gap between our rhetoric of conservation and the actual commitment we have made. We must also appropriate the necessary funds for the rural clean water program.

If we continue to lose our precious topsoil at the rate of 2 to 4 billion tons annually, we will soon lose the agricultural base that has made this Nation strong. The additional threat of continued water-quality degradation from soil erosion only accentuates the need for a major national commitment to meeting head-on this approaching agricultural and environmental crisis.

I regret that no funds were appropriated in H.R. 13125 for the rural clean water program. The conferees on this bill made a very difficult but necessary decision to delete the funding for the rural clean water program. The appropriations bill passed by the House directed the funding for the rural clean water program to the ASCS, while the Senate bill appropriated the funds to the SCS, with a smaller amount to the ASCS. The Senate action was based on an estimate of the amount of funds that would be dispersed by each agency respectively under the division of responsibilities assigned by the Secretary of Agriculture.

The House action was not consistent with the 1977 Clean Water Act and was contrary to Secretary Bergland's administrative decision that, because the primary Federal role in the program is a technical one, leadership should be delegated to the Soil Conservation Service. In spite of the importance of this program, however, I agree with Senator EAGLETON that no appropriation should be made under circumstances that would require the Senate to accept a change in the authorization of the rural clean water program.

Under the rural clean water program, the commitment to voluntary conservation is reaffirmed. At the same time, the program is a recognition that conservation demands a national commitment, rather than one by farmers only. It recognizes the legitimate interest of society as a whole in sustaining the productivity of our Nation's soil and in protecting the quality of our water.

The environmental crisis on the farm, of which Mr. Risser writes, reaches far beyond the farm gate. The solution to this pending crisis will require imagination, commitment, and sacrifice from all of us. It will require cooperation both from the Government and the private sector; and it will require money.

Mr. President, we have, for the moment, lost an opportunity to take a major step forward to assure this Nation's environmental integrity and the continued productive capacity of our matchless farmland. We will have another opportunity next year.

I am hopeful that the President, the Secretary of Agriculture, and the Congress will, during the next few months, seriously reflect on the consequences of a continued failure to make this essential investment. I hope we will be able to reach an agreement on the proposed administrative structure for the rural clean water program and provide the necessary funds at the next appropriate stage. Only then will we be able to reduce our soil erosion and the consequent pollution of our streams.●

MAJORITY OPPOSE DEPARTMENT OF EDUCATION

● Mr. SCHMITT. Mr. President, at some point in the future, the Senate may be called upon to act on the proposal to create a new executive department, the Department of Education. While this proposal has been suggested for many years, it has not received a great deal of attention—surely not the attention and consideration which such an important proposal deserves.

Before the Senate embarks on a policy which has major implications for the future of education in this country, more thought and greater consideration should be given to this proposal. The opposition to the creation of a Cabinet-level Department of Education is widespread. According to a recent Gallup poll, 45 percent of the people polled opposed an Education Department and only 40 percent supported the proposal. The opposition to a department is among all age groups, from parents with children in school and those without school children, in almost all size communities, and in all parts of the country with the exception of the East.

As I pointed out yesterday, the American Federation of Teachers, a major teacher union, is opposed to the creation of a Department of Education. Most of the education associations who have endorsed this proposal have admitted that it is definitely not high on their priority list of legislative initiatives.

Mr. President, newspapers throughout this Nation have expressed their opposition to such a fundamental change in the structure of education in this country. The shift from local and State control of education to Federal control is a major change and one that should not be made in haste. I hope that the Senate does not act quickly on a proposal which will deprive parents and local education authorities of control over the education of their children. Such a proposal needs and deserves careful consideration.

At this time, Mr. President, I ask that two editorials from the New York Times of January 16, 1978, and February 11, 1978, be printed in the RECORD.

The editorials follow:

[From the New York Times, Jan. 16, 1978]

THE HIGH PRICE OF CHEAPENING THE CABINET

The President is reported ready to propose creation of a Cabinet-level Department of Education. We hope the report is wrong; or that the Administration can be persuaded to change course. It is an empty, even harmful idea, bad for the President, bad for the Cabinet, bad for education.

Mr. Carter advocated such a new department in his campaign after persistent prompting from such interest groups as the National Education Association. The rationale is that "elevating" education to full Cabinet status would assure the nation's schools and colleges of greater Federal attention and financial support.

One set of arguments on behalf of a separate department turns on the symbolism of power. Supporters argue that the present Office of Education is too small a component of the huge Department of Health, Education and Welfare—and that the Commissioner of Education is too low on the totem pole—to command sufficient attention from the Secretary of H.E.W. let alone the President and Congress. There is substance to the point. Even the most able commissioners—and Ernest Boyer, the incumbent, is surely in that category—have fared badly in competition with the giant welfare and Social Security budgets and concern over health, food and drug regulation.

A second set of arguments involves coherence and effectiveness. The present Office of Education encompasses only about half the total Federal spending on education. The Administration is said to be considering the inclusion also of many other education ac-

tivities. That could give the new department a budget of up to $20 billion and make it perhaps the third largest in terms of spending. There is unquestionable merit to these arguments, also. For example, the vocational education work of H.E.W. and the manpower training work of the Department of Labor are often duplicative, competitive and wasteful.

Still, it is one thing to seek order and efficiency, another to pay the political price. To achieve a broadly restructured department, the Administration would have to pay a high price indeed. In the face of such a reorganization, the Veterans Administration, for instance—and its interest groups and Congressional supporters—would be just as tenacious in protecting their turf as, say, the National Education Assoication would be pleased to raid it. And that is only one of a number of foreseeable conflicts. Even if the Administration is willing to spend political capital generously, the legislative bargaining process is quite likely to erode the scope of a broad new department, perhaps leaving no more than a new label for the old Office of Education.

The symbolism of power, then, would be merely an illusion. To call it a department and to address its head as "Secretary" might mean the incumbent sits closer to the salt at Washington dinner parties. But it would not alter any real power relationships. Education interests would have no more or less muscle on Capitol Hill. The Secretary would have no necessarily greater capacity to summon the President's attention. Indeed, he might have less, without a powerful H.E.W. Secretary to turn to for support.

Meanwhile, the Administration would be paying another price, less easily described but still harder for the President and the Cabinet to pay. Does increasing the number of Cabinet officers ease a President's burdens? Does it increase the number of minutes in his day? On the contrary. The Cabinet, with 12 departments now, is so parochial that its capacity to deal with related problems is severely limited. The issues a President deals with, meanwhile, keep getting broader. It is not hard to imagine issues—whether to build an SST, what to put in an energy policy—that involve five, six and more departments. The evident need is to consolidate, not to fragment further.

And there is danger of still further fragmentation. The success of one interest group seeking Cabinet status would surely encourage others who seek a Department of Environment, a Department of Women, a Department of Children, a Department of Older Americans.

We welcomed the creation of the Department of Energy last year; it meant not fragmentation but centralization of functions scattered around the Government and dealing with an issue of overriding importance. There is no such sudden, overriding importance to justify creating a Department of Education. To do so would keep a campaign promise; it would tickle the education world's sense of importance; it could, at best, make present education programs more orderly and efficient. But it is hard to see, beyond that, what such a reorganization would do to benefit actual education.

If the President is in fact persuaded that the Commissioner of Education needs more respect, then he can pay that respect now, whatever the incumbent's title. If the President thinks education spending should be increased, he has abundant authority now to ask Congress to agree with him. The issue should be education, not bureaucratic trappings. As Robert Frost once wrote of tennis courts: "We are on them not to see if the lines are straight, but to play tennis."

[From the New York Times, Feb. 11, 1978]

HOW TO CAPITALIZE THE "E" IN H.E.W.

President Carter's budget makes good on his campaign promise to give education the priority it was denied by his Republican predecessors. He rightly emphasizes expanded opportunities for the disadvantaged and handicapped as well as a means of giving tuition aid to hard-pressed middle-income families. With an overall increase of 15 percent in education spending, the President appears intent on rescuing the most positive aspects of Lyndon Johnson's education program, but with a new concern for educational quality.

Precisely because his budgetary approach is on the right track, it is a pity that Mr. Carter still considers himself bound to a promise, given in the heat of the election campaign, to establish a separate Department of Education.

The pledge was a convenient campaign shorthand message to call attention to the candidate's belief in the importance of education. It assured Mr. Carter of wholehearted support by the politically influential National Education Association, which speaks primarily for the elementary and secondary school establishment.

We have opposed a separate Department of Education in part because we believe the Cabinet should not be further fragmented and in part because of the danger that such a department would be dominated by the public school bureaucracy. That this is the wrong solution, however, does not imply that there is no problem. There is. The United States Commissioner of Education remains a low man on the totem pole in the giant Department of Health, Education, and Welfare. In terms of spending, a badge of power in Washington, the "E" in H.E.W. has, in fact, been slipping—from 8 percent of the department's funds in 1970 to only 5.6 percent today. For the current fiscal year, the Office of Education suffered a 15.9 percent cut in its budget request, compared with 4 percent for the department as a whole.

All of this indicates that education is not well taken care of by H.E.W. But would education's interests fare better standing alone? We believe not. Neither the public nor Congress tends to assign high priority to education. An independent Secretary of Education would have far less clout than the Secretary of H.E.W., the head of the largest department of Government. There is sound logic in the grouping together of health, education and welfare. Detaching education may do less to liberate it than to set it adrift.

There is another way to help make a huge department more manageable and at the same time give education an effective voice: Adapt the Defense Department scheme with its three Secretaries representing the military services under the umbrella of the Secretary of Defense. Such a step would provide Secretaries for health, education and welfare—under the Secretary of H.E.W. It would combine more effective management with the consolidation of now-scattered education functions that is at the heart of President Carter's reorganization plan.●

COMMONSENSE ABOUT NICARAGUA

● Mr. CHURCH. Mr. President, on Tuesday, September 26, the Statesman in Boise, Idaho, carried an editorial entitled "Samoza Must Go." It is an editorial filled with commonsense, and I encourage my colleagues to read it.

Calling on the United States to "do what it can to hasten Somoza's departure without interfering within the country," the editorial makes its case forcefully with these words:

Either he can leave voluntarily and allow moderate forces to begin rebuilding his despoiled country, or he will be toppled eventually by the leftist guerrilla forces. His days are numbered either way.

Mr. President, the United States should repudiate, publicly, the corrupt Somoza regime. We should serve notice that our blessings go to the moderates within Nicaragua who seek the restoration of democratic government. We should encourage other governments in the hemisphere to lend their own good offices to the cause of a peaceful transition to democratic government.

Our refusal to repudiate Somoza will help the cause of the extremists, and hasten the day when they might take control of the revolution now underway. If that happens, then we will be faced with the emergence of a new, left-wing Castro-style government in Central America.

Mr. President, I ask that the Statesman editorial for September 26 be printed in the RECORD.

The editorial follows:

SOMOZA MUST GO

Peace of sorts has come to Nicaragua again. But as the Archbishop of Managua said, it is the peace of the cemetery, not a dynamic peace of the living.

That cannot come until President Anastasio Somoza is gone. Either he can leave voluntarily and allow moderate forces to begin rebuilding his despoiled country or he will be toppled eventually by the leftist guerrilla forces. His days are numbered either way. If he insists on remaining until the last number is drawn, it will be at the expense of still greater suffering for the people and most probably his own life.

The leftists have been stilled for now. They are off in Costa Rica and other neighboring countries to lick their wounds and prepare future assaults on Somoza. And those assaults surely will come. The miniwar Nicaragua has just undergone was more a spontaneous teen-aged eruption than a well-planned military operation. Experienced guerrillas were noticeably absent. Next time Somoza most likely will not be so lucky. The shock of this shooting war and the faces of the dead have forced many Nicaraguans to make a decision they hoped they would never have to make—to take up the gun. Their dictator appears to have won, but in victory his fate has been sealed.

The United States should do what it can to hasten Somoza's departure without interfering within the country. It had hoped to work through the Organization of American States, but that group has rejected even mild activism in mediating the Nicaraguan strife. The military regimes that comprise the OAS majority apparently were more sympathetic to their fellow dictator than to the suffering people of Nicaragua.

Furthermore, the United States has little direct influence with any of the Nicaraguan factions, given our previous meddling and the fact that the repressive and corrupt Somozan family carries a "Made in the U.S.A." label.

President Carter says the United States is working with "friends and well-meaning neighbors" in Central and South America to mediate the dispute. We don't know quite what that means. If it means the United States is giving support and encouragement to mediation efforts by Colombia, Mexico, the

Dominican Republic and others, we're all for it.

However, Carter can and should suspend all economic aid to the Latin American country. The best, perhaps only, chance for nonviolent resolution to the conflict is for Somoza to be forced to bow to the pressure exerted by the Catholic Church and the nation's striking businessmen. Economic aid simply enhances Somoza's ability to hold out against these forces of moderation. However long ago, the United States inflicted the Somoza family on Nicaragua. Now we must help judiciously to insure that burden is removed as quickly and non-violently as possible.●

EFFECT OF RECENT LEGISLATION ON LAW ENFORCEMENT

● Mr. HATCH. Mr. President, I have become increasingly concerned about the impact of Federal policies upon the ability of both public and private agencies to collect information and gather intelligence on matters of legitimate concern.

Stuart Knight, the Director of the Secret Service, recently testified before the Senate Subcommittee on Criminal Laws that there had been a reduction of more than 50 percent in recent years in the amount of intelligence received by his agency. In New York City, the police department has been forced to destroy more than 98 percent of the cards in its intelligence files during this same period, while the State of Texas Public Safety Department has destroyed its entire political intelligence records. Even the FBI has been engaged in a massive effort to purge its files.

Much of this has developed in response to legislation such as the Freedom of Information Act and the Privacy Act. In a laudatory effort to protect and enhance individual rights of privacy, these acts have sometimes lost sight of other equally important rights, including the right to be secure from crime and from foreign adversaries. A better balance must be drawn if ours is not to become a "defenseless" society.

I would like to print in the RECORD an excellent article on this subject from yesterday's Wall Street Journal.

The article follows:

FBI AGENTS RAP POLICY OF BURNING FILES, LINK IT TO PUBLIC-ACCESS ACTS

(By Jonathan Kwitny)

The extortion letter looked familiar to Detroit FBI agents when it was brought to their office earlier this year by a frightened citizen. As an agent relates the incident, the style of the letter was that of a man who had been investigated because of a similar threat three years ago.

Until recently, agents could have pulled the suspect's file, done a quick check and perhaps protected the frightened citizen. This year, however, they couldn't. The file, like hundreds of thousands of other FBI files, had been destroyed under a policy that is reducing more than half the bureau's files to ashes.

The bureau says it has to destroy the files because it is running out of room to store them. But many veteran agents say that the records are being destroyed because of the federal Freedom of Information and Privacy acts, generally referred to together as FOIPA. The acts have produced a deluge of requests from the public to see the files.

"I think we've all assumed a cause-and-effect relationship" between the acts and the destruction of the files, one agent says. "I don't think they (FBI officials) ever said that, but anybody who knows anything about the act (FOIPA) has got to come to that conclusion."

JOGGING MEMORIES

Whatever the motives, many agents say the file burning could impede law enforcement. "We were looking for a guy here in the northern Virginia area," one veteran agent says. "You say, well, look for old what's-his-name who was running with him. But nobody remembers old what's-his-name's name, and the file's gone."

Destruction of records is only one of several blows that law-enforcement officials complain of in connection with FOIPA. What distinguishes records destruction is that it has been hushed up. On other fronts, the FBI has openly complained that scores of agents (mostly law-school graduates) and hundreds of support employes are being tied up dealing with requests for information when they are badly needed in the field to fight crime. The FBI says the cost is $9.2 million a year—money that also is badly needed elsewhere.

Moreover, the FBI says, confidential informants have been clamming up because of fear that their identities will be revealed by the disclosures. Since wiretapping and bugging were greatly restricted by a 1968 law, such informants have become the FBI's sole-effective weapon in many organized-crime cases.

CONGRESS IN THE ACT

Congress may have to deal with these issues this fall because of growing pressure from various law-enforcement agencies for some sort of revision of the two acts. Both acts were passed over President Ford's veto in the post-Watergate concern about the secret political misuse of law enforcement. Many FBI agents and other critics of the two laws say they agree with the general intent of Congress, but they also say that the sweeping language of the laws has invited widespread abuse.

The Freedom of Information Act—originally passed in 1966 but drastically changed in 1975—was designed to open all government documents for public inspection unless there was a good reason to keep them secret. The Privacy Act was designed to allow individuals to see any files the government kept on them, supposedly so they could challenge inaccuracies and eliminate material of a purely personal nature.

Officially, the FBI hasn't taken a stand on what it wants Congress to do about the two acts. But the bureau has been cooperating with the General Accounting Office on a study clearly designed to show that the acts interfere with law enforcement. "My personal feeling is that there has been (such interference)," says John Ols, assistant director of the GAO, "but our finding is that it has been very difficult to document. And that is what we set out to do." The GAO is to report its findings to the Senate Judiciary Committee early next month.

"GOOD BUSINESS MANAGEMENT"

The report won't cover problems created by records destruction, however, because the FBI's official position is that the destruction has nothing to do with FOIPA. "It's just good business management principles," says James Awe, section chief of the bureau's records management division in Washington.

The destruction policy started in April 1976, when the bureau told its field offices to eliminate records of cases that had been closed more than 10 years. In October 1977, the period was reduced to five years. And that represented just a small part of the destruction; it applied only to files in the so-called office of origin, the main FBI field office involved in each case.

Files in so-called auxiliary offices often contain as much information as the files in the office of origin, and these auxiliary files are being burned after only six months. The auxiliary files exist because, as a rule, agents don't travel on their cases; if questioning or other work needs to be done in other cities, as frequently happens, the field offices in the other cities do the work and forward copies of their reports to the office of origin. Under the new rules, the auxiliary offices don't even keep an index card referring to the work they have done. (In the case of the Detroit extortionist, an agent happened to remember which office of origin had the file, and eventually retrieved it; in two more years, however, even this file would have been destroyed.)

The file-destruction policy exempts files of particular historical interest, files involved in litigation or an unresolved FOIPA request, and files where there is particular reason to believe the case will become active again. For example, the bureau says, nobody is burning any files in the Jimmy Hoffa case.

Agents concede that the bureau has files it doesn't need, such as cases started on tips that turned out to be baseless. But they contend that hundreds of thousands of files with solid information are being destroyed under the new policy.

One agent, a specialist in Mafia prosecutions, notes that Anthony Provenzano, the Mafioso Teamster official, only this summer was convicted of a murder committed 17 years ago. The conviction came about when new evidence surfaced during the FBI's investigation of the Hoffa case and was pieced together with other crucial items from the moldering file on the unsolved murder. "The Provenzano case absolutely couldn't have been prosecuted if the files had been destroyed, because of the value of the evidence developed in the 1960s," the agent says. "Often you find the information you need where it's least suspected and where it's been for quite a time."

Mr. Awe, the bureau's official spokesman, says that summaries of all significant information in FBI files are preserved in a central file at bureau headquarters in Washington. Agents, however, say that only a small part of the information in a field-office file winds up in the central file. Moreover, the FBI has asked the archivist of the U.S., James B. Rhoades, for permission to destroy even the central files in criminal cases after they are 10 years old. Mr. Rhoades approved the destruction of the field-office files because, he says, agencies usually know best about their own files; but now he is withholding approval of the request to destroy central-office files and is seeking advice from Congress.

AVOIDING EMBARRASSMENT?

Mr. Awe says the destruction of aging records was experimented with in some offices late in 1974 and so couldn't have been linked to FOIPA. But many agents disagree. "I don't give a damn what the bureau says," asserts one agent who reluctantly helped in the destruction. "Those files were destroyed for one specific reason: They had to cough them up. It had been thoroughly embarrassing to that point and promised to get even more embarrassing." As an example, he cites a disclosure under FOIPA of material about an alleged and previously unpublicized romance between Eleanor Roosevelt and a military officer.

"The really hypocritical thing about the whole situation is that although we had this stuff in our files, we weren't releasing it to anybody—and I have seen some really scur-

rilous stuff come out of these investigations," the agent says.

A colleague of his adds, "On balance, I would rather see a little bit of embarrassment for the administrators than handicap the whole investigative effort. This destroying of records after six months is a terrible mistake." He says that the records of a criminal whose name has frequently been in the news are being destroyed under the new policy before the criminal has finished serving his current jail term.

Beyond the controversy over whether files are being destroyed to avoid embarrassment, everyone involved agrees that the burden of looking through files whenever someone sends a request is enormous. Mr. Awe and other FBI spokesmen note that prior to release, every file has to be examined page by page by senior clerical employes under the supervision of FBI agents with law degrees. Many kinds of information are supposed to be deleted from the documents before disclosure, including material that might identify confidential informants, violate the privacy of third parties or disclose law-enforcement techniques.

DEADLINE FOR REPLIES

The law says that information requests must be answered within 10 days. But about 19,000 requests a year have been pouring in. The FBI's original FOIPA staff of 140 persons fell 12 or 13 months behind in its processing by 1976, and Congress demanded faster action.

That demand resulted in the FBI's "Project Onslaught," in which 300 field agents from around the country were brought to Washington for several months to attack the backlog. With some 650 persons working full time, the bureau whittled down the backlog to 30 days by the end of last year.

Then a judge ordered the release of the Julius and Ethel Rosenberg file—400,000 pages. A special team has been assigned to clear 40,000 of these pages a month. Meanwhile, the FBI says, the rest of the backlog has lengthened to between 90 and 120 days.

The FBI says that no more than 1 percent or 2 percent of the requests for information are from journalists or historians, who were expected to be the chief beneficiaries of the Freedom of Information Act. About 40 percent of the requests come from citizens who want to know if the FBI has a file on them but on whom no FBI file exists. Many thousands of other requests come from prison inmates purportedly looking for grounds for appeal. Skeptical agents, however, suspect the prisoners often are trying either to find out who informed on them or to kill time by harassing the FBI.

REQUESTS FROM MAFIA?

The bureau also says it has reliable evidence that the Mafia in at least one major city has instructed all its members to write requesting their files. "The sole purpose of this process is to attempt to identify informants," an FBI spokesman says. He adds that if a crook can glean even a hint that he is under investigation at a particular time, he can become much more circumspect until the heat's off.

Another problem is that plaintiff lawyers often want to use the FBI as a cheap investigative service. Agents tell of a recent homicide case on the high seas. Shipping executives told the FBI that they had previously been aware that the suspect was mentally unstable. Learning this under FOIPA, a lawyer for the victim's heirs has greatly enhanced his damage suit against the shipping company. Agents fear such episodes will imperil future investigations. One agent says witnesses now "are thinking not in terms of telling simply what happened, they are thinking of, God, if I say the wrong thing, the company's negligent."

Many agents say that because of FOIPA, they can't any longer in good faith guarantee anonymity to a source. "I can say that we'll do whatever we can, and that's usually pretty substantial, but I can't guarantee it," says an agent who has handled some of the bureau's most publicized cases. He adds, "You're assuming a lack of intelligence on the part of the applicant who gets the records that he won't be able to piece together who the source is. You're relying on the people who review the records (in Washington), and you just don't know how careful that guy is going to be."

"Often the people doing the processing aren't even aware that it's informant information," says another agent. One field official confides that he disobeys instructions from headquarters in some instances to keep information from being destroyed or disclosed. Agents in another office say they keep what they call "hip-pocket sources," whose identities are never recorded, against bureau regulations.

The FBI has compiled a list of examples of past informants who won't talk now because of the danger of disclosure under FOIPA. A spokesman says that more than 20 local or state police agencies have written "indicating that their intelligence units are fearful that furnishing information to us may jeopardize their own sources." He cites Los Angeles, Milwaukee and Phoenix police. Earlier this year, the bureau says, a federal judge declined to provide information about a candidate for another federal judgeship because he said he feared his derogatory remarks would come back to him through FOIPA.

Even civil-liberties lawyers who support FOIPA tend to oppose the file destruction, arguing that citizens whose rights have been violated may need the files to press suit against the government. Lawyers for the American Civil Liberties Union say they favor sealing old records so that only a judge can unseal them after a court hearing.

Whatever the solution, confusion and controversy have surrounded the bureau's destruction policy. An agent in the Northeast notes recent bureau instuctions to make more use of the Racketeering in Interstate Commerce, or RICO, law. RICO, designed to combat Mafia-type crime, provides heavier penalties for violators who have established a pattern of racketeering activity. To invoke the law, the FBI must offer proof of prior acts consistent with the specific criminal act being charged. "The RICO statute says go back 10 years, and the files are destroyed after five years," the agent complains. "You figure it out."●

FAIR EMPLOYMENT PRACTICES IN THE SENATE

● Mr. CLARK. Mr. President, it was over a year and one-half ago that the Senate passed the Code of Official Conduct. Included in that document was rule L, prohibiting discrimination against Senate employees in hiring and salaries on the basis of race, color, religion, sex, national origin or state of handicap.

The Government Affairs Committee was charged with recommending to the Senate a mechanism for implementing rule L, and in fulfillment of that, the committee developed Senate Resolution 431.

Senate Resolution 431, for the first time, would bring the Senate into compliance with some of the same principles that we have prescribed for the private sector. As you know, I was the author of rule L, and I am a strong supporter of Senate Resolution 431. As a result, I am very concerned that the Senate has not taken up the matter this session, and may indeed let it die on the Senate calendar. I think the Members of this body should be aware of the consequences of our inaction, and I ask that editorials on the subject from the Washington Star and the Washington Post be printed in the RECORD.

The material follows:

[From the Washington Post, Sept. 27, 1978]

NO FAIR HIRING IN THE SENATE

Last Spring it appeared that the Senate would soon fulfill the pledge it made in 1977 to protect its employees against job and salary discrimination. After months of deliberation, the Governmental Affairs Committee had approved a proposal creating a fair employment practices program—the unfinished business left from the code of ethics the Senate adopted for itself last year. The fair-employment measure was sensitive to both the employment rights of workers and to the special political workings of the Senate. And its passage seemed ensured: What senator would want publicly to support continuation of the Senate's documented discriminatory employment practices? Well, now no senator will have a chance to vote on the measure at all this year because the democratic leaders have decided not to bring it to a floor vote before the Senate adjourns.

The Democratic Policy Committee and the party's chairmen of major committees are responsible for this not-unexpected, but nevertheless disappointing decision. Their action will likely slow the push for a similar measure in the House, which now has only a voluntary structure for investigating discrimination complaints. Significantly, the senators reached their decision during a closed meeting and by consensus rather than by vote—the better to leave no particular senator's tracks.

Some members have contended that the Senate's calendar is just too crowded to give the measure consideration now. Nonsense. The proposal has been under study for over a year. It is not complex. It already had been fine-tuned and approved by two committees. As it amounted to only the creation of a formal grievance panel with authority to judge complaints and to seek ways of improving fair-employment practices, it should have provoked little, if any debate on the floor. The simple truth is that the Senate's Democratic leadership did not want the measure voted on this year. In other words, they wanted to delay the time when the Senate, and the House as well, will have to abide by the same hiring policies Congress has legislated for everyone else.

[From the Washington Star, Sept. 25, 1978]

STILL THE "LAST PLANTATION"

Capitol Hill is still the "last plantation" and seems likely to stay that way a while.

Senate leaders refused the other day to bring to the floor a resolution designed to reduce discrimination in Senate employment against minorities and women.

The measure, approved by two Senate committees, would have established a six-member board to hear complaints of discrimination in hiring, advancement and pay and to review Senate employment practices. Sen. John Glenn, D-Ohio, who sponsored the resolution, said the decision against bringing it to the floor was made at a "private meeting" of the Democratic Policy Committee and chairmen of the major Senate committees.

That kills it for the 95th Congress, which plans to adjourn in a couple of weeks. It's apparent that Senate leaders don't want to bring the matter to a floor vote because they don't want to be put on the spot. They wish to retain existing employment practices but they don't want to vote publicly against scrapping the discriminatory system. If the resolution ever got to the floor it almost assuredly would pass.

Things aren't much better in the House. It has an almost useless committee that was set up to police a voluntary agreement to adhere to fair employment practices. Only 107 House members, about one-fourth of the membership, have signed the agreement and the committee has no enforcement power.

A resolution similar to the one killed in the Senate has been introduced in the House by Reps. Morris Udall, D-Ariz., and Patricia Schroeder, D-Colo. It isn't going anywhere this year either.

Senators and House members supporting the resolutions want to end Capitol Hill's reputation as the nation's "last plantation." They want Congress to follow the anti-discrimination practices that it has required other government agencies and private industry to follow. Obviously the House and Senate aren't ready for that yet. ●

SENATOR ABOUREZK ON INDIAN ISSUES

● Mr. McGOVERN. Mr. President, I ask that the statement made by my colleague, the junior Senator from South Dakota (Mr. ABOUREZK) before the Associated Press, Managing Editors Panel on Indian Affairs in Portland, Oreg., be printed in the RECORD.

