the Canal Zone; to the Committee on Merchant Marine and Fisheries.

H. Res. 23. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mrs. HOLT:

H. Res. 24. Resolution amending rule XIII of the Rules of the House to require reports accompanying each bill or joint resolution of a public character (except revenue measures) reported by a committee to contain estimates of the cost, to both public and nonpublic sectors, of carrying out the measure reported; to the Committee on Rules.

By Mr. HORTON (for himself, and Mr. STEED):

H. Res. 25. Resolution amending clause 7 of rule XIII of the Rules of the House; to the Committee on Rules.

By Mr. KOSTMAYER:

H. Res. 26. Resolution amending the Rules of the House of Representatives to provide that the Committee on Standards of Official Conduct shall promptly report a resolution recommending the expulsion of any Member who has been convicted by a court of record for the commission of a crime for which a sentence of 2 or more years' imprisonment may be imposed, if such conviction has become final; to the Committee on Rules.

H. Res. 27. Resolution amending the Rules of the House of Representatives to provide that any Member who has been convicted of crime and sentenced to 2 or more years in prison and who has exhausted all appeals of such conviction shall refrain from participation in any business of the House; to the Committee on Standards of Official Conduct.

By Mr. LAGOMARSINO:

H. Res. 28. Resolution to amend rule XI of the Rules of the House of Representatives to eliminate proxy voting in committees; to the Committee on Rules.

By Mr. LOTT (for himself, Mr. RHODES, Mr. ANDERSON of Illinois, Mr. MICHEL, Mr. EDWARDS of Alabama, Mr. QUILLEN, Mr. DEVINE, and Mr. SHUSTER):

H. Res. 29. Resolution providing for the establishment of a Select Committee on the Committee System; to the Committee on Rules.

By Mr. McDONALD:

H. Res. 30. Resolution to establish a Select Committee to Investigate Illegal or Unethical Practices of the Internal Revenue Service; to the Committee on Rules.

By Mr. MITCHELL of New York:

H. Res. 31. Resolution concerning the Safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on International Relations.

By Mr. NEAL:

H. Res. 32. Resolution to establish a Select Committee on Inflation; to the Committee on Rules.

By Mr. O'BRIEN:

H. Res. 33. Resolution to establish a Select Committee on Handicapped Individuals; to the Committee on Rules.

By Mr. PEYSER:

H. Res. 34. Resolution to request the Speaker of the House of Representatives to establish a Task Force on Federal Regulatory Practices; to the Committee on Rules.

By Mr. ROBERTS (for himself and Mr. HAMMERSCHMIDT):

H. Res. 35. Resolution to provide for the expenses of investigations and studies to be conducted by the Committee on Veterans' Affairs; to the Committee on House Administration.

By Mr. ROBINSON:

H. Res. 36. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. ROE:

H. Res. 37. Resolution to create a congressional senior citizen intern program; to the Committee on House Administration.

By Mr. SCHEUER (for himself and Mr. ERLENBORN):

H. Res. 38. Resolution establishing a Select Committee on Population; to the Committee on Rules.

By Mr. VANIK (for himself, Mr. FINDLEY, Mr. LONG of Maryland, Mr. ANDERSON of California, Mr. APPLEGATE, Mr. BENJAMIN, Mr. BUCHANAN, Mr. CORRADA, Mr. DRINAN, Mr. EDWARDS of California, Mr. ERTEL, Mr. GORE, Mr. HARRIS, Mr. JONES of Oklahoma, Mr. LOWRY, Mr. LUKEN, Mr. MARKEY, Mr. MOTTL, Mr. RINALDO, Mr. SKELTON, Mr. WEISS, Mr. WINN, Mr. GINN, Mr. GEPHARDT, Mr. GONZALEZ, and Mr. DUNCAN of Tennessee):

H. Res. 39. Resolution to establish a Select Committee on Inflation; to the Committee on Rules.

By Mr. WEISS:

H. Res. 40. Resolution to amend the Rules of the House of Representatives to require that all bills and resolutions have titles which accurately reflect their contents and all subject matters contained therein; to the Committee on Rules.

By Mr. WHITE:

H. Res. 41. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. YOUNG of Florida:

H. Res. 42. Resolution to reaffirm the use of our national motto on coins and currency; to the Committee on Banking, Finance and Urban Affairs.

H. Res. 43. Resolution to reaffirm the use of the phrase, "Under God", in the Pledge of Allegiance to the Flag of the United States; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

1. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to extending the anti-recession fiscal aid program; to the Committee on Government Operations.

2. Also, memorial of the Legislature of the Commonwealth of Puerto Rico, relative to their repudiation of the Resolution of the United Nations Decolonization Committee regarding Puerto Rico's status; to the Committee on Interior and Insular Affairs.

3. Also, memorial of the Senate of the Commonwealth of Puerto Rico, relative to their repudiation of interference by Representatives of Communist Cuba in the affairs of Puerto Rico in the United Nations Organization's Decolonization Committee; to the Committee on Interior and Insular Affairs.

4. Also, memorial of the Legislature of the Commonwealth of the Northern Mariana Islands, relative to the Overseas Private Investment Corporation extending loans to U.S. companies for viable economic projects in the Northern Mariana Islands; to the Committee on International Relations.

5. Also, memorial of the Legislature of the State of Texas, requesting that Congress propose, or alternatively, call a convention for the purpose of proposing an amendment to the Constitution of the United States requiring, in the absence of a national emergency, that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for that fiscal year; to the Committee on the Judiciary.

6. Legislature of the State of Texas, reaffirming its earlier call for an amendment to the Constitution of the United States requiring a balanced annual Federal budget; to the Committee on the Judiciary.

7. Also, memorial of the Senate of the Commonwealth of Puerto Rico, relative to their support of granting citizens of Washington, D.C., full representation in the U.S. Congress; to the Committee on the Judiciary.

8. Also, memorial of the Senate of the Commonwealth of Puerto Rico, relative to their support of measures before the Congress that authorize the use of the Spanish language in the Federal Court of Puerto Rico; to the Committee on the Judiciary.

9. Also, memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to congressional authorization of the use of the Spanish language in the Federal Court for the District of Puerto Rico; to the Committee on the Judiciary.

10. Also, memorial of the Legislature of the Commonwealth of the Northern Mariana Islands, relative to requesting the U.S. Government to declare an open-sky policy for the Commonwealth of the Northern Mariana Islands to the Committee on Public Works and Transportation.

11. Also, memorial of the Legislature of the Commonwealth of the Northern Mariana Islands, relative to expressing their appreciation to the U.S. Congress for disapproving a rider to H.R. 13511 which would have denied their residents of benefits under title XVI of the Social Security Act; to the Committee on Ways and Means.

SENATE—*Monday, January 15, 1979*

The 15th day of January being the day prescribed by Public Law 95-594, 95th Congress, 2d session, for the meeting of the 1st session of the 96th Congress, the Senate assembled in its Chamber at the Capitol at 12 o'clock meridian.

The VICE PRESIDENT. The Senate will come to order. The Chaplain will offer the prayer.

PRAYER

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

God of our fathers, God of history, God of the Scriptures, and God of inner experience, draw us together this day by our common loyalty to Thee. May the beginning day for some be a new beginning for all.

Keep us ever mindful of who we are, what our duties are, and the people who put us here. Lift our vision beyond ourselves and our party to the larger realm of our common humanity. Keep us true to truth and faithful to our best selves. Make us unashamed of old values and

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

unafraid of new ones. Strengthen our homes and make them sanctuaries of enduring love.

Give us a part in the spiritual renewal of America, in the restoration of the moral law and in the recovery of an elevated patriotism. Endow us with an abiding sense of servanthood. Bestow Thy higher wisdom upon the President and all who serve in the government of the Nation this day and always.

In Thy holy name we pray.

Now in keeping with a first day tradition of the Senate will you join with me in the Lord's prayer, praying in unison?

"Our Father, who art in heaven, Hallowed be Thy name. Thy kingdom come. Thy will be done, On earth as it is in heaven. Give us this day our daily bread. And forgive us our trespasses, As we forgive those who trespass against us. And lead us not into temptation, But deliver us from evil. For thine is the kingdom, and the power, and the glory, for ever." Amen.

CREDENTIALS—RESIGNATIONS AND APPOINTMENTS

The VICE PRESIDENT. The Chair lays before the Senate the letters of resignation of six Senators and certificates of appointment of six Senators to fill the vacancies caused by these resignations.

Without objection, the reading will be waived and the documents will be printed in the RECORD.

The documents ordered to be printed in the RECORD are as follows:

U.S. SENATE,
Washington, D.C., December 13, 1978.
Hon. J. STANLEY KIMMITT,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: Enclosed herewith find copy of my letter of resignation to the Governor of Montana effective the close of business on the 14th day of December, 1978.

I am immensely proud to have been a member of the Senate and to have had the opportunity to represent the State of Montana.

I am most grateful for your many courtesies and the kindness shown to me and my staff during my stay here in Washington. I thank you sincerely for your most uncommon friendship.

Very truly yours,

PAUL G. HATFIELD.

U.S. SENATE,
Washington, D.C., December 13, 1978.
Hon. JAMES O. EASTLAND,
President Pro Tempore, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed herewith find copy of my letter of resignation to the Governor of Montana effective the close of business on the 14th day of December, 1978.

I am immensely proud to have been a member of the Senate and to have had the opportunity to represent the State of Montana.

I am most grateful for the many courtesies and the kindness you have shown me during my stay here in Washington, and I thank you sincerely for your most uncommon friendship.

Very truly yours,

PAUL G. HATFIELD.

U.S. SENATE,
Washington, D.C., December 13, 1978.
Hon. THOMAS L. JUDGE,
Governor of the State of Montana,
Helena, Mont.

DEAR GOVERNOR JUDGE: Please accept this letter as my resignation as United States Senator from the State of Montana, effective the close of business on the 14th day of December, 1978.

Very truly yours,

PAUL G. HATFIELD.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR.

CERTIFICATE OF APPOINTMENT

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

I, Thomas L. Judge, Governor of Montana, pursuant to the power vested in me by the Constitution of the United States and the Constitution and Laws of the State of Montana, do hereby appoint, effective the 15th of December, 1978, Max Baucus, a Senator to represent the State of Montana in the Senate of the United States for the unexpired term ending at noon on the 3rd day of January 1979, caused by the resignation of Senator Paul G. Hatfield.

THOMAS JUDGE,
Governor.

Attest:

FRANK MURRAY,
Secretary of State.

U.S. SENATE,
Committee on Foreign Relations,
Washington, D.C., November 30, 1978.
Hon. WALTER F. MONDALE,
Office of the Vice President,
The White House, Washington, D.C.

DEAR MR. VICE PRESIDENT: This is to advise you that I intend to resign my position as United States Senator, effective at twelve noon on Saturday, December 23rd. As President of the Senate, I wanted you to be advised of this decision.

Very truly yours,

JAMES B. PEARSON,
U.S. Senator.

The VICE PRESIDENT,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I resign as United States Senator for the State of Kansas December 23, 1978 at 12:00 noon.

JAMES B. PEARSON.

NOVEMBER 30, 1978.

RESIGNATION NOTIFICATION

Hon. ROBERT F. BENNETT,
Office of the Governor, State Capitol, Topeka, Kans.