The statement follows:

STATEMENT BEFORE THE ASSOCIATED PRESS MANAGING EDITORS PANEL ON INDIAN AFFAIRS

Shortly after the end of the Wounded Knee siege in 1973, I scheduled hearings on the Pine Ridge Reservation in South Dakota to try to determine the underlying cause of the conflict.

I called a journalist who worked for the Washington Post and told him I thought the hearings would be fairly important and suggested that he cover them. His response was that while he agreed with me, his editors would not send him out to any such hearings because they were interested in Indian stories only so long as the Indians were shooting each other. There is more than one tragedy in that story. The one that concerns us here today is the nature and extent of press coverage of issues which affect American Indians. In a democracy the ideal is that everyone will understand everything that is happening in such areas as Indian affairs and will act humanely to insure their proper stewardship by the U.S. government. The reality is that press coverage of government mismanagement of Indian affairs is at best skimpy, and at worst non-existent, which enables the Indian bureaucracy to commit the crimes against humanity which they have gotten away with over the past several decades.

Unless you are a student of Indian affairs, there is no way for you to know that the government has experimented for years with the lives of Indian people as though they were so many laboratory animals. At one point in its history, the BIA sought to eliminate the Indian problem by eliminating Indians. So its policy consisted of summarily removing Indian children from their homes, their parents and grandparents and dropping them in Indian boarding schools where the use of their language or other manifestations of Indian culture were totally forbidden. This effort to make Whites out of Indians resulted only in increasing the desperation, hopelessness, and psychological problems of the Indians who were made a part of that program. Later the key word was "relocation." The government determined that if Indians could be coaxed away from the reservations and relocated into cities, with a job provided, their assimilation into white society would be virtually painless.

Relocation only changed the location of the ghetto from the reservations which afforded relative security to harrassed Indian families, to the nation's large cities where Indians became a minority of minorities, but with all the pleasures and delights attendant to the powerless and the poor in our urban areas. In fact, the American Indian Movement was founded by the bitter and cynical children of relocated families who organized AIM as a means of both political expression and of finding their way back to the land, so to speak, on the Indian reservations.

The most recent government policy has been that of benign neglect, with Congress appropriating several hundred million dollars a year into the Indian budget, hoping that it is enough to keep the Indians and their problems off its collective back. But most of the money never reaches the Indians, and Congress still finds it must deal with the issues. The Carter Administration has appointed a practiced bureaucrat to run the Indian department who can bring the BIA's most recent policy to fruition; i.e., survival management. Survival, not of the Indian people, but of the bureaucracy itself. The Indian Self-determination Act which was designed to decrease the bureaucracy by allowing Indians to run their own federal programs has succeeded only in increasing personnel in the BIA, who have become expert in stonewalling many of the tribes in their efforts at self-determination.

Without going into horror stories in depth, suffice it to say that the Carter Administration could never have gotten away with washing its hands of Indian affairs if this story had been reported with only 1/10th of the press emphasis given to Anatoly Scharansky, for example. There is in the press neither criticism of bad government Indian programs nor approval of good government Indian programs. And since information is the currency of a democracy, the lack of information to me indicates that democracy in the area of Indian affairs is totally bankrupt. ●

TRANSPORTATION DEVELOPMENT CORPORATION

● Mr. GLENN. Mr. President, the third annual convention of the Minority Trucking-Transportation Development Corp. will be held October 26 through October 29 at the Shoreham American Hotel in Washington, D.C. The president of the MTTDC is Mr. William Hall of Cleveland, Ohio. Mr. Hall is also president and owner of Industrial Transport and Warehouse of Cleveland.

MTTDC is the Nation's largest minority trucking association. In only 3 short years, it has been quite successful in aggressively seeking a fair and equal share in the Nation's transportation industry. I have joined MTTDC and my distinguished colleague from Maryland Representative PARREN MITCHELL in supporting ex parte MC–107 before the ICC. MC–107 is a proposed regulation which would give small and minority businesses a greater share of and easier access to Government business in the transportation field. I also support MTTDC's efforts to effect regulatory modernization that will allow greater entry opportunity for small and minority truckers in the licensed carrier field. I have also strongly supported MTTDC in its efforts to assure greater minority representation on the policy councils in the transportation field.

The MTTDC convention will provide a forum for discussing these and other vital policy issues in transportation. The convention will bring together many representatives of the public and private sectors. Hopefully, this will help stimulate greater coordination and cooperation in the effort to expand minority business opportunities. I plan to participate in portions of the convention and to have my staff represent me at portions. I urge my colleagues to join in participating.

I would like to have printed in the RECORD a September 1978 article on Open Road magazine entitled "Minority Truckers: They Have a Dream" which describes the great progress of the MTTDC and the excellent work of its very able executive director, Milton H. Boyd.

The article follows:

[From the Open Road magazine, September 1978]

MINORITY TRUCKERS: THEY HAVE A DREAM

(By Tom Burke)

His words were spoken at history's largest civil rights march in Washington, D.C., in 1963. They were powerful words. Penetrating words. The kind of words that are not easily forgotten.

"I have a dream," said the black man, waving a clenched fist. "I have a dream that my four children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character. . . .

"I've been to the top of the mountain . . . and I've seen the promised land . . . my eyes have seen the glory of the coming of the Lord."

The man, of course, was Rev. Dr. Martin Luther King, Jr. A man whose life was suddenly and tragically taken by an assassin's bullet on April 4, 1968, in Memphis, Tenn.

Today, however, more than 10 years after his death, Dr. King's dream still lives on—in the minds of thousands of blacks and other minorities. They're seeking a dream that pictures all men and women of all races and conditions living and working together in freedom and dignity. The dream has not yet fully come true, but it is well on its way.

And it's well on its way in almost every phase of society and business, including the trucking industry.

The main group striving to make the dream come true for small minority truckers is the Minority Trucking-Transportation Development Corporation (MTTDC).

A non-profit group, MTTDC is headquartered in Washington, D.C., and its executive director is M. Harrison Boyd. Founded and incorporated in 1975, MTTDC's first prime target was and is to help minority truckers—blacks, Hispanics, orientals, etc.—obtain ICC rights, although it will offer help in any trucking area. The 700–member group, whose members consist mainly of trucking companies, operates in part with a $250,000 U.S. Department of Commerce grant, with a majority of its funds coming from membership dues.

"The new trend in corporation names is to create an aura of mystery by putting together a 'non-word' that, in itself, means nothing, like Avco, Alcoa, Amax, Aamco, Exxon," said Boyd. "But when the frustrated small minority truckers of this country decided it was time to quit being small and banded together to get 'big,' they chose a name that belies the trend because the name Minority Trucking-Transportation Development Corporation tells exactly what the corporation is up to.

"MTTDC is using every legal means to get a proportionate share of motor carrier business for companies owned by minorities, who make up about 20 percent of the population. And that's a tough job. As of right now, minority truckers get only about one-half of one percent of the nation's trucking business. And they figure their proper share is 20 percent.

"Now you're going to ask, as everybody does, 'With all the government has been doing for the minorities, how come they're still only getting one-half of one percent? Are they lazy? Why don't they work harder?"

Boyd said such questions display an ignorance of the way things work in Washington.

"With apologies for borrowing an idea from the Bible, we can put the whole program in a single sentence," explained Boyd. "The government giveth, and the government taketh away. And that leaves small minority truckers empty-handed."

Being more specific, Boyd capsuled what his group believes to be happening. He said a "compassionate" administration announced awhile back that it had set aside 20 percent of government business to be given exclusively to small businesses and minorities.

Boyd contended, however, that when the small trucker, including the minority trucker, goes to the Interstate Commerce Commission for an ICC license to haul his share, the door is slammed in his face. Thus, he said, the big truckers keep on getting the business set aside for the small ones.

"This situation exists because the ICC continues to base its decisions on outdated precedents, and on rules and regulations that are decades behind," said Boyd. "The overall result is that interstate trucking has become a 'closed club,' from which all but 'big' truckers seem barred.

"Now here's the MTTDC. It is sponsored and assisted financially by the same government that's trying to give minorities a share of the trucking business with one hand, and snatching it away with the other (the ICC). So. MTTDC has got a delicate job that requires battle strategy tempered by diplomacy."

Boyd said MTTDC accomplishes this by sending its legal arm to argue its case before the ICC, while at the same time its educational arm is walking the halls of Congress explaining the contradiction between the government's offer of help and the regulatory agency's refusal to let it go to those it is meant for.

"The plain truth is," said Boyd, "it's all but impossible for the small trucker to satisfy all the demands made by the ICC before it grants an interstate license to haul regulated freight. Often the cost involved is too great for the man who operates only one or just a few trucks.

"Even more often, the Commission rules that (big) carriers already are giving 'enough' service to areas where government business has been offered to the small trucker. So, the small companies are effectively barred from what was set aside for them."

In the same breath, though, Boyd said all this is changing. Slowly, but it's definitely changing. And he believes MTTDC is part of the reason changes are occurring.

"MTTDC is helping its members to skirt the barriers to small business through a national marketing program," explained Boyd. "It has set up a national data bank to keep its members aware of the ebb and flow of business opportunities. And its national office is equipped to give technical and management assistance to any members who ask for it.

"On the battlefield, the MTTDC is mobilizing congressional and administration support for a proposed new regulation, Ex Parte MC–107, which would give small businessmen in every field a greater and easier access to government business.

"The Congressional black caucus, of course, has given its support to MC–107. But more important, the MTTDC also has pledges of support from 60 other members of Congress, and from most of the government agencies that have anything to do with trucking and transportation. The job of mobilizing the support of public opinion always is the toughest, and takes the longest. But MTTDC has made a good start."

Boyd also said that beginning in September MTTDC will publish a new monthly newspaper, to be called NEWSFLEET, which will have national circulation. It will be edited by a professional journalist, Howard M. Norton, who has won a Pulitzer Prize for public service.

"The newspaper will put the spotlight on areas of discrimination," explained Boyd. 'In the editorial stating its policy, in the first issue, it promises to expose manmade barriers that tend to curtail the participation of small businesses of any kind in the mainstream of American business.'"

Boyd added that the newspaper also will keep MTTDC's membership informed of new developments and future trends in the transportation industry. It has been launched as an eight-page tabloid-size and will cost 50 cents a copy.

Boyd also added that preparations are underway for MTTDC's third annual national convention in Washington. It will be held at the Shoreham-Americana Hotel Oct. 25–28.

Additional information can be obtained by writing MTTDC, Suite 1104, 1730 K Street, NW., Washington, D.C. 20006 or by calling 202/293–5851.

NUTRITION RESEARCH AND EDUCATION

● Mr. McGOVERN. Mr. President, the Senate has completed floor action on the fiscal year 1979 Labor/HEW appropriations bill and has completed the conference on the agriculture appropriations bill. I would like to take this opportunity to commend my colleagues, particularly the members of the Appropriations Committee, who have supported programs and funding for nutrition research and nutrition education. More specifically, the following report language is exemplary of the increased emphasis the Appropriations Committee has placed on nutrition research at NIH:

The Committee continues to stress the importance of increased emphasis and inter-institute cooperation on nutrition research programs. Out of the sums provided over the President's request a portion of each of the participating Institutes efforts in nutrition programs should be increased. A report relating to nutrition research spending plans should be submitted by December 1, 1978. This report should distinguish those expenditures which involve clinical applications of nutritional research, those which seek fundamental knowledge primarily related to nutrition, and those basic research activities which will contribute to nutritional information only as one of several possible applications.

I am pleased that the Appropriations Committee has requested that NIH submit by December 1, 1978, a report on its future plans for funding nutrition research. Hearings before the Select Committee on Nutrition and Human Needs and the Nutrition Subcommittee have clearly indicated the importance of resolving the on-going debate over what is definitely nutrition research, and what is basic research which may later prove to have a nutritional application. This issue and others were raised at the nutrition research conference held at NIH this past June at which scientists, consumers, and policymakers participated, including Senator BELLMON and staff from the Senate and House Agriculture Committees, and the Senate Human Resources and Budget Committees.

As for the individual institutes, it is encouraging that the Senate has agreed to raise by almost $15 million the budget of the National Institute on Aging (NIA). In September 1977, Dr. Robert Butler, the Director of the NIA, came before the Select Committee on Nutrition and Human Needs to explain that Institute's interest in and proposals for investigating nutrition and aging. This past summer the NIA held a conference to obtain the expert opinion of scientists who have been working on nutrition as it relates to aging and the disease process.

On September 1, 1978, the NIA announced plans to establish a research program on nutrition and aging. I commend Dr. Butler and NIA for their commitment to this critical area of research, and request that the National Institute on Aging's announcement of a grants and contracts program on nutrition in relation to the health of the aged and aging process be printed in the RECORD at the end of my statement.

Similarly I applaud the efforts by the National Institute of Child Health and Human Development as described in the following Appropriations Committee report language:

The Committee is pleased to learn that the Institute plans to expand research on nutrition, particularly regarding the effects of nutrition on maternal health and fetal development. Nutrition has been demonstrated as a critical factor in the development of immunologic capabilities of the fetus, and, as one mode of preventive and therapeutic treatment, has been shown to be effective in the management of high risk pregnancies, particularly those of the adolescent.

The work of the Select Committee on Nutrition and Human Needs, and the continuing oversight by the Nutrition Subcommittee, has reinforced my belief that we must act on our current, although imperfect nutrition knowledge. At the same time one of the wisest investments we can make is in nutrition research.

Nutrition education in medical schools and training grants for research in nutrition are two other funding priorities. The Nutrition Subcommittee's recent hearing on nutrition education in medical schools elucidated this critical need that must be addressed in current medical school curriculums. Thus, I am encouraged that the Appropriations Committee has included $10 million for interdisciplinary training and curriculum development, with special emphasis on nutrition as explained in the report language below:

The Committee is concerned that physicians and other health professionals being trained in the Nation's medical schools and other institutions only in rare cases receive quality instruction in human nutrition. The growing evidence that diet plays a significant role in health added to the reality that most Americans turn to their private physicians

or to the medical care delivery system for guidance in matters of nutrition leads to the conclusion that this deficiency in curricula needs to be remedied. Many health educators desire to create such instructional capacity, but lack the funds needed to begin and sustain a high-quality effort.

The Committee does not intend to mandate such improvements in curricula, considering that some few institutions already have nutrition courses on a required or elective basis, that experience with appropriate and effective means for equipping physicians and other health professionals with nutritional knowledge is limited, and that present available nutrition education materials and professionals are scarce.

Of the amount appropriated, a significant amount shall be allocated for the development and conduct of interdisciplinary education in human nutrition in universities, medical schools and other qualified institutions. The Secretary is directed to develop a program of support for those institutions willing and able to undertake the innovation of nutrition courses for health professionals, and he is directed to implement a competitive grant program according to such reasonable criteria as he deems necessary. It is the intent of the Committee to insure that the recipient institutions require satisfactory completion of nutrition education courses of all students as a condition of graduation.

The Secretary is encouraged to evaluate alternative methods of instituting nutrition education for health professionals so as to be in the best possible position to recommend effective steps for institutions which decide to incorporate human nutrition into their curricula in future years. Finally, the Secretary is directed to report the activities begun and accomplished under the program of support to the Committee at the time of next year's hearings.

We have also made significant gains at the Department of Agriculture by agreeing to expand our national human nutrition research program through the development of two new regional research centers at Tufts and Baylor Universities. Tufts will specialize in geriatric nutrition, and Baylor will focus on pediatric nutrition. The importance of these centers and their relationship to the National Institute of Aging and the National Institute of Child Health and Human Development is discussed in the following report language from the Agriculture appropriations bill:

The conferees have agreed that the centers at Baylor and Tufts are to be operated by the Science and Education Administration of the Department of Agriculture, and be a part of a coordinated nutrition research program conducted by the Department. Members of the nutrition centers faculty may hold joint appointments with the university, subject to the approval of the responsible Department of Agriculture officials. The directors of the human nutrition centers will be appointed after approval of the Secretary of Agriculture or his designee and be responsible only to the Department of Agriculture. The conferees are concerned that the purpose of the research program at the centers be consistent with the research program at the National Institutes of Health, and that the centers support similarly high-quality programs. Therefore, the conferees direct the USDA to establish a Board of Scientific Counselors, external to the centers, to review and advise the Department as to the scope and quality of the research.

Further, the conferees direct the USDA and the directors of the centers to insure that there is close cooperation and coordination with the National Institutes on Aging and Child Health and Human Development, as appropriate, of the Department of Health, Education and Welfare, that the research and program plan of the centers is consistent with the purposes of the Institute, and that the USDA and the National Institutes of Health develop appropriate interagency mechanisms to insure coordination of this program, and advise the appropriate committees of Congress of the procedures, their implementation, and effectiveness.

Finally, it is my hope that the conferees on the Defense appropriations bill will accept the Senate figure of $2 million for human nutrition research at the Letterman Army Institute of Research (LAIR). This action would maintain the capabilities of the fine research staff at LAIR while the Department of Defense completes its studies on the future of LAIR and the army complex at the Presidio, an USDA determines the potential of LAIR for inclusion as part of the regional human nutrition centers.

The announcement follows:

NUTRITION IN RELATION TO HEALTH OF THE AGED AND AGING PROCESSES, NATIONAL INSTITUTE ON AGING

I. BACKGROUND INFORMATION

The National Institute on Aging (NIA) was established in 1974 to conduct and support biomedical, social, and behavioral research and training related to the aging processes and the diseases and other special problems and needs of the aged.

Basic to this responsibility is the development of a research program on nutrition and aging. The overwhelming influence of nutrition and dietary patterns on the health, disease incidence and prevalence, psychological and social integrity of the aged requires that NIA increase its commitment to the development of a research program aimed at establishing the relationships between nutrition and health of the aged adult, as well as aging processes.

II. GOALS AND SCOPE

This announcement from the National Institute on Aging is intended to encourage the increased development of research on clinical and basic nutrition over the full spectrum of interrelationships between nutrition, aging processes, disease prevention, health status and optimal health maintenance with age. Clearly, nutrition influences all life processes. It is of primary importance in aging research aimed at limiting the major detrimental physical and mental processes that occur with advancing age. A variety of pathophysiologic processes can be linked to excessive or deficient dietary intake of essential nutrients, vitamins, and minerals. These impaired functional processes include a decline in immune function and selected endocrine responses, osteoporosis, hypertension, loss of lean body mass, and decline in mental function and sensory acuity. This is frequently compounded by psychological, social, economic, and environmental factors that undoubtedly contribute significantly to the dietary practice and health of the aged.

In support of the development of a research program on aging, health, and nutrition, the National Institute on Aging has sought the advice and guidance of the scientific community to identify through consultations, conferences, and workshops the important issues and critical research areas that should be encouraged for the development of research on nutrition and aging. The areas selected for emphasis in encouraging research grant applications on nutrition in relation to health of the aged and urging processes are:

A. Epidemiologic and clinical research on the relationship between aging, nutrition status, dietary intake, and health status of the aged adult. This may include clinical nutrition research, for example, in general clinical research centers, health survey assessments or reassessment of existing data, i.e., HANES, ongoing longitudinal studies or epidemiologic studies in defined or characterized populations.

B. Studies on special nutrition-related problems in the aged adult. These studies may include the effects of specific diseases on nutritional status, interactions of nutrients with therapeutic agents, surgical procedures, or preventive regimens.

C. Investigations on the effects of aging on nutrient utilization, digestion, absorption, and metabolism and their relationship to nutrient requirements.

D. Basic and clinical nutrition studies of the interrelationships between aging and:

1. factors which may regulate changes that occur in lean body mass, body composition, energy balance and regulation of metabolic processes, and disease susceptibility with increasing age. This includes studies on effects of diet, weight, and physical exercise in modifying immune, endocrine, and metabolic processes with age, as well as the effects of excessive caloric intake and levels of obesity on the health of the aged adult;

2. the effects of nutritional deficiencies of essential nutrients, vitamins, minerals, and trace elements on long-term health and longevity, including the effects of protein and ascorbic acid intake on the absorption and utilization of heavy metals and trace minerals, such as iron and calcium, zinc, and chromium;

3. nutrition and age-related mental deterioration and loss of neural function, particularly senile dementia, including decline in sensory sensations of taste and smell, motor coordination, and cognition.

Although this announcement has selected research areas of nutrition and aging for special emphasis, research grant applications in response to this announcement are not limited to the specific areas addressed above.

III. MECHANISM OF SUPPORT, FUNDING

The support for this program will be via the traditional NIH research project grant. Applicants are expected to plan and execute their own research programs. Support of grants pursuant to this announcement is, of course, contingent upon ultimate receipt by NIA of appropriated funds for this purpose. The intent is to budget funds specifically for this program.

IV. REVIEW PROCEDURES AND CRITERIA

A. Application Review:

Upon receipt, all applications will be assigned by the Division of Research Grants according to accepted Referral Guidelines to an Initial Review Group for scientific merit review and to an appropriate Institute or Division for final review by their National Advisory Council/Board.

B. Review Criteria:

Applications must be relevant to the goals of this announcement. The factors considered in evaluating applications are:

Scientific merit of the research design, approaches, and methodology;

Adequacy of existing and proposed facilities and resources;

Qualifications and experiences of the principal investigator and proposed staff for the conduct of the proposed investigations;

Reasonableness of the subject and duration in relation to the proposed research, and

Adequacy of time to be devoted by proposed project staff.

V. METHOD OF APPLYING

A. Application Procedure:

Use the standard research grant application PHS 398. If the Institution's Business Office or Central Application Control Office does not have this form an individual copy may be requested by writing to the Office of Grants Inquiries, Division and Research Grants, National Institutes of Health, or by calling (301) 496-7441.

Type the phrase "NIA Nutrition Program" on the face page of the application. Enclose a covering letter stating that the application is in response to this announcement. Send the NIA a copy (see below).

Following the instructions with the application form PHS 398 making sure that the items noted in Section IV of this announcement are covered appropriately. Forward to:

Division of Research Grants, Room 240, Westwood Building, 5333 Westbard Avenue, National Institutes of Health, Bethesda, Maryland 20014.

Receipt dates for research grant applications in response to this announcement are no later than: November 1, March 1, and July 1.

VI. INQUIRIES AND CORRESPONDENCE

Inquiries and correspondence should be directed to:

Associate Director for Extramural and Collaborative Research Programs, National Institute on Aging, 9000 Rockville Pike, Bethesda, Maryland 20014.

Attention: Don C. Gibson, D.V.M., M.P.H., Chief, Biophysiology and Pathobiology Aging Program.

Telephone: (301) 496-1033.●

PCP: ABUSE OF "DEMON DRUG" GROWS

Mr. PERCY. Mr. President, over the past year, I have noted with alarm the ever-increasing abuse of the drug phencyclidine (PCP) by our Nation's youth. Within the past few years, PCP—commonly referred to as angel dust—has developed into one of the most popular drugs of choice among young people. Reports indicate that last year the number of youths trying PCP nearly doubled. According to the National Institute on Drug Abuse, more than 7,000,000 people in the United States have used PCP, and that is a "conservative estimate." As its use has increased, so has the casualties of PCP's terrible effects: Last year, the drug was linked to an estimated 100 deaths and to over 4,000 hospital emergency room cases. More and more, we are learning that angel dust is really a devil in disguise.

PCP was developed in the 1950's for use as a sedative and as an anesthetic. Although PCP continues to be used as a veterinary tranquilizer, its medical use for humans was discontinued in 1965 after numerous reports of patients suffering from hallucinations, disorientation, and, in some cases, schizophrenic-like psychosis.

PCP first hit the streets in 1967. It quickly gained a bad reputation for its unexpected effects, and practically disappeared from the drug scene. But mysteriously, in the last few years, PCP has once again reappeared—and this time with a vengeance. It is readily available, inexpensive, and easy to manufacture. PCP is sold primarily in liquid or powder form and is typically mixed with marihuana and smoked. Users feel that by taking the drug in this fashion, they can better control the dosage, and, thus, the effects. But, all too often, they are sadly mistaken.

The effect is wildly unpredictable. Reactions to PCP vary from user to user, and seem to be unrelated to the amount of the drug taken. Reported effects range from feelings of intense isolation, apathy, and paranoia to bizarre, spontaneous outbursts of violence. Long-term use may drastically impair concentration, learning and memory functions, reaction time, sensory perceptions, and physical coordination.

A tragic example of what a PCP user can do was recently reported in Chicago. An 18-year-old youth, with no prior criminal background, tried some PCP given to him by his uncle. For no apparent reason, he brutally killed his aunt, whom he sadly described later as his favorite. He cannot explain why he murdered her.

PCP has also been linked to suicides, the result of the depression it can induce; drownings, the result of sedation and disorientation; self-inflicted wounds and injuries, caused by hallucinations and delusions of super-human strength; and violence, caused by stimulation and psychosis.

Recent reports indicate that PCP's disastrous effects may have been greatly underestimated in the past. The coroner in San Antonio, Tex., reported last month that five deaths, the causes of which had baffled the authorities, were found, after autopsies were conducted, to be related to PCP usage.

The increasing chronic use of PCP by teenagers is particularly disturbing. A March 1977, study of drug users in 39 States indicated that the average starting age of PCP users was 14. Increasing numbers of junior high schoolers, as young as age 12, are reported to be regularly using the drug. PCP's relatively low cost and easy availability help to explain its upsurge in popularity among our youth. And, unfortunately, it is young people, least capable of handling an intensive drug experience, that are most susceptible to PCP's "freak-out" potential.

PCP is relatively simple, and very inexpensive, to make. A convicted manufacturer has stated that for $5,000, he could easily obtain the necessary chemicals to produce, in 1 day, 50 pounds of PCP. He could then sell each pound for $5,000, and make $250,000.

PCP represents one of the most difficult drug problems America will face in the 1980's and beyond. Instead of clandestine shipments of narcotics being smuggled across our borders, small laboratories—manufacturing illicit, easily produced, highly profitable, psychoactive chemicals—will be tucked away on inconspicuous city and suburban streets and in rural areas. Uncovering these labs is already a needle-in-the-haystack problem for law enforcement agencies, and it promises to become increasingly difficult.

The Drug Enforcement Administration (DEA) has already increased its efforts to crack down on this debilitating drug. Congress can aid them in controlling this growing menace by acting promptly on two pieces of legislation. One measure is the Criminal Code Reform Act, S. 1437, which overwhelmingly passed the Senate by a vote of 72 to 15 in January. At that time, I introduced, and the Senate accepted, two amendments to this bill. One would reclassify PCP among the most dangerous drugs—alongside heroin—in schedule I of the Controlled Substances Act. The second amendment would increase the penalty for the manufacture or sale of PCP from 5 to 10 years, and up to 20 years for a sale to a minor.

In addition, my distinguished colleague (Senator LLOYD BENTSEN) introduced S. 2778, the PCP Criminal Laws and Procedures Act of 1978. I was happy to be a cosponsor of this legislation, the provisions of which have become title II of S. 2399, the Psychotrophic Substances Act. S. 2399 as amended passed the Senate on July 27, 1978, and included provisions to increase the penalties for unauthorized manufacture or distribution of PCP similar to those which I had previously introduced. It would also require reporting procedures for buyers of piperidine, a vital ingredient for PCP manufacture. Such a reporting requirement would make PCP production more difficult, and could significantly reduce the illegal manufacture of the drug.

According to DEA administrator Peter Bensinger, only 110 of the 247 PCP trafficking cases tried last year in federal courts resulted in jail terms. The average prison sentence was 2 years, which often means release after only 8 months in jail. It is my fervent hope that through these Senate actions, judges and prosecutors around the country will be alerted to the necessity of taking a harder line on PCP dealers by imposing stiff fines and sentences.

The Senate's actions on S. 2399 and the Criminal Code Reform Act were important first steps in stopping the PCP menace. I am hopeful that the Congress will act decisively this session on these measures.

Just last week, on September 18, the House passed its own version of S. 2399, which did not include provisions to limit PCP. Thus, the fate of these provisions will soon be decided in a joint House-Senate conference. I would strongly urge the House and Senate conferees to make sure that the sections relating to PCP, essential to controlling the epidemic of angel dust in our country, be included in the final version of the Psychotropic Substances Act.

Recently, three articles appeared, further detailing the dangers of PCP. Mr. President, I ask unanimous consent that the following pieces entitled "'Angel Dust'—the Unpredictable Killer," by Florence Isaacs, published in the September 1978 issue of Reader's Digest, "High on PCP," by R. W. Dellinger, published in the June 1978 issue of Human Behavior, and an article of mine "Angel Dust—Devil in Disguise," which appeared in the July issue of Drug Enforcement, be printed in the RECORD following my re-

marks. I also ask unanimous consent that the tragic account of PCP violence in Chicago, "Murder Defense: A Sniff of Madness," which appeared in the September 17, 1978 Chicago Tribune be printed in the RECORD following my statement. Each of these articles is a compelling case for the urgent need for action to deal with our current PCP epidemic.

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

[From the Reader's Digest, September 1978]

"ANGEL DUST"—THE UNPREDICTABLE KILLER

(By Florence Isaacs)

In Baltimore a 25-year-old college student, believing he has seen something too horrible to bear, gouges his eyes out with his own hands. Afterward, he cannot recall what it was he thought he saw.

In California a 15-year-old youngster, troubled by terrifying visions, seeks help at a medical center. Back home two days later, he throws a light cord over a garage beam and hangs himself.

In New York a 26-year-old welfare recipient stabs and kills his mother during a conversation in her kitchen, then writes on the wall: "I love her and didn't mean to kill her." He has no memory of the grisly episode.

All three of these young people were high on a deadly drug, phencyclidine hydrochloride, also known as PCP, angel dust, rocket fuel, super joint, peace weed, hog, and a host of other street names. PCP can be eaten, injected, snorted or smoked. Its milder effects include general disorientation or "spaciness." At its worst, it can cause wild hallucinations, schizophrenia-like psychosis, violence, convulsions, coma and death.

Drug-abuse workers report that up to 65 percent of their cases now are PCP users. According to the National Institute on Drug Abuse (NIDA), about 7 million people in the United States have used PCP—three times the number for heroin (2.3 million), not far behind cocaine (9.8 million). Last year alone, PCP took an estimated 100 lives and sent more than 4000 victims to hospital emergency rooms. The executive vice precident of the American Medical Association has declared PCP a "prime medical concern," while NIDA has named it the country's new top-priority problem drug.

"PCP is the most horrendous thing we've had to deal with, including heroin," says Dr. Regine Aronow of the Children's Hospital of Michigan in Detroit. It's easy to see why. A medium dosage can produce uncontrolled aggression, making PCP users dangerous not only to themselves but to innocent bystanders. And a bad trip can happen to anyone, anytime.

Cheap, readily available, PCP seems to have turned up in every state in the nation. In 1977 the Los Angeles coroner's office found traces of PCP in 66 of the bodies it autopsied. In New York City an estimated 40 percent of the high-school students in drug-counseling programs have tried the drug, according to Dr. Mitchell S. Rosenthal, president of Phoenix House Foundation, the nation's largest therapeutic community for drug abusers. Outside the cities the problem is almost as bad. "I call it the heroin of the suburbs," says Lt. John Hinchy, head of the Chicago police department's narcotics section.

PCP started out as a legal drug in the 1950s, used as an anesthetic for surgical operations. Because of its dangerous side effects, it was removed from the market for human use in 1965—though under the name Sernylan it is still legally used as a veterinary anesthetic. In 1967 the drug made its illicit debut in San Francisco. Used in tablet form, it earned the nickname "peace pill." But it quickly developed a bad street reputation and lost much of its following.

Then about three years ago PCP suddenly reappeared, to gain instant popularity. Users discovered they could better control dosage in powder form ("angel dust"). They began sprinkling it on oregano, mint leaves, parsley, ordinary tobacco and—especially—marijuana, and smoking it. Then, some drug-rehabilitation workers believe, with the advent of marijuana-decriminalization laws and the surge in teen-age pot smoking, PCP won a wide new audience. (According to some studies, the average age of first users is 14½.)

PCP acts on the central nervous system; it may stimulate or depress, depending on the amount taken. Most users have a pleasurable first experience. They feel the effects in one to five minutes, remain high for four to six hours, and take 24 to 48 hours to come back down to earth again. Low doses may produce distortions in perception, muscular incoordination, inability to verbalize, difficulty in concentrating, feelings of estrangement or apathy, and a dulling of the senses. The user can actually burn or maim himself without feeling pain. Effects vary widely, and it's impossible to be sure of receiving a low dosage or a good reaction. Kids have killed after using less than two joints.

Chronic users (those who take the drug at least three times a week for three months) experience memory and speech problems lasting six months to a year, plus mood disorders, depression, anxiety and violent behavior. Some users have taken five years to get over the effects. Users in a violent condition—called a "whack attack" in street language—think they're supermen, and have superhuman strength. They often believe they're fighting off imagined attacks. "When I hear it takes six people to hold a guy down, I know it's PCP," says Dr. Aronow.

Since the drug distorts the sense of movement and space, users don't know which way is up, and drownings are not uncommon. In one case, California police arrested a woman for driving erratically. Left unattended in the shower during the booking process, she wound up drowning herself in a few inches of water. Other PCP users have fallen off cliffs, jumped off buildings, or been hit by a car while walking down the middle of a highway.

To be sure, not every user goes into convulsions or gets psychotic and tries to murder someone. But the risk is always there. A person can take PCP regularly for years with no ill effects and suddenly have a bad trip; others have a pleasurable trip one day and a "bummer" a week later. In greatest danger are small children, who seldom have much tolerance. Dr. Aronow has treated 38 children under the age of eight—five of them less than a year old. All survived, but some came close to death.

Is there permanent brain damage among hard-core users? Doctors disagree. The drug hasn't been around long enough, or studied enough, for them to know.

The biggest problem of all is the drug's availability. "If you can follow a cookbook recipe, you can make PCP," says Robert E. Willette, chief of the research technology branch of NIDA. The basic chemicals are available from most large industrial supply houses. Thus, manufacturers and dealers make enormous profits even while keeping the price of PCP low. Most teen-agers cannot afford cocaine, but a marijuana/PCP joint might sell for as little as $2 and is so potent that up to five youngsters can get a buzz out of it.

Widespread use has created huge law-enforcement problems. In New York's Queens County, local police have had to set up a special squad of investigators just for tracking down PCP dealers and users. Last year in Maryland, the Montgomery County police narcotics section devoted 70 percent of its time to PCP cases.

The federal Drug Enforcement Administration has intensified efforts to close down illicit laboratories manufacturing PCP. Sixty-four were raided last year, a 50-percent increase over the preceding two years. But new ones spring up as fast as the old ones are shuttered. The agency has also tightened its controls on the two major PCP ingredients permitting their sale only to legal, licensed manufacturers. But to be effective, these efforts must be coupled with stiffer penalties and tighter enforcement of existing laws.

The federal penalty for PCP possession with intent to distribute is a maximum of five years in jail and a $15,000 fine for a first offense; double that for multiple offenses. Heroin penalties are much tougher: 15 years and a $25,000 fine for a first offense, double that for multiple offenses. But present judicial attitudes allow many PCP dealers to get off with a slap on the wrist and go right back into business.

PCP was reclassified by the Drug Enforcement Administration in February 1978. The Controlled Substances Act ranks substances from Schedule 1 to Schedule 5, according to how dangerous they are to society, their potential for abuse and addiction, and whether there is an accepted medical use. Heroin and marijuana are Schedule 1; PCP, which had been Schedule 3, has been moved to 2, joining cocaine (which is used legally as a local anesthetic), certain amphetamines and other drugs. While this does not change possible penalties, the hope is that it will cause judges, juries and prosecutors to take a dimmer view of PCP offenses, with the result that dealers will receive maximum fines and sentences more often.

Sen. Charles Percy (R., Ill.) has introduced two amendments to the Criminal Code Reform bill—to move PCP up to Schedule 1, and to double the penalty for dealers. "If we get tough legislation, word will spread through the subculture like wildfire," says Kevin McEneaney, a top assistant at Phoenix House. "But if the message is lenient, we'll be saying the drug isn't really dangerous."

Meanwhile, national groups, states and school districts are launching educational programs in schools, warning against the dangers of PCP. The National Institute of Drug Abuse will spend $1 million in research in the next year, aimed at getting better estimates of PCP usage, frequency of bad reactions, biological implications, and ways to discourage use. It has begun a national blitz of TV announcements in which, projecting an appropriately "hip" image, Robert Blake, TV star of "Baretta," warns youngsters: "PCP is no good. It's a rattlesnake and it'll kill you. Don't go near it."

[From Human Behavior, June 1978]

HIGH ON PCP

(By R. W. Dellinger)

The dream is the only thing that's real to Philip anymore. The aggravated assault charge, the days lying on a cement floor in a jail cell wanting to tear his eyes out, the woman in court with a 10-inch purple scar ringing her neck like a collar—they don't mean a thing.

In the dream, Philip always saw a man

standing under a tree in some far-off land. Because it was early in the morning and very foggy, he couldn't quite make out who it was. But when it cleared up, he could see a good-looking dude with blocklike features and porkchop sideburns. And he knew this human being. It was himself.

The man in the dream had two monkeys deep inside him, arguing, fighting, trying to get hold of his mind. After a while, Philip realized that one wanted to trap him—not in a cage, but in his own words and logic. He soon learned he had nothing to worry about, though. For whenever he found himself cornered, the other monkey would show him a way out.

Philip, a tall six-footer, has just finished his Friday afternoon therapy with Dr. David Smith, founder and medical director of the Haight-Ashbury Free Medical Clinic. At his side is a friend with upswept hair, dressed in a white turtleneck and a camelhair coat. Her name is Jeannie.

"One afternoon last September, they say I cut a woman downtown around six o'clock." Philip says in a soft baritone. "She was sitting in a car talking to her boyfriend, and I walked past and cut her with a straight razor. And she had a hundred stitches put on the side"—he brings his hand up to his throat and makes a five-inch slash—"right here."

There's a reason why Philip doesn't remember any of this. For three weeks before it happened, he had been smoking five joints a day laced with PCP.

All Philip says he knows is that when he came to, after dreaming the dream, he was in a patrol car, then in a dark cell. When he heard the cell door opening and slamming, he rubbed his eyes and saw his new roommate, a drunk. "The first thing that hit my mind was that the cops put this guy in to hurt me," says Philip.

Philip couldn't shake his paranoia. He got to feeling so badly that he asked for a doctor. All he got was a transfer to the county jail, where they took his black leather jacket away and put him inside a strip cell. There was nothing in there except a hole in the floor for a toilet. Philip wanted to tear his eyes out because he didn't want to see any of this.

Later, when he was released—amazingly, on his own recognizance—Philip went home. He stayed there. He lost 27 lbs. and thought he was losing his mind. So did other people.

"I called him up, and he didn't even know what day it was. He didn't know what month it was." says Jeannie. Thinking that Philip was having a nervous breakdown, she went to her family physican.

Philip wound up in San Francisco General Hospital, where it was discovered that his problem wasn't mental. It was physical. It was "angel dust".

Since Philip got out of the hospital he and Jeannie have been coming to this three-story Victorian house on narrow Clayton Street to see Dr. Smith an expert in drug treatment.

"He says it'll make you go off and do things that's unbelievable, but at the time, to you, are real," says Philip. "So you cannot act. You cannot make no decisions. You have to be awful careful and find somebody to talk it out with. You can't try to deal with it by yourself. It'll hurt you if you try to deal with it.

"I didn't believe, you know. So I said, 'Now I know I got to find out what happened.'" When told what he had done. "I had tears all over my eyes. I said, "I don't want to hear it no more.'" .

Jeannie can't contain herself any longer. "It wasn't him. It was not him," she says. "I mean, it wasn't." Philip is 38. He works as a hall aide at a San Francisco school, a job he enjoys because he likes kids. Philip smokes grass but says he's never dropped acid, shot up smack or taken speed.

Last September, some friends came calling on Philip with some "green dust," which piqued Philip's curiosity because a long time before he had smoked some really good grass called green dust.

"After I bought it, first I sampled it, and I knew that the weed was too strong," he says. "This is the way I looked at it: it was some good weed, but it was too strong. So what I'd do is buy me a little bit and sprinkle it over my other weed and then smoke it.

"And then, the next thing I know. I was involved. And I don't remember nothing next until I came out of it.

"There's no way heroin would make you do shit like that. Heroin won't make you trip like that. I mean, I've talked to people, you know, who've been on heroin. I have a brother who's been on heroin. I still got one on heroin. And he'll tell you right now—do not mess with angel dust!"

The following Tuesday, at two o'clock in the afternoon, the law would start deciding whether or not Philip should be held responsible for what he did.

"I don't even know what the trial is all about," Philip says. "I don't even care, because they're telling me something that I don't know nothing about."

According to David Smith, a case such as Philip's isn't all that rare. "Well, I don't see anything but the bad part of it," he snaps. "I think it's the most dangerous drug I've seen. I've been in this business full-time for 12 years, and I've seen every imaginable drug. And the worst reactions I've seen have come from PCP."

Smith has attended to some 200 cases. About Philip he simply says: "He got into it accidentally but had a really horrible reaction to it."

Twenty-one years ago, after pharmacological toxicological and metabolic tests on mice, rats and monkeys, the United States government decided that PCP or Phencyclidine could be used as an anesthetic. At first surgeons thought PCP was one great drug. Administered intravenously in doses of .25 mg per kg of body weight, it induced an unresponsive state and total anesthesia although the eyes remained open and the patient appeared to be awake. It didn't interfere with breathing or decrease blood pressure as had a number of other anesthetics.

Parke-Davis & Co., who put out PCP under the trade name Sernyl, soon cornered the market. And in 1963, the Detroit-based pharmaceutical house got the U.S. patent.

A not-so-funny thing happened then. Patients started waking up after their appendectomies wondering where their heads were. Or why the surgeon who operated on them had turned into a South American vampire bat with a 10-foot wingspan and four-inch claws.

So, on January 22, 1965, Parke-Davis wrote to the Food and Drug Administration asking that clinical use of PCP on humans be stopped. Two years later, the federal government got around to ruling that the drug, now under the trade name Sernylan, could be made and sold only as an animal tranquilizer.

But the story of PCP doesn't end there.

In the summer of 1967, it popped up in the Haight Street area of San Francisco. The hippies called it the peace pill. A year later, it appeared in New York City as hog. But most of the time during the late '60s and early '70s, PCP was passed off on users as LSD, cocaine or THC.

PCP is no longer a drug of deception. It has come out of the closet as "angel dust" or "crystal." It has broken out of black ghettos and brown barrios and moved into lily-white neighborhoods.

"It's clearly the drug of choice among white suburban teenagers," Theodore Vernier, director of the Drug Enforcement Agency in Detroit, told the *U.S. News & World Report*. In March of 1977, a study of drug users in 39 states found out that teenagers first tripped on PCP at an average age of 14. In 1976, it had been 19. Seventh and eighth graders have walked into David Smith's clinic, and he thinks that there's a PCP teenage culture forming based on a kind of daredevil challenge. "It's like the fastest gun in the West," he says. "If you can handle PCP, you can handle anything."

There's a thin line between getting off and getting psychotic on PCP. Last year 4,000 Americans were treated in emergency rooms because of the drug. The Drug Abuse Warning Network, which samples emergency rooms, crisis centers and medical examiners across the country, not long ago reported that PCP, either alone or in combination with other substances, increased from 13 percent of all hallucinogens recorded in the summer of 1973 to 43 percent during the last three months of 1976.

Last year, the National Youth Polydrug Study found that a third of the youngsters in drug-abuse treatment programs had tried it. Girls used it as much as boys.

When the National Institute of Drug Abuse (NIDA) reviewed the client records last year at a psychiatric facility, it discovered that 15 percent of the clients had used PCP. The institute promptly put out a statement that as much as 20 to 30 percent of admissions to mental hospitals in America may be linked to its use.

The Phoenix House Adolescent Drug Rehabilitation Program in New York City reported in the fall of 1977 that almost half of its last 50 admissions were for PCP.

Twenty to 30 dust overdoses are treated at crisis centers and emergency rooms every day in the East Bay Area near San Francisco.

Early this year, a disgruntled Los Angeles assemblyperson named Maxine Waters put the problem in terms she knew her constituents would understand. "In 1977, the taxpayers of Los Angeles County spent an estimated $2½ million on 'angel dust'-related services—2,500 arrests, over 275 deaths. God knows how many medical patients, police injuries, auto accidents, and court costs," she reported.

Also early in this year, California's Governor Jerry Brown announced that PCP will be his state's number-one dope target for the next two years. Brown wants to spend $3 million of his next budget to fight dust.

The Drug Enforcement Administration states that in the last four year's PCP has become a major drug of abuse, overtaking LSD as the big hallucinogen on the street. Dr. Robert DuPont, director of NIDA, says: "It appears that PCP use has become epidemic."

Phencyclidine behaves like both a hallucinogen and a central nervous system stimulant. But pharmacologists aren't sure where or how the drug works. Many think it acts on the sensory cortex, thalamus and midbrain to scramble internal stimuli.

David Smith says the drug can produce mind-body dissociation, catatonic rigidity, psychoticlike symptoms and amnesia. There are three stages that users go through, he says. The initial acute toxic state can last up to 24 hours. After that, the person can have a psychoticlike reaction that can go on for a week. The user may then slip into a condition that is almost indistinguishable from schizophrenia. Smith knows one person who's been in a San Francisco hospital for over a month in such a state.

"You don't become physically dependent upon it," he says. "But there are people who are using it chronically and have developed a psychological dependence."

During the fall of 1973, Dr. Paul Luisada, a deputy medical director for the National Institute of Mental Health, noticed something strange. All of a sudden, the admis-

sion rate for what seemed to be long, severe and treatment-resistant schizophrenic psychosis tripled at the Area D Community Mental Health Center at St. Elizabeth Hospital in Washington, D.C. Many of the patients were violent and aggressive when they came in.

After three or four weeks in the hospital, each of these people admitted to having smoked something called angel dust. Similar epidemics occurred at the end of 1974 and in 1975 and 1976.

Ever since the first case—an 18-year-old high school senior who kept muttering that he had a knot in his head—caught Luisada's attention, he's taken note of the PCP psychosis. Eventually, he wrote a paper about it entitled, "The PCP Psychosis: A Hidden Epidemic."

"Behavior is extremely unpredictable," wrote Luisada. "These patients may be reluctantly cooperative one minute and violently assaultive the next. Some carry lethal weapons to protect themselves from their imagined persecutors. Bystanders have often been furiously, unpredictably and unremittingly attacked without provocation because the psychosis may include both extreme global paranoia and delusions of superhuman strength."

Dr. R. Stanley Burns used to be on the staff of both the rock medicine section of the Haight-Ashbury Free Medical Clinic and the San Francisco Polydrug Project. He quit both jobs to start R. Stanley Burns, MD. & Associates with Steven Lerner. The organization has one purpose—to study PCP.

Burns and Lerner have closely observed some 400 people who used dust daily for two to six years. Two clinical patterns of intoxication emerged, depending on the dosage.

Low-dose users, who were brought to the emergency room by the police often because they were driving erratically or acting strangely after a car accident, were usually confused, restless, agitated or excited. They stared blankly and purposelessly. They didn't know where they were or what time it was. They were euphoric, combative or regressive. Their ability to speak came and went.

Their muscle tone was rigid. Hardly any could feel a pinprick. Their blood pressure was up when PCP was the only drug used. They also always had both horizontal and vertical nystagmus, a condition in which the eyes move up and down or back and forth much like those of a doll.

A few vomited again and again for three hours. Many drooled and sweated. They bumped into things and fell down.

Users who took a higher dose—say 10 to 20 mg—arrived in a stupor or coma. If they had just been smoking dust, they might be on their feet and talking in 30 minutes. But the people who swallowed a really massive dosage were out for as long as 72 hours. And it took some of these patients 15 days to recover completely.

Although Burns admits that PCP can be pharmacologically toxic, he says that this probably accounts for less than 20 percent of all deaths. "We find more and more confirmation that the drug's behavioral toxicity is the really great danger," he told the magazine Emergency Medicine. "Under its influence people fall off cliffs and die of the trauma or into the sea and drown. They paddle out to sea on inner tubes or rafts and fall off and drown; they even drown in swimming pools. They die in fires, they die in auto accidents or while walking blindly on the freeway. They don't decide that they can fly and dive out of windows—but they certainly do commit suicide when their comedown depression is severe enough, either by shooting themselves or taking an overdose of anything they can find."

Burns says that in a group of 28 chronic users he and Lerner studied three died in a four-month period. Two drowned in swimming pools; the other one burned to death in a fire. All were high on PCP.

Gloria Keyes has been interested in drugs ever since she became a psychiatrist in 1969. For the past four years, she's taught psychopharmacology to residents at Martin Luther King Hospital in Los Angeles. Trained in community psychiatry. Keyes is currently director of a Los Angeles County committee that meets once a month to keep informed on the growing angel dust problem.

"Actually, PCP has a multisystems effect as far as the human body goes," says Keyes. "For example, it has an effect on the eyes. An individual may also have ataxia, a kind of neurological disorder where persons lose their balance or can't determine if they step down how far it goes before you touch the ground."

But the biggest neurological problem, she says, is memory loss. The larger the doses, the worse the loss.

The main thing is the schizophrenic-like reaction with delusions and paranoia. "They have false beliefs like something is going to hurt them or somebody's going to do something to them. Or maybe you might look like a monster to them."

All of this amounts to quite a problem for clinicians—how do you tell the difference between a schizophrenic reaction that's due to PCP and one that is a true functional disorder?

"Some of my colleagues will say: 'Well, gee, I know because they're crazier than a schizophrenic person'," says Keyes. "But you can't always tell. You have to go by history, and you have to have an adequate examination." But this is complicated by the fact that you can't talk with them, she says. They have no judgment or reason, especially the chronic users or those who have had a large dose.

"One thing about PCP is that you don't feel any pain," says Keyes, because the drug acts as an anesthetic and analgesic. And this is important because pain monitors behavior, because when a person is hurt, there is a kind of withdrawal. But a PCP person does not have that capacity to withdraw. And that puts the person in a dangerous position.

"After you see some of these people on PCP, you begin to think that it causes an irreversible brain damage," she says. "I'm not certain that anybody has documented this, but you get the feeling that it does because for extended periods of time they do not use their mentation in a normal fashion.

"I guess when I think back over what I have seen, the thing that perhaps impresses me most is the emptiness and the vacuousness in the lives of people who have been on the drug any extent of time. In terms of your whole process, your ability to function, your ability to care about yourself and be concerned and to be involved in life has been removed. And there's a possibility that you'll never get it back again."

Keyes is somewhat surprised to see PCP in the black community, because blacks have always stayed away from mind-altering drugs. LSD was never big in the ghettos. She thinks PCP has both political and psychological implications.

"If you wanted to eliminate being bothered by a whole group of people, then just dust everybody out," she says. "They would just withdraw. And that's what's happening with these people. They can't make any decisions. They don't know what's happening in the world. They couldn't care less.

"The most frightening part is that you make a nonperson. You make an automaton. You make a person who doesn't feel anything. Who cannot remember anything. And who is not in control. That's scary."

Each of these professionals thinks we are playing catchup as far as our knowledge about PCP goes. The National Institute of Drug Abuse, the research agency that's supposed to know more about dust than anyone, admits it has a lot to learn. "We don't know why some people seem to have a sensitivity to it or will have adverse side effects, psychotic reactions, and other people don't," says Mary Carole Kelley, NIDA's press officer. "We also don't know why some people can smoke it for a very long time and then have a reaction and other people will have a reaction the very first time. These are unanswered questions. There is a lot we do not know about this drug. There's no question about that."

Although the police knew what PCP could do a couple of years before social scientists did, they still haven't figured out how to deal with it. Part of the problem is the tremendous strength the users seem to have. "I don't know what you do with them," says Lt. Dan Cooke, spokesperson for the Los Angeles Police Department. "They [the users] throwing a lot of people around like ten pins."

The LAPD had a case recently where a nude man, high on PCP, raped a woman. As he was making his getaway, four of L.A.'s finest confronted him. The suspect grabbed one of the officers' batons. All four officers wound up in the hospital.

"Two of the major problems are the violence that accompanies it and their inability to feel pain," says Cooke. "They're just impervious to pain."

Cooke hasn't the slightest idea why people are using it right now. All he knows is that more and more of them are and that LAPD officers are having more and more problems.

"All we're left with is just the result of it," he says.

"Yes, it's creating some problems," says Sgt. Eugene Rudolph, the Los Angeles County Sheriff's Department's resident angel dust expert. "Now you take an individual who's under the influence of PCP. What is it affecting? It's affecting his ability to reason. All right then, when he's put into a situation where authority—not necessarily the police, but any type of authority—challenges him in any way, he's going to resist it."

Rudolph is a narcotics training officer. He lectures at a patrol school to officers who are just going out into the field. They were all worried about PCP users. They all want to know how to handle someone who is loaded.

Rudolph didn't have any special PCP techniques to lay on them. He says there aren't any. You just protect your ass and make the collar.

"I said—and I've said this ever since I've been a policeman for 22 years, and I was told this when I first became one—'Man, if you can talk, use your mouth, 'cause you're not paid to fight. And there's guys out there that can whip you.' "

PCP powder, anywhere from 1 mg to 100 mg, is sprinkled on dried parsley and mint leaves or marihuana. In the last year or two, it's more likely to be dissolved in a liquid and then sprayed onto the leaves or grass. A really strong joint—called superkools or Sherman's—is made by diping the organic base into liquid PCP. Sometimes people swallow tablets or capsules. But most chronic users smoke it so they can control the dosage.

The first effects from a joint hit in about two minutes and peak in 15 to 30. The high lasts for four to six hours. It usually takes between 24 to 30 hours before the user is back to ground zero.

Dust is cheap. A quarter of a gram of mint leaves sprayed with the liquid makes one joint. It sells for a buck or two. Two people who put up $20 apiece can stay loaded for a month if it's good stuff.

"The PCP on the street today is not diverted from legitimate sources—it is manufactured in clandestine laboratories," says Robert DuPont of NIDA. "It is a frightening model of what can happen when a potent drug is easily synthesized at low cost from easily available chemical processors."

According to the Drug Enforcement Administration (DEA), the major illicit pro-

duction centers are Washington, D.C., Detroit, Los Angeles and San Francisco.

"Dave," who prefers to remain anonymous, is a narc—a DEA agent, who says he's 35 going on 90. He's spent the last five years busting up PCP labs, which run the gamut from small garage operations that make a pound or two a week to big commercial operations. Dave says the typical setup is two to six people churning out six to 10 lbs. a week.

"Generally, a case will start with information—either it can come from neighbors complaining about strange and unusual odors in their area or the lab will blow up, which is happening more and more of late around here.

"The thing that's distressing me now is we're starting to see shootings. There was a case in Inglewood—I was talking to the officers last week—where when they kicked in the door and the guy tried to throw a beaker of chemicals in one officer's face, they had to shoot him. And that was the third PCP incident like that in the last month that I know of.

"You've got toxic chemicals or caustics like lye—sodium hydroxide. You've got acids—hydrochloric and sulfuric acids. Now a fistful of those chemicals in your face can really cause some problems. And this apparently is what some of these people are doing. When the door goes down, they're getting the chemicals and starting to throw them at the officers. So this is going to require riot-type face shields to be worn. And it does present a problem—especially for the first one or two guys in the door, usually me."

There's another danger from PCP labs that keeps Dave awake at nights: explosions. "What I would hate to see," he says, "and it's going to happen, is some turkey's going to be making this in one of these highrise apartment buildings, and it's going to blow an apartment building up."

The people who make PCP are in it for the money—pure and simple, according to Dave. Just $150 will buy all the chemicals needed to make a pound of the stuff. That pound can be sold for at least $8,000. And unlike heroin or cocaine, there's nobody to be paid off to get it through customs, there's no smugglers to be hired.

Dave thinks the Drug Enforcement Agency is doing its job, but the courts aren't doing theirs. The DEA has to catch a guy cooking PCP red-handed three or four times before a judge will send him to jail.

Working labs has been a real education for Dave. There's one thing that sticks in his mind. "I've learned that if I don't do my job, then my kids might be exposed to it when they go to school—and I've got three boys. My job is to prevent some yoyo from selling dope in the schools. And I think that's what the bottom line is."

"Donna" works no more than 30 feet from Dave's desk. She's 5'2", 115 lbs., and doesn't seem like much of a match for big-time dope dealers. Since July 1976, Donna's been working back a network that distributed PCP in Detroit. The trail eventually led to Southern California.

It started in 1969 when a young man from San Francisco moved to Los Angeles and set up a PCP lab. More importantly, from 1970 to 1977, he gave or sold the formula for PCP to at least 10 other people. The new people would open up their own labs in Los Angeles, but by 1972, many of their distribution networks had branched out to Chicago, New York, Miami—and Detroit. The operation spread so far and so fast, the DEA couldn't keep track of—let alone stop—it.

But last December, Donna and her coagents made an attempt. In a simultaneous, citywide bust, 15 of the biggest PCP people on the West Coast were arrested, including the young man from San Francisco.