DEAR GOVERNOR: This is to advise you that I will resign my position as United States Senator for the State of Kansas, effective at twelve noon, Saturday, December 23, 1978.

Very truly yours,

JAMES B. PEARSON,
U.S. Senator.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Kansas, I, Robert F. Bennett, the Governor of said State, do hereby appoint Nancy Landon Kassebaum, a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of James B. Pearson, is filled by election as provided by law.

Witness: His excellency our Governor Robert F. Bennett, and our seal hereto affixed at Topeka this 23rd day of December, in the year of our Lord 1978.

By the Governor:

ROBERT F. BENNETT,
Governor.

RALPH BAUER,
Secretary of State.

U.S. SENATE,
Washington, D.C., December 27, 1978.
Hon. WALTER F. MONDALE,
The Vice President,
The Capitol, Washington, D.C.

DEAR MR. VICE PRESIDENT: I hereby resign as United States Senator from the State of Mississippi, said resignation to take effect immediately.

I am proud to have had the privilege of representing the great people and the great State of Mississippi for many years.

I take this action to help my successor to gain some seniority in the great task which he is now beginning.

Sincerely,

JAMES O. EASTLAND,
U.S. Senator.

MISSISSIPPI,
Executive Department, Jackson.

CERTIFICATE OF APPOINTMENT

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Mississippi, I, Cliff Finch, the Governor of said State, do hereby appoint Senator-Elect Thad Cochran, Jackson, Mississippi, a Senator from said State to represent said State in the Senate of the United States until January 3, 1979, when the vacancy therein shall have been filled as provided by law, vice Senator James O. Eastland, resigned.

Witness: His Excellency our Governor, and our seal hereto affixed at Jackson, Mississippi, this 27th day of December, in the year of our Lord 1978.

By the Governor:

CLIFF FINCH,
Governor.

HEBER WADNER,
Secretary of State.

U.S. SENATE,
Washington, D.C., December 21, 1978.
Hon. RUDY PERPICH,
Governor of Minnesota,
St. Paul, Minn.

DEAR GOVERNOR PERPICH: I hereby resign as a United States Senator from the State of Minnesota effective the close of business on Friday, December 29, 1978.

In accordance with Senate rules, I have notified Senator James O. Eastland, President Pro Tempore of the Senate of my resignation, and have enclosed a copy of my letter to him.

With warmest personal regards.

Sincerely,

WENDELL R. ANDERSON.

U.S. SENATE,
Washington, D.C., December 21, 1978.
Hon. JAMES O. EASTLAND,
President Pro Tempore, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: I herewith tender my resignation as a member of the United States Senate from Minnesota effective the close of business on Friday, December 29, 1978.

Sincerely,

WENDELL R. ANDERSON.

STATE OF MINNESOTA,
OFFICE OF THE GOVERNOR,
St. Paul, December 26, 1978.

Hon. WALTER F. MONDALE,
Vice President of the United States,
Washington, D.C.

DEAR MR. VICE PRESIDENT: I have decided to appoint Rudy Boschwitz from this state to represent Minnesota in the Senate of the United States caused by the resignation of Wendell R. Anderson.

Included with this letter is a Certificate of Appointment for your purposes.

Thank you.

Sincerely,

RUDY PERPICH,
Governor.

STATE OF MINNESOTA,
Executive Department.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Minnesota, I, Rudy Perpich, the governor of said State, do hereby appoint Rudy Boschwitz a Senator from said State to represent said State in the Senate effective December 30, 1978 for the unexpired term ending at noon, on January 3, 1979, caused by the resignation of Wendell R. Anderson.

Witness: His excellency our governor Rudy Perpich, and our seal hereto affixed at St. Paul this 26th day of December, in the year of our Lord 1978.

By the governor:

RUDY PERPICH,
Governor, State of Minnesota.
JOAN ANDERSON GROWE,
Secretary of State.

U.S. SENATE,
Washington, D.C., December 29, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: This is to notify you that I have today informed the Governor of the State of Wyoming of my resignation as a member of the United States Senate, effective midnight, December 31, 1978.

A copy of my letter to Governor Herschler is enclosed.

Very truly yours,

CLIFFORD P. HANSEN,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 29, 1978.

Hon. ED HERSCHLER,
Governor of the State of Wyoming,
Cheyenne, Wyo.

DEAR GOVERNOR HERSCHLER: I hereby announce my resignation as a United States Senator effective midnight, December 31, 1978.

Yours truly,

CLIFFORD P. HANSEN,
U.S. Senator.

WYOMING,
Executive Department Cheyenne,
December 29, 1978.

Mr. STAN KIMMITT,
Secretary of the Senate,
Washington, D.C.

DEAR STAN: Pursuant to our telephone conversation of today I am enclosing herewith a Certificate of Appointment for Alan K. Simpson as a senator from the State of Wyoming to fill the vacancy created by the resignation of Senator Clifford P. Hansen.

I was advised this morning by Senator Hansen that he is transmitting a letter of resignation to you and that such resignation will become effective as of midnight December 31, 1978. I assume that by the time you receive the enclosed certificate you will have received Senator Hansen's letter of resignation.

In the event that you require additional information or have other requirements I would appreciate it if you would so advise.

With every best wish and kindest regards, I am

Yours sincerely,

ED HERSCHLER.

WYOMING,
Executive Department, Cheyenne.

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the constitution of the United States and the laws of the State of Wyoming, I, Ed Herschler, the Governor of said state, do hereby appoint Alan K. Simson, as Senator from said state, to represent said state in the Senate of the United States until the vacancy therein caused by the resignation of Senator Clifford P. Hansen is filled as provided by law.

Witness: His excellency our Governor Ed Herschler, and our seal hereto affixed at Cheyenne, Wyoming, this 1st day of January, in the year of our Lord, 1979.

By the Governor:

ED HERSCHLER,
LINDA MOSLEY,
Deputy Secretary of State.

U. S. SENATE,
Washington, D.C., December 26, 1978.

Hon. WALTER F. MONDALE,
President of the Senate
Washington, D.C.

DEAR MR. PRESIDENT: I hereby submit my resignation from the Senate effective at midnight, January 1, 1979.

With kind personal regards,

Sincerely,

WILLIAM L. SCOTT,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 26, 1978.

Hon. JOHN N. DALTON,
Governor of Virginia,
Richmond, Va.

DEAR GOVERNOR: Enclosed is a copy of a letter to the President of the Senate submitting my resignation to be effective at midnight, January 1, 1979.

As indicated in our informal conversation, this notification should provide sufficient time for you to appoint Senator-elect John Warner so that he will have seniority over incoming senators who take the oath of office shortly after noon on January 3rd.

With kind personal regards,

Sincerely,

WILLIAM L. SCOTT,
U.S. Senator.

COMMONWEALTH OF VIRGINA,
Office of the Governor, Richmond.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify, pursuant to the power vested in me by the Constitution of the United States and the laws of the Commonwealth of Virginia, I, John N. Dalton, the Governor of said State, do hereby appoint John W. Warner, a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of William L. Scott, is filled by election as provided by law.

Witness: His Excellency, our Governor, John N. Dalton, and our seal hereto affixed at Richmond this 2nd day of January, 1979.

By the Governor:

JOHN N. DALTON,
Governor.
FREDERICK GRAY, Jr.,
Secretary of the Commonwealth.

The VICE PRESIDENT. The Chair lays before the Senate the credentials of 33 Senators elected for 6-year terms beginning on January 3, 1979, and the credentials of two Senators elected for unexpired terms. All certificates, the Chair is advised, are in the form suggested by the Senate except the ones from Louisiana and Delaware, which use a different form but contain all the essential requirements of the form suggested by the Senate. There being no objection, the reading of the 35 certificates will be waived, and they will be printed in full in the RECORD.

The certificates ordered to be printed in the RECORD are as follows:

To the President of the Senate of the United States:

This is to certify that on the Seventh day of November, 1978, William L. Armstrong was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1979.

Witness: His excellency our Governor Richard D. Lamm, and our seal hereto affixed at this Twenty-eighth day of December, in the year of our Lord 1978.

RICHARD D. LAMM,
Governor.

Attest:

MARY ESTILL BUCHANAN,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to Certify: That on the 7th day of November, 1978, The Honorable Howard H. Baker, Jr., was duly chosen by the qualified electors of the State of Tennessee a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1979.

Witness: His excellency our Governor Ray Blanton, and our seal hereto affixed at Nashville, this 3d day of January, in the year of our Lord 1979.

By the Governor:

RAY BLANTON,
Governor.
GENTRY CROWELL,
Secretary of State.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Know Ye That I, Thomas L. Judge, Governor of the State of Montana, do hereby certify that at a General Election held in the State of Montana, on the 7th day of November, A.D. 1978, pursuant to Section 23-4018 of the Revised Codes of the said State, Max Baucus was duly elected to the office of United States Senator in and for the State of Montana, having received the highest number of votes for said office as appears from a certified copy of the abstract of votes cast at said election now on file in my office.

And by virtue of the power vested in me by the Constitution, and in pursuance of the laws, I do hereby commission the said Max Baucus to be United States Senator and authorize and empower him to execute and discharge all and singular, the duties appertaining to said office, and enjoy all the privileges

and immunities thereof for a period of six years, beginning January 3, 1979.

In testimony whereof, I have hereunto subscribed my hand and caused the Great Seal of the State of Montana to be affixed at Helena, the Capital, the 24th day of November, in the year of our Lord, One Thousand Nine Hundred Seventy-eight and in the Two Hundred Third year of the Independence of the United States.

By the Governor:

THOMAS JUDGE,
Governor.
FRANK . MURRAY,
Secretary of State.

DOVER, DEL.,
January 4, 1979.

Hon. J. S. KIMMITT,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: I am pleased to transmit to you a Certificate of the Election of the Honorable Joseph R. Biden, Jr. as Senator of and for the State of Delaware in the Senate of the United States.

Sincerely yours,

PIERRE S. DU PONT,
Governor.

By Authority of The State of Delaware

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

Be it Known, An election was held in the State of Delaware, on Tuesday, the seventh day of November, in the year of our Lord one thousand nine hundred and seventy-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

Whereas, The official certificates or returns of the said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of the said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found Joseph R. Biden, Jr. to be the person highest in vote, and therefore duly elected Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and seventy-nine.

I, Pierre S. du Pont, IV, Governor, do therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said Joseph R. Biden, Jr. the person highest in vote at the election aforesaid, and therefore duly and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and seventy-nine.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the 4th day of January in the year of our Lord one thousand nine hundred and seventy-nine and in the year of the Independence of the United States of America the two hundred and third.

PIERRE S. DU PONT,
Governor.
GLENN KENTON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, David L. Boren was duly chosen by the qualified electors of the State of Oklahoma a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our Governor David L. Boren, and our seal hereto affixed at Oklahoma City, Oklahoma this 25th day of November, 1978.

By the Governor:

DAVID L. BOREN,
Governor.

Attest:

JEROME W. BYRD,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Rudy Boschwitz was duly chosen by the qualified electors of the State of Minnesota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1979.

Witness: His excellency our governor Rudy Perpich, and our seal hereto affixed at St. Paul this 20th day of December, in the year of our Lord 1978.

By the governor:

RUDY PERPICH,
Governor.
JOAN ANDERSON GRAINE,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Bill Bradley, was duly chosen by the Qualified Electors of the State of New Jersey a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His Excellency our Governor Brendan T. Byrne, and our Seal hereto affixed at Trenton, this 5th day of December, in the year of our Lord 1978.

By the Governor:

BRENDAN BYRNE,
Governor.
DONALD LAN,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Thad Cochran was duly chosen by the qualified electors of the State of Mississippi a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency, our governor Cliff Finch, and our seal hereto affixed at Jackson, Mississippi, this 8th day of November, A.D., 1978.

By the Governor:

CLIFF FINCH,
Governor.
HELEN LADNER,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, William S. Cohen was duly chosen by the qualified electors of the State of Maine a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3d day of January, 1979.

Witness: His excellency our Governor Jame B. Longley, and our seal hereunto affixed at Augusta, Maine this seventh day of December, in the year of our Lord 1978.

By the Governor:

JAMES B. LONGLEY,
Governor.
MARKHAM L. GARTLEY,
Secretary of State.

TO THE PRESIDENT OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Pete Domenici was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1979.

Witness: His excellency our Governor Jerry Apodaca, and our seal hereto affixed at the Executive Offices in Santa Fe, New Mexico, the Capital, this 5th day of December, in the year of our Lord 1978.

By the Governor:

JERRY APODACA,
Governor.
ERNESTINE D. EVANS,
Secretary of State.

SAINT PAUL, MINN.,
December 12, 1978.

Vice President WALTER F. MONDALE,
Office of the Vice President,
Old Executive Office Building,
Washington, D.C.

DEAR MR. VICE PRESIDENT: On November 7, 1978 David Durenberger was duly chosen by the people of Minnesota to complete the unexpired term of the late Hubert H. Humphrey.

Included with this letter is a Certificate of Election for your purposes.

Thank you.

Sincerely,

RUDY PERPICH,
Governor.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, David Durenberger was duly chosen by the qualified electors of the State of Minnesota a Senator for the unexpired term ending at noon on the third day of January, 1983, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of Hubert H. Humphrey.

Witness: His excellency our governor, Rudy Perpich, and our seal hereto affixed at St. Paul this 12th day of December in the year of our Lord 1978.

By the Governor:

RUDY PERPICH,
Governor.
JOAN ANDERSON GROWE,
Secretary of State.

TO THE PRESIDENT OF THE UNITED STATES SENATE:

This is to certify that on the 7th day of November, 1978, J. James Exon was duly chosen by the qualified electors of the State of Nebraska a Senator from said State to represent said State in the Senate of the United States for a term of six years beginning on the 3rd day of January, 1979.

Witness: His excellency our governor J. James Exon, and our seal hereto affixed at Lincoln this 4th day of December, in the year of our Lord 1978.

By the governor:

J. JAMES EXON,
Governor.
ALLEN J. BEERMANN,
Secretary of State.

SALEM, OREG.,
January 3, 1979.

Hon. J. S. KIMMITT,
Secretary of the Senate,
U.S. Senate, Washington, D.C.

DEAR MR. KIMMITT: Enclosed you will find a Certificate attesting to the election of the Honorable Mark O. Hatfield as United States Senator for a six year term.

The subject election was held in the State of Oregon on the 7th day of November, 1978.

Sincerely,

NORMA PAULUS.

TO THE PRESIDENT OF THE UNITED STATES SENATE:

This is to certify that on the 7th day of November, 1978, Mark O. Hatfield was duly chosen by the qualified electors of the State of Oregon a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our Governor, Robert W. Straub, and our seal hereto affixed at Salem, Oregon, this 3rd day of January, in the year of our Lord 1979.

By the Governor:

ROBERT W. STRAUB,
Governor.

NORMA PAULUS,
Secretary of State.

MONTGOMERY, ALA.,
November 20, 1978.

TO THE PRESIDENT OF THE UNITED STATES SENATE:

This is to certify that on the 7th day of November, 1978, Howell Heflin was duly chosen by the qualified electors of the State of Alabama a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

GEORGE C. WALLACE,
Governor.

Witness: His excellency our governor, George C. Wallace, and our seal hereto affixed at Montgomery this 20th day of November, in the year of our Lord 1978.

AGNES BAGGETT,
Secretary of State.

I, Thad Eure, Secretary of State of the State of North Carolina, do hereby certify that the State Board of Elections met on Tuesday, the 28th day of November, A.D., 1978, in accordance with Chapter 163 of the General Statutes of North Carolina, at which time the Board did open, canvass and judicially determine the returns of the votes cast in the election held on Tuesday, Novembr 7, 1978, and certified to me that Jesse Helms was duly elected United States Senator from North Carolina for the term of six years, beginning January 3, 1979.

In witness where of, I have hereunto set my hand and affixed my official seal.

Done in office at Raleigh, this the 29th day of November, 1978.

THAD EURE,
Secretary of State.

RALEIGH, N.C.,
December 22, 1978.

Hon. JESSE HELMS,
Raleigh, N.C.

DEAR SENATOR HELMS: By letters to you and the Secretary of the Senate on November 29, 1978, I enclosed certificates of your election to the United States Senate "for the term of six years, beginning January 1, 1979." The Secretary of the Senate has called my attention to the requirement that the beginning date of the term should read January 3, 1979.

Enclosed is a substitute certificate meeting the requirement to take the place of the one previously issued. A like certificate is going to the Secretary of the Senate with copy of this letter.

Sincerely,

THAD EURE.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the Seventh day of November, 1978, Jesse Helms was duly chosen by the qualified electors of the State of North Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the Third day of January, 1979.

Witness: His excellency our governor James B. Hunt, Jr., and our seal hereto affixed at the Capitol this eleventh day of December, in the year of our Lord 1978.

By the governor:

JAMES B. HUNT, Jr.,
Governor.

THAD EURE,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Walter Huddleston was duly chosen by the qualified electors of the State of Kentucky, a Senator from said State, to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our Governor Julian M. Carroll, and our seal hereto affixed at Frankfort this 27th day of November, in the year of our Lord 1978.

JULIAN M. CARROLL,
Governor.

DREXELL R. DAVIS,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, nineteen hundred and seventy-eight Gordon J. Humphrey was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-nine.

Witness: His Excellency, our Governor Meldrim Thomson, Jr. and our Seal hereto affixed at Concord this twenty-second day of November, in the year of our Lord nineteen hundred and seventy-eight.

MELDRIM THOMSON, Jr.,
Governor.

By the Governor, with advice of the Council:

WILLIAM M. GORDON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November 1978, Roger W. Jepsen was duly chosen by the qualified electors of the State of Iowa a Senator from Iowa to represent Iowa in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 11th day of December in the year of our Lord one thousand nine hundred and seventy-eight.

ROBERT V. RAY,
Governor.

MELVIN D. SYNHORST,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that J. Bennett Johnston having received a majority of votes cast at the primary election held September 16, 1978 and having been unopposed at the general election held November 7, 1978, was duly chosen by the qualified electors of the State of Louisiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-nine.

Witness: This excellency, our Governor Edwin Edwards, and our Seal hereto affixed, at Baton Rouge, this 21st day of November, in the year of our Lord, nineteen hundred and seventy-eight.

EDWIN EDWARDS,
Governor.

By the Governor:

PAUL J. HARDY,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, nineteen hundred seventy-eight Nancy Landon Kassebaum was duly chosen by the qualified electors of the State of Kansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred seventy-nine.

Witness: The Honorable Robert F. Bennett, our Governor, and our seal hereto affixed at Topeka this twenty-ninth day of November, in the year of our Lord nineteen hundred seventy-eight.

By the Governor:

ROBERT F. BENNETT,
Governor.

_____ _____,
Secretary of State.

TO THE PRESIDENT OF THE UNITED STATES SENATE:

This is to certify that on the seventh day of November, 1978, Carl Levin was duly chosen by the qualified electors of the State of Michigan a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1979.

Given under my hand and the Great Seal of the State of Michigan this sixth day of December in the Year of Our Lord One Thousand Nine Hundred Seventy-Eight and of the Commonwealth One Hundred and Forty-Two.

By the Governor:

WILLIAM G. MILLIKEN,
Governor.

RICHARD H. AUSTIN,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, James A. McClure was duly chosen by the qualified electors of the State of Idaho a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our governor John V. Evans, and our seal hereto affixed at Boise, Idaho this twenty-seventh day of November, in the year of our Lord 1978.

By the Governor:

JOHN V. EVANS,
Governor.

PETE T. CENARRUSA,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Sam Nunn was duly chosen by the qualfied electors of the State of Georgia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our Governor, George Busbee, and our Seal hereto affixed at the State Capitol in Atlanta, Georgia, this 15th day of December, in the year of our Lord 1978.

By the Governor:

GEORGE BUSBEE,
Governor.
BEN W. FORTSON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Claiborne deB. Pell was duly chosen by the qualified electors of the State of Rhode Island a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1979.

Witness: His excellency our governor J. Joseph Garrahy, and our seal hereto affixed at Providence this 22d day of December, in the year of our Lord 1978.

By the governor:

J. JOSEPH GARRAHY,
Governor.
ROBERT F. BURNS,
Secretary of State.

PROVIDENCE, R.I.

Hon. ROBERT F. BURNS,
Secretary of State,
Providence, R.I.

HONORABLE SIR: This is to certify that on the seventh day of November, nineteen hundred and seventy-eight, Claiborne DeB. Pell of Newport was duly chosen by the electors of the State a Senator to represent said State in the Senate of the United States for the term of six years, beginning on the second day of January, nineteen hundred and seventy-nine.

In testimony whereof, we have hereunto set our hands and caused our seal to be affixed in the City of Providence this 6th day of December in the year of our Lord one thousand nine hundred and seventy-eight.

Board of Elections: Harry F. Curvin, Chairman; Frank Williams; James J. McGrath, and Clinton H. Wynne.

Attest:

FRANCIS J. RAO,
Secretary.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Charles H. Percy was duly chosen by the qualified electors of the State of Illinois a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1979.

Witness: His excellency our Governor James R. Thompson has signed and our seal hereto affixed at Springfield, Illinois this 1st day of December, in the year of our Lord 1978.

JAMES R. THOMPSON,
Governor.
ALAN J. DIXON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Larry Pressler was duly chosen by the qualified electors of the State of South Dakota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

In witness whereof, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, this Twenty-Seventh Day of November, in the Year of Our Lord, Nineteen Hundred and Seventy-Eight.

HARVEY WOLLMAN,
Governor.

Attest:

LORNA B. HERSETH,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, the Honorable David H. Pryor was duly chosen by the qualified electors of the State of Arkansas as a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1979, the vote being:

Honorable David Pryor	385,896
Mr. Tom Kelly	80,847
Mr. John G. Black	35,973
Mr. William P. Rock	113

Witness: His Excellency our Governor David Pryor, and our Seal hereto affixed at Little Rock, Arkansas, this 20th day of November, in the year of our Lord 1978.

By the Governor:

DAVID H. PRYOR,
Governor.
WINSTON BRYANT,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, Jennings Randolph was duly chosen by the qualified electors of the State of West Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1979.

Witness: His excellency our Governor John D. Rockefeller IV, and our seal hereto affixed at Charleston this eighteenth day of December, in the year of our Lord 1978.