All this should make Donna happy. It doesn't. "Say you have a heroin organization," she explains. "Because of the distribution, it always starts in Mexico. Someone makes it in Mexico, and someone slips it across to someone over here. It's pretty easy to identify the organization.

"With PCP, you start out with, like in our case one guy that had the formula. Then he taught Peter and Peter taught this person, who in turn taught these three people, who in turn each taught four other people. You can't. You just can't stop it."

But there's another reason why Donna is discouraged. After giving two years of her life to this case, the 15 men she arrested are facing maximum sentences of five years.

A two-story building at 2249 South Hobart, Los Angeles, is a detoxification induction center run by a Christian organization called Teen Challenge. Through its door go heroin addicts, alcoholics, glue sniffers and PCP freaks.

Inside, in the back in an office that holds three desks but should only hold two, Rich Bills, who is in charge of induction, and Ernie Martinez, his assistant and an ex-addict, are rapping about angel dust.

"I remember my first experience with it," says Martinez. "We were smoking dust, you know, and I don't know how much I was smoking at the time. But the next thing I knew, I woke up the next morning, and I couldn't talk. I was stuttering. That whole day I didn't smoke any dust, but it was still in my system. And I was lost in my own hometown.

Bills says he tried it when he was 18, and again at 21 when it became more fashionable. He can recall the last time he took it.

"After smoking a joint about two inches long, after taking one or two hits, I remember it actually felt like nerve cells on my spine. I just felt a rush up there. And then there was a mass disorientation—time, space.

"I remember walking outside. And walking seemed really hard to do. And there was extreme paranoia associated with it also—a lot of paranoia. I felt that I was going to get caught and that something was going to happen to me. It kept on lasting. And there was paranoia of 'when am I going to come down from it?' But there were also times when there was an elation. I felt very relaxed. It went through stages. It wasn't just one kind of thing."

Bills says it was a good high. Better than grass. A little like a hallucinogenic trip. The walls seemed high. He felt tall, then short. His senses were more aware. All of this lasted six hours.

"There's no concentration on time," says Bills. "I remember walking. Walking seemed very difficult. Almost as if my feet were shackled. You know how shackles are? How you've got so much play. I couldn't take a full stride. Things were really slow."

Martinez interrupts: "I always felt tall."

Both young men agree that what effect each person gets from the drug depends upon many factors—some physical, some social. Bills thinks the person's mood is important. Every time he smoked dust, it was different depending on whom he was with and how he felt.

Bills hasn't found many people over 30 who are using it on any regular basis. Most of the PCPers he works with are under 21. But that's the only commonality. "I talk to homosexuals, they use it," he says. "I talk to high-income blacks, low-income blacks, white middle class—all kinds of whites—transients, Mexicans, Indians. And they all use PCP."

Both agree it's the drug of the '70s.

"It's a way of escaping reality, and nowadays everybody is looking for that easy out," says Martinez. "And for a dime, $10, maybe you get five joints out of it or six. And it takes you one joint to escape reality."

"A lot of people don't want to take acid anymore," adds Bills, "so they go to PCP. But there's a whole thing, that hallucinogenic value, people like. Remember in the late '60s, you'd take a hallucinogenic to become more aware of yourself and all that stuff. I guess they feel the same way now. But about PCP."

Sam Heilig also believes that PCP is the drug of the '70s. But unlike the Teen Challenge workers who say they've never witnessed the violent part of it, Heilig has seen too much. He says the unpredictableness of the drug is one of its real peculiarities. He would guess that over 90 percent of the time users get what they describe as a good high. They might get a little crazy. But they don't do anything violent. They just feel mellow.

"Maybe 95 percent don't have any problem," says Heilig. "Maybe 98 percent. But there's some percentage we know.

"If you monitor the coroner's office, as I have, you will find that in '75 I think there were 13 deaths that were picked up with PCP-involvement—not just PCP overdose, but there were 13 deaths related to PCP. There were 26 in '76. In '77, I count 66. So it's more than doubled, you see.

"It's a large number of deaths. And those are the ones that are found. It's a significant number of people."

Heilig has just started looking at how the two are connected. He thinks many users are looking to get themselves killed. Heilig hopes to study 50 cases where people died because of PCP. He wants to interview families, friends and lovers. He wants to trace back lives to find out why.

"I've got 17 of them analyzed with some meaning," he says. "You find a lot of crazy behavior, which is very threatening to whoever witnesses it. And people get killed. A lot of people get killed. It's not an unusual kind of event where somebody just acts bananas, scares the ——— out of whoever is there—most often its the family and friends, not police.

"Now eight of the 17 that I've looked at this far were homicide deaths. They were killed. They got themselves killed. Four were suicides. And one-quarter were accidental deaths. One was a natural death.

"I was interested in the homicides. One was killed by his roommate. One was killed by a friend at a party. One was killed in a barroom brawl. One was killed by his stepfather. One was killed by a neighbor. Two by strangers, street acquaintances. And one by the police."

Heilig thought all the PCP fatalities would be kids. But 25 percent of the 66 people who died in 1977 were over 30. One was a 77-year-old woman. The racial mix was about what he expected—six out of the 17 were black. So was the male-female ratio—14 males to three females. Heilig thought it strange that three of the fatalities involved drownings.

"These are police reports of investigators who are on the scene," Heilig says as he leafs through a batch of papers in front of him. "There's a case in here where a guy was busting windows down Hollywood Boulevard with an ax handle. The cops tried to stop him. He threatened them with the handle, and they blew him apart. And that's a common sort of event. People get wild, threatening, unpredictable. And there's no restraining them."

There's one more homicide case Heilig wants to read. He says it tells people a lot about what the drug can do. A security guard discovered a 23-year-old man hiding inside a parking lot. When the guard asked him what he was doing there, he said that he was stronger than God. The man then reached for the guard's revolver. The guard, backing away, pulled his gun and fired once into the air as a warning. He fired again. The man laughed and reminded the security guard that he was stronger than God. He then lunged at the guard who in turn fired once into his chest. The man fell to the ground but rose to attack the guard. At point-blank

range, the guard fired another shot. The man fell dead.

"He thought he was God," says Heilig. "You talk about the superhuman strength of people on PCP. It's not superhuman. It's that they're crazy. And that scares people. You can imagine what this guard was thinking. He warned him. He tried to subdue him. He shot him once. The guy kept coming. That's PCP."

The other kind of angel dust death that intrigues Sam Heilig is suicide.

He says human beings—especially Americans—use drugs as a self-medicating way to deal with depression or anxiety. The middle and upper classes take Valium. People on the street take anything they can get their hands on.

In another study, Heilig discovered that 75 percent of a group of addicts said they were using heroin to keep from killing themselves. He suspects there's some of that going on with PCP. And he wants to find out so he can intervene.

Heilig tells of one more report: an alcoholic woman with a stomach disorder, chronic back pain, an ulcer, who had had one operation after another during the past year. For two months she talked about killing herself because of her health. The night before her death, she had been over at her boy friend's apartment. He thought she was in good spirits. At 11:30 the next morning, he found her lying in his kitchen. The coroner's office hasn't filed a complete toxicology report yet. But one of the drugs in her was PCP.

Heilig picks up a yellow pencil. He spins it, then passes it back and forth between his hands. He says there's no way to measure the number of problems this drug is causing people and society. "There are guys who get off on dust who beat the ——— out of their wife and kids. Nobody knows about that. But you know damn well that happens a lot, the same as with booze. How many rapes occur with PCP? Is the Hillside Strangler a PCP user? Who the hell knows?"

[From Drug Enforcement, July 1978]

ANGEL DUST—DEVIL IN DISGUISE

(By CHARLES H. PERCY)

"Angel Dust"—the common name for phencyclidine (PCP)—has become the fastest growing drug of abuse among young Americans. Too many are discovering too late that while PCP is a powerful animal tranquilizer which can soothe a raging gorilla, it is also capable of unleashing the darkest demons in the human mind.

Last year alone the number of youths trying PCP nearly doubled. And in a California drug raid last December, federal agents of the Drug Enforcement Administration (DEA), working with local law enforcement officials, seized upwards of 900 pounds of the drug worth over $50 million from a single illicit operation.

PCP has clearly become a problem of epidemic proportions. Most users mistakenly believe that PCP is simply a strong form of marihuana. On the street, it is often mixed in a marihuana cigarette and sold as a "super-joint" without further identification.

But PCP is anything but harmless—it's a monster of a drug. Medical experts warn that it is the most unpredictable drug ever to gain widespread use, so dangerous that it was never licensed for medical use on humans.

In research on psychiatric patients, PCP was uniformly described as more frightening than LSD because it produces a more heightened and recurring sense of fear. Yet today PCP has supplanted LSD as a drug of choice.

Apart from fear, and unlike so many other drugs that have tranquilizing effects, PCP actually breeds violence. Its potential to produce bizarre and unpredictable behavior is its more perilous feature. Acts of spontaneous, irrational rage are far more common among PCP users than among users of other drugs.

A noted doctor at St. Elizabeth's Hospital in Washington, D.C., says, "PCP has no equal in its ability to produce psychoses nearly indistinguishable from schizophrenia." The founder and head of the famed Haight-Ashbury Free Medical Clinic in San Francisco terms it "the most disruptive drug I've seen."

Users report extreme feelings of isolation, apathy, paranoia, and an inability to control thought and action. The likelihood of psychological harm is greatest when PCP intensifies preexisting negative feelings. Chronic PCP-users frequently show signs of paranoia, hallucinations, and severe depression and anxiety. Long-term use may drastically impair concentration, learning and memory functions, reaction time, sensory perceptions, and physical coordination.

The increasing chronic rather than occasional use of Angel Dust by teenagers is particularly alarming. Young people, least capable of handling an intensive drug experience, are most susceptible to PCP's high "freak-out" potential. The problem is compounded by the fact that PCP is highly toxic even in small doses. There is an extremely thin line between getting "high" and an accidental, dangerous overdose.

The tragedy can be a never-ending nightmare. One youth who thought he was buying bargain-priced cocaine wound up with a PCP high he'll never forget. He spent five days in a coma and remained highly psychotic for a month. Later, he was confined to a community mental health facility with frontal-lobe brain damage.

Purchasers have no way of knowing PCP's purity or potency. The white crystalline powder presents the perfect fraud for conniving dealers. It is often disguised as any of a number of other drugs: for example, when THC—the active ingredient of marihuana—is offered for sale on the streets, it almost always turns out instead to be PCP. Reportedly, one gram of PCP sold on the street for $65 to $75 can be dusted on marihuana to make some 4–8 "knock-out" joints, 10–15 "heavy" joints, or 18–24 "street" joints. This variation, coupled with the extreme range in its purity, makes it nearly impossible to predict its effects. A PCP-laced joint could contain anywhere from a negligible to a massive dose of the drug. Users end up playing hallucinogenic Russian roulette.

And invariably many have lost. In the past three years, DEA reports at least 93 deaths due to Angel Dust have been reported nationwide. But hundreds have probably gone unreported. Some 20 percent of the *reported* deaths due to the drug are directly caused by overdose. But the vast majority of PCP-related deaths stem from the drug's behavioral effects. Most accidents occur when users try to engage in normal activities, such as driving or swimming, while coordination and perception are distorted. These accidents are rarely attributed to PCP. Emergency room personnel and coroners, unaware of the effects and extensive use of PCP, often fail to conduct tests to establish its presence in suspicious homicides, suicides, and accidents.

The drug's relatively low cost and easy availability explain its upsurge in popularity among teenagers. The chief of the Chicago police narcotics division warns that PCP is fast becoming "the heroin of the suburbs."

Phoenix House in New York City, a major drug rehabilitation center, estimates that 30 to 40 percent of that city's high school students now use PCP. Children as young as 9 and 10 years are experimenting with it.

These figures are distressing. They connote lives, mostly young lives. They come just when community leaders have begun to proclaim that the drug menace has stabilized. But in reality, the most fearsome chemical potion ever to spring from Pandora's test tube is spreading through our schools and into our homes.

In many ways, PCP represents the typical drug problem America will face in the 1980's and beyond. Instead of clandestine shipments of narcotics being smuggled across the nation's borders, small laboratories—manufacturing illicit, easily produced, highly profitable, psychoactive chemicals—will be tucked away on inconspicuous city and suburban streets and in rural areas. Uncovering these labs is already a needle-in-the-haystack problem for law enforcement agencies.

I have been in close contact with DEA, in particular, on the startling rise in the manufacture and use of PCP. Its recent seizures demonstrate a well-coordinated commitment to crack down on this debilitating drug. DEA first recognized the accelerating illicit abuse of the drug and took immediate steps to alert relevant officials in federal and local treatment and prevention programs. Under the leadership of Administrator Peter Bensinger, the success DEA has had in tracking down and dismantling PCP laboratories has probably been the single most effective response to the current problem. As with so much else of the agency's work which is done outside of the public limelight, it sometimes takes years for citizens to come to know and understand what an outstanding service is being done on their behalf.

At my urging, the Senate has voiced its strong concern about this growing menace. It approved two amendments that I introduced to the Criminal Code Reform bill, S. 1437. First, since PCP has no recognized human medical use, it would be reclassified among the most dangerous drugs, alongside heroin, in Schedule I of the Controlled Substances Act. Second, the penalty for the manufacture or sale of PCP would be doubled from 5 to 10 years, and up to 20 years and a $100,000 fine for sale to a minor.

But this legislation must still be approved by the House. In the meantime, I have urged the Carter Administration to take these immediate concrete steps to halt the growing abuse of PCP:

First, PCP must be accorded priority attention by federal law enforcement officials. Simultaneously, drug abuse treatment and prevention resources should be redirected to deal with this most hazardous drug.

Second, the Administration should convene, as soon as possible, a White House conference on PCP abuse. No better means exists for alerting citizens, educators, medical authorities, and local law enforcement officials as to the pernicious nature of the problem. We must move to close the substantial gap between society-at-large and drug specialists who have had first-hand contact with the disturbing effects of PCP.

For today PCP pervades not only our universities but our high schools and junior high schools as well. Parents and youth must become aware of its mindcrippling effects. That awareness will certainly save lives, and is our best hope for halting the accelerating use of Angel Dust—in truth, a devil in disguise.

[From the Chicago Tribune, Sept. 17, 1978]

MURDER DEFENSE: A SNIFF OF MADNESS

(By John O'Brien)

Corey D. Johnson, 18, used to play chess, tootle the flute, and work mathematics problems.

Now, he says, he has a dream in which he is trying to apologize to his uncle for having killed his aunt.

Corey Johnson dreams his dream in Cook County Jail, and it is based on reality. He did kill his aunt. He stabbed her with a butcher knife and beat her with an iron bar. He will be tried, and his defense will be that he was in a state of "toxic psychosis" at the

time of the murder—from "angel dust" the uncle had given him.

"Angel dust" is the dread PCP, an animal tranquilizer also known as "DOA," "tic" and "tac." It is a poison of Johnson's generation.

Those snorting or swallowing it become disoriented and may suffer "acute psychotic reactions," says the Illinois Dangerous Drug Commission.

A person in such a state can turn on loved ones, as Johnson did.

On May 5, Johnson, then 17, went to the home of his "favorite aunt and uncle," Mr. and Mrs. Ocie McQueen, at 7746 S. Luella Av.

They were relatives of Johnson's father and young enough—Ocie, 34, and Bertha, 33—to be easy for him to talk to and, apparently, both used drugs. [Two months after the murder, McQueen was arrested for possession of cocaine, marijuana, and three guns.]

The drug factor in the case is disturbing in retrospect; but the McQueens were good to Corey. He would visit them often, he and McQueen would play chess and smoke marijuana; the aunt cooked dinner.

And that's how it was that Friday night in May, except, Johnson says, McQueen gave him some "tac" to sniff through a tube; then a "reefer" as they pushed their pieces around the chess board.

The aunt came in. She didn't feel like cooking. Why didn't the men go and bring back some hamburgers? "My head was spinning," Johnson says. They got the burgers. He had another reefer on the drive back. McQueen went to feed a neighbor's dog.

Johnson felt woozy. He walked around. The aunt polished her nails, then headed toward the bathroom. He picked up an iron bar used to bar the door to the basement and hit her in the head. She tried to run out of the house. He pulled her back inside, and hit her. Again. Again. Again. A butcher knife was in his hand. He must have stabbed her. He doesn't remember.

He dragged her body into a storeroom. McQueen returned. Johnson was scared about all the blood. They fought. Johnson cut him. They shattered a glass-topped table in the living room. McQueen pushed a couch against Johnson and ran away. He ran, too. He was arrested later, under a bed in the home of strangers at 7812 S. Paxton Av.

The residents said Johnson asked to hide, saying he had been robbed. He confessed the crime and was charged with murder and aggravated battery. A pertrial hearing in Criminal Court is set for Oct. 16.

"The reason this defense will succeed is the uncle was providing the stuff," says attorney Rick Halprin. He and his sister, Judith A. Halprin, are defending the youth.

"There is no aggressive behavior in his background and no arrests," Halprin says. "Corey loved his aunt and uncle very much. But they turned him on to marijuana and then supplied him with Tic.

"Now, who is responsible for what happened?"

To the question, prosecutors in the Cook County state's attorney's office reply: Corey Johnson is responsible.

"Toxic psychosis is not a legal defense to criminal activity, and we would oppose any move to dismiss the charges based on that notion," says a spokesman for the prosecution.

At the request of the Halprins, Dr. Melvin N. Seglin conducted a psychiatric examination of Johnson Aug. 7, one month after his 18th birthday. The above description of the attack is from that interview. [When arrested, Johnson told police he attacked his aunt after she "stared" at him for 10 minutes and he feared that she was going to attack him with karate.]

Seglin asked, why kill Aunt Bertha? "Don't know why I did it; she was my favorite aunt," Johnson said.

He told Seglin he has had "very disturbing dreams." In one, he says, "he saw himself being killed by Ocie. He tried to apologize, but his uncle attacked him with a knife. He has lost his appetite. He suffers from insomnia . . ."

Seglin gives Johnson's history: Lives with mother and stepfather; a good relationship with father; "minor" shoplifting; once took mother's car without permission, but "does not appear to have a criminal orientation. He appears to be naive and trusting."

Johnson, says Seglin, was suffering from "a toxic psychosis" during the murder. "In my opinion, the act was totally implusive, without premeditation, without comprehension for the circumstances.

"It would appear that his aggressiveness on this one occasion was due to the ingestion of some strong unknown substance which rendered him bereft of reason and judgment."

Johnson's mother, Mrs. Bobbye Simmons, of 7717 S. Yates Av., a nurse, said she told the MQueens not to give any of her four children [Corey has an older brother and two younger sisters] marijuana. "They asked if I would rather they get it on the street."

Mrs. Simmons said Johnson dropped out of high school after his junior year and worked as a busboy. But she says, he played the flute and worked math problems for fun. When she saw him in the police station, "he was not the usual, happy-go-lucky boy I raised."

She said he told her McQueen gave him marijuana and tac.

"The result was Bertha's death," she says.

DR. ROBERT G. LEE

Mr. THURMOND. Mr. President, a distinguished clergyman, Dr. Robert Greene Lee, passed away recently after almost three-fourths of a century of ministry in the Baptist church.

When I was a young man, Dr. Lee was the pastor of the First Baptist Church of Edgefield, S.C., of which I was a member. He had a profound influence on my life as I was growing up, and I shall never forget his inspirational sermons and his willingness to help all the people in the community.

After holding 17 pastorates throughout the South, Dr. Lee became pastor of Bellevue Baptist Church in Memphis, Tenn. When he preached his first sermon at Bellevue in 1927, it had 1,439 members and approximately $39 in assets. Under his leadership, Bellevue grew to become the second largest Baptist church in the world with 9,200 members and $642,871 in receipts at his retirement.

I have never known an abler preacher than Dr. Robert Lee. He was a preacher's preacher. He was a wonderful orator and a great evangelist. He served an unprecedented three terms as president of the Southern Baptist Convention and four terms as president of the Tennessee State Baptist Convention.

Throughout his long and distinguished career, he brought thousands of people to know Christ. He was known and loved by millions of people throughout the world and, as Billy Graham said, "only eternity will reveal the vast multitude of people who were profoundly affected by him."

The son of a sharecropper, Dr. Lee was born near Fort Mill, S.C., in a three-room cabin. Rather than remain on the farm, however, he was determined to preach the teachings of Christ. Entering Furman University with only 36 cents in his pocket, he quickly got a morning paper route in Greenville. He said that he often ran the 4-mile route from the downtown campus to the homes of his subscribers and back. He explained that it was a good way to keep in shape for the college track team, of which he was a star, and it was the only way to get back to school in time for breakfast.

Not only was Dr. Lee a preacher, but he was a dedicated scholar as well. He held a doctorate in international law and was the author of more than 50 books. He was eulogized as "a giant in the realm of language" and the author of books with "eternal value."

One of Dr. Lee's last books bore the title of his most famous sermon—"Pay Day Someday." This sermon was first preached by Dr. Lee in 1919 in Edgefield, S.C. During his career he preached it more than 1,000 times, and it was made into a movie, translated into several foreign languages, and used as the theme of a sacred opera.

Dr. Lee was truly a great man and a dedicated Christian. He was a devoted friend, and I consider it an honor to have known such a person. He was one of the ablest and greatest preachers of our time, and I and millions of others will never forget him.

My deepest sympathy is extended to Dr. Lee's two daughters, Mrs. Edward R. King, and Mrs. Hildred Phillips; son, Mr. Roy DeMent Lee; brother, Mr. David Frank Lee; and five grandchildren and eight great-grandchildren.

Mr. President, in order to share various newspaper articles concerning the death of Dr. Lee with my colleagues, I ask unanimous consent that they appear in the RECORD.

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

[From the Fort Mill Times, July 27 and Aug. 3, 1978]

DR. "BOB" LEE, FAMED FORT MILL NATIVE DIES AT 91

With the death late last week of Dr. Robert Greene Lee, 91, Fort Mill lost one of its most famous natives. Born and reared on a farm just outside this little city, Dr. Lee laid aside the strenuous labors of the farm when a young man to pursue a clear call to become a minister of the gospel.

As a youth he was a member of Fort Mill's First Baptist Church and was ordained into the ministry by that church three-quarters of a century ago.

After completing his theological training at Furman University and elsewhere, Dr. Lee rose rapidly in the ministry of the Southern Baptist Convention. Churches he served were located at Edgefield, Charleston, New Orleans, and finally, the largest church in the denomination, Bellevue Baptist Church, Memphis, Tenn., which has in excess of 12,000 members. He served at Bellevue during the final 33 years of his ministry and it was during this period that he gained national fame as an evangelist, minister and pastor. He was elected and served three terms as president of the Southern Baptist Convention, and four terms as president of the Tennessee State Convention.

Dr. Lee's dedication and oratorical style made him an instant favorite wherever he spoke. He was also an author of numerous books published, and was the subject of several books and numerous articles telling of his life and the enormous spiritual influence he exerted.

The famed minister was born in a three-room cabin on a farm operated by his father and brothers on Doby's Bridge Road four miles east of Fort Mill. The adulations of the members of Bellevue Church was such that following his retirement from the church's pastorate in 1960, the little home, long since abandoned, was taken apart and transported by truck to Memphis where it was reconstructed as something of a shrine.

As long as his health permitted, Dr. Lee was a frequent visitor to his old hometown and friends and relatives here. All of his immediate family, except one brother, Frank, a patient in a Rock Hill nursing home preceded him in death. However, two nieces do reside here, Mrs. Mildred Lee Adair and Mrs. Elva Dorothy Lee Cantrell.

Dr. Lee was the subject of a long and laudatory obituary in one of the Memphis dailies the day following his death. We quote therefrom:

Dr. Robert G. Lee, pastor emeritus of Bellevue Baptist Church and internationally known preacher and author, died early yesterday at his home at 508 Stonewall after a long illness. He was 91.

Services will be at 10 a.m. tomorrow at Bellevue, which Dr. Lee led for 33 years, with burial in Forest Hill Cemetery Midtown. His body was placed on view at Bellevue where it will remain until the funeral. Church officials expect a minimum of 3,000 persons to pass through the sanctuary each day. Memphis Funeral Home has charge.

The man known as "Mr. Southern Baptist" retired from Bellevue's pulpit in 1960, but continued preaching and writing at a pace befitting a young evangelist until he suffered a heart attack in April, 1977, while preparing for a revival in Oklahoma City.

He had been hospitalized several times since and spent the last few months confined to bed at his home. He was pronounced dead at 4:20 a.m. yesterday at Baptist Hospital.

Dr. Lee, who rose from humble origins to the pinnacle of a mighty oratorical style and a deep religious conviction, served an unrivaled three terms as president of the Southern Baptist Convention. He was elected president of the Tennessee Baptist Convention four times.

Nationally prominent Southern Baptists paid tribute yesterday to Dr. Lee, whose name was frequently mentioned at the 13-million member denomination's last two conventions despite the fact that he was unable to attend.

"We have to rejoice in the home going of Dr. Lee as much as we loved him and as much as we are going to miss him," said Dr. Adrian P. Rogers, Bellevue's current pastor and himself one of the foremost of the denomination's preachers. "We believe in the scripture that says, 'Precious in the sight of the Lord is the death of His saint.' We believe that God has answered our prayers and taken him home.

"He was an unusually gifted man among preachers and ministers. He would have been successful in any field he entered.

"He was a great friend of mine, and I've never felt worthy to unlace his shoes, much less pastor the church he once pastored. He was known as a man without peers and was truly a remarkable man."

Billy Graham, who, along with George Beverly Shea and other members of his evangelistic team sang for Dr. Lee during a visit to his home last May, called him "one of the towering spiritual giants of this century."

"He was a great preacher, a great writer, a great student of the word of God," Graham said from his home in Montreat, N.C. "He firmly stood for the truth of Christ, regardless of the opinions of others.

"He preached as few men have preached in our age, but, more than that, he lived as few men have lived—with total dedication, integrity and love for his fellow man. Only eternity will reveal the vast multitude of people who were profoundly affected by him."

Dr. Jimmy Allen, current SBC president and pastor of First Baptist Church in San Antonio, Texas, said, "The American church scene has lost its outstanding pulpiteer of the old school of oratory . . .

"It (Dr. Lee's death) really speaks of the passing of an era in Southern Baptist life. The day of that kind of preacher was a day of great meaning in the Southern Baptist heritage . . . He was a man of unique gifts. We probably won't have another Robert G. Lee to emerge."

The fifth of David and Sally Lee's eight children, Dr. Lee was born Nov. 11, 1886, in a three-room log cabin near the Catawba River in York County, S.C.

Daily prayer at the family altar was an important part of his early life, which also included walking three miles to take Latin lessons for 50 cents each. He once said he trapped rabbits, sold broom straw and subscriptions to a little publication called Comfort to earn lesson money.

Three days shy of his 21st birthday, young Lee left home bound for work on the Panama Canal so he could earn enough to go to college and study for the ministry. He had promised to never waver from three things his mother taught him: always believe the Bible; always hate liquor; always treat women with honor.

He returned in August, 1908, with 36 cents in his pocket and entered Furman University in Greenville, S.C. He was a track star at Furman, from which he graduated in 1913. He raised tuition money by getting up at 3 a.m. to deliver newspapers.

Dr. Lee, who also held a doctorate in international law from Chicago Law School and numerous honorary degrees, was ordained in his boyhood church in 1910 and held 17 pastorates—12 of them as a student—before accepting the call to Bellevue in 1927.

When he preached his first sermon at Bellevue on Dec. 11, 1927, the church had 1,430 members, 254 of whom could not be found. The financial account showed a balance of $39.49 at the end of 1927.

Fifteen people joined the church that first Sunday. By the end of 1928, 600 new members had come in.

At his retirement in April, 1960, Bellevue, with 9,200 members, was the second largest church in the SBC. Receipts for 1960 totaled $642,871.

He wrote more than 50 books. His substantial library will be donated to Union University in Jackson, Tenn.

He planned his funeral five years ago, specifying Dr. Rogers to preach along with seven other ministers.

Dr. Lee, whose trademark became the white suit and shoes he wore for every sermon after the new Bellevue sanctuary opened in 1952, was famous for his sermon, "Pay Day—Someday." He preached it more than 1,000 times, and it was made into a movie, translated into several foreign languages and used as the theme of a sacred opera.

"It's just as fresh now as it was when I gave it in 1919," he said of the sermon in an interview three years ago. "I get tired physically now because it is one solid hour of preaching."

Dr. Lee said his life was lonely after his wife, Mrs. Beulah Gentry Lee, died in 1971.