JOHN D. ROCKEFELLER IV,
Governor.
A. JAMES MANCHIN,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Al Simpson was duly chosen by the qualified electors of the State of Wyoming a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our Governor Ed Herschler, and our seal hereto affixed at Cheyenne this 15th day of November, in the year of our Lord, 1978.

By the Governor:

ED HERSCHLER,
Governor.
THYRA THOMSON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, Ted Stevens was duly chosen by the qualified electors of the State of Alaska a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1979.

Witnessed by:

JAY S. HAMMOND,
Governor.

In testimony whereof, I have hereunto set my hand and affixed hereto the Seal of the State of Alaska, at Juneau, the Capital, this 13th day of December A.D. 1978.

LOWELL THOMAS, Jr.,
Lieutenant Governor.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, Donald Stewart was duly chosen by the qualified electors of the State of Alabama a Senator for the unexpired term ending at noon on the 3rd day of January, 1981, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of Jim Allen.

GEORGE C. WALLACE,
Governor.

Witness: His excellency our governor, George C. Wallace, and our seal hereto affixed at Montgomery this 20th day of November, in the year of our Lord 1978.

AGNES BAGGETT,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November, 1978, J. Strom Thurmond was duly chosen by the qualified electors of the State of South Carolina a Senator from said State to represent said State in the Senate of the United States for the Term of six years, beginning on the 3rd day of January, 1979.

Witness: His excellency our governor James B. Edwards, and our seal hereto affixed at Columbia, South Carolina, this 30th day of November, in the year of our Lord 1978.

JAMES B. EDWARDS,
Governor.
O. FRANK THORNTON,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, nineteen hundred seventy-eight, John Tower was duly chosen by the qualified electors of the State of Texas, a Senator from said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred seventy-nine.

Witness: His excellency our Governor of Texas, and our Seal hereto affixed at Austin, Texas, this 7th day of December, 1978.

DOLPH BRISCOE,
Governor.

Attest:

STEVEN C. OAKS,
Secretary of State.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 7th day of November 1978, Paul E. Tsongas was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from the Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the 3d day of January 1979.

Witness: His excellency our governor Michael S. Dukakis, and our seal hereto affixed at Boston, Massachusetts this 6th day of December, in the year of our Lord 1978.

By the governor:

MICHAEL S. DUKAKIS,
Governor.
PAUL GUZZI,
Secretary of the Commonwealth.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, nineteen hundred and seventy-eight, Paul E. Tsongas was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventeen-nine.

Witness, His Excellency our Governor, Michael S. Dukakis, and our seal hereto affixed at Boston, this sixth day of December, in the year of our Lord nineteen hundred and seventy-eight.

MICHAEL S. DUKAKIS,
Governor.

PAUL GUZZI,
Secretary of the Commonwealth.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the seventh day of November, 1978, John W. Warner was duly chosen by the qualified electors of the Commonwealth of Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1979.

Witness: His excellency our Governor, John N. Dalton, and our seal hereto affixed at Richmond this twenty-seventh day of November, in the year of our Lord 1978.

JOHN N. DALTON,
Governor.

FREDERICK GRAY, JR.,
Secretary of the Commonwealth.

The VICE PRESIDENT. If Senators to be sworn in will now present themselves at the desk in groups of four as their names are called, in alphabetical order, the Chair will administer the oath of office.

The clerk will call the names.

The legislative clerk called the names of Mr. ARMSTRONG, Mr. BAKER, Mr. BAUCUS, and Mr. BIDEN.

These Senators, escorted by Mr. HART, Mr. SASSER, Mr. MELCHER, and Mr. ROTH, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, and Mr. COCHRAN.

These Senators, escorted by Mr. BELLMON, former Senator Mrs. Muriel Humphrey, Mr. WILLIAMS, and Mr. STENNIS, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. COHEN, Mr. DOMENICI, Mr. DURENBERGER, and Mr. EXON.

These Senators, escorted by Mr. MUSKIE, Mr. SCHMITT, former Senator Mrs. Humphrey, and Mr. ZORINSKY, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, and Mr. HUDDLESTON.

These Senators, escorted by Mr. PACKWOOD, Mr. STEWART, Mr. MORGAN, and Mr. FORD, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. HUMPHREY, Mr. JEPSEN, Mr. JOHNSTON, and Mrs. KASSEBAUM.

These Senators, escorted by former Senator Mr. Maurice J. Murphy, Jr., Mr. CULVER, Mr. LONG, and Mr. DOLE, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. LEVIN, Mr. MCCLURE, Mr. NUNN, and Mr. PELL.

These Senators, escorted by Mr. RIEGLE, Mr. CHURCH, Mr. TALMADGE, and Mr. CHAFEE, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. PERCY, Mr. PRESSLER, Mr. PRYOR, and Mr. RANDOLPH.

These Senators, escorted by Mr. STEVENSON, Mr. MCGOVERN, Mr. BUMPERS, and Mr. ROBERT C. BYRD, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. SIMPSON, Mr. STEVENS, Mr. STEWART, and Mr. THURMOND.

These Senators, escorted by Mr. WALLOP, Mr. GRAVEL, Mr. HEFLIN, and Mr. HOLLINGS, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. TOWER, Mr. TSONGAS, and Mr. WARNER.

These Senators, escorted by Mr. BENTSEN, Mr. KENNEDY, and Mr. HARRY F. BYRD, JR., respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 1 Leg.]

Armstrong	Goldwater	Nelson
Baker	Gravel	Nunn
Baucus	Hart	Packwood
Bayh	Hatch	Pell
Bellmon	Hatfield	Percy
Bentsen	Hayakawa	Pressler
Biden	Heflin	Proxmire
Boren	Heinz	Pryor
Boschwitz	Helms	Randolph
Bradley	Hollings	Ribicoff
Bumpers	Huddleston	Riegle
Burdick	Humphrey	Roth
Byrd, Harry F., Jr.	Inouye	Sarbanes
	Jackson	Sasser
Byrd, Robert C.	Javits	Schmitt
Cannon	Jepsen	Schweiker
Chafee	Johnston	Simpson
Chiles	Kassebaum	Stennis
Church	Kennedy	Stevens
Cochran	Laxalt	Stevenson
Cohen	Leahy	Stewart
Cranston	Levin	Stone
Culver	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	McClure	Warner
Durkin	McGovern	Weicker
Eagleton	Melcher	Williams
Exon	Metzenbaum	Young
Ford	Morgan	Zorinsky
Garn	Moynihan	
Glenn	Muskie	

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The VICE PRESIDENT. A quorum is present. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair for trying to get order.

NOTIFICATION TO THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

The VICE PRESIDENT. Pursuant to Senate Resolution 1, the Chair appoints the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Tennessee (Mr. BAKER) as members of a

committee to join with the committee of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and that Congress is ready to receive any communication he may be pleased to make.

Mr. ROBERT C. BYRD. Mr. President, reporting on my behalf from the committee of two Senators, Mr. BAKER and myself, appointed by the Vice President to call upon the President to inform him that the Senate was organized, that there was a quorum present, that the Senate was ready to do business, and was ready to receive instructions and advice, I now report back that the committee's functions—Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate will be in order.

Mr. ROBERT C. BYRD (continuing). That the committee's responsibilities have been fulfilled; that Senator BAKER and I have called upon the President and informed him that the Senate is organized; that a quorum has been established; that the Senate is ready to do business; and that the Senate awaits his instructions and advice.

He expressed his appreciation to the minority leader and to me for the splendid service that had been rendered by the Members of the 95th Congress, and indicated that he felt that if this Congress measured up to that Congress it would, indeed, be a Congress in which the American public would be proud.

He stated that the state of the Union address would be delivered on January 23, and he wished every Member of this body a good year. We in turn, wished him our best for his health and indicated our willingness and desire to cooperate with him in every way that we could.

I yield to the distinguished minority leader.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, I thank the majority leader for yielding. It was my pleasure to join with the distinguished majority leader in waiting on the President as the precedent and this resolution dictate, to advise him that we were organized and prepared to transact the business of the country.

I would add only this to the good report made by the majority leader: As the President indicated his appreciation for past cooperation, for my part I assured him that in the future as it is possible to cooperate those of us on this side will do so enthusiastically. In those cases where it was not possible to agree, I indicated that we would disagree in good grace and without rancor.

The President expressed his understanding and I expressed my respect to him on behalf of the minority and pledged that together we would all do our best to effectuate policy for this country.

I thank the majority leader for yielding.

NOTIFICATION TO THE HOUSE

Mr. BAKER. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The Senator from Virginia.

SENATE JOINT RESOLUTION 3—MUTUAL DEFENSE TREATIES

Mr. HARRY F. BYRD, JR. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the Senator will let me proceed.

Mr. HARRY F. BYRD, JR. Does the majority leader object?

Mr. ROBERT C. BYRD. I am willing to let the clerk state the resolution.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that approval by the Senate of the United States is required to terminate any Mutual Defense Treaty between the United States and another nation.

Mr. ROBERT C. BYRD. Mr. President, I object to the further consideration of that resolution at this time.

The VICE PRESIDENT. Objection having been heard, the resolution will be held at the desk pending second reading.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I am sorry that the majority leader was not informed in advance of the Senator's intention to introduce that resolution. I believe the distinguished majority whip is to be recognized at this time.

HOUR OF DAILY MEETING

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

ELECTION OF PRESIDENT PRO TEMPORE

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 4

Resolved, That the Honorable Warren G. Magnuson, a Senator from the State of Washington, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with the resolution of the Senate adopted on the 12th day of March 1890 on the subject.

UP AMENDMENT NO. 1

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

The VICE PRESIDENT. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) proposes an unprinted amendment numbered 1:

On page 1, line 1, strike "Warren G. Magnuson, a Senator from the State of Washington," and insert in lieu thereof "Milton R. Young, a Senator from the State of North Dakota,".

Mr. ROBERT C. BYRD. Mr. President, I have no better friend in this Senate than MILTON YOUNG. I served with him on the Appropriations Committee for 20 years. He is my friend, and a friend walketh closer than a brother. But I am sure that the Senator will understand that I will have to oppose the amendment. I would hope we would have a voice vote. I do not want to table the amendment. I would not do that. I will simply ask my colleagues to reject the amendment.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will speak for only a moment. I see the distinguished Senator from Washington on his feet. I would prefer to hear his statement.

I would only say that I do not intend to ask for a record vote on instructions of the distinguished Senator whose name has been placed in nomination. He does not want that. But in keeping with tradition and precedent, in keeping with the vitality, aspirations, and ambitions of those of us on this side of the aisle, I thought we would get in practice.

[Laughter.]

The VICE PRESIDENT. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I have served with the Senator from North Dakota for many, many years, since the first day he arrived on a railroad train from North Dakota. He and I were discussing this matter just a few minutes ago. We did not want to start the session with controversy right away, so we both agreed that it would be put into the RECORD that on this vote, not a rollcall vote but a voice vote, we would both be listed as voting present.

Mr. ROBERT C. BYRD. Mr. President, I will not attempt to invoke any rule that requires a Senator to state why he does not vote.

The VICE PRESIDENT. The Senator from North Dakota.

Mr. YOUNG. I deeply appreciate the comments that have been made. I would like to have a voice vote, but I do not think I have enough votes. It so happens that both the Senator from Washington and I were born in North Dakota. We hate to lose the Senator. I wound up serving as ranking Republican on the Appropriations Committee with the Senator from Washington as chairman, and we have had a wonderful relationship, and I am happy the chairman will be elected.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution (S. Res. 4) was agreed to.

ADMINISTRATION OF OATH

The VICE PRESIDENT. The Senator from Washington will, pursuant to the provisions of the Senate resolution, approach the rostrum, and I appoint Mr. YOUNG as a committee of one to escort the President pro tempore to the rostrum for the purpose of taking the oath.

The Honorable WARREN G. MAGNUSON, escorted by Mr. JACKSON and Mr. YOUNG, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President.

[Applause, Senators rising.]

The VICE PRESIDENT. If the Chair may first observe, the oath was taken on a Bible signed by King Olaf.

NOTIFICATION TO THE PRESIDENT

Mr. INOUYE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

S. RES. 5

Resolved, That the President of the United States be notified of the election of the Honorable Warren G. Magnuson, a Senator from the State of Washington, as President of the Senate pro tempore.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution, (S. Res. 5) was considered and agreed to.

NOTIFICATION TO THE HOUSE

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

S. RES. 6

Resolved, That the House of Representative be notified of the election of the Honorable Warren G. Magnuson, a Senator from the State of Washington, as President of the Senate pro tempore.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 6) was considered and agreed to.

SECRETARY FOR THE MAJORITY

Mr. ROBERT C. BYRD. Mr. President, I have some additional resolutions and requests.

I send a resolution to the desk and ask that it immediately be considered.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

S. RES. 7

Resolved, That Walter J. Stewart be and he is hereby elected Secretary for the Majority of the Senate, beginning January 15, 1979.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 7) was considered and agreed to.

TRIBUTE TO JAMES H. DUFFY

Mr. ROBERT C. BYRD. Mr. President, I send to the desk another resolution and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

Mr. ROBERT C. BYRD, for himself, Mr. CRANSTON, Mr. INOUYE, Mr. BAKER, and Mr. STEVENS, proposes the following resolution:

S. RES. 8

Whereas, James H. Duffy has faithfully served the Senate as the Secretary for the Majority, the Senate wishes to express its appreciation for his dedicated service as an officer of the Senate, and for his previous years of service as Counsel to the Senate Committee on Rules and Administration.

Whereas, the said James H. Duffy at all times has discharged the important duties and responsibilities of his Office with great efficiency and diligence; and

Whereas, his exceptional service and his continuous dedication to duty have earned for him our esteem and our affection: Now, therefore, be it

Resolved, That James H. Duffy is hereby commended for his lengthy, faithful, and outstanding service to the Senate.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to James H. Duffy.

Mr. ROBERT C. BYRD. Mr. President, Robert E. Lee once declared, "Duty is the sublimest word in our language." Society depends, in a large measure, upon those who do their duty and fulfill their responsibilities, without fanfare and often without recognition.

Today, however, I want to commend a man who has fulfilled his duties and responsibilities in the Senate for nearly a quarter century, and is now leaving to accept a Presidential appointment. During his years of service in the legislative branch, he has distinguished himself by his faithfulness, graciousness and thoroughness.

For the past 2 years, James H. Duffy has been the secretary to the majority. He has been responsible for many of the tasks that make it possible for the Senate to function smoothly. As many of our colleagues can testify, Jim Duffy has efficiently, courteously, and modestly carried out his duties, and I want to thank him for the services that he has rendered to the majority and to the Senate.

Prior to becoming the secretary to the majority, Mr. Duffy served 20 years as Chief Counsel of the Senate Subcommittee on Privileges and Elections, and 2 years on the staff of the majority whip. In those capacities, he won the friendship and the admiration of innumerable Senators and staff colleagues alike.

He contributed substantially to the drafting of legislation and reports to the Senate on major reforms of Federal election laws, and the creation of the Federal Election Commission. He also was responsible for conducting investigations and reporting recommendations to the Senate relative to contested elections.

Jim Duffy is a native of Rhode Island, where he was educated and practiced law following his graduation from law school in Boston and service in the Army during World War II. He is a family man, blessed with a lovely wife and two fine children.

I am sure that all of my colleagues join me in congratulating Jim Duffy as he departs the Senate to serve in his new role. I am confident that he will earn new distinctions for himself in the years ahead, and that he carries with him the best wishes of all his friends on Capitol Hill.

THE VICE PRESIDENT. Is there objection to the present consideration of the resolution?

The resolution (S. Res. 8) was considered and agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent—may we have order in the Senate?

THE VICE PRESIDENT. May we have order? The Senate will suspend to receive a message from the President of the United States.

Mr. ROBERT C. BYRD. Mr. President, am I recognized?

The VICE PRESIDENT. The Senator has the floor.

Mr. ROBERT C. BYRD. I do not yield for that purpose.

The VICE PRESIDENT. Objection is heard.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on today morning business may be transacted by being presented at the desk.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I have already gotten consent that today morning business can be transacted at the desk, bills, joint resolutions and other resolutions, concurrent resolutions, simple resolutions, may be introduced at the desk; statements by Senators may be introduced at the desk.

Mr. President, I ask unanimous consent that my previous request providing

for the introduction of bills, resolutions, and statements at the desk be in order until 5 p.m. today.

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

ORDER FOR THE REFERRAL OF TREATIES AND NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the duration of the 96th Congress it be in order to refer treaties and nominations on the days when they are received from the President, even when the Senate has no executive session that day.

The VICE PRESIDENT. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON ETHICS TO MEET DURING SENATE SESSIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the duration of the 96th Congress, the Ethics Committee be authorized to meet at any time during the session of the Senate. This would put the Ethics Committee in the same category as the Appropriations Committee and the Budget Committee now enjoy.

The VICE PRESIDENT. Without objection, it is so ordered.

AUTHORIZATION FOR RECEIPT OF BILLS, JOINT RESOLUTIONS, CONCURRENT RESOLUTIONS AND SIMPLE RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the 96th Congress Senators may be allowed to bring to the desk bills, joint resolutions, concurrent resolutions and simple resolutions.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR TIME LIMITATION ON ROLLCALL VOTES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the duration of the 96th Congress there be a limitation of 15 minutes each on any rollcall vote with warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minutes duration the warning signal be sounded at the beginning of the last 7½ minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

STANDING ORDER TO RECEIVE REPORTS AT THE DESK DURING 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the 96th Congress it be in order for the proper members of the staff to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATE RESOLUTION 9—PROPOSED AMENDMENT OF STANDING RULES OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I would hope to have the attention of the Members at this point. They may relax. I do not intend to pull any fast ones at the moment.

[Laughter.]

I am about to send to the resk a resolution which would change certain rules of the Senate. I will be speaking for a few minutes and Members may take it easy. But I would like to have their attention.

I believe the time has come for the Senate to modify Senate rule XXII. At the present time, there is no Senate rule XXII, for all intents and purposes. Cloture may be invoked on a matter and, after having been invoked by 60 Senators—a constitutional three-fifths—that matter may be drawn out interminably by a single Senator, by two or three Senators, or by a larger group of Senators.

They may offer dilatory motions and amendments in spite of the rule. They may call up 100 amendments, 200 amendments, 500 amendments, 1,000 amendments, any number of amendments. There is no rule providing for a second cloture motion to stop the kind of so-called debate.

Thus, one Senator, two Senators, three Senators, or a minority of Senators of any number may thwart the will not only of a majority but of a three-fifths majority of the Senate, which, having voted for cloture, signifies its will that the debate shall come to a close and that the pending matter shall be acted upon one way or another.

I do not believe that this is in the national interest, and I do not believe it is fair play. The majority of the Senate is entitled to fair play. Three-fifths of the Senators who vote in a given instance to invoke cloture are entitled to fair play. They are entitled to see a matter come to a final decision at some point after a reasonable amount of debate. All Senators are entitled to offer motions and amendments, but not to abuse the rules of the Senate and to impose upon the courtesy of their colleagues and make the Senate a spectacle before the Nation.

And so, Mr. President, I have come to the conclusion, after a lot of wrestling with my own conscience, that the time has come to do something about this situation.

We live in the 20th century, and we live near the end of the 20th century. We are about to begin the 8th decade of the 20th century. I say to you that certain rules that were necessary in the 19th century, and in the early decades of this century must be changed to reflect changed circumstances.

It is becoming more and more necessary, as we face this mad rush of life and today's new issues, international and domestic, that the Senate have rules that will allow it to deal with these issues effectively, in a timely and orderly fashion.

It is now possible for the Senate to engage in at least two filibusters on any given issue. If the majority leader moves to take up a bill on the calendar, he can only do so by unanimous consent, or by motion, which is debatable—except within a tiny time frame within the first 2 hours of a new legislative day, and under certain circumstances only. Otherwise, on that motion to proceed to debate, the debate is unlimited. It makes the majority leader and the majority party the subject of the minority, subject to the control and the will of the minority. I am not speaking of a minority necessarily as a party, but it makes the majority leader subject to the will of a minority of Senators: as few as one Senator on either side of the aisle. If I move to proceed—or if any future majority leader moves to proceed to take up a matter, and unless he works it into that infinitesimally small time frame within the first 2 hours of a new legislative day—then one Senator can hold up the Senate for as long as he can stand on his feet.

Time and time again I seek to bring up bills on the calendar. Time and time again I am confronted with situations in which it is said, "Such-and-such a Senator is not here; he has a hold on that bill."

"Well, let us go to another bill."

"Well such-and-such a Senator has a hold on that bill, and he is not here, either."

"Well, let us go to this other bill."

"Well, such-and-such a Senator will object to that. He is here, but he will object."

So what kind of predicament is the majority leader in? He can move, but he is put in the position of making a debatable motion, so that any single Senator or any group of Senators, however small, can talk until such time as cloture is invoked.

So this rule needs to be changed to allow the leader of the majority party to move to take up a matter and, after a reasonable period for debate, proceed to vote on the motion to proceed. A majority of the Senate can vote to proceed to take up the matter, or can vote to reject the leader's motion. In any event, it gives the majority party and the majority leader an opportunity to work to get the business of the Senate transacted in timely and orderly fashion.

The present rule of the Senate allows two filibusters on any matter: A filibuster on the motion to proceed, and a filibuster on the particular matter once it is before the Senate. I say before all the world that Senators have a right to filibuster a matter, but the filibuster should be on the merits. There should not be a filibuster on the mere motion to proceed to take up the matter. If the opposition has 41 votes, they can kill any bill by filibustering the bill or resolution itself. They should not put the Senate through the misery of a double filibuster: A filibuster on the motion to proceed; and then, if the matter is taken up, a filibuster on the bill itself. They should allow the Senate to proceed to the consideration of the matter, and then conduct their filibuster. Otherwise, the Senate is put to the test of cloture after

cloture after cloture, on the motion to proceed and, if cloture is invoked, then cloture to shut off debate on the matter itself.

One filibuster is enough. If a minority of the Senate has enough votes, 41, to kill a bill, it should allow the bill to at least be brought up for debate on the merits.