"I get lonely since my wife went away. I lived with her for 57 years. It is a difficult adjustment to live after that. The Lord Jesus is with me and I enjoy life. I enjoy sleep when I sleep and work when I'm working. I love folks. I really love them. Some have ways I don't like, but I like folks."

He leaves two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Miss Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla.; a brother, David Frank Lee of Rock Hill, S.C., five grandchildren and eight great-grandchildren.

The family requests that any memorials be sent to Bellevue Baptist Church or Union University in Jackson, Tenn.

[From the Baptist Courier, Aug. 3, 1978]

R. G. LEE DIES AFTER LONG ILLNESS

Robert G. Lee, South Carolina native and former president of the Southern Baptist Convention, died at his home in Memphis July 20 after a long illness. He was 91.

Born near Fort Mill as the son of a sharecropper, Lee worked his way through Furman University. He later earned the Ph. D. degrees from Chicago Law School.

He was pastor of churches in the greater Greenville area while a student at Furman, and later served other churches in the state as pastor before moving to Memphis 51 years ago.

Lee was pastor of Bellevue Church, Memphis, from 1927 to 1960. During this time the church grew from 1400 to 9200 members to become the largest Southern Baptist church east of the Mississippi River and at that time second in size in the SBC.

Lee served three terms as president of the Southern Baptist Convention in 1949–51. He also was president of the Tennessee Baptist State Convention. He wrote 53 books, most of them collections of sermons or dealing with preaching topics.

WORKED AS STUDENT

As a Furman University student, Lee had a morning paper route in Greenville. He said that he often ran the four mile route from the downtown campus to the homes of his subscribers and back. He explained that it was a good way to keep in shape for the college track team, but his main reason was that it was the only way to get back to school in time for breakfast.

One of his first churches was Lima in northern Greenville County. He sometimes rode a bicycle on Saturday to the community, spent the night in the Stagecoach Inn, preached on Sunday morning, and rode the bicycle the 20 miles back to Furman.

Graduating from Furman in 1913 and from Chicago in 1919, he returned to South Carolina as pastor of First Church, Edgefield. Later he was pastor of First Church, Chester, and Citadel Square Church, Charleston, before accepting the call to Bellevue.

POWERFUL LEADER

Lee was generally regarded as one of the most powerful preachers of his day, and was in the opinion of many without peer among Southern Baptists. The following incidents serve well to illustrate his stature:

While pastor in Edgefield in 1919 he first preached "Pay Day Someday." He was to preach the famous sermon over 1300 times in several countries, record it on tape, and publish it in book form.

At the 1949 Southern Baptist Convention, shortly before he took the gavel as president, a motion was presented that threatened to divide the Convention. It appeared to have considerable support. Lee went to the podium and said, "Brethren, this motion is a mistake; it ought not to pass. I move that the whole matter be tabled." It was.

For almost 20 years, until his health failed a year ago, Lee was the closing speaker for the annual Pastors Conference that precedes the Southern Baptist Convention. At this meeting he usually preached for more than an hour, with 10,000 pastors held in apt attention.

SOUTH CAROLINA TIES

Although living more than half his life in Memphis, Lee maintained close ties with family and friends in South Carolina. He visited often, both in the Fort Mill area and half a dozen communities of Greenville County.

Following his retirement from the pastor-

ate in 1960 Lee kept an even busier pace as pulpit guest and revival preacher than he had previously. He said two years ago that he had "Preached on every continent and been in a pulpit somewhere every week" since retirement.

Lee's wife of 57 years died in 1971. Survivors include two daughters, a son, and five grandchildren.

The funeral service was July 22 in Bellevue Church, with burial in Memphis.

[From the Memphis Press-Scimitar July 21, 1978]

DR. ROBERT G. LEE

You don't have to be a Southern Baptist to appreciate Dr. Robert Greene Lee. His tireless ministry earned him the respect of thousands outside his own denomination. And his death yesterday at 91 caused many heads to bow in tribute.

For half a century—since taking over as pastor of Bellevue Baptist Church in December, 1927—Dr. Lee had a major impact on the spiritual life of this community. He was truly gifted in the pulpit, gaining wide recognition as a preacher and as a three-term president of the Southern Baptist Convention. But as a pastor he also believed strongly in a personal ministry, and devoted much time to visits with church members and others in need.

Under Dr. Lee's leadership Bellevue grew from 1,430 to 9,200 members, it is now the second largest Baptist church in the nation. It is a testimony to this great preacher's unflagging spirit that he maintained a busy preaching schedule even after retiring in 1960 at the age of 73. He kept it up for 17 more years, and was in fact about to start a revival series in Oklahoma City when he suffered a heart attack on April 3 of last year. He recovered from the attack, spending the remaining months of his life at his home at 508 Stonewall.

Dr. Lee's fiery oratory has been stilled. No longer will his famous "Pay Day Someday" sermon ring from the pulpit. But his good works will live on through those whose lives were lifted to a higher plane by his inspiration.

[From the Memphis Press-Scimitar, July 22, 1978]

DR. ROBERT G. LEE

Dr. Robert G. Lee held many titles, degrees and posts, but none of them enhanced his reputation in the way his mighty evangelistic projection from the pulpit did.

He was, as Billy Graham has said, "a great preacher, a great writer, a great student of the word of God," and a "towering spiritual giant."

One can only guess at how many persons he touched in his decades as pastor of Bellevue Baptist Church, but they are spread throughout the fabric of this community—and far beyond.

His 91 years were full and beneficent because he was active and dynamic. In a stygian world, Dr. Lee brought a presence of spiritual discovery, an inheritance valued by the many who flocked to his side.

[From the Memphis Press-Scimitar, July 23, 1978]

1,000 ATTEND DR. LEE'S FUNERAL

Dr. Robert G. Lee would have been proud of the funeral he planned for himself.

More than 1,000 persons listened intently yesterday as speakers eulogized the 91-year-old pastor emeritus of Bellevue Baptist Church, who died early Thursday at his home at 508 Stonewall.

"You are his monument," Dr. J. D. Grey, a former president of the Southern Baptist Convention, told those in attendance.

Dr. Grey's words rang true as the very old, who had heard "preacher's preacher" preach, and the very young, who had only heard of his greatness, all wept in grief over the loss of the man who led Bellevue Baptist for 33 years before retiring from the pulpit in 1960.

Seven ministers, including Dr. Adrian P. Rogers, Bellevue's current pastor, spoke at yesterday's services. All said they had been touched by Dr. Lee in some way before and during their ministries. All are foremost ministers in their own right.

Each paid tribute to different facets of the internationally known preacher and author's life.

Dr. J. Ralph McIntyre recalled Dr. Lee as a pastor.

"Those of us who were fortunate enough at some time in our lives to have had a relationship with Dr. Lee know he is our pastor. Everyone of us could speak concerning the little, beautiful, often amusing, sometimes hilarious events (in the pastor's life).

"He was a pastor. He was a pastor's pastor. And the number of preachers and pastors in this congregation and all over the world, who have loved him and admired him, attest to the fact that Robert G. Lee—there was a great one," Dr. McIntyre said.

Further, Dr. McIntyre said Dr. Lee was "singular in his purpose. He knew why he was here and he was at the task . . . He loved us, and it was a genuine, deep and abiding love."

Dr. E. J. Daniels eulogized Dr. Lee, who wrote more than 50 books, the writer and author.

"It is my privilege to speak of him as a giant in the realm of language and as an author," Dr. Daniels said. "He was perhaps the greatest master of the English language . . . of all time."

Dr. Daniels said Dr. Lee's writings had an "eternal value" to them and the minister wrote about things "that are just as important today as they were 2,000 years ago and will be 1,000 years in the future. As a writer and an author, Dr. Lee has no equal."

Dr. Lee, known as "Mr. Southern Baptist," received his greatest acclaim as a preacher. In fact, he continued preaching and writing at a pace befitting a young evangelist until he suffered a heart attack in April, 1977.

Dr. Padgett C. Cope reflected on Dr. Lee's evangelistic accomplishments and then described the minister as a "legend in his time. A pulpit giant. A king of preachers. A preacher's preacher."

Dr. Cope said Dr. Lee "spoke like a machine gun. The words poured forth from the pulpit. . . . His sermons had insight and power."

He said the evangelist revolutionized preaching with his "pictorial style" of delivering a sermon, filling it with life and color.

"What William Shakespeare was to English prose, Robert G. Lee was to the pulpit," Dr. Cope said.

Shortly after Dr. Lee's death, ministers and evangelists recalled his willingness to help young ministers.

It was Dr. Ernest Campbell's task to speak on this part of the late minister's life yesterday.

Recalling his own experiences, Dr. Campbell said young ministers were amazed at Dr. Lee's "accessibility, at his availability, at his willingness to share himself, his wisdom, his spiritual manner and his insight with them.

"Constantly he encouraged, strengthened, blessed, renewed and rescued the ministry of many . . . Robert G. Lee left footprints for us all."

The service, which Dr. Lee planned about five years ago, was somewhat joyful as persons came to honor a man who had left a legacy for all to follow. There were no mournful hymns, no heart-tearing eulogies.

"There was nothing sad about Dr. Lee's life," one minister said.

Dr. Rogers read a telegram from Billy Graham, who was unable to attend the funeral because of prior commitments.

Graham said Dr. Lee "was one of the towering spiritual giants of this century. He was a great preacher, a great writer and a great student of the word of God . . . He preached as few men have preached in our age. But, more than that, he lived as few men have lived . . ."

Dr. Rogers said the world had suffered a great loss and "we will deeply miss him. Somehow, I believe that up in heaven he is still praying for us."

[From the Memphis Press-Scimitar, July 23, 1978]

DR. LEE'S PERSONAL TOUCH LIVES ON

A lot of people undoubtedly were remembering a lot of things yesterday about Dr. Robert G. Lee's remarkable life. Dr. Lee, who died Thursday at 91, touched thousands of people in as many ways before, during and after his 33 years in the pulpit at Bellevue Baptist Church.

Prominent ministers—Billy Graham, Dr. Adrian P. Rogers, Dr. Jimmy Allen—have spoken of the impact Dr. Lee had on their lives. A less well-known minister remembered yesterday the impact the man whom Graham called "one of the towering spiritual giants" had on his life.

Rev. Charles B. Burgs was a young black man who wanted to be a preacher when he met Dr. Lee in 1946.

Mr. Burgs had been working for a woman who was a member of Bellevue and he told her of his desire to become a minister and asked for her advice. She, perhaps knowing of Dr. Lee's often-demonstrated willingness to help young ministers, suggested that Mr. Burgs go to Dr. Lee.

He went and found the advice "was just right—it was just it."

In the spring of that year, Dr. Lee broke ground for a church for Mr. Burgs. In June, 1947, Dr. Lee preached the dedication sermon and made the first contribution ($500) to what was then called Bellevue Baptist Church Colored. The church still exists, now bearing the name New Bellevue Baptist Church, at 875 Crockett Place.

Later, Mr. Burgs said, Dr. Lee paid "just about all" of his educational expenses, first at American Baptist Theological Seminary in Nashville, then at Bishop College in Dallas and finally at LeMoyne-Owen College here.

The association continued through the years, with Dr. Lee sending Mr. Burgs—who has been pastor of Greater Galatian Baptist Church for 24 years—one of his books each year, the most treasured being the one with the title of Dr. Lee's most famous sermon, "Pay Day—Someday."

"Many people don't know what kind of man Dr. Lee was," Mr. Burgs said yesterday. "A lot of our people don't know it, but back in those days, it was just different."

Mr. Burgs' story, of course, is just one of many about the man who led Bellevue to become the second largest Baptist church in the world, who served three terms as president of the Southern Baptist Convention and four as president of the Tennessee Baptist Convention.

More can be said of Dr. Lee than a newspaper can print. There will be mention of the more than 50 books he wrote, of the honors he received and important posts he held.

His image, kneeling in white suit and shoes at the pulpit and then delivering his unrivaled fiery sermons, is burned in thousands of memories.

But people like Mr. Burgs will also remember that Dr. Lee, despite being a man of great position and influence, was always on call for people who needed help, wrote notes to church members when new babies were born and averaged 10 to 12 personal visits a day.

Services for Dr. Lee will be at 10 a.m.

today at Bellevue with burial in Forest Hill Cemetery Midtown. Memphis Funeral Home has charge.

[From the Memphis Press-Scimitar, July 20, 1978]

DEATH CLAIMS DR. R. G. LEE, FAMED BAPTIST EVANGELIST

Dr. Robert Greene Lee, pastor emeritus of Bellevue Baptist Church and world-renowned evangelist and author of religious books, died today at his home at 58 Stonewall after 16 months of ill health. He was 91.

Dr. Lee, who had been living in semi-seclusion since having a massive heart attack in April 1977 while leading a revival in Oklahoma City, was pronounced dead at Baptist Hospital at 4:20 a.m. A family spokesman said he apparently died in his sleep.

Dr. Lee's heart attack last year curtailed a preaching career that the three-time president of the Southern Baptist Convention had energetically continued to pursue since he retired in 1960 after 33 years as pastor of Bellevue Baptist.

After leaving Bellevue, Dr. Lee was quoted as saying he had "resigned" but was "not retired." To prove his point, he continued to write and preach, traveling the length of the United States and to some foreign countries to conduct revivals.

Calls and tributes began pouring in as news of Dr. Lee's death spread today. Dr. Adrian P. Rogers, pastor of Bellevue, said: "Dr. Robert G. Lee was truly a great man—a legend in his own time. He will be remembered by succeeding generations as the prince of preachers."

Dr. Lee went to Oklahoma City, his last engagement, against the orders of his physician, to preach "old-fashioned religion" to the First Baptist Church congregation there.

He was best known, perhaps, for his famous sermon, "Payday Someday," which he preached more than a thousand times and which eventually inspired the title of one of his last books—Payday Everyday, published in 1975, an autobiographical account of his ministry.

During his nearly 70 years of ministry, Dr. Lee wrote 56 books. He was a prolific writer and a dedicated reader.

He was a man with piercing eyes and a large frame, capable of projecting power in his person and in his preaching voice. Fearless in his ministry, he probably was the last remaining pupit orator who displayed the "fire and brimstone" style of preaching once common in the rural South.

In the 33 years he served as Bellevue Baptist's minister, the congregation grew from 1,430 to 9,200, making it the second largest Southern Baptist congregation in the world.

In 1927, when Dr. Lee was asked to become pastor at Bellevue, he said he was not impressed by the church's offer. The attendance at the Memphis church averaged about half what he already had at Citadel Square Baptist Church in Charleston, S.C. He turned down the Bellevue offer, but he changed his mind and accepted it three weeks later.

"I just felt like the Lord wanted me here," Dr. Lee was quoted as saying. He added that there was nothing tangible about the Bellevue offer that caused him to accept it.

Dr. Lee became a mainstay of the Southern Baptist Convention. He served an unprecedented three terms as its president. He was elected four times as president of the Tennessee Baptist Convention.

Born in a log cabin in rural South Carolina, one of eight children, Dr. Lee was known throughout his life for his total abstinence from both tobacco and alcohol. He attributed his long life, in part, to his "clean habits."

He said in a 1976 interview that his longevity was the result of a combination of supernatural and common sense factors.

"First, the goodness of God, and second of all, hard work," he was quoted as saying. "I've worked hard all my life. There is praying and observing clean habits."

He was ordained to the ministry at Fort Mill Baptist Church in Fort Mill, S.C., on April 3, 1910. In 1913 he was graduated from Furman University with a bachelor's degree (magna cum laude) and in 1919 received a doctorate from Chicago Law School.

The Lee Memorial Garden at Bellevue and Court was named in his and his late wife's honor, and the Robert G. Lee Chapel at Baptist Bible Institute in Graceville, Fla., also was named for him.

His wife of 57 years, the former Beulah Gentry of Anderson, S.C., died on March 6, 1971, also at the couple's home on Stonewall.

He leaves a brother, Frank Lee of Rock Hill, S.C., two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Mrs. Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla.; five grandchildren; and eight great-grandchildren.

Memphis Funeral Home has charge of funeral arrangements, which were not complete.

The family asked that any memorials be sent to Bellevue Baptist Church or to the Reading Room of Union University at Jackson, Tenn.

[From the Baptist Standard, July 26, 1978]

R. G. LEE IS DEAD AT 91

Robert G. Lee, three-term president of the Southern Baptist Convention and a leading SBC pastor for 50 years, died at home July 20 after a long illness. He was 91.

Lee, son of a former South Carolina share cropper, was pastor of Bellevue church in Memphis for 33 years, during which time the congregation grew from 1,430 to 9,200—the largest SBC church east of the Mississippi and then the second largest in the convention.

He retired in 1960 at age 73, but continued to keep a full schedule of evangelistic services until a series of heart attacks hospitalized him 15 months ago in Oklahoma City where he was preaching during a revival meeting. Lee convalesced at home before he began having heart problems again three months ago.

Lee was best known for his "Pay Day Someday" sermon, first preached at the First Baptist Church, Edgefield, S.C. in 1919 and over 1,300 times since. The slow but powerfully developed story of divine retribution takes a full hour to preach, has been filmed, recorded and translated into several other languages.

Lee wrote 53 books, averaged 12 visits to church members and prospects per day and baptized converts every Sunday he was in the pulpit at Bellevue.

When asked by a young preacher in 1949 the secret of his renowned preaching, Lee "shook with emotion," a letter from the admirer said. "His voice trembled. His heart broke open."

"'I suppose,' Lee said, 'it is that I love Jesus. I love Him more than anything in the world. He is so real to me. I would die for Him. I would be a human bonfire for Him.' He turned to wipe tears away. 'I love my wife. I love my daughter,' he sobbed lightly, 'but I love Jesus more. There is nothing I would not do for Him.'"

Lee planned his funeral in detail five years ago, specifying the "present pastor" of Bellevue (Adrian Rogers) to preach the main message. He put a time limit on each participant.

[From the Baptist and Reflector, Aug. 3, 1978]

R. G. LEE PRAISED DURING SERVICES

MEMPHIS, TENN.—Pay day arrived for R. G. Lee on July 20.

The 91-year-old pastor emeritus of Bellevue Baptist Church, who gained international fame for his sermon "Pay Day Someday," was eulogized during memorial services at the church he pastored for 33 years.

Six Baptist preachers praised Lee's ministry, describing him as "the greatest orator and pulpiteer of all time," the "peerless prince of preachers," "the greatest master of the English language of all time," "a preacher's preacher and a pastor's pastor," "a legend in his time," "a defender of the faith," and "a giant among us."

"What William Shakespeare was to English prose, Robert G. Lee was to the pulpit," said Padgett C. Cope, pastor of Ruhama Baptist Church in Birmingham, Ala. Describing his sermons as "painted canvasses" preached with a "pictorial style" filled with life and color, Cope said Lee's sermons were equal to any sermons by such greats as Charles Haddon Spurgeon, Dwight L. Moody, Jonathan Edwards, or Charles Fuller.

Describing Lee as a prolific writer and author of 56 books, E. J. Daniels, an evangelist and publisher from Orlando, Fla., called Lee "the greatest master of the English language of all time."

Adrian Rogers, pastor of the Bellevue church, read a telegram from evangelist Billy Graham, expressing regret that he could not be present and describing Lee as "one of the towering spiritual giants of this century."

Both Daniels and Rogers quoted Lee's sermon and book on The Place Called Heaven, in which he sought to describe the beauty of heaven. Rogers said that in the last few days of his life, Lee longed for heaven and "saw a vision of heaven."

Rogers said that as Lee lay on his death bed, he lifted his hands and told his daughter, Hildred Phillips, "I see a bright light. It's heaven. I see Jesus."

"I tried to describe heaven," he told his daughter, "but my words were so woefully inadequate. I wish I could tell the people how beautiful it really is." Then Lee said he saw another figure beside Jesus. "It's mother," he said. "She's beautiful."

Rogers said that although his sight was failing, Lee had a clear glimpse into another world during those last few days. "And now he is there in heaven, which he described so beautifully for us all." (BP)

[From the Baptist and Reflector, Aug. 3, 1978]

LEE'S LEGACY

The death last month of 91-year-old R. G. Lee brought to an end the 68-year ministry of Southern Baptists' powerful pulpiteer.

Throughout his long and fruitful ministry, he was recognized by our denomination and others as one of the greatest preachers of the gospel who ever stood behind a pulpit.

Two things characterized his preaching—his eloquence and his deep love of Jesus Christ.

Lee's eloquence grew out of his rich Southern heritage and his early training as an attorney. He seemed to make a sincere attempt to avoid the shop-worn cliches used by most preachers and to seek creative ways to communicate the unsearchable riches of the gospel.

Anyone who ever heard Lee preach or has read his sermons must be impressed that his dominant theme—his only theme—was his deep, personal love for Jesus Christ. His compassion for our Saviour was not forced, phoney declaration, but was a natural outpouring of a personal minute-by-minute relationship with the Lord.

In 1949 he was asked what was the secret for his renown as a preacher. His reply was, "I suppose it is that I love Jesus. I love Him, more than anything in the world. He is so real to me. I would die for Him. I would be a human bonfire for Him. I love my wife. I love my daughter. But I love Jesus more. There is nothing I would not do for Him."

Tennessee Baptists have been exception-

ally blessed by his ministry, because he ministered among us for over 50 years.

In this day when most Southern Baptist leaders are known for what they do or the offices they hold, it is tremendously exciting to note that R. G. Lee will be remembered because of what he preached. This is the wonderful legacy he leaves to today's ministers.

[From the Baptist and Reflector, July 27, 1978]

R. G. LEE "PRINCE OF PREACHERS," DIES AT MEMPHIS HOME, JULY 20

R. G. Lee, Southern Baptists "prince of preachers," died at his home in Memphis on Thursday, July 20. He was 91.

His death ended a ministry which spanned nearly 70 years. Over 50 of those years were spent in Tennessee.

Lee came as pastor of Bellevue Church in Memphis in 1927 and remained until his retirement in 1960. During that time, the membership grew to over 9,000, making Bellevue the largest Southern Baptist church east of the Mississippi River.

He led Tennessee Baptists as a state convention president from 1931–35, and from 1949–51, served as president of the Southern Baptist Convention. Additionally, he was a member of the TBC Executive Board in 1955 and 1956.

After he left the pulpit at Bellevue, he furthered his ambitions in writing, leading revivals, and speaking at numerous gatherings. His sermon "Pay Day, Someday," was delivered by its author over 1,200 times. He authored 53 books.

Lee had been confined either to the hospital or to his home since suffering a heart attack 16 months ago in Oklahoma City while speaking at First Church.

A native of South Carolina, Lee graduated from Furman University, Greenville, S.C., in 1913. While in college, he was the recipient of several honors. In 1919 he earned the Ph. D. degree in international law from the Chicago Law School. He was ordained to the gospel ministry by the Fort Mill Church, Fort Mill, S.C. in 1910.

Before coming to Tennessee he was pastor at Citadel Square Church, Charleston, S.C.; First Church, New Orleans, La.; First Church, Chester, S.C.; and Edgefield Church, Edgefield, S.C.

Services for Lee were held at Bellevue Church, July 22, with Pastor Adrian Rogers officiating. Burial was in Forest Hills Cemetery, Memphis.

Lee is survived by two daughters: Mrs. Edward King, Shelbyville, and Hildred Phillips, Memphis; a son, Roy Lee, Jacksonville, Florida; five grandchildren; a brother David Frank Lee, Rock Hill, S.C. His wife, the former Beulah Gentry, preceded him in death in 1971.

[From the Baptist Messenger, July 27, 1978]

R. G. LEE DIES IN MEMPHIS AT AGE 91

Robert Greene Lee, famed Baptist preacher and pastor emeritus of Bellevue Church in Memphis, Tenn., died early July 20 at his home in Memphis. Funeral services were held July 22 at Bellevue Church following a program outlined by Lee five years ago. Burial was at Forest Hills Cemetery, Memphis. Lee was convalescing at his home following a series of heart attacks and being hospitalized at various times during the past three months. Lee suffered a heart attack and was hospitalized at Baptist Medical Center, Oklahoma City in April, 1977 when he was in Oklahoma to preach at Oklahoma City, First.

The 91-year-old preacher had planned his funeral in detail, specifying that "the present pastor" of Bellevue Church (Adrian Rogers) was to preach the main message. Lee included time limits on each speaker. Ramsey Pollard who succeeded Lee at Bellevue gave the invocation at the service.

Lee served as the only three-term Southern Baptist Convention president in this century. His presidency spanned 1949–51 and included the convention held in Oklahoma City. He was pastor at Bellevue for 33 years during which time he baptized converts every Sunday and averaged 12 visits per day to members and prospects

The author of 53 books, Lee preached his famous hour-long sermon, "Payday Someday," for the first time in 1919 while pastor of First Church, Edgefield, S.C. Since then he had preached the sermon more than 1,300 times.

Lee graduated from Furman University in 1913 and the Chicago Law School in 1919. He retired as pastor of Bellevue Church in 1960 but until last year he had kept active in speaking engagements across the country. His wife died in 1971. They had been married 57 years at the time of her death. Lee is survived by two daughters and a son.

[From the Memphis Press Scimitar, July 20, 1978]

DEATH CLAIMS "PRINCE OF PREACHERS," FAMED EVANGELIST DR. ROBERT G. LEE

Dr. Robert G. Lee, who warned of the danger of hellfire and damnation for nearly three score and 10 years, and made a sermon, Payday Someday, known world wide, died early today at his home at 508 Stonewall after 16 months of ill health. He was 91.

Dr. Lee, pastor emeritus of Bellevue Baptist Church and known internationally as an evangelist, had been living in semi-seclusion since having a massive heart attack in April 1977 while leading a revival in Oklahoma City. He was pronounced dead at Baptist Hospital at 4:20 a.m. A family spokesman said he apparently died in his sleep.

Funeral services will be at 10 a.m. Saturday at Bellevue Baptist Church with interment at Forest Hill Midtown. The body will lie in state at the church from 3 p.m. today until the funeral. Memphis Funeral Home has charge.

Dr. Lee's heart attack last year curtailed a preaching career that the three-time president of the Southern Baptist Convention had energetically continued to pursue since he retired in 1960 after 33 years as pastor of Bellevue Baptist.

After leaving Bellevue, Dr. Lee was quoted as saying he had "resigned" but was "not retired." To prove his point, he continued to write and preach, traveling the length of the United States and to some foreign countries to conduct revivals.

Calls and tributes began pouring in as news of Dr. Lee's death spread today.

Dr. Adrian P. Rogers, pastor of Bellevue, said: "Dr. Lee was a man among men for all time. He was superior intellectually, physically and spiritually. He will be remembered by generations to come as a prince of preachers."

Dr. Jimmy Allen, president of the Southern Baptist Convention and pastor of First Baptist Church in San Antonio, Texas, said, "He made more home visits than any minister I ever knew. His preaching was fashioned not only on his biblical knowledge but also by keeping in constant touch with humanity. He was a great orator but his greatest gift was his pastor's heart.

"He had a great sense of humor. He often told us, 'On the day of my funeral, if someone gets up and says that everyone loved me, I'll sit up and say it was a lie. A man can't stand for truth and have everybody love him.'"

Dr. Allen said he is re-arranging his schedule to attend the funeral in Memphis.

Dr. Billy Graham said from his North Carolina home, "He certainly had a profound effect on my life and ministry, both by his example and his constant and wise counsel.

"Just a few weeks ago, during our Memphis crusade, I stood at his bedside and once again I thanked God for giving me the privilege of having known Dr. Robert G. Lee as a personal and deeply beloved friend.

"He was one of the towering spiritual giants of this century. He was a great preacher, a great writer and great student of the word of God. But more than that he lived as few men have lived—with total dedication, integrity and love for his fellow man. Only eternity will reveal the vast multitude of people who were profoundly affected by his ministry."

Dr. Tommy Lane, minister of music at Bellevue, with Dr. Lee many years, said, "Dr. Lee used to say that music is the only art of heaven we employ on earth and the only art of earth that we take to heaven. He was not musical except that he used to love to play hymns on his harmonica. He will be missed by millions but he will still live on through his pen and spoken work."

Dr. Lee went to Oklahoma City, his last engagement, against the orders of his physician, to preach "old-fashioned religion" to the First Baptist Church congregation there.

He was best known, perhaps, for his famous sermon, "Payday Someday," which he preached more than a thousand times and which eventually inspired the title of one of his last books—*Payday Everyday*, published in 1975, an autobiographical account of his ministry.

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Baptist Bible Institute in Graceville, Fla., also was named for him.

His wife of 57 years, the former Beulah Gentry of Anderson, S.C. died on March 6, 1971, also at the couple's home on Stonewall.

He leaves a brother, Frank Lee of Rock Hill, S.C.; two daughters, Mrs. Edward R. King of Shelbyville, Tenn., and Mrs. Hildred Phillips of Memphis; a son, Roy DeMent Lee of Jacksonville, Fla., five grandchildren; and eight great-grandchildren.