This matter of the filibuster has gotten to the point that the Senate is continually being faced with the filibuster threat. The mere threat of a filibuster, these days, is nearly as bad as the filibuster itself. We have seen, in the last 9 years since 1970, more filibusters conducted in the Senate than occurred in the previous 30 years. I cannot make that statement with assurance of absolute accuracy, but I will not miss it by much. I will say it again: The Senate, beginning in 1970, inclusive of 1970, has seen more filibusters than were conducted in the 30 years prior to 1970. Let me just discuss that for a moment.

In 1935 there were three filibusters, and in 1 subsequent year between 1935 and 1970 there were three filibusters. So in each of 2 years out of the period 1935 through 1970, there were three filibusters. There were at least 10 years during that period in which no filibuster occurred at all in any one of the 10 years—not a 10-year period, but 10 separate years. There were another 10 or 11 or 12 years during that period of time in which one filibuster occurred—only one in each of such year. And there were a few years in which two filibusters occurred in each year.

But we have reached the point now where every year we can expect 4, 5, 6, and as many as 10. I believe that in one recent year there were as many as 10 or more filibusters. Yes; in 1975 there were 12 filibusters, according to the information I hold in my hand.

Now we are becoming more and more the victim of this ingenious procedure that allows, first, a filibuster threat; second, the filibuster on the motion to proceed; third, the filibuster on the matter itself; and fourth and finally, the cost cataclysmic and divisive filibuster of all, the postcloture filibuster.

Now, Senators know what happened the year before last on the filibuster on the natural gas pricing bill. A small number of Senators utilized the rules and created a situation in which the bill would have been killed had the majority leader not used extraordinary procedural tactics to save that bill. If I had to do it all over again tomorrow, I would do it over again tomorrow. But Senators know what happened. It created bad feelings. It was a very divisive thing.

I can understand that some Senators were outraged at the procedures that I used to save that bill. But if I had not used those procedures, the conference report on that bill would not have reached the floor at the end of the last session, and we would not have passed that bill. I did what I thought I had to do. In exactly the same circumstances, I would do it all over again, and I would understand the outrage that would meet that effort.

Now, ladies and gentlemen, my colleagues, this postcloture filibuster is the kind of thing that creates ill feelings and deep divisions in the Senate. It is fractious; it fragments the Senate, it fragments the party on either side of the aisle, and it makes the Senate a spectacle before the Nation. It is not in the national interest.

So these are among the rules that I propose to modify, or to change.

There is not change which I have proposed which is not a reasonable change and which I cannot, as majority leader, stand up here and justify.

Now, I am going to yield to the minority leader in a few minutes, but I am not quite ready to yield to anyone at this moment.

I have been majority leader 2 years. I was majority whip 6 years, and I was secretary of the Democratic conference for 4 years.

In those 12 years out of my 20 years in the Senate, I dare to say that it cannot be challenged that I have stayed on this floor more than any other Senator since the first Senate met in 1789. I have stayed on this floor more than any other Senator in all of the history of the Senate for an equal given period of time—12 years.

I know pretty well what the Senate rules and precedents are. No man ever becomes a master of them. But I know something about them. Having been in the leadership for 12 years, I know what the difficulties are of having to lead the Senate.

The minority leader has a different responsibility to some degree. He, too, must share the responsibility of leading the Senate. He has cooperated, and we have worked together well. I can say the same for the distinguished minority whip, and I do not have a better friend in the Senate than TED STEVENS. He is my ranking minority member on my Appropriations Subcommittee on the Department of the Interior.

These are men I love, and I value their friendship. I appreciate the cooperation and the courtesies that they have extended to me.

The minority leader does have some of the responsibilities of keeping the legislative process moving, and he has worked with me in that regard. But he has a responsibility, also, of protecting the members of his party. He carries out his responsibilities exceedingly well. He is to be commended. I understand the function and the role of the minority party. It has an adversary role in many instances. There are instances in which, thank heavens, we have worked together. In most instances we do, and that is in the best interest of the Nation. There are times when the minority feels it is in the best interests of the Nation that they take an adversary role, and I respect them for that.

But I say to Senators that the majority has the responsibility of leading. The majority has the responsibility of keeping the legislative process moving. I can tell Senators that after 12 years in the leadership, I am only proposing changes that make it reasonably possible for the majority party, the majority leader, and, in certain instances, the majority of the Senate—forgetting party for a moment—the majority of the Senate on both sides to work its will on matters, especially after cloture has been revoked. It is for this combination of reasons that I am offering this resolution today.

I base this resolution on article I, section 5 of the Constitution. There is no higher law, insofar as our Government is concerned, than the Constitution. The Senate rules are subordinate to the Constitution of the United States. The Constitution in article I, section 5, says that each House shall determine the rules of its proceedings.

Now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past.

Take rule XXXII, for example, the second paragraph thereof which says that the rules of this Senate shall continue from Congress to Congress until changed in accordance with these rules.

That rule was written in 1959 by the 86th Congress. The 96th Congress is not bound by the dead hand of the 86th Congress.

The first Senate, which met in 1789, approved 19 rules by a majority vote. Those rules have been changed from time to time, and that portion of Senate rule XXXII that I just quoted was instituted in 1959. So the Members of the Senate who met in 1789 and approved that first body of rules did not for one moment think, or believe, or pretend, that all succeeding Senates would be bound by that Senate. The Senate of the 86th Congress could not pretend to believe that all future Senates would be bound by the rules that it had written. It would be just as reasonable to say that one Congress can pass a law providing that all future laws have to be passed by two-thirds vote. Any Member of this body knows that the next Congress would not heed that law and would proceed to change it and would vote repeal of it by majority vote.

I am not going to argue the case any further today, except to say that it is my belief—which has been supported by rulings of Vice Presidents of both parties and by votes of the Senate—in essence upholding the power and right of a majority of the Senate to change the rules of the Senate at the beginning of a new Congress.

I have not always taken that position, but I take it today in the light of recent bitter experience. The experience of the last few years has made me come to a conclusion contrary to the one I reached some years ago.

Now, Mr. President, I am going to offer a resolution, and I am going to make a motion, and I am not going to press the Senate into any vote today. I do not want to proceed in such a fashion. I want the Senate to take a week or 10 days to debate this resolution, and let any Senator any amendment that he wishes to offer. Let the Senate vote on amendments, and then vote up or down on the resolution. Vote it down if it is the majority of the Senate's wish. If the majority of the Senate wants to amend it, so be it.

If the majority of the Senate does not

like a single provision I have put in that resolution that is quite the Senate's prerogative, and I will bow to the will of the Senate. I do not want to be pushed into a situation where a majority of the Senate at the beginning of a new Congress will change the rules. But I make this prediction:

The majority of the Senate may not back me up today. This is the opening day, and we will recess so that we will still be in the opening legislative day when we come back on Thursday. I make a prediction that if the majority of the Senate does not back me up in this effort, if we, cannot get a time agreement; if we cannot work out something—but I feel that we can, that is why I am not going to press it to a vote today; I feel that we can work out a resolution; I believe that there are members of the minority who want to see something done about this postcloture situation; I want to be a reasonable man; I do not want to be put in the corner of having a proceed by majority vote.

But I will say this to Senators: I might have to do just that, and I am going to leave the way open to do that, and if I do that and fail, I will not be ashamed of having tried. If a majority of the Senate does not want to change the rules, I will have done what I think is best. But the time will come when every Member of the Senate will rue the day that we did not change that rule XXII in such a way that these very devisive postcloture situations can be eliminated and the Senate can get on to work its will and serve the national interests.

I predict further that if these postcloture filibusters continue, the day will come when the majority of this Senate will rise up and will strike down that rule and will change it; and there may then be greater and more far-reaching changes proposed than I have proposed today.

I may not be around here when that happens, but a majority of the Senate is not going to be patient much longer and the Nation is not going to stand for government by postcloture filibuster on the part of one, two, three or a small minority of the Senate, flaunting the will and defying the will and thwarting the will of the majority of Senators who have voted to invoke cloture on a given matter.

So, I say to Senators again that the time has come to change the rules. I want to change them in an orderly fashion. I want a time agreement. But, barring that, if I have to be forced into a corner to try for a majority vote, I will do it because I am going to do my duty as I see my duty, whether I win or lose.

If 51 Senators do not back me up in that, I will have done my duty. They will have done theirs as they see fit. I believe that they will come to see that, if we can only change an abominable rule by a majority vote, that it is in the interests of the Senate and in the interests of the Nation that the majority must work its will. And it will work its will.

Having said that, I say no more today. I will certainly yield to the distinguished minority leader. I want to retain my right to hold the floor. I want to protect myself in this matter. I do not relish the idea of hogging the floor, but I do want to protect my position in this situation.

It is not my intention to put the Senate to the test today. I intend only to call up the resolution and make a motion to proceed to its consideration. Then it will be my intention to move to recess over until Thursday, thus giving the minority leader and myself and other Senators an opportunity to discuss it.

So, Mr. President, I do not intend to yield the floor today, and I do not say that dictatorially or dogmatically, I just say it out of necessity; I am going to protect the rights of the minority leader—I send to the desk a privileged resolution to amend the standing rules of the Senate, and I move that pursuant to article I, section 5 of the Constitution, the Senate proceed to its immediate consideration without debate of the motion.

The VICE PRESIDENT. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 9

Resolved, That paragraph 1 of rule III of the Standing Rules of the Senate is amended by striking out all after the words "unless by unanimous consent" and inserting in lieu thereof the following: "or on motion decided without debate. Motions to correct the Journal shall be privileged, shall be confined to an accurate description of the proceedings of the preceding day, and shall be determined without debate."

SEC. 2. That rule VIII of the Standing Rules of the Senate be amended by inserting a new sentence at the end of section 2, as follows: "Debate on such motions made at any other time shall be limited to thirty minutes, to be equally divided and controlled by the Majority and Minority leaders."

SEC. 3. That rule XV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph: "The demand for the reading of an amendment when presented to the Senate for consideration, including House amendments, may be waived on motion decided without debate when the proposed amendment has been identified by the clerk and is available to all Members in printed form."

SEC. 4. That rule XVIII of the Standing Rules of the Senate is amended—

(1) by inserting after "QUESTION" in the caption a semicolon and the following: "GERMANENESS";

(2) by inserting "1." before "If"; and

(3) by adding at the end thereof the following new paragraph:

"2. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment other than the reported committee amendments which is not germane or relevant to the subject matter of the bill or resolution, or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. Such a motion shall be privileged and shall be decided without debate.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the committee which reported such bill or resolution) which is not germane or relevant to the subject matter of such bill or resolution, or to the subject matter of an amendment proposed by the committee which reported such bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may, prior to ruling on any such point of order entertain such debate as he considers necessary in order to determine how he shall rule on such point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) The provisions of this paragraph shall not apply to amendments subject to the rules of germaneness and relevancy contained in paragraph 4 of rule XVI and paragraph 2 of rule XXII."

SEC. 5. A. That (a) line 5 of the first paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking out "or the unfinished business," and in the line above inserting "or" before the words "other matter pending before the Senate," and lines 6 and 7 of the second paragraph of paragraph 2 is amended by striking out ", or the unfinished business.".

(b) The second paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by inserting at the end thereof a new paragraph as follows: "After one hundred hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The amount of time specified in the preceding sentence may be increased, or decreased (but to not less than ten hours), by the adoption of a motion, decided without debate, by a threefifths affirmative vote of the Senators duly chosen and sworn. At any time ofter ten hours of consideration, any remaining time may be reduced, but to not less than ten (10) hours, by the adoption of a motion, decided without debate, by a threefifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to reduce time and only one motion to extend time, specified above, may be made in any one calendar day.".

(c) The last paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking out the first sentence and inserting in lieu thereof the following: "After cloture has been invoked, no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks.".

B. That Rule XXII of the Standing Rules of the Senate be amended by inserting a new paragraph at the end of section 2 as follows:

"After September 1 of each calendar year until the end of the session, the application of the provisions of section 2 of rule XXII shall be modified to provide that if a proper motion to invoke cloture has been filed pursuant to section 2, it shall be in order to proceed immediately to the consideration thereof, and after three hours of debate, equally divided and controlled by the Majority and Minorty Leaders, the Senate shall proceed to vote on the adoption of that motion, and if that question shall be decided

in the affirmative by a three-fifths vote of the Senators duly chosen and sworn, then said measure, motion, or other matter pending before the Senate shall be the unfinished business to the exclusion of all other business until disposed of. All other provisions of section 2 of rule XXII shall be applicable to any question on which cloture is invoked pursuant to this paragraph."

SEC. 6. That rule XXVII of the Standing Rules of the Senate is amended by adding at the end thereof the following: "The demand for the reading of a conference report when presented may be waived on motion decided without debate when the report is available to all Members in printed form.".

SEC. 7. That section 133(f) of the Legislative Reorganization Act of 1946, as amended, be amended to strike the words: "at least three calendar days (excluding Saturdays, Sundays and legal holidays)" and insert in lieu thereof the words: "at least two calendar days (excluding Saturdays, Sundays, and legal holidays, except when the Senate is in actual session on such days)".

SEC. 8. That (a) the Committee on Rules and Administration is authorized and directed to provide for installation of an electronic voting system in the Senate Chamber.

(b) The expenses incurred in carrying out the provisions of subsection (a) shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee of Rules and Administration.

Mr. ROBERT C. BYRD. Mr. President, there is one area that I modify. I modify on page 3 the words "to recommit." Strike those words.

Mr. President, before I yield to the distinguished minority leader, and I beg his indulgence—if I may have the attention of all Senators—I said that I would attempt to get a unanimous-consent agreement.

I ask unanimous consent that the Senate proceed immediately to the consideration of the resolution, that during the consideration of the resolution, debate on any amendment be limited to 2 hours, to be equally divided between and controlled by the mover of such and the Senator from West Virginia (Mr. BYRD); that debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 1 hour, to be equally divided between and controlled by the mover of such and the Senator from West Virginia (Mr. BYRD); *Provided,* In the event the Senator from West Virginia (Mr. BYRD) is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee; *Provided further,* That no amendment that is not germane to the provisions of the said resolution shall be received; *Provided further,* That the Senate proceed to vote on the question of agreeing to the resolution no later than 3 p.m. on Tuesday, January 23, 1979, without further amendment, motion, point of order, or appeal, unless pending, with the exception of one request to ascertain the presence of a quorum; *Provided, further,* That on each day between now and the time for final action on the resolution when the Senate meets, there be 6 hours allotted for debate on the resolution, to be equally divided between and controlled, respectively, by the majority leader and the minority leader; that the said Senators, or either of them, may, from the time under their control on the question of agreeing to the resolution, allot additional time to any Senator during consideration of any amendment, debatable motion, appeal, or point of order.

That completes my request.

Mr. President, I do not lose the floor by virtue of Senators reserving the right to object. Am I correct?

The VICE PRESIDENT. The Senator is correct.

Mr. ROBERT C. BYRD. I do not yield for any purpose other than reservations for rights to object or for an objection.

I yield now to the distinguished minority leader.

Mr. BAKER. Mr. President, reserving the right to object, I begin, if I may, by commending the majority leader for——

Mr. ROBERT C. BYRD. Mr. President, before the Senator begins, I yield to the distinguished minority leader not for the purpose of his reserving the right to object, but for the purpose of his making a statement. That is, if he wishes to reserve the right to object, he may object. I do not want to put him under that condition. I do not yield for any purpose other than a statement or a reservation or an objection.

Mr. BAKER. That will save torturing some verbs in the course of this presentation.

Mr. President, I begin by commending the majority leader for his judgment and discretion in approaching this matter in this manner.

I will say in a few moments a few things about the unanimous consent request and the restrictions that I believe it lays on us. But I am genuinely pleased and happy that the majority leader has chosen to proceed in what I think is a more deliberate and profound way than might otherwise have been the case.

As is his custom, the majority leader advised me in advance of his intention to proceed on the first day with proposals for rules changes. On last Friday, he delivered to me a copy of the resolution which he has now offered, together with a section-by-section analysis.

It seems to me that his options were clear: that he could proceed, as he described, under the precedent and rules of the Senate, as he interprets them and as previous Presiding Officers have interpreted them.

I am speaking particularly of the situation in 1975, when the then occupant of the chair, Vice President Rockefeller, indicated that the question of the adoption of a rules change by majority vote presented a constitutional question which must be presented to the Senate. The effect of that ruling and subsequent motions, in the view of this Senator, was to provide the unhappy circumstance whereby the rules of the Senate might not only be changed by majority vote on the first day, but also, it is possible to do so without debate.

I reiterate: I am pleased that the majority leader has not chosen to do that. We are approaching a matter of some delicacy and difficulty with a degree of care which is also characteristic of the majority leader.

Mr. President, I do not know what we can agree to on this side, and I will elaborate that point in just a moment. But before I do that, I point out, as I am sure most of our colleagues are aware and will recall, that in the case of the most recent post-cloture filibuster, it was the majority leader and the minority leader, with the distinguished occupant of the chair, the Vice President, in the chair at the time, who managed to establish a line and series of precedents that created the possibility to at least accelerate the disposition of the controversy and conflict.

The point of the matter is that this is not, nor has it been, a matter that is purely partisan in its character. I rather suspect that there may be as many Members on his side of the aisle as there are on my side of the aisle who have a concern for that precedent and how it may affect us in the future. But that is, at best, only tangential and collateral to the matter that is before us now.

The matter at hand, in my view, is this: How can we avoid reiterating an unfortunate precedent, meet the procedural challenge of these times, and promote the best interchange of ideas between us to create a new rules situation with which we all can live, whether we are in the majority or the minority, now or in the future?

Mr. President, I can only speculate how the Members of the Senate on this side of the aisle will react to this resolution in detail; therefore, I will not do that. Rather, I will advise the minority leader and my colleagues that today, in anticipation of this dilemma, I have appointed an ad hoc committee, to be chaired by the Senator from Alaska (Mr. STEVENS), consisting as well of the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Rhode Island (Mr. CHAFEE), and the Senator from North Carolina (Mr. HELMS), to serve in an ad hoc capacity, to examine this proposal and propose to our conference our reaction, in an appropriate way, at the proper time.

Mr. President, I am not sure, frankly, that that can be undertaken with the deliberation that I believe it requires in order to bring this matter to a conclusion on January 23.

I hope would that there might be some flexibility in that timing. I would hope, for instance, that we might proceed on some basis that would give us a discretion to determine a final date, or, rather, even to leave the request without a final disposition date and to limit instead the consideration of amendments which may be proposed.

This is, of course, a matter which addresses itself to the majority leader and in no way suggests that I disapprove of what he has done because I recognize his responsibility. But I am sure he recognizes mine as well, because the protection of minority rights happens to be my special province in this Congress at this time.

I would hope that he would consider eliminating that provision of the unanimous-consent request for a final determination, as I understood his request, on January 23.

Mr. President, I have a number of amendments I prepared in anticipation

of this resolution. I do not propose to offer them now. I think I could not do so under the rules except to offer them for printing, under the restrictions which would occur by reason of the yielding by the majority leader to me for a special purpose. But I think it is likely there will be a series of other amendments.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator, of course, may send those amendments to the desk for their printing.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. I continue to hold the floor but I yield for the stated purpose to the distinguished minority leader.

Mr. BAKER. Mr. President, I believe that is all I have to say at this time except to say that I share with the majority leader the belief that the post-cloture filibuster, a creature of fairly young age and recent development, is one that the Senate has not focused on adequately. I am prepared to do that and I want to do that. I believe we can do that. I am less sanguine about the possibility of dealing with the rules of the Senate which deal with matters before the invocation of cloture. I indicate this present frame of mind only by way of information to the majority leader.

Mr. JAVITS. Will the Senator yield?

Mr. BAKER. I see the distinguished Senator from New York on his feet. I wonder if the majority leader will consider yielding to him to speak on this matter.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from New York, reserving my right to the floor. I know that the distinguished Senator from New York wants to make only a similar statement. I yield only for that purpose.

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. Mr. President, I might first state what I think ought to be done, and then to discuss the question. I think the precedent which was laid down when we began to fight the battles to amend rule XXII goes back 22 years, the length of my service here in the Senate. I believe the majority leader and the minority leader will find it highly artificial to proceed as he has to proceed today, by keeping his right to the floor and yielding only for very limited purposes, et cetera. This was preserved by Mike Mansfield by a unanimous-consent agreement. I hope it will be again. There was freedom of give and take. There was one unanimous-consent agreement which would be the rights of the majority leader to be fully preserved including the right for a summary vote on a motion to take up as well as the right to decide by a majority what should be the rule.

Second, I believe that the Senate can change what it did before. I am having our staff of this side run it down, but I believe in 1959 when we wrote into rule XXXII that the Senate Rules cannot be changed except according to rule XXII, I said at the time that it was pure rhetoric and that the Senate, of course, could change its rules because that was, in my judgment, and has been for 20 years, the dictate of the Constitution. Of course, I would have to maintain that position, and I believe it is the proper position under the Constitution.

That being said, I also would like to suggest to both Senators, because they have both shown a very equitable frame of mind as indeed they should, if possible, that it is going to be quite difficult to draft what we should do on the floor. The one thing upon which we should agree is a time limit because otherwise it might never be done. We should reserve the right of the Senate to vote on the constitutional issue because we would have to vote again to undo what it did before in the vote in 1975.

Within that framework, I deeply believe that it is going to take collaboration between the two sides with the best brains we have and the best outside brains we can consult to develop what we ought to do. I will say why.

While I consider what took place horrendous in terms of frustrating the will of the Senate and endangering the Nation perilously through the fact that we might not have passed any energy bill at all, though Lord knows as on Senator I think we have done infinitely too little and if I were President I would ration gasoline in this country tomorrow, but be that as it may I believe that equally horrendous without its being witting and without impugning remotely the patrotic motivation of the majority leader, was the sweeping aside of every right of the minority or of any Senator and not considering amendments, motions, requests for quorums, all of which went down the drain in one torrent.

This Government is built not only upon solarity but upon justice. Justice requires opposing briefs. That was a way of obliterating opposing briefs. I deeply belive, with all respect, we have to be as solicitous, if not more solicitous, about that right, about that freedom which we have to amend or to move even if it is a pain and an anguish as we do to facilitate our business.

(Mr. CRANSTON assumed the chair.)

Mr. JAVITS. I believe it can be done, I say to Senator BYRD. The human mind can contrive ways to meet this problem. Mr. BAKER has ideas, I am sure I have, and our committee will have.