The family asked that any memorials be sent to Bellevue Baptist Church or to the Reading Room of Union University at Jackson, Tenn.

RURAL AMERICA

Mr. ROBERT C. BYRD. Mr. President, throughout much of our history, the trend of economic activity and population movement has been one of increasing concentration in urban areas. The massive migration of Americans from rural to urban areas during the years following World War II and up through the 1960's has been well documented. Millions of people left rural areas in search of jobs, higher incomes, and better living conditions. As this trend continued, many disadvantaged and poor citizens were left behind in our rural lands. They are forgotten, in a sense, by many of us.

During the past decade, there has been a renewed economic and population growth in our rural areas. Since 1970, over 2 million Americans have moved from metropolitan to rural areas. Between 1970 and 1975, rural areas absorbed nearly 37 percent of our population growth. The number of rural residents employed during this period accounted for nearly 40 percent of our national growth in employment. This migration to the nonmetropolitan sections of our country is more than just a continuation of urban sprawl. After years of steady decline, rural counties which are not adjacent to cities have begun to experience a kind of renaissance.

RENEWED RURAL GROWTH

Between 1970 and 1976, the population of nonmetropolitan counties grew by nearly 8.0 percent. The corresponding increase for metropolitan counties was approximately 4.7 percent. For those years, the rate of population increase for rural counties not adjacent to metropolitan counties was about 7.3 percent.

Throughout the 1970's, rural areas have experienced relatively higher rates of employment growth than have metropolitan. From 1970 to 1977, the nonmetropolitan and metropolitan rates of employment growth were approximately 26.9 and 12.0 percent, respectively.

The reasons for this renewed rural growth are varied and somewhat interrelated. Economic barriers against making a "decent living" in rural areas have been reduced. The availability of credit—to buy, build, or improve homes and businesses—has grown tremendously in rural regions, making investment more feasible.

Not only have rural employment opportunities increased, but the character of employment has been changing. U.S. manufacturing industries have been decentralizing their locations and branching out into nonmetropolitan areas. The number of service-performing jobs in rural areas has been increasing. Retirement and recreational activities have been expanding in some rural sections of the country. State colleges and universities, junior colleges, and vocational and technical centers have been increasing in number throughout many rural regions.

Additionally, with expansion of roads, electrification, telephone service, and water and sewage facilities, the inconveniences sometimes associated with rural living have been reduced. These services are essential in maintaining the well being of residents and can be crucial to a community's economic development.

THE RESOURCES

The economic and population growth turnabout in nonmetropolitan regions suggests that many people are taking a fresh look at our rural areas. Comprising 87 percent of the Nation's land mass, America's rural regions are the repository for our resources such as coal and minerals. The current energy crisis has heightened our sense of the the importance of these resources. In addition to the natural beauty of forests, lakes, rivers, and streams, rural America holds this country's most valuable resource—the land on which our food is produced. Food and fiber for 215 million people is produced on rural lands by just over three percent of our population. Food products have become one of our primary instruments of international cooperation. Through agriculture, we are able to aid other nations and to improve our own position in world trade.

And then, there is the human factor to consider—a nation's greatest resource is its people. The greatest strength—actual and potential—of America's rural regions is the people who live there. They constitute a steadily growing proportion of our population. Over 60 million people live in rural areas—27 percent of our population. They contribute productively to our country.

INCOME LEVELS

Despite the economic and social progress that has been made in rural areas, many rural families continue to be disadvantaged in terms of education, employment opportunities, income levels, adequate housing, and access to health care and other essential public services.

In 1970, nonmetropolitan family median income was just under 77 percent of that in metropolitan areas. By 1976, rural family median income was closer to 80 percent of that in metropolitan areas. However, the absolute dollar gap in median incomes actually increased during this time.

Less than one-third of our citizens live in nonmetropolitan areas, yet almost 60 percent of all poverty-level individuals live in these areas. The composition of rural poverty is different from that found elsewhere. The traditional stability of rural families has tended to work against welfare coverage since approximately 70 percent of the rural poor are members of two-parent families. There is a relatively higher incidence of "working poor" in rural areas—rural workers are often "underemployed." The rural poor, like the poor living elsewhere, are white, black, Hispanic, and of varied descent. However, a disportionate number of white poor live in these areas.

HEALTH CARE

Poverty makes access to health care more difficult. Lower-income groups can least afford medical care. Moreover, the aspects of poverty—inadequate nutrition, sanitation, and housing—tend to make the health care needs of the poor proportionately greater than those of other citizens. This is a particular hardship for older citizens, many of whom live in rural areas. The median income of elderly households in the United States is considerably below that of all households. It is lowest by far in rural areas. In 1975, the elderly living in rural areas received about 80 percent of the median income of those living in metropolitan areas. In 1976, almost 20 percent of the rural elderly were living on incomes below the poverty-level.

Age-adjusted mortality rates are higher in nonmetropolitan areas and are declining at a slower rate relative to metropolitan areas. The incidence of infant and maternal mortality, chronic illness, dental problems, nonimmunized children, and malnutrition is significantly higher among rural residents than among metropolitan. The death rate from accidents is nearly four times as high in rural areas as in urban.

Health care manpower shortages exist in many rural areas. Approximately one-third of all rural Americans are living in areas officially designated as medically underserved. Other rural areas do not qualify for this designation but contain geographic pockets in which access to health care is a serious problem. The more time-consuming and costly it is for people to reach medical care, the less likely they are to be adequately served.

Urban areas have approximately three times as many primary care physicians as do rural. In 1974, rural counties with fewer than 10,000 residents averaged one doctor for every 2,440 people. Urban areas have proportionately more dentists. Understandably, rural people tend to see doctors and dentists less frequently than do metropolitan.

It is difficult to obtain recent data on the quality of health care services in rural areas. Many rural hospitals were built shortly after World War II, and are now badly in need of repair. Services are limited and there is a lack of equipment needed for more sophisticated and up-to-date treatment.

Proportionately fewer rural residents than metropolitan have health insurance. Just over 81 percent of Americans living in metropolitan areas under the age of 65 have private hospitalization insurance. Less than 75 percent of rural nonfarm residents under the age of 65 have hospitalization coverage. For rural farm residents the figure is under 62 percent. Even for those who can afford health insurance there is evidence that rural residents, in general, receive less per health insurance dollar than do urban dwellers. This is due to the nature

of employment situations in rural areas, most of which do not offer group insurance policies, and to the nature of the private insurance industry. A disproportionate number of rural residents are insured by individually purchased policies. Individual insurance policy holders, in general, pay higher premiums or have less coverage for the same dollar amount as group policy holders. Therefore, their return per health insurance dollar is less than that in group policies.

HOUSING

Substandard housing is—as one would expect—primarily occupied by the poor. It is estimated that 50 percent of the Nation's substandard housing is found in rural areas. While metropolitan households outnumber nonmetropolitan 2 to 1, approximately equal numbers of nonmetropolitan and metropolitan families live in housing units which either lack complete plumbing or are dilapidated.

Plumbing is the most often used single indicator of housing quality. Over 6 percent of nonmetropolitan homes lack complete plumbing, in contrast with fewer than 2 percent of all metropolitan housing units.

Much progress has been made in reducing the magnitude of rural substandard housing. However, rural substandard housing persists as a major problem for particular groups of people—the migrant farmworkers, minorities, the elderly, and above all, the poor.

The Farmers Home Administration (FmHA) has become the primary Federal housing agency for nonmetropolitan Americans. Congressional action over the last 15 years has focused on expanding FmHA services to more rural residents, with priority on meeting the housing needs of low-income families. Despite this effort, in recent years, proportionately fewer and fewer families assisted under FmHA programs have been those with relatively lower incomes.

Some FmHA housing programs aimed at aiding low-income families have not always operated at significant levels, due to administrative reluctance to obligate funds appropriated by the Congress. Other FmHA programs which would directly or indirectly aid low-income groups' housing problems are just now being implemented.

Rural families find it difficult to secure credit to buy, build, or improve their homes because few private lending institutions operate in rural areas. Housing programs aimed at lower income groups obviously involve greater risks and potentially higher costs. When above moderate-, and low-income individuals are in competition with each other for limited amounts of Federal assistance, it is clearly in the FmHA's own interest to make the loans involving the least risks. It is less costly for FmHA's limited staff to service the safer loans.

The high correlation between low-income groups and substandard housing occupancy is well established. Without programs that can assist more of these households, the worst of rural housing problems will remain.

EDUCATION

The preponderance of small school districts in rural areas makes the organization of rural education considerably different from that in other localities. Over 85 percent of the Nation's school districts with enrollments of under 300 students are located in rural areas. Undoubtedly, relatively smaller school districts have some advantages. Classroom sizes are generally smaller in rural schools which permits more teacher-student interaction. Decentralization allows for more local control over schools so that educational needs of a particular area can be stressed. However, given the predominance of many low-income residents in these areas, smaller school districts—by their size—can be further financially constrained.

Rural school expenditures per pupil and teacher salaries are lower than elsewhere. Rural schools have proportionately less specialized staff, such as librarians, guidance counselors, audiovisual technicians, than schools elsewhere. Schools in nonmetropolitan areas spend proportionately less on capital investments and proportionately more on student transportation services. Federal and State sources provide proportionately more funding to rural schools than to urban.

The percentage of adults who have completed fewer than 5 years of school is greater in nonmetropolitan areas than elsewhere. The median number of school years completed is less for adults living in rural areas than for those living elsewhere.

Attendance by rural children for prekindergarten and kindergarten schools is considerably below the national average. A higher percentage of rural youth are not enrolled in secondary schools compared with those living elsewhere. However, between 1970 and 1975, the percentage increase in high school completion rates was even greater for nonmetropolitan students than for metropolitan. The educational gap between rural and metropolitan youth narrowed at the secondary level.

Low levels of educational attainment—whether at the individual or community level—are often associated with low levels of income, inadequate health care, and substandard housing. Low-income individuals tend to have less adequate health care and housing. Individuals with poor health cannot learn or work up to their potential. This tends to influence their level of income.

RURAL DEVELOPMENT

Most nonmetropolitan governments serve relatively small, highly dispersed populations. This makes delivery of community services more complicated, if not more costly, than in more populated regions. In most cases, rural communities lag behind metropolitan in per capita expenditures for water and sewerage, transportation, education, and health facilities.

Since World War II, many rural communities have had great difficulty in supplying the community services necessary to maintain the well-being of their residents. During this time, technological advancement brought a decline in the traditional forms of rural employment—in the "natural resource industries" of agriculture, mining, and forestry. Employment losses, in turn, spurred migration from rural regions. While their financial capabilities diminished, rural communities were faced with the need to provide an even greater and more costly level of services in order to generate economic and population growth.

The increased migration to rural areas does not signify an end to our country's rural problems. Geographic pockets of stubborn poverty persist. Economic and social disadvantages continue for many rural families.

The Congress has recognized the value—realized and potential—of our rural lands. The Rural Development Act of 1972 commits us to improve the economic and social conditions in the rural sections of this country as a means of achieving national balanced growth.

In the Senate, there are several committees and subcommittees examining different aspects of rural development. The members of the Rural Development Subcommittee of the Agriculture, Nutrition, and Forestry Committee have held many days of hearings this session studying more efficient and equitable ways of administering Federal rural development programs. The members of the Health Subcommittees of both the Finance and Human Resources Committees work to improve health care in rural regions. Members of the Committees of Energy and Natural Resources, and Environment and Public Works study ways of developing the resources of rural areas so that the environmental degregation of past development efforts will not become the future.

Rural development cannot be treated as an isolated economic and social objective. Historic, cultural, social, and economic relationships of interdependence bind the regions of our country together. These relationships are ever-changing ones. We cannot be blinded by past notions of seemingly never-ending urban concentration; and of decline, abandonment, and outmigration from rural areas. Equity and efficiency between our country's diverse regions and between the people who live in these regions must be our goal.

America's rural residents are diverse—in needs, resources, capabilities, and problems. Some rural communities have difficulty in maintaining economic growth, while others have difficulty in managing rapid economic and population growth. Thomas Jefferson once said, "The inhabitants of the commercial cities are as different from the country people as any two distinct nations." This Nation's greatest resource is its people. In the end, it is our diversity of people which gives us our strength.

THE 169TH TACTICAL FIGHTER GROUP FINDS ITS WAY TO ENGLAND

Mr. THURMOND. Mr. President, it is with great personal pride that I call to

the attention of the Senate today the successful deployment of the 169th Tactical Fighter Group of Eastover, S.C., to London, England, in a training exercise this summer.

As one who had a hand in the location of the A–7D fighter aircraft at McEntire AFB, it is most gratifying to see this evidence of the success of this Air National Guard unit.

This unit proved that our part-time guardsmen can deploy overseas rapidly, refueling over the Atlantic in route, and once deployed can carry out a heavy sortie schedule.

Mr. President, I wish to commend Col. Robert A. Johnson, the group commander, and all of the personnel of the 169th. Their dedication to the defense of our country, high state of readiness and unit esprit, reflects great credit on the Air National Guard as a peacetime, low cost military force.

In connection with this accomplishment by the 169th, I ask unanimous consent that a news story entitled "Air National Guard A–7D's Quickly Reinforce Europe", which appeared in the August 31, 1978, issue of the Vought Corp. newspaper, be printed in the RECORD.

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

AIR NATIONAL GUARD A–7D'S QUICKLY REINFORCE EUROPE

The 169th Tactical Fighter Group, whose pilots primarily are South Carolina civilians, proved in Exercise Coronet Teal that the A–7D Corsair II Air National Guard units can quickly deploy across the Atlantic and do a "really fine job."

The 169th, led by Col. Robert A. Johnson, deployed from McEntire Air National Guard Base, Eastover, S.C., to Royal Air Force Base Wittering (about 60 miles north of London) as part of their summer training program.

All 18 A–7Ds refueled over the Atlantic and arrived ready to operate. The South Carolina pilots flew orientation/safety flights for the first two days, then launched a three-day "sortie surge" program just as they would operate in a combat environment.

On the first day, the A–7Ds flew 45 missions, and on the second day 40. The final day of the surge found severe weather all over England and much of the European continent, but the 169th flew 34 missions.

Not a single mission was lost once an A–7D was launched. Sortie launches during the deployment totaled 283 and the zero air abort mark was coupled with a 2.4 percent ground abort rate and a "full military capability" mark of 92 percent—a tribute to the support and maintenance personnel who kept the A–7Ds humming and ready.

While deployed, the 169th expended more than 450 practice bombs and approximately 4,500 rounds of ammunition from the internally mounted "Gatling gun" cannon.

"It was a very fine deployment," said Johnson. "We did what we set out to do—a really fine job. We have the capability to move anywhere in the world with the proper tanker and airlift support."

The tankers were there during the flight over the Atlantic to England and return. C–141 aircraft transported about 275 operations and support personnel and their necessary equipment. Midway through the three-week exercise, another 90 Air Guardsmen deployed to replace a similar number already in the British Isles.

The deployment to England was part of a continuing program by the Tactical Air Command to familiarize Air Force and Air Guard units with the procedures and logistics in NATO nations. Colorado and New Mexico ANG groups flew A–7Ds to The Netherlands last year as part of the TAC familiarization program.

The exercises in England were one of three long-distance, off-site operations accomplished by the South Carolina ANG organization in a little more than a year. In May 1977, the Air Guardsmen took their A–7Ds to Hawaii in Exercise Cope Elite, which involves close support/interdiction roles for Army infantry troops having maneuvers. And in October 1977, six A–7Ds from McEntire ANG Base were deployed to Nellis AFB, Nev., to take part in TAC's very realistic Red Flag exercises—described as the best possible air combat training obtainable under peacetime conditions.

FUTURES TRADING ACT OF 1978—CONFERENCE REPORT

Mr. LEAHY. Mr. President, I submit a report of the committee of conference on S. 2391 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MATSUNAGA). 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 amendment of the House to the bill (S. 2391) to extend the Commodity Exchange 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 all of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of September 25, 1978.)

Mr. LEAHY. Mr. President, S. 2391, as reported by the committee of conference, represents the results of over 1 year of extensive congressional oversight and investigation into the operation of the Commodity Futures Trading Commission. In addition to the congressional Agriculture Committees, the General Accounting Office and the Subcommittee on Agriculture, Rural Development, and Related Agencies of the House Committee on Appropriations conducted extensive investigations into the operations of the Commission.

NEW LEVEL OF MEDIA AWARENESS

This year also marked a new level of media awareness of the operation of the CFTC. Our deliberations on S. 2391 took place against a setting that included disclosures of rampant fraud in the marketing of "London" commodity options, the controversy surrounding the appointment of David Gartner to the Commission, and warnings of the potential for new fraudulent schemes in the marketing of certain leverage contracts.

These reviews and coverage, both positive and negative, have focused our attention on the significance of the futures markets on our economy and the need for regulation of the commodity exchanges and the transactions for future delivery of commodities that are not currently traded on exchanges.

EXCELLENT EFFORTS BY CONFEREES

I am pleased to state that the conference substitute incorporates the major provisions of the Senate-passed bill. Under the able leadership of Chairman TALMADGE and Chairman FOLEY of the House Committee on Agriculture, the conferees were able to resolve all of the differences between the Senate bill and the House amendment. The excellent efforts of the other Senate conferees, Senators HUDDLESTON, CLARK, STONE, DOLE, BELLMON, and LUGAR, are to be commended.

FOUNDATION FOR THE FUTURE

The conference substitute extends the authorization for appropriations for the Commodity Futures Trading Commission for 4 years. The conferees recognized the dynamic nature of the futures markets and included provisions that will enable the CFTC to address changing situations in these markets as they develop or in anticipation of their development.

It has become clear that the CFTC simply does not have the necessary manpower and other resources to investigate and enforce every violation of the Commodity Exchange Act. Rather than seeking to expand significantly the Commission, the conference substitute authorizes the use of other investigatory and enforcement forces.

JURISDICTION OF THE STATES

S. 2391 creates a statutory cause of action, in Federal district courts, for States to seek injunctive relief or damages, or both, for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the Act. During hearings on this legislation, we heard representatives of several States express a desire to become once again involved in this area. This bill provides the means for accomplishing that involvement and it is now up to the States to make their desires a reality. S. 2391 exempts from State prosecutions under the Commodity Exchange Act alleged violations committeed by contract markets, floor brokers, and clearing corporations.

REGISTERED FUTURES ASSOCIATIONS

S. 2391 authorizes the Commission to register registered futures associations whose rules contain a compulsory membership provision. This change removes the most formidable obstacle to the creation of such associations. When registered, these associations will be able to relieve the Commission of some of its market surveillance and related enforcement responsibilities.

"REVOLVING DOOR" PROVISION

S. 2391 as agreed to by the conference committee contains a conflict-of-interest provision, which has been characterized as a "revolving door" provision, applicable to CFTC personnel classified at a GS–16 level and who are in a position expected from the competitive service by reason of being of a confidential and policymaking character. This provision is more lenient than the comparable pro-

vision contained in S. 2391, as passed by the Senate. However, this provision will be supplanted by whatever the ultimate resolution of this issue is by the conferees on S. 555 or other Governmentwide ethics legislation. There is no reason to single out the CFTC for different treatment once a Governmentwide postemployment prohibition is in effect.

USER FEE PLAN

The conference substitute incorporates the provision offered by Senator Eagleton during the Senate floor debate on S. 2391 that authorizes the Commission to develop and implement a plan to change and collect reasonable user fees. This provision was strengthened by the Conference committee by specifying that the user fee plan must provide that any fees collected would be paid into the Treasury and disbursed in accordance with the appropriations process.

POTATO FUTURES STUDY

S. 2391, in recognition of the concern of potato farmers, requires the Secretary of Agriculture to conduct, within 1 year after enactment of the bill, a study of potato marketing and potato futures trading, including CFTC and exchange rules and regulations governing this trading. The results of the study, and any recommendations for legislative or regulatory changes that the Secretary may wish to make, would be submitted to Congress. This study should provide the data necessary to make the decisions on what should be done in the future in reference to potato futures. The efforts of Senators HATHAWAY and MUSKIE contributed greatly to making this provision part of the law.

SUMMARY OF CONFERENCE SUBSTITUTE

I ask unanimous consent that a summary of the major provisions of S. 2391 as agreed to by the committee of conference be printed at this point in the RECORD.

There being no objections, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF S. 2391 AS AGREED TO BY THE COMMITTEE OF CONFERENCE

The major provisions of S. 2391, as agreed to by the committee of conference, are as follows:

1. *Composition of the Commission.*—The bill provides that the Commodity Futures Trading Commission will be composed of five Commissioners, one of whom will be appointed by the President as Chairman to serve at the President's pleasure. (Under existing law, the individual appointed as Chairman serves as Chairman of the five-member Commission for a 5-year term.) (Secs. 2(2)–2(5))

2. *Functions of the Chairman.*—The bill provides that—

(a) the use and expenditure of Commission funds, over which the Chairman has control, will be according to budget categories, plans, programs, and priorities established and approved by the Commission; and

(b) the Chairman in carrying out the executive and administrative functions of the Commission will be governed by plans, priorities, and budgets approved by the Commission, in addition to the general policies of the Commission as provided in existing law. (Secs. 2(7)–2(8))

3. *Senate confirmation of the Executive Director.*—The bill removes the requirement for Senate confirmation of the Commission's Executive Director. (Sec. 2(6))

4. *Conflict of interest.*—The bill prohibits any Commissioner or GS–16 or higher Commission employee in a position excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C appointees) from transacting business for others with the Commission for 1 year after leaving the Commission. These prohibitions will not become effective until four months after the date of enactment of the bill. (Sec. 2(10))

5. *Liaison with Department of Agriculture.*—The bill removes the requirement that the Commission establish and staff a liaison office within the Department of Agriculture and substitutes a requirement for maintenance of liaison. (Sec. 2(12))

6. *Liaison with other agencies.*—The bill—

(a) requires the Commission to maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission (i) to keep them fully informed of Commission activities related to their responsibilities; (ii) to consider the relationship between the volume and nature of investment and trading in futures, compared to securities and financial instruments under their jurisdiction; and (iii) to obtain their views on those activities; and

(b) provides that if a board of trade applies for designation as a contract market for contracts for future delivery of securities issued or guaranteed by the United States or any agency thereof, the Commission must promptly deliver a copy of the application to the Department of the Treasury and the Federal Reserve Board. The Commission is prohibited from approving any such application until the Commission receives the views of these agencies, or until forty-five days after delivery of the application to these agencies, whichever is sooner. Any comments received from these agencies must be included in the public record, and their views must be considered by the Commission in approving, refusing, suspending, or revoking such designations or in taking any emergency action affecting such designated contract markets. The Commission is also required to consider the effect of designation, suspension, revocation, or emergency action on the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for government securities.

These provisions will not create any rights, liabilities, or obligations upon which the Commission may be sued. (Sec. 2(13))

7. *Option transactions.*—The bill—

(a) prohibits commodity options transactions, except "trade" options that are sold to a commercial entity, until (i) the Commission transmits evidence to the congressional agriculture committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations, and (ii) 30 days of continuous session of Congress pass following transmission of the justification statement;

(b) allows American grantors of options on a physical commodity who were in that business and who were in the business of buying, selling, producing, or otherwise using the commodity on which the option was granted on May 1, 1978, to continue in business until 30 days following the effective date of Commission regulations issued under this bill:

(c) requires the Commission to issue regulations concerning the granting and offering of options on physical commodities, that would include as minimum requirements certain specified requirements regarding the grantor's net worth and customer protection practices;

(d) allows the Commission to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors;

(e) requires the Commission to hold a hearing before terminating a person's right to grant, offer, or sell options on physical commodities, including a finding that the continuation of the right is contrary to the public interest, but allows the Commission to suspend that right pending a hearing if the Commission determines that such right presents a substantial risk to the public interest; and

(f) allows the Commission to prohibit all or any commodity options transactions on physical commodities after notice and opportunity for a hearing on the record, if it determines that such options are contrary to the public interest. (Sec. 3)

8. *Customers' funds and property.*—The bill authorizes the Commission to permit futures commission merchants to commingle customers' segregated funds for different classes of transactions subject to such terms and conditions as the Commission may prescribe. (Sec. 4)

9. *Registration of commodity trading advisors and commodity pool operators.*—The bill removes the requirement that the registration of any commodity trading advisor or commodity pool operator will become effective 30 days after the Commission's receipt of a registration application (unless denied as provided elsewhere in the Act). (Sec. 9(1))

10. *Exemption from registration.*—The bill exempts from the Act's registration requirements any dealers, processors, brokers, and sellers in cash market transactions involving agricultural commodities and the products thereof and nonprofit, voluntary membership, general farm organizations that provide advice on the sale and purchase of cash commodities if such advice is solely incidental to the conduct of their business. (Sec. 8)

11. *Prohibition on fraudulent transactions by commodity trading advisors and commodity pool operators.*—The bill makes it clear that the antifraud provisions of the Commodity Exchange Act apply to all commodity trading advisors and commodity pool operators regardless of whether they have registered or whether they are required to register. (Sec. 10)

12. *Process for approval of bylaws, rules, regulations, and resolutions of contract markets.*—The bill—

(a) requires the Commission to publish in the Federal Register, at least 30 days prior to Commission approval, any proposed changes in contract market bylaws, rules, regulations, and resolutions of major economic significance as determined by the Commission, which determination shall be final, in order to afford interested persons an opportunity to comment on the proposed changes; and

(b) allows the Commission 60 days, after receipt of the proposed changes, if it determines that the changes are of major economic significance, to approve the changes, unless it notifies the contract market that the proposed changes are in violation of the Act or the Commission's regulations and an opportunity for a hearing is provided. (If the Commission does not publish the proposed changes, it would approve the proposed changes within 30 days of their receipt unless it notifies the contract market that the proposed changes are a violation of the Act or the Commission's regulations and an opportunity for a hearing is provided.) (Sec. 12)

13. *Commission subpena power.*—The bill makes the Commission's power to conduct investigative proceedings independent from authority in existing law based on the Interstate Commerce Act. (Sec. 13(3))

14. *Hearing on the record.*—The bill requires that a hearing on the record be afforded a board of trade whose designation as a contract market has been denied, suspended, or revoked, and that a hearing on the record take place before the Commission issues a cease and desist order, or imposes a civil money penalty against a contract market for noncompliance with the Act or regulations thereunder. (Secs. 13(1), 13(2), and 14)

15. *Jurisdiction of the States.*—The bill creates a statutory cause of action for States, in Federal district courts, to seek injunctive relief or damages, or both, for violations of the Commodity Exchange Act or Commission regulations thereunder, that would exist in addition to any causes of action under State general civil or criminal antifraud laws that are not preempted by the Act. (Sec. 15)

16. *Limitations on disclosure to the public of names and positions of traders on boards of trade.*—The bill—

(a) prohibits the Commission from publicly disclosing or publishing or including in any report any data or information that, with respect to particular traders, discloses their market position, business transactions trade secrets, or customer names, until such data or information has been disclosed publicly in a Commission administrative proceeding. a judicial proceeding, or a congressional proceeding (this category of information is to be sent to the appropriate congressional committee conducting a proceeding only upon that committee's specific request); and

(b) removes the requirement that the Commission make public the information it has available on traders on boards of trade (including their market positions) when such information is provided to a congressional committee. (Sec. 16)

17. *Fingerprinting of applicants for registration.*—The bill authorizes the Commission to require fingerprinting of applicants for registration. (Sec. 17(1))

18. *Disclosure of improper transactions.*—The bill removes the Commission's authority to publish the open market positions of any traders when the Commission communicates with exchange business conduct committees or officers concerning transactions or market operations that the Commission believes will endanger the market or are otherwise harmful or against the best interests of producers and consumers. (Sec. 17(2))

19. *Registered futures association.*—The bill amends the enabling authority in existing law under which, subject to the Commission's approval and at its discretion, persons registered under the Commodity Exchange Act and in the commodity trading business may establish voluntary associations for regulating the practices of the members. The bill would—

(a) allow the Commission to approve the rules of a futures association that requires persons eligible for membership in such associations to become members of at least one such association;

(b) increase the upper limit for the amount in controversy in customer arbitration proceedings before an association from $5,000 to $15,000; and

(c) authorize the Commission to permit a registered association to perform any part of the registration functions with respect to registered persons. (Secs. 22(4), 22(2), and 7(2)).

20. *Disclosure of results of exchange disciplinary proceedings.*—The bill requires each exchange to make public its findings and the reasons therefor in any disciplinary or denial of membership proceeding. However, the exchange is not to disclose the evidence in such proceeding except to the person who is the subject of the action and to the Commission. (Sec. 18)

21. *Criminal penalties.*—The bill—

(a) makes it a felony knowingly to violate the provisions of the Act relating to engaging in prohibited commodity options transactions and leverage transactions;

(b) makes it a felony knowingly to violate the provisions of the Act relating to (i) the requirement that futures transaction be executed only on or subject to the rules of designated contract markets; (ii) cheating, defrauding, making false reports or records, deceiving, and bucketing in connection with futures transactions; (iii) perpetration of any fraud or deceit by commodity trading advisors or commodity pool operators; (iv) the requirement that futures transactions be executed only by or through a member of a designated contract market; and (v) making false representations respecting registration of a contract market member as a futures commission merchant;

(c) makes it a felony knowingly to make any false or misleading statement of a material fact in any registration application or report filed with the Commission or to omit in any registration application or report filed with the Commission any material fact that is required to be stated therein;

(d) increases from $100,000 to $500,000 the maximum fine for felonies under the Act (sections 9(a) and (b)) committed by persons other than individuals; and

(e) increases from $10,000 to $100,000 the maximum fine for felonies committed by Commissioners, employees, or agents of the Commission. (Sec. 19)

21. *Authorization for appropriations.*—The bill extends the authorization for appropriations for the Commission for 4 years (fiscal years 1979 through 1982). (Sec. 20)

22. *Reparations.*—The bill—

(a) makes it clear that reparations proceedings may be instituted by persons aggrieved by the actions of any person who is registered or required to be registered under the Act; and

(b) provides that in reparation cases where the damages claimed do not exceed $5,000, a hearing is not required. (Sec. 21)

23. *Leverage transactions.*—The bill—

(a) prohibits leverage transactions involving agricultural commodities enumerated in section 2(a) of the Commodity Exchange Act prior to 1974;

(b) requires the Commission to regulate leverage transactions in silver bullion, gold bullion, bulk gold coins, or bulk silver coins;

(c) authorizes the Commission to prohibit or regulate leverage transactions involving all other commodities by October 1, 1979; and

(d) authorizes the Commission to regulate any leverage transaction as a futures contract if it determines the transaction to be a contract for future delivery under the Commodity Exchange Act. (Sec. 23)

24. *Use immunity.*—The bill authorizes the Commission to grant use immunity to witnesses appearing before the Commission. (Sec. 25)

25. *Potato futures study.*—The bill requires the Secretary of Agriculture to conduct, within one year after enactment of this bill, a study of potato marketing and potato futures trading, including Commodity Futures Trading Commission and exchange rules and regulations governing such trading. The results of the study, and any recommendations for legislative or regulatory changes that the Secretary may wish to make, would be submitted to Congress. (Sec. 27)

26. *Plan for user fees.*—The bill authorizes the Commission to develop and implement a plan to charge and collect reasonable fees ("user fees") to cover the cost of regulating transactions under its jurisdiction. Prior to implementing the plan, the Commission would be required to report its intention to do so to the congressional agriculture committees, including the feasibility and advisability of collecting the fees, and both committees would have to approve the plan. Any user fees collected would be paid into the Treasury and disbursed in accordance with the appropriations process. (Sec. 26)

CONCLUSION

Mr. LEAHY. S. 2391 addresses the emerging issues over which the Commodity Futures Trading Commission has jurisdiction. The bill provides the foundation upon which the Commission can bring commodity options and leverage transactions under control. This is legislation that we can be proud of. The oversight activities of the CFTC by the Committee on Agriculture, Nutrition, and Forestry will be intensified. The spirit of cooperation between the Commission and Congress that has marked the reauthorization process will serve as a foundation for future efforts.

I urge my colleagues to join me in supporting the conference report on S. 2391.

● Mr. HUDDLESTON. Mr. President, I urge the adoption of the conference report on S. 2391.

The commodity futures industry is booming. The new American Commodity Exchange began trading on September 12, 1978. New contracts are constantly being submitted to the Commodity Futures Trading Commission for approval. The recent events in world money markets have resulted in renewed interest in precious metals futures and options and foreign currency futures.

I am pleased that the commodity options and leverage transactions provisions of the conference substitute are substantially the same as the comparable provisions that appeared in the Senate-passed bill. My concern has been consistently that there are legitimate commodity option and leverage contract grantors and dealers who should not casually be put out of business by Congress because of the misdeeds of others. S. 2391 satisfies my concern on this point.

The bill prohibits all commodity options, except "trade" options that are sold to a commercial entity, until the Commission transmits evidence to the Congressional Agriculture Committees of its ability to regulate these transactions, including a copy of the Commission's proposed regulations, and 30 days of continuous session of Congress pass following transmission of the justification statement. American grantors of options on a physical commodity who were in that business on May 1, 1978, and who were in the business of buying, selling, producing, or otherwise using the commodity on which the option was granted, would be allowed to continue in business until 30 days following the effective date of Commission regulations issued under this bill. During the 30-day period that these firms would have to apply under the new regulations, they would be subject to the Commission regulations in

effect on August 17, 1978, the day the committee of conference completed its deliberations on the bill.

The Commission would be required to issue regulations governing the granting and offering of options on physical commodities that would include, as minimum requirements, criteria substantially similar to those contained in the Senate-passed bill.

S. 2391 allows the Commission to permit persons not domiciled in the United States to grant options in this country on physical commodities under requirements substantially equivalent to those applicable to domestic options grantors.

The bill includes provisions and criteria for suspending or terminating any individual's right to grant, offer, or sell options on physical commodities, or to prohibit any or all such option transactions.

The public is protected and reputable firms can continue in business with the opportunity for new firms to enter this field. These provisions should not be viewed as a wholesale invitation to off-exchange options trading. It is the conferees' intent that the Commission move ahead, consistent with the requirements of S. 2391 and its available resources, with exchange trading of commodity options. When exchange traded commodity options become a reality, there is a distinct possibility that off-exchange trading in these instruments will cease or be greatly diminished by virtue of the competitive framework of exchange trading and the universal availability of price information.

The problem with leverage contracts is somewhat unique. The Commodity Futures Trading Commission Act of 1974 requires the CFTC to regulate leverage transactions in silver bullion, gold bullion, bulk silver coins, or bulk gold coins. The Commission has never adopted a regulatory scheme in this area. S. 2391 continues this authority. The conferees urge the Commission to move expeditiously toward issuing its regulations in this area in order to insure the financial solvency of the transactions and prevent manipulation or fraud. Under the bill—as under existing law—if the Commission determines that a leverage transaction is a contract for future delivery, the Commission is to treat the transaction as a futures contract and regulate it as such under the other provisions of the Commodity Exchange Act.

However, the firms that were selling gold and silver leverage contracts in 1974 and that continue to market these instruments should not casually be put out of business by a hasty decision by the Commission that all such leverage transactions are futures contracts. As stated in the conference report, the conferees expect that the Commission will not take final action on the CFTC staff recommendation that all leverage contracts in gold and silver are contracts for future delivery until the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry have an opportunity to receive testimony on the issue. There are, of course, other firms marketing leverage contracts who only began this activity when the imminence of a Commission imposed ban on options trading became apparent. The Commission, under the conference substitute, should, therefore, regulate gold and silver leverage transactions to insure the financial solvency of the transactions and prevent manipulation or fraud, and take appropriate actions against leverage firms for any violations of the act prior to making any final determination that all gold and silver leverage contracts are futures contracts.

S. 2391, as reported by the committee of conference, prohibits leverage transactions in basic agricultural commodities and authorizes the Commission to prohibit or regulate leverage transactions in all commodities other than the basic agricultural commodities, gold bullion, silver bullion, bulk gold coins, and bulk silver coins by October 1, 1979. With respect to this class of leverage transactions, I believe that the following language from the Senate report on S. 2391 (S. Rept. 95–850, at p. 27) is applicable:

> By requiring the commission to act on leverage contracts by October 1, 1979, the committee beleives that the commission will undertake the necessary analysis and conduct the necessary hearings to enable it to make a determination of how these transactions should be regulated, if they are to be permitted at all.

The media has recently disclosed the widespread potential for fraud in the marketing of leverage contracts in diamonds. The Commission, under new section 19 of the Commodity Exchange Act, will have the authority to regulate or ban leverage transactions in diamonds, emeralds, or other commodities on which leverage transactions are offered. It is my hope that this new authority, coupled with the Commission's acquired experience over the past 3 years, will insure that the scandals with "London" options will not be repeated with leverage transactions.

Chairman FOLEY of the House Committee on Agriculture, who chaired the conference committee, should be commended for his diplomatic and thorough treatment of the highly technical issues presented. Chairman TALMADGE, Senators LEAHY, CLARK, STONE, LUGAR, BELLMON, DOLE, and the House conferees worked diligently to produce the best possible bill. I urge the Senate to approve this conference report.●

Mr. LEAHY. Mr. President, I would like to state, in addition, for the record, that while this is a major piece of legislation, it has been passed by the Senate and agreed upon in conference because of the cooperation of a great number of people. I would like to note especially the tremendous help that we have received from the chairman of our committee (Mr. TALMADGE), who has given encouragement, enlightenment, and aid at every step along the line.

Certainly I would want to single out the efforts of the distinguished ranking minority member of our committee (Mr. DOLE), who has been there with help at every step along the line.

I would want too mention the ranking Republican member of my own subcommittee (Mr. LUGAR), who helped throughout the subcommittee hearings. And, of course, I want to mention with special praise the Senator from Kentucky (Mr. HUDDLESTON), who submitted the bill in the first place.

But I think it would be fair to state that all of us needed the help of our dedicated staff, not only Liam Murphy of my staff, but also Henry Casso, Carl Rose, Steve Storch, Bill Lesher, and Stu Hardy, who worked far more hours than it was reasonable to ask anybody to work on this matter.

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

Mr. LEAHY. I am delighted to yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I wish to express my support for the conference report on S. 2391.

The reauthorization of the Commodity Futures Trading Commission has resulted in one of the most exhaustive reviews of a regulatory agency by Congress that I can remember. Futures trading and the regulation of futures trading are unique and highly technical matters. A lot of homework has to be done to get a basic grasp of the issues in this area. I am pleased to say that this homework was done by the Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture. The bill being reported by the conference committee is legislation that will help insure the continued vitality of our futures markets and provide the necessary protection to persons who engage in transactions over which the CFTC has jurisdiction.

In 1974, Congress decided to place the regulatory responsibility for all futures trading in an independent agency, the Commodity Futures Trading Commission. I believe that Congress made the right decision, and nothing that has taken place since that time has caused me to change my mind.

It is true that there has been substantial growth in the financial futures, futures contracts based on mortgage pass-through securities guaranteed by the Government National Mortgage Association (GNMA) and Treasury bills. Regardless of what the underlying commodity on which a future contract is written, a futures contract is a futures contract. The Department of the Treasury, the Securities and Exchange Commission, and the Office of Management and Budget submitted legislative proposals that would have divided the regulatory responsibility over various classes of futures contracts among several Federal agencies. I am pleased to say that S. 2391 leaves the regulatory jurisdiction of the CFTC intact.

The conference committee recognized the legitimate concerns of other agencies and departments that have jurisdiction over the underlying commodities on which futures contracts are written or may be written.

The conference substitute requires the Commission to maintain communications with the Department of the Treasury, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission to keep them fully informed of Commission activities related to their responsibilities; to consider the relationship between the volume and nature of investment and trading in fu-

tures, compared to securities and financial instruments under their jurisdiction; and to obtain their views on those activities.

S. 2391, as reported by the conference committee, further provides that if a board of trade applies for designation as a contract market for contracts for future delivery of securities issued or guaranteed by the United States or any agency thereof, the Commission must promptly deliver a copy of the application to the Department of the Treasury and the Federal Reserve Board. The Commission is prohibited from approving any such application until 45 days after delivery of the application to these agencies, whichever is sooner. Any comments received from these agencies must be included in the public record, and their views must be considered by the Commission in designating or refusing, suspending, or revoking the designation of a board of trade as a contract market or in taking any emergency action affecting a designated contract market. The Commission is also required to consider the effect of designation, suspension, revocation, or emergency action on the debt financing requirements of the United States and the continued efficiency and integrity of the underlying market for Government securities.

These provisions will not create any rights, liabilities, or obligations upon which the Commission may be sued.

I believe that by including these provisions in the Commodity Exchange Act, the interagency squabbling can be reduced and the CFTC will be able to act in the best interests of the public.

Farmers and other members of the agricultural community have been concerned with the situation in forward contracting in agricultural commodities. S. 2391, as passed by the Senate, contained a provision authored by Senator BELLMON that would require the Commission to monitor forward contracting in agricultural commodities. The conference committee voted not to include this provision in the conference substitute. This action was based on the fact that these contracts are transactions in the cash market over which the Commission does not have direct regulatory jurisdiction. However, recognizing the interest in and the importance of these forward contracts, the conferees agreed that Chairman FOLEY of the House Committee on Agriculture and I would send a letter to Secretary of Agriculture Bergland requesting him to undertake the monitoring and evaluation of these forward contracts. I ask unanimous consent that the letter to Secretary Bergland be printed at this point in the RECORD.

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

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., September 22, 1978.

HON. BOB BERGLAND,
Secretary, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Forward contracting in agricultural commodities has long been of concern to farmers.

S. 2391, the Commodity Futures Trading Commission legislation as passed by the Senate, contained a provision requiring the Commission to monitor forward contracts on domestic agricultural commodities and maintain records on defaults on these contracts for the six-year period beginning October 1, 1978, and ending September 30, 1984. This provision was deleted from the bill approved by the conference committee.

However, the conferees agreed that we would request the Department of Agriculture to evaluate forward contracting in domestic agricultural commodities. Funds otherwise available to the Department should be sufficient for this purpose. We should appreciate your providing us with the results of the study by January 1, 1980, together with any observations, recommendations, or comments on fordward contracts and their regulation or the need for legislation in this area.

With every good wish, we are,
Sincerely,

HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry.
THOMAS S. FOLEY,
Chairman, House Committee on Agriculture.

Mr. TALMADGE. Chairman FOLEY did an outstanding job of leading the conference committee through the many complex areas addressed in this bill. The Senate and House conferees worked diligently to produce the best possible bill. I am pleased with the results of our combined efforts, and urge my colleagues to join me in supporting the conference report on S. 2391.

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

Mr. LEAHY. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I urge the adoption of the conference report on S. 2391, the "Futures Trading Act of 1978."

A great deal of work has gone into this legislation and special recognition should be given to Senator HUDDLESTON, Senator LUGAR, Senator LEAHY, and of course, to Senator TALMADGE—the distinguished chairman of the Agriculture Committee—for their leadership, dedication and persistence in achieving the best possible reauthorization bill.

A DIFFICULT MISSION

Mr. President, nearly 4 years have passed since the creation of the Commodity Futures Trading Commission. During this period, the commodity futures business became a boom industry. The number of futures contracts nearly tripled. The volume of contracts traded annually more than doubled. And the dollar volume on the commodity exchanges broke the one trillion dollar mark.

The CFTC's predecessor agency, the USDA's Commodity Exchange Authority, had limited jurisdiction largely directed to overseeing seven commodity exchanges and auditing those brokers trading in certain agricultural commodities.

In contrast, the CFTC is charged with regulatory oversight of 10 exchanges, including the newly regulated commodities: metals, lumber, foreign currencies, and the new financial instrument futures. The Agency's jurisdiction and powers were vastly expanded, including the power to rewrite contract terms and exchange rules. Regulatory jurisdiction was expanded to cover all sales activities of 36,000 commodity sales persons, and the Commission was charged to oversee the implementation of uniform standards on all exchanges and in all brokerage houses regardless of what commodity is traded where and by whom.

Given this vast and difficult regulatory mission, it is little wonder that the new Agency's initial performance has not always been satisfactory.

There have been many difficult crisis periods during the past 4 years, but in almost every instance, the CFTC's management problems and operational shortcomings can be traced back to the Agency's inevitable growing pains, and to the enormous task it had to confront from the day of its birth.

SCOPE AND PURPOSE OF S. 2391

The Futures Trading Act of 1978 (S. 2391) provides CFTC with the tools it needs to carry out efficient, expeditious regulation of the large and growing futures industry.

The scope and purpose of this legislation can be stated in simple and concise terms. The bill extends for 4 years the authorization of the Commodity Futures Trading Commission, and improves oversight of the Nation's $1.1 trillion futures industry in order to protect investors and the general public from fraudulent schemes and crooked speculation.

It is also intended to provide greater stability in futures trading, which significantly affects prices farmers receive for agricultural commodities.

The bill's significant provisions are briefly as follows:

A suspension of all trading in commodity options—except "trade" options—until the CFTC provides documentation to the Congress of its ability to regulate options trading.

Creation of a statutory cause of action for States, in Federal district courts, to seek injunctive relief for violations of the Commodity Exchange Act that would exist in addition to any causes of action under State general, civil, or criminal antifraud laws.

Higher criminal penalties—in terms of both fines and prison sentences—for persons who are convicted of market manipulation, fraud, theft and other unlawful activities.

A study by the U.S. Department of Agriculture of potato marketing and potato futures trading. Recommendations for legislative or regulatory changes growing out of the study will be submitted to Congress.

A "revolving door" requirement that former members of the Commission or former CFTC employees with a civil service classification of GS–16 or higher who are schedule "C" appointees will be prohibited from having any business or professional dealings with the CFTC for 1 year after leaving the Commission.

Other provisions of the bill lift unnecessary regulatory burdens from the commodity futures industry and make possible a greater degree of industry self-discipline and self-regulation. They speed up the processing of complaints from the commodity trading public and bring a temporary halt to scandal-tainted leverage transactions.

Mr. President, I urge adoption of the conference report on S.2391, the Futures Trading Act of 1978.

Mr. LEAHY. Mr. President, I think the type of work that the Committee on Agriculture, Nutrition, and Forestry has done on this measure, under the able leadership of Mr. TALMADGE and Mr. DOLE, is exemplified by the fact that after all the months and months of hard work and hours and hours of conference committee and regular committee work, we are finally finishing this up at well after 10 at night on a Thursday evening.

This represents two things: Not only our dedication, but the heavy whip that our distinguished majority leader (Mr. ROBERT C. BYRD), who is here on the floor, wields over all of us. Mr. BYRD is not aware of the minimum wage laws when it comes to Members of the Senate; and I am delighted to have a chance to finally bring this matter to a conclusion.

Mr. President, I urge its acceptance.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I would like to add further for the RECORD that I do feel a debt of gratitude to the majority leader (Mr. ROBERT C. BYRD) and the minority leader (Mr. BAKER).

Senator BYRD knows this has been a matter of a great deal of interest and concern to me. I thank him publicly here in the Senate for his efforts in making sure this matter could come up especially this week, as he knows I wanted, for a number of reasons, to have it passed this week.

I extend my appreciation to the very distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the Senator for his remarks.

CIVIL RIGHTS COMMISSION ACT OF 1978—CONFERENCE REPORT

Mr. METZENBAUM. Mr. President, I submit a report of the committee of conference on S. 3067 and ask for its immediate consideration.

The PRESIDING OFFICER. 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 House to the bill (S. 3067) to extend the Commission on Civil Rights for 3 years, to authorize appropriations for the Commission to effect certain changes to comply with other changes in the law, 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 PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1978.)

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a statement by the Senator from Indiana (Mr. BAYH), who is necessarily absent today, be placed in the RECORD at this point.

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

STATEMENT BY SENATOR BAYH

S. 3067, a bill extending the U.S. Commission on Civil Rights, was considered and passed by the Senate on June 27, 1978 and subsequently considered, amended, and passed by the House on September 6, 1978. Those House amendments resulted in five areas of disagreement between the Houses which I am happy to report were resolved by the committee on conference. Before describing the action taken by the Conference, I would like to take the time to thank my colleagues, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. MATHIAS), and the Senator from Utah (Mr. HATCH) who served on the Conference Committee and who deserve a great deal of credit for its successful outcome. I would also like to thank the Senator from Virginia (Mr. SCOTT) whose valuable assistance made it possible for the Senate to originally consider S. 3067.

During that debate, I stated that Senator SCOTT and I had reached an agreement, which would allow the Senate to move quickly to consider S. 3067 if the Commission's extension period was reduced from 5 years to 3 years and if the authorization period was limited to fiscal year 1979 only. Senator SCOTT felt these conditions were necessary so the Judiciary Committee and the Senate could closely scrutinize the Commission's activities each year rather than at the end of the extension period as was the case in the past. While I did not favor these changes I agreed to include them in the interest of letting the Senate vote on extending the Commission and then allowing it to proceed with other business. Nevertheless, I believed that it was my duty to uphold this agreement as the Senate's position in conference if there were disagreements on either of these two issues. In fact, there was disagreement on both questions, however, I believe that the Report supports my agreement with Senator SCOTT and thus the Senate's position, in this matter.

The Senate and the House were in disagreement in five substantive and several technical areas all contained in the two House amendments to S. 3067, one to the text of the bill and the other to the title.

The first two differences were contained in Sections 3 and 7 of the bill. Section 3(b) extended the Commission for 3 years in the Senate version and for 5 years in the House version. Section 7 of the Senate bill authorized spending by the Commission for one year, fiscal year 1979, while the House authorized a 2-year spending total of $26.7 million. The House had rejected a reduction of the extension period from 5 years to 3, but had expressed a desire to continue close Congressional oversight of the Commission. The conferees were able to agree on a compromise of a 5-year extension (the House position) and a 1-year authorization (the Senate position) that apparently satisfied both sides. By providing that the Commission must return each year for authorization scrutiny but allowing the Commission 5 years to plan and carry out studies, consultations and other civil rights programs in both its current and new jurisdictions, the Conferees answered the Senate's concern for Commission's work and the House demand for both oversight and work continuity at the Commission.

A third area of disagreement came in section 5, relating to the State Advisory Committees (SACs) of the Commission. Both the House and Senate received hearing testimony overwhelmingly supporting the SACs in their present form. The disagreement lay solely in the language mandating their continuation—the Senate emphasizing the flexibility given the Commission to create other advisory commissions in addition to those in the States, the District of Columbia, Puerto Rico and the Virgin Islands, while the House emphasized the make-up of membership of the SACs—that they consist of citizens of the state each committee is in. The Conferees were able to resolve this question by writing new language including both Houses' concerns.

The final two disagreements were over amendments offered and passed on the House floor. The first added a new paragraph to Section 3(a)(7) of the bill to prohibit the Commission from studying the question of abortion. The second was to add a new Section 7(b) to the bill prohibiting the Commission from "lobbying."

The Conferees felt that the Commission had been clearly within its jurisdiction when researched and reported the study entitled "Constitutional Aspects of the Right to Limit Childbearing," its only study of abortion in its 21 years of existence. However, the Conferees also noted that the Congress was able to restrict the Commission's jurisdiction as it saw fit. While I felt that this was an unwarranted intrusion into an independent agency's freedom of action especially in light of the lack of testimony or other information on the Commission's activity in this area, I felt I had to accept this amendment on behalf of the Senate. The House Conferees argued against its deletion and expressed a belief that the Conference Report would not be accepted by the House without it, citing the 234–131 record floor vote adding it to S. 3067. It was with great reluctance that the majority of both House and Senate conferees accepted this amendment.

The second amendment, the "anti-lobbying" amendment which could have been interpreted as prohibiting the Commission from reporting their findings on civil rights to the Congress, a primary function of the Commission required by Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c (b)), was deleted by the Conferees. This action was taken because of the possible misinterpretations as well as the fact that the Commission has never had the authority to lobby nor is there evidence in the record alleging such violations by the Commission. If such an abuse occurs, the Conferees believed that the present administrative and criminal penalties (18 U.S.C. 1913) are available and sufficient to deal with the situation.

I believe that the Conferees have written a Report that is acceptable to both Houses, the President, the Commission, and the American people. I, once again, wish to thank my colleagues who served on the Conference Committee and would urge all other Senators to support this Conference Report.

Mr. METZENBAUM. Mr. President. I join the Senator from Indiana in supporting adoption of the conference report on S. 3067, a bill that will extend for 5 years the life of the Commission on Civil Rights.

This measure has received overwhelming support in both Houses of Congress. That support reflects the success that the Commission has had in the past in the struggle for equal rights for all Americans. But it also reflects wide agreement that the struggle is far from over. Much remains to be done.

Mr. President, the Commission on Civil Rights is the only independent agency whose sole function is to monitor the state of civil rights in our country. The

Commission has produced factual reports and sound recommendations that have served the Nation well.

In the 1960's, for example, the work of the Commission provided an impetus for passage of landmark civil rights legislation.

More recently, the Commission's findings have played an important role in passage of such measures as the equal credit opportunity act, the civil rights attorneys' fees act, and the nondiscrimination provisions of the State and Local Fiscal Assistance Act.

But once again, Mr. President, much remains to be done.

Hearings earlier this year before the Judiciary Committee's Subcommittee on Citizens and Shareholders Rights and Remedies, which I chair, established that a pervasive pattern of discrimination exists in the insurance industry against whole classes of consumers. That discrimination is directed particularly against those who reside in our major cities.

Earlier this year, the Judiciary Committee focused a good deal of attention on the problem of police brutality while considering S. 35, the Brooke-Mathias Civil Rights Improvement Act of 1978.

In both of these areas—and in countless others—the Commission on Civil Rights has much to contribute. It is a source of experience and expertise that the Congress and the Nation at large urgently requires.

It will be a glorious day, Mr. President, when we can say that the Commission on Civil Rights is no longer needed.

But that day has not arrived. And until it comes, the Commission deserves our full support.

Mr. President, I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, as an original cosponsor of this legislation, I take a great deal of pleasure in speaking in support of the conference report on the bill that would extend the life of the Civil Rights Commission.

As all of my colleagues know, the Commission on Civil Rights was established in 1957 to make certain that all Americans enjoy equal protection under the law as guaranteed by the Constitution. For 20 years, the Commission has exposed violations of the Constitution and has helped Congress fashion remedies for those who were denied their rights.

The current extension is particularly noteworthy, in that it extends the mandate of the Commission to cover discrimination against both the handicapped and senior citizens.

For the first time, the Commission will focus on the problems of the elderly—especially discrimination in housing and hiring, and the continuing problem of forced retirements.

It will also study for the first time the problems faced by the handicapped—discrimination in housing, transportation, employment, voting, administration of justice, and public accommodations.

I hope that the rights won by other groups as a result of the Commission's work will soon extend to our handicapped and senior citizens.

I urge all of my colleagues to support the conference report.

Mr. HATCH. Mr. President, I applaud the efforts of the managers for this bill from both Houses in reaching agreement on some potentially difficult issues.

I am personally pleased that agreement was reached to prohibit the Civil Rights Commission from further involving itself in the area of abortion. I believe that there are more than enough areas of legitimate civil rights concern to keep the Commission busy without issuing a stream of reports, and lobbying Congress on this issue.

For the record, I would like to make two brief points with respect to this prohibition. First, it was the express intention of the managers that this provision becomes effective immediately upon the passage of this legislation, and that the Commission is not to pursue any pending reports or studies that it may have in this area. Second, I would like to clarify that I do not personally subscribe to the managers' statement on this bill "recognizing" that the issue of abortion has, until this time, been "clearly within the Commission's * * * jurisdiction." I am in agreement with the authors of this provision in the House that the Commission has exceeded its present jurisdiction in assuming authority over the matter of abortion.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. METZENBAUM. I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House to the title of the bill.

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

BUCKSKIN AWARD

Mr. MELCHER. Mr. President, the senior Senator from Wisconsin (Mr. PROXMIRE) each month draws our attention to a particular singular Federal Government expenditure that is questionable on its face and apparently either flagrantly wasteful or foolish. The Senator then, on behalf of the Nation's taxpayers, awards his "Golden Fleece" to the Government official or agency that is responsible for the expenditure.

The Senator from Wisconsin, in making the "coveted" award, sometimes spices it with humor and often with gentle correction, but he always attempts to demonstrate to the Senate that we have the obligation to be prudent and searching in not only our capacity as legislators in approving appropriations but also as Senators in oversight functions of the various Federal departments and agencies.

I know of no other similar recognition for those occasions when Federal officials demonstrate the capacity to intelligently and quickly perform a function of wisely unraveling the intricate appropriations bills to spend the taxpayer's dollars in the best possible way so that taxpayers get the best bargain for their buck.

However, that does happen and I am today presenting my first monthly "Buckskin Award" to Secretary Bob Bergland for his prompt and intelligent response yesterday in telling the Senate how to give the taxpayers the most go for their money in animal health research and thereby saving some of the skin from the poor taxpayers' hides.

These are the details. The Senate, by a vote of 67 to 23 added $20 million to the agricultural appropriations bill to fund the Animal Health Research Act. The House had not appropriated any funds for this purpose and the conference committee, in shaving the bill, had agreed to cut the amount back to $5 million but in another part of the bill agreed to appropriate $10 million, most of which was designated for research on animal health. Late in the afternoon I telephoned Jim Webster, Director of Legislative Liaison, to as that Secretary Bergland send me a letter clarifying that the Department of Agriculture would use the $5 million for section 1133 of the Animal Health Research Act and would use the major portion of $10 million in a different part of the appropriations bill for section 1134 of the animal health research bill.

The obvious advantage of using the funds in this way was to assure the best possible plan for research by utilizing those veterinary colleges and veterinary research laboratories throughout the country that will tackle the most pertinent and needed research of regional or national significance.

Secretary Bergland late yesterday afternoon was returning from a trip to the Midwest; quickly approved and signed the letter outlining the Department's intention to use the two separate items in the appropriations bill in this manner; and the letter was delivered to my office by Jim Webster in the absolute record time of 1 hour and 39 minutues from the time that I called.

I know of no other comparable speed from the time of the telephone call to an agency or department office and getting a response in writing in that amount of time.

The managers of the agricultural appropriations bill, Chairman TOM EAGLETON and ranking minority member Senator HENRY BELLMON, of the Senate Agriculture Appropriation Subcommittee, welcomed the Secretary's letter which reflected clear legislative intent to follow the method outlined in the use of these funds and made it part of the record when the Senate unanimously adopted the conference report.

This prompt and intelligent action by Secretary Bergland and his assistants in record time deserves recognition, and I am happy to give him my "Buckskin Award" of the month for intelligently recommending a wise use of the taxpayers' buck.

RUSSIA PASSES US UP ON DEVELOPMENT OF MAGNETOHYDRODYNAMIC GENERATING PLANTS

Mr. MELCHER. Mr. President, the Russians, with help from American technicians, have outstripped us by at least a decade in the development of the magnetohydrodynamics process of generating electricity from coal.

It is a process that produces 50 percent more energy from the coal, minimizes air pollution and uses far less water than conventional steam generators.

As most Senators know, I have been pressing for increased appropriations for MHD research and development work in order to hasten the time when we can have commercial MHD generating stations "on the line" meeting our electric energy needs, as well as causing no straining of EPA air standards, and requiring only small amounts of water.

I was pleased that the Energy Department recently concluded that it was time to move ahead at an accelerated pace on MHD research and development, giving at least tacit support to my efforts to increase MHD research and development appropriations from the $72 million originally requested by the administration to the $100 million the Senate voted to appropriate.

I am currently disturbed by reports that there is pressure on conferees to cut this figure back to the original administration recommendation. This would not be "economy" in any sense of the word. It would mean more ultimate dollar cost, due to inflation, to get MHD power stations on the line. It would mean unnecessary consumption of fossil fuels resulting from delay in use of this fuel saving process. It would forfeit economies in generating plant construction which might be achieved if we bring MHD to commercial use as quickly as possible.

Last Sunday in the Washington Star, John Fialka, a prominent reporter for the Star whom many of us remember when he covered the Congress, and who is now stationed in Russia for the Washington Star, reported in detail the results and the success of the Russian work on the magnetohydrodynamics using, in cooperation with us, the superconducting magnet which we have been able to develop, although in all other parts of magnetohydrodynamics research they are well ahead of us.

They are starting to build a plant of 500-megawatt size this year, and expect by the end of the century to have 20 plants in operation to utilize their coal in a very efficient way and save their oil.

I ask unanimous consent to have printed at this point in the RECORD an article which appeared in the Washington Star, September 24, on Russia's progress in MHD development by Mr. John Fialka, a newspaperman who is well known to many of us, formerly covering the Washington scene but now stationed in Moscow.

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

SOVIETS DEVELOP IDEA ORIGINATED BY U.S. INTO EFFICIENT POWER PLANTS

(By John J. Fialka)

Moscow.—Using technology originally developed by the United States, the Soviet Union is preparing to make a major stride toward solving its energy problems by building a commercial power plant that is far more efficient than conventional plants.

Dr. E. M. Shelkov, a top Russian scientist, will visit the United States next month to invite U.S. cooperation in the project, which will use a process called magnetohydrodynamics, or MHD for short.

According to Shelkov, who spoke to a group of visiting American reporters at the Soviet Academy of Science's Institute of High Temperatures, the proposed MHD plant will be able to use as much as 60 percent of the heat energy from the fuel it burns.

Current power plants are able to make electricity from only about 40 percent of the heat produced from burning coal or oil. The rest of the heat energy is simply lost, going up the stacks and out into the atmosphere.

Shelkov, the head of the institute that has been experimenting with MHD for 15 years, said that the Soviets hope to build 10 to 20 of the plants by the turn of the century, using them as a way of extending coal reserves and saving oil for the export market.

MHD, an exotic process which uses superheated gases and supercooled magnets, has been known in theory to scientists since the 19th century. In 1959 two U.S. companies, Avco and Westinghouse, built the first test models of the process, proving that it can generate electricity.

In essence, MHD eliminates the need to turn heat energy into the rotary power needed to turn massive generator turbines.

Instead, the heat is turned into electricity directly. Fuel is gasified and heated to temperatures as high as 4,500 degrees. The superheated gas, called a plasma by scientists, is then "seeded" with chemicals to make it conduct electricity. After that it is passed at high speed between the poles of a massive magnet where electricity is created in much the same way as the spinning armature creates it in a generator.

After the process was developed in the United States, the Russians took a major interest in it, but U.S. government research scientists largely ignored it, preferring to concentrate nearly all of the nation's energy research effort on nuclear power, a move that Shelkov describes as a mistake.

Pumping considerable amounts of research money into MHD research, Soviet scientists developed a small pilot facility in an old power plant near the Kremlin and began producing power from it.

In the early 1970s the Russians built a somewhat larger facility in a northern suburb of Moscow, and in 1975 it began producing small amounts of power for the Moscow power grid.

U.S. interest in MHD finally was reawakened in 1972 when President Nixon signed an agreement with the Russians authorizing a joint MHD research project.

While the Russians had developed the system for heating and circulating the gaseous fuel, they lacked the technology for creating superconducting magnets, magnets which are made extraordinarily powerful by cooling them to temperatures near absolute zero.

The United States recently contributed such a magnet to the Russian program and will probably be approached for help in designing a larger magnet for the proposed, commercial-size MHD plant which will generate 500 megawatts of electricity when it is completed in the mid 1980s.

The development is particularly important to the Soviets because it is believed that their oil and coal supplies east of the Urals are running out and that massive reserves in remote Siberia will take much money and time to develop.

It could also ease Soviet pollution problems, for, as one Soviet scientist pointed out, "Where we used to pull three cars of coal up to the plant, now we can get the same energy out of two."

The U.S. Department of Energy has recently begun devoting more time and money to MHD research and, according to a recent congressional report, is beginning to try to catch up to the Russians.

The first MHD facility in the United States, a small pilot plant, is scheduled to open next year in Butte, Mont.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

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

EXTENSION OF TIME FOR FILING REPORT ON H.R. 13511

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Finance Committee have until midnight Sunday to file a report on H.R. 13511, the tax bill.

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

FOREIGN EARNED INCOME ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9251.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 3 to the bill (H.R. 9251) entitled "An Act relating to extensions of time for the existing tax treatment of certain items", with the following amendment:

Restore the matter stricken by said amendment, and in lieu of the matter inserted, insert on page 5, after line 2:

TITLE II—FOREIGN EARNED INCOME ACT OF 1978

SEC. 201. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Foreign Earned Income Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. EARNED INCOME FROM SOURCES OUTSIDE THE UNITED STATES.

(a) SECTION 911 EXCLUSION.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) GENERAL RULE.—The following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) BONA FIDE RESIDENT OF QUALIFIED FOREIGN COUNTRY.—In the case of an individual who is a citizen of the United States and who

establishes to the satisfaction of the Secretary that he has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN QUALIFIED FOREIGN COUNTRY FOR 17 MONTHS.—In the case of an individual who is a citizen or resident of the United States and who during any period of 18 consecutive months is present in a qualified foreign country or countries during at least 510 full days in such period, amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed, as a deduction from his gross income, any deductions properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses) and 913 (relating to deduction for certain expenses of living abroad)."

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—The amount from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of—

"(A) except as provided in subparagraph (B), $20,000, or

"(B) $25,000 in the case of an individual who qualifies under subsection (a)(1), but only with respect to that portion of such taxable year occurring after such individual has been a bona fide resident of a qualified foreign country or countries for an uninterrupted period of 3 consecutive years."

(c) DEFINITION OF QUALIFIED FOREIGN COUNTRY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) QUALIFIED FOREIGN COUNTRY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified foreign country' means any foreign country which is not listed below:

"Andorra, Austria, Belgium, Canada, Denmark, Finland, France, Germany (Federal Republic), Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, United Kingdom.

"(2) OVERSEAS POSSESSIONS, ETC., MAY BE TREATED AS SEPARATE COUNTRY.—For purposes of this section, the Secretary may by regulations provide that an overseas territory, department, province, or possession may be treated as a separate country.

"(3) PRESENCE ON CERTAIN NORTH SEA EQUIPMENT TREATED AS PRESENCE IN A QUALIFIED FOREIGN COUNTRY.—For purposes of this section—

"(A) PRESENCE.—Presence for any full day on equipment for exploring or exploiting natural resources from the seabed and subsoil of the submarine areas of the North Sea shall be treated as presence in a qualified foreign country (and the individual shall be treated as satisfying the requirements of subsection (a)(2) with respect to such day) if—

"(i) the individual's principal place of work is such equipment, and

"(ii) such day falls within a period for which the individual would satisfy the requirements of subsection (a)(2) if presence in any foreign country constituted presence in a qualified foreign country.

"(B) INCOME.—Income which is attributable to services performed on equipment described in subparagraph (A) shall be treated as income received from sources within a qualified foreign country."

(2) CONFORMING AMENDMENT.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(d) REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.—Paragraph (8) of section 911(c) (relating to requirement as to place of receipt) is hereby repealed.

(e) CLERICAL AMENDMENTS.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED IN QUALIFIED FOREIGN COUNTRIES."

(2) The table of section for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned in qualified foreign countries."

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(1), 1304(b), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned in qualified foreign countries".

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) ALLOWANCE OF DEDUCTION.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

"SEC. 913. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who is a citizen or resident of the United States and whose tax home is in a foreign country for any portion of the taxable year, there shall be allowed as a deduction the sum of the following amounts for such portion of the taxable year:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(b) DEDUCTION NOT TO EXCEED NET FOREIGN SOURCE EARNED INCOME.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) the amount excluded from gross income for the taxable year under section 911,

"(ii) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(iii) the allocable deductions.

"(2) ALLOCABLE DEDUCTIONS DEFINED.—For purposes of paragraph (1)(B)(iii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than—

"(A) that portion of the deductions so allocable or chargeable which is disallowed by the last sentence of section 911(a), and

"(B) the deduction allowed by this section.

"(c) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other method) so prescribed shall be revised at least once during each calendar year.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

(A) COMPUTATION ON DAILY BASIS.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) DIFFERENTIAL MAY VARY WITH FAMILY COMPOSITION AND WITH INDIVIDUAL'S INCOME CATEGORY.—The differential prescribed for any foreign place may vary depending on—

"(i) the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) the income category of the individual.

"(D) STATE DEPARTMENT'S INDEX TO BE TAKEN INTO ACCOUNT.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.—Except as provided in subsection (g)(1)(A)(ii), an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(d) QUALIFIED HOUSING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expenses, over

"(B) the individual's base housing amount.

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes

of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

"(A) 1/6 OF BASE COMPENSATION FOR QUALIFIED PENSION PLAN PURPOSES.—

"(i) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term 'base housing amount' means 1/6 of the individual's base compensation.

"(ii) DEFINITION OF BASE COMPENSATION.—For purposes of clause (i), the term 'base compensation' has the meaning given to such term under any qualified plan of deferred compensation within the meaning of section 401 in which the individual participates (or would be eligible to participate but for his failure to satisfy any applicable age or service requirements under such plan).

"(B) DETERMINATION BASED ON EARNED INCOME.—If an individaul's base ho"sing amount cannot be determined under the method prescribed in subparagraph (A), the term 'base housing amount' means 10 per cent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified schooling expenses, and

"(IV) the qualified home leave travel expenses.

"(C) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—If, because of adverse living conditions, or for the convenience of his employer, the individual maintains a household for his spouse and dependents at a place other than his tax home which is in addition to the household he maintains at his tax home, the base housing amount for the household maintained at his tax home shall be zero.

"(4) PERIODS TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (g)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

"(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (g)(1)(B)(iii)).

"(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (a) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(e) QUALIFIED SCHOOLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) EXPENSES INCLUDED.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and of other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) ROOM, BOARD, AND TRAVEL ALLOWED IN CERTAIN CASES.—If an adequate United States-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) DETERMINATION OF REASONABLE EXPENSES.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) PERIOD TAKEN INTO ACCOUNT.—An amount shall be taken into account as a qualified schooling expense only if it is attributable to education for a period during which the individual's tax home is in a foreign country.

"(f) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to a place in the United States and return.

"(2) ONE TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (a) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(g) SPECIAL RULES WHERE INDIVIDUAL MAINTAINS SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS BECAUSE OF ADVERSE LIVING CONDITIONS AT TAX HOME.—

"(1) IN GENERAL.—For any period during which an individual maintains a qualified second household—

"(A) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(i) ALLOWANCE DETERMINED BY REFERENCE TO LOCATION OF QUALIFIED SECOND HOUSEHOLD.—Paragraph (1) of subsection (c) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

"(ii) DISREGARD OF SECTION 119 RULE.—Subparagraph (E) of subsection (c)(2) shall not apply with respect to the spouse and dependents.

"(B) QUALIFIED HOUSING EXPENSES.—

"(i) EXPENSES WITH RESPECT TO QUALIFIED SECOND HOUSEHOLD TAKEN INTO ACCOUNT.—For purposes of subsection (d), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (d)(2) if the individual resided at such household.

"(ii) SEPARATE APPLICATION OF SUBSECTION (d).—Subsection (d) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (d)(3)(B)(ii).

"(iii) CERTAIN RULES NOT TO APPLY.—Paragraphs (4)(A)(ii) and (5) of subsection (d) shall not apply with respect to housing expenses for the qualified second household.

"(C) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

"(i) IN GENERAL.—The requirement of subsection (h)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (e), and paragraph (1) of subsection (f), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) DEFINITION OF QUALIFIED SECOND HOUSEHOLD.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof.

"(B) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(C) RESIDENCE AT TAX HOME.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) ADVERSE LIVING CONDITIONS.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) UNITED STATES.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States.

"(2) LIMITATION TO COACH OR ECONOMY FARE.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

Except as provided in subsection (g)(1)(C)(i), amounts may be taken into account under subsection (e) with respect to any dependent of the individual, and under subsection (f) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

"(i) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

"(2) as an exclusion (other than the exclusion under section 911, or

"(3) as a credit under section 44A (relating to household and dependent care services), any amount to the extent that such amount is taken into account under subsection (c), (d), (e), or (f).

"(j) REGULATION.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules.—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns."

(b) DEDUCTIONS ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

SEC. 204. MOVING EXPENSES.

(a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) SPECIAL RULES FOR FOREIGN MOVES.—

"(1) INCREASE IN LIMITATIONS.— In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) ALLOWANCE OF CERTAIN STORAGE FEES.— In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b) (1) (A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) FOREIGN MOVE.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEDENTS WHO WERE WORKING ABROAD.—

"(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply.

"(2) QUALIFIED RETIREE MOVING EXPENSES.— For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) QUALIFIED SURVIVOR MOVING EXPENSES.— For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

(a) GENERAL RULE.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended—

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) MEALS AND LODGING FURNISHED TO EMPLOYEE, HIS SPOUSE, AND HIS DEPENDENTS, PURSUANT TO EMPLOYMENT.—There shall".

(b) SPECIAL RULE FOR FOREIGN MEALS OR LODGING.—Section 119 is amended by adding at the end thereof the following new subsection:

"(b) FOREIGN MEALS OR LODGING.—

"(1) IN GENERAL.—The value of meals or lodging furnished to an employee, his spouse, and dependents at a location outside the United States by or on behalf of his employer shall be excluded from gross income of an employee if either—

"(A) the requirements of subsection (a) are satisfied, or

"(B) such meals or lodging are camp-style meals or lodging, as defined in paragraph (2).

"(2) CAMP-STYLE MEALS AND LODGING DEFINED.—For purposes of this subsection—

"(A) MEALS.—Meals shall be considered camp-style meals if—

"(i) such meals are furnished in a common eating area which normally serves 10 or more employees and is not available to the public, and

"(ii) the employee is furnished lodging the value of which is excludable from gross income under this section.

"(B) LODGING.—Lodging shall be considered camp-style lodging if the requirements of any of the following clauses are met:

"(i) 2 or more unrelated employees are required by the employer to share the same living quarters.

"(ii) The lodging is furnished in a common area not available to the public which common area normally accomodates 10 or more employees.

"(iii) In the case of housing located in a qualified foreign country (as defined in section 911(d))—

"(I) the housing is assigned on the basis of family size or other nonincome, nonjob description basis,

"(II) the employer assigns housing in the immediate geographic area to 100 or more employees who are United States citizens or residents, and

"(III) the employee lives in housing occupied soley by employees (and their families) of the employer.

"(3) UNITED STATES DEFINED.—For purposes of this subsection, the term 'United States' includes the possessions of the United States."

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(h)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

(a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad."

(b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

(c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

(a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and

after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954.

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) WAGE WITHHOLDING.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

Resolved, That the House insist upon its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, and 8 to the aforesaid bill.

Resolved, That the House insist upon its disagreement to the amendment of the Senate to the title of the aforesaid bill.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist on its amendments Nos. 1, 2, 4 and 8, and to the title of the bill, that the Senate disagree to the amendment of the House to Senate amendment No. 3, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. BYRD of Virginia, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. ROTH, and Mr. LAXALT conferees on the part of the Senate.

UNEMPLOYMENT COMPENSATION AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12232.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12232) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes and requesting a conference with the Senate on the disagreement votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. ROTH, and Mr. DANFORTH conferees on the part of the Senate.

FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12380.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 12380) to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. TALMADGE, Mr. NELSON, Mr. HATHAWAY, Mr. CURTIS, and Mr. LAXALT conferees on the part of the Senate.

H.R. 9486 JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 9486, which was received today from the House of Representatives, to authorize a contribution by the United States to the tin buffer stock, established under the Fifth International Tin Agreement, be jointly referred to the Committee on Armed Services and Foreign Relations.

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

COMMENDATION OF PRESIDENT CARTER OF THE UNITED STATES, PRESIDENT SADAT OF EGYPT, AND PRIME MINISTER BEGIN OF ISRAEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of House Concurrent Resolution 715 and that the Senate proceed to its immediate consideration.

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

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 715) commending President Carter of the United States, President Sadat of Egypt, and Prime Minister Begin of Israel for the courageous steps they have taken to resolve the differences between Egypt and Israel and to bring about a comprehensive, just, and durable peace in the Middle East.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. SPARKMAN be printed in the RECORD at this point:

STATEMENT OF SENATOR SPARKMAN

On Thursday last, the Committee on Foreign Relations ordered favorably reported an original resolution commending President Carter, President Sadat and Prime Minister Begin on the Middle East peace arrangements worked out at the recent Camp David summit conference.

The resolution ordered reported by the Committee is identical to H. Con. Res. 715, which the House passed on the same day that the Committee acted on its original resolution. The House resolution is now pending before the Committee.

This resolution is non-controversial. It passed the House without opposition. Its principal purposes are (1) to commend President Carter, President Sadat of Egypt, and Prime Minister Begin of Israel, on their leadership and courage in devising a framework for peace in the Middle East, and (2) to have the Congress go on record as endorsing their efforts.

I hope the Senate will approve this resolution without further delay.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 715) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

REPEALING CERTAIN SECTIONS OF THE IMMIGRATION AND NATURALIZATION ACT—H.R. 13349

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from consideration of H.R. 13349 and that the Senate proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 13349) an act to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes.

The PRESIDING OFFICER. If there are no amendments to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 13349) was ordered to a third reading, 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. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF ACT CREATING THE INDIAN CLAIMS COMMISSION

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives, H.R. 9945, and I ask unanimous consent that the bill be considered as having been read the first and second times and the Senate proceed to its immediate consideration.

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

The PRESIDING OFFICER laid before the Senate H.R. 9945, to amend the act creating the Indian Claims Commission to repeal the provision limiting the activities of commissioners during the 2 years following their terms of office.

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

The bill was considered, ordered to a third, reading, 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. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT OF THE GREAT LAKES PILOTAGE ACT OF 1960

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House, H.R. 12603, and I ask unanimous consent the bill be considered having been read the first and second times and the Senate proceed to its immediate consideration.

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

The PRESIDING OFFICER laid before the Senate H.R. 12603, an act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes.

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

The bill was considered, ordered to a third reading, 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. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCISE TAX ON CERTAIN TRUCKS, BUSES, TRACTORS, ETC.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1337.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 1337) entitled "An Act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera", with the following amendments:

Page 3, line 25, of the Senate engrossed amendments, strike out "age", and insert: age,

Page 4 of the Senate engrossed amendments, strike out lines 1 through 3 and insert: age (if any) established by law applicable in the locality in which the household is situated at which beer may be sold to individuals, whichever is greater."

Page 8, line 7, of the Senate engrossed amendments, strike out "(4).", and insert: (4)).".

Page 8, lines 12 and 13, of the Senate engrossed amendments, strike out "the first section of this Act" and insert in lieu thereof: this section

Page 8 of the Senate engrossed amendments, strike out all after line 15 over to and including line 9 on page 13, and insert:

SEC. 4. PARTIAL ROLLOVERS OF LUMP SUM DISTRIBUTIONS.

(a) PARTIAL ROLLOVER FROM EMPLOYEES' TRUSTS PERMITTED.—Paragraph (5) of section 402(a) of the Internal Revenue Code of 1954 (relating to rollover amounts) is amended to read as follows:

"(5) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in a qualified trust is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any qualifying roll-over distribution, the maximum amount transferred to which subparagraph (A) applies shall not exceed the fair market value of all the property the employee receives in the distribution, reduced by the employee contributions.

"(C) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) QUALIFYING ROLLOVER DISTRIBUTION.—The term 'qualifying rollover distribution' means 1 or more distributions—

"(I) within 1 taxable year of the employee on account of a termination of the plan of which the trust is a part or, in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan, or

"(II) which constitute a lump sum distribution within the meaning of subsection (e)(4)(A) (determined without reference to subsection (e)(4)(B)).

"(ii) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(I) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over

"(II) any amounts theretofore distributed to the employee which were not includible in gross income.

"(iii) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(iv) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(I) an individual retirement account described in section 408(a),

"(II) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(III) a retirement bond described in section 409,

"(IV) a qualified trust, and

"(V) an annuity plan described in section 403(a).

"(E) SPECIAL RULES.—

"(i) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I), (II), or (III) of subparagraph (D)(iv) shall be treated as a rollover contribution described in section 408(d)(3).

"(ii) SELF-EMPLOYED INDIVIDUALS AND OWNER-EMPLOYEES.—An eligible retirement plan described in subclause (IV) or (V) of subparagraph (D)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if any part of the distribution is attributable to a trust forming part of a plan under which the employee was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan."

(b) PARTIAL ROLLOVER OF ANNUITY CONTRACTS PERMITTED.—Subsection (a) of section 403 of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraph:

"(4) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee in an employee annuity described in paragraph (1) is paid to him in a qualifying rollover distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an eligible retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of section 402(a)(5) and of paragraph (6) of section 402(a) shall apply for purposes of subparagraph (A)."

(c) TAXATION OF PORTION NOT ROLLED OVER.—

(1) IN GENERAL.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which paragraph (5)(A) applies, paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e) shall not apply with respect to such lump sum distribution."

(2) CONFORMING AMENDMENTS.—Paragraph (6) of section 402(a) of such Code is amended—

(A) by striking out "For purposes of paragraph (5)(A)(i)",

(B) by striking out "A complete" in subparagraph (A) and inserting in lieu thereof "For purposes of paragraph (5)(D)(i), a complete", and

(C) by inserting "For purposes of paragraph (5)(D)(i)—" after "ASSETS.—" in subparagraph (B).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1974.

(2) VALIDATION OF CERTAIN ATTEMPTED ROLLOVERS.—If the taxpayer—

(A) attempted to comply with the requirements of section 402(a)(5) or 403(a)(4) of the Internal Revenue Code of 1954 for a taxable year beginning before the date of the enactment of this Act, and

(B) failed to meet the requirements of such section that all property received in the distribution be transferred,

such section (as amended by this section) shall be applied by treating any transfer of property made on or before December 31, 1978, as if it were made on or before the 60th day after the day on which the taxpayer received such property. For purposes of the preceding sentence, a transfer of money shall be treated as a transfer of property received in a distribution to the extent that the amount of the money transferred does not exceed the highest fair market value of the property distributed during the 60-day period beginning on the date on which the taxpayer received such property.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senator concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

REVOCATION OF ELECTION TO RECEIVE RETIRED PAY AS A TAX COURT JUDGE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8811.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 8811) entitled "An Act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court", with the following amendments:

Page 1, strike out lines 2 and 3, and insert:

SEC. 3. TREATMENT OF GROUP LEGAL SERVICE PLAN CONTRIBUTIONS FOR PURPOSES OF UNEMPLOYMENT AND SOCIAL SECURITY TAXES.

Page 2, strike out lines 9 through 13, and insert:

(1) by striking out "or" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(17) any contribution, payment, or service proj-

Page 5, strike out lines 2 through 7, and insert: to such qualified replacement property—

"(1) the 15-year period under paragraph (1) of subsection (c) shall be extended by any period, beyond the 2-year period referred to in section 1033(a)(2)(B)(i), during which the qualified heir was allowed to replace the qualified real property, and

"(ii) the phaseout period under paragraph (3) of subsection (c) shall be appropriately adjusted to take into account the extension referred to in clause (i),

Page 6, lne 21, strike out "paragraph (2)(B)", and insert: paragraph (3)(B)(ii)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to. The motion was agreed to.

INTERNATIONAL TRADE COMMISSION AUTHORIZATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11005.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 11005) entitled "An Act to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979", with the following amendment:

In lieu of the sum proposed by said amendment, insert: "$12,963,000".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders are recognized under the standing order, Mr. STAFFORD be recognized for not to exceed 15 minutes and that Mr. HEINZ then be recognized for not to exceed 15 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized, Mr. HARRY F. BYRD, JR., be recognized for 15 minutes, as I understand, prior to the recognition of Mr. STAFFORD and Mr. HEINZ.

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

ORDER FOR RECESS UNTIL 9:15 A.M.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding from a conversation with Mr. STAFFORD that he wanted to be recognized around 9 or 9:15 tomorrow morning. I therefore ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow; that Mr. STAFFORD be recognized immediately after the two leaders; and that the time of the two leaders be reduced to 2 minutes each to accommodate Mr. STAFFORD.

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

ORDER FOR CONSIDERATION TOMORROW OF S. 2474, PUBLIC HEALTH SERVICE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders for the recognition of Senators have been completed, the Senate proceed to the consideration of Calendar No. 791, the Public Health Service bill.

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

THE MAJORITY LEADER'S THANKS

Mr. ROBERT C. BYRD. Mr. President, I wish to express my appreciation to the distinguished minority leader for his cooperation and to commiserate with him in having to stand on this floor at 10:30 p.m. on this night of Thursday in order to complete the business of the Senate.

Mr. BAKER. Mr. President, if the Senator will yield, I am happy that we were able to complete as much as we did today. I think it has been a good day, and I am delighted that, notwithstanding the long hour, it has come out well.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Tennessee was here when the Senate opened this morning, as he is practically every day, and is here when it closes, as he is practically every day. This is no small chore, with these long sessions. I thank him, and I thank all members of the Senate and everyone else who is forced to stay by virtue of the fact that the Senate is in session.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:15 a.m. tomorrow.

The motion was agreed to; and at 10:31 p.m., the Senate recessed until tomorrow, Friday, September 29, 1978, at 9:15 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, September 28, 1978*

The House met at 10 a.m.

Rev. Brady B. Forman, pastor, Kenner United Methodist Church, Kenner, La., offered the following prayer:

Almighty and merciful God, the Father of us all, we honor You and seek Your blessings as we try to fulfill our responsibilities today in a manner acceptable to You.

Today when we are tempted to compromise our standards of justice and honesty because of pressure, without and within, may Your Holy Spirit become our source of strength and wisdom.

Keep us from being impressed with our own importance and help us to handle wisely and with love the power that has been intrusted to us.