Therefore, I conclude as I began, that this is an extremely critical effort. I see quite a few new Members in the Chamber. I hope they will realize how important this is to them. They will be here a lot longer when many of us are gone. They will have to live under these rules which will be prepared, manacles put upon our wrists, in their original pristine form even as we hear their form today.

I would suggest, therefore, that the majority leader and the minority leader contrive the unanimous-consent request which will give us the auspices for conducting this debate freely and easily and being able to work our will without constraints which at the moment are upon us. That has been done before and it can be done again.

Second, that we agree on a date by which this matter is to be determined. I believe that, again, that can be contrived. My belief would be that it is a matter, as I believe Senator BAKER indicated, of a month or a month and a half, something like that. Committees will have to be organized and begin to function.

Third, that we having appointed a small committee I would most respectfully suggest that it might be a good idea for the majority as well so that the two committees might meet together, might exchange ideas, might negotiate, might get all the expertise they humanly can. Then the Senate would vote on the constitutional question at a given time and then proceed to vote on amendments and motions up or down, again under unanimous consent, which would assure us we are not going to have a post-filibuster filibuster notwithstanding our unanimous-consent agreement.

Mr. President, I am deeply oppressed by the lawless state into which the Congress has fallen. There are reasons for it and the reasons are very impressive, of incompetence, of banality, of crime, and of the general dereliction in what the public perceives to be our services. I am a lawyer so that ancient adage applies to us: It is not what the facts are, we may be very virtuous, but it is what the jury thinks they are, and that is what the jury thinks they are.

I deeply believe, Senator BYRD, may I say to both of you, that we are starting in a very auspicious way if we deal with this question, and I hope that decency, the cooperation, the considerateness with which we deal with it will begin to restore us in the eyes of our fellow countrymen.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

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

Mr. ROBERT C. BYRD. Mr. President, if the Chair will withhold putting that question at the moment, I am very impressed by what both the distinguished minority leader and the distinguished Senator from New York have said. I am particularly impressed by the suggestion by the Senator from New York that there be a time limit—that there be a final vote. I have said Tuesday, January 23. I am not wedded to that date. It can be Tuesday or a month from then so far as I am concerned. I certainly would want to remove the constraints that obtain at the moment on all Senators.

I am willing to try to work out an agreement that will assure a vote without a filibuster, but a vote. If it is 6 weeks from today, that is all right with me, but I want a vote on this resolution. I want the Senate to have its opportunity to work its will on it, to make whatever changes the majority of the Senate feel necessary. That is all I am asking. I am asking for the majority of the Senate on both sides of the aisle to have its day, and then let us vote.

Now, I believe that, if I understand the distinguished Senater from New York correctly, that if there is going to be an objection to a final vote on the 23d, perhaps we had better just recess now and go out for a couple of days, and work out a time agreement that does provide a date for a final vote, and then proceed in accordance with that kind of agreement. If that is the consensus, I will not press

any further with this request at this time. It is a request that gives us something to work with. I will leave it pending, and as soon as Senators have had their say on this matter, I will then move to recess for 2 days. In the meantime, perhaps, we can work out a time frame that will be suitable to all Senators. I am very agreeable to that.

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. I think the Senator ought to withdraw the request because it means an overhanging problem for everybody to be on the qui vive.

The Senator's rights are fully preserved. He still will have the floor, and he will when we recess. The Senator can have it when we come back by unanimous consent, and I would not leave that pending.

Other than that I agree with the Senator.

Mr. ROBERT C. BYRD. I shall withdraw the request. The reason I am going to withdraw this request is that I believe that reasonable minds are going to prevail, and I think there are 100 reasonable minds in this Senate.

Based on what the distinguished Senator from New York has said, I think this is a reasonable way to approach the matter. I hope that we can work out an agreement that would allow us a final vote on this resolution.

I am not wedded to the 23d. I just want a final vote on the resolution. I want Senators to have the opportunity to debate it. I want them to have an opportunity to amend it. I want them to have an opportunity to vote on it up or down as amended, if amended and, therefore, for the time being, with the understanding that I still hold the floor, I withdraw the unanimous-consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, without losing my right to the floor—and I do not lose the floor by asking unanimous consent—that a section-by-section analysis of the resolution to amend certain rules of the Senate be inserted in the RECORD. Of course, this analysis does not include the last provision in the resolution that dealt with electronic voting, but that speaks for itself.

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

SECTION-BY-SECTION ANALYSIS OF THE ENCLOSED RESOLUTION TO AMEND CERTAIN RULES OF THE SENATE

1. Section 1 of the resolution proposes to amend Rule III of the Senate to make motions to suspend the reading of the Journal in order without debate. Under the existing rules this can only be done by unanimous consent. Motions to correct the Journal would also be in order and not debatable under the proposed change.

2. Section 2 of the resolution would amend Rule VIII to provide that debate on motions to proceed to the consideration of any matter made at any time outside of the morning hour would be limited to not to exceed 30 minutes, to be equally divided and controlled by the majority and minority leaders, whereas under the existing procedure there is no limitation of debate on such motions.

3. Section 3 would amend Rule XV to provide that where an amendment is available to all members in printed form when presented, the demand for its reading may be waived by a majority without debate.

4. Section 4 of the resolution would amend Rule XVIII of the Senate by providing that during the consideration of a bill or resolution it would be in order to move without debate by a 3/5th vote that all subsequent floor amendments be required to be germane except for amendments recommended by the committee reporting the bill. Since there is a germaneness requirement on general appropriations bills under Rule XVI, paragraph 4 and under Rule XXII once cloture has been invoked on a matter, the provisions of this section would not apply in those two situations.

5. Section 5 of the resolution would amend paragraph 2 of Rule XXII to provide for a fixed time limitation on a measure or matter upon which cloture has been invoked. The fixed time of 100 hours of consideration would apply to all action including votes, quorum calls, etc., and at the end of that time no amendments, motions, etc., not then pending would be in order. However, one live quorum call to establish the presence of a quorum would be in order. The one hundred hour limitation could be increased or decreased on motion without debate by an affirmative vote of 60 Senators. However, a motion to reduce could not be made until after at least 10 hours of consideration of the measure on motter, and if then reduced it may not be to less than 10 hours, which time would be divided between the majority and minority leaders.

Rule XXII would also be amended by striking out in three places the expression "or the unfinished business". This is to conform the rule to the existing precedent that the measure or matter, including the unfinished business, must be before the Senate when a cloture motion is filed on it.

Rule XXII is proposed to be further amended to provide that after September of each calendar year, if a cloture motion is filed the Senate may proceed to its immediate consideration instead of having to wait 2 days, and after 5 hours of debate, the Senate would proceed to vote on such motion.

6. Section 6 would amend Rule XXVII to provide that when a conference report is available to all members in printed form, the demand for its reading when presented may be waived on motion without debate.

7. Section 7 would amend 133(f) of the Legislative Reorganization Act of 1946 by providing that the "3-day rule" on committee reports be changed to "2 days", excluding Saturdays, Sundays and legal holidays except when the Senate is in session on such days. Under the current rule, Saturday, Sundays and legal holidays are exempt from the computation of the 3 days in any event.

Mr. DOLE said subsequently: Mr. President, on January 15, we discussed proposed changes in the rules. I think the distinguished minority leader and the majority leader worked out some accommodation of discussing proposed changes. Perhaps we can work out some agreement on proposed changes.

Mr. President, the resolution proposed by the distinguished majority leader puts several distressing constraints on the minority. When I say minority, however, I do not necessarily mean myself and my colleagues on this side of the aisle. The legislation before us now can threaten a minority of 1 or a minority of 49. It can tread on the rights of the minority, whether that minority is the minority party or a minority of Senators. And it is the function and the duty of the U.S. Senate to protect the minority, to assure that each Senator is guaranteed the right to express his views, no matter how solitary or unpopular they may be. The result of this carefully devised system, I admit, is to slow down the process of legislation, which may prove frustrating to those who would prefer to see our business whisked through with a minimum of time and a maximum of results visible to the constituency.

But, Mr. President, the Senate is a body committed to the principle of free and unlimited debate. The trend of proposed rules changes in the past, particularly of rule 22, has been to gradually limit and narrow the extended debate rule and the few remaining devices available to the minority in the Senate today. This legislation means to further limit those devices and reduce the rights of the minority. On the surface, these changes seem harmless enough. They smooth out the flow, they quicken the pace, they iron out what the majority regards as the "wrinkles" in our legislative process. The Senator from Kansas feels, however, that these seemingly minor changes will serve, in the end, to rob the minority of its few remaining recourses and bestow an unfair advantage on the majority that is inequitable and unjust to the American people.

Mr. President, part of the genius of our political system is that the minority is in a better position to help shape public policy in our country than are parliamentary bodies of most other nations. The U.S. Senate is unique in that way. And I do not think that the American people are willing to forgo that distinctive mark of our democratic society. I think we owe it to our constituencies to uphold the rights of the minority and the equity of our political system.

The legislation proposed by the distinguished Senator from West Virginia seeks once again to curtail those privileges enjoyed by the minority. The resolution also fails to uphold the rights of individual Senators. It would grant the minority leader and majority leader an opportunity to control debate on a motion to proceed. Frequently, however, the side of an issue which needs airing and which could benefit from extended discussion might not include the leader of either the minority or majority. In that event, the opposition would not be protected.

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The resolution also presents a very serious alteration of rule 22. It would not only limit the amount of available time to each Senator, but would also create a situation in which some Senators could be cut completely out of their right to offer amendments. Because of the provision that quorum calls be charged against the maximum time limit, there is no guarantee that each senator will have time to speak.

This piece of legislation also shortens the waiting period after the filing of a cloture petition—it changes the period—from 2 days to "proceed immediately to

the consideration thereof, and after 3 hours of debate, equally divided and controlled by the majority and minority leaders, the Senate shall proceed to vote." A cut of the time for consideration from 2 days to 3 hours is a substantial reduction. I doubt if meaningful debate on an issue can always be accomplished in 3 hours.

SUSPENSION OF READING OF JOURNAL

Senator BYRD's legislation also provides that the reading of the Journal and of amendments and conference reports be dispensed with by a nondebatable motion, as well as by unanimous consent. The absence of any debating time in these instances only sets the stage for parliamentary abuse on the part of the majority. It seems to me that the Senate cannot very well decide such an issue without some discussion, even if it be limited to only 10 minutes. It is evident that these proposed changes could prove very restricting to the minority and form part of a pattern for maneuvering on the part of the majority.

The right to free expression belongs to all the Senators in this Chamber and is seriously threatened by this resolution. If we allow this right to be stifled we drastically reduce the effectiveness of the Senate and its usefulness to society. I strongly recommend to my colleagues on both sides of the aisle that we reject this legislation and to allow the Standing Rules of the Senate to remain as written until they can be thoroughly reviewed by the Rules and Administration Committee and by the full Senate.

Mr. President, one thing the Senator from Kansas might suggest is that we ought to work out something to avoid what many consider an unnecessary number of rollcall votes in this body. I hope that my new colleagues who join us in the Senate might ponder the necessity of repeated votes—vote after vote after vote—when there is no real reason for the same.

As I understand it, there was a time in this body when that determination was made by the distinguished leaders, the minority leader and the majority leader would decide many times whether or not a rollcall vote was necessary.

If that is not totally satisfactory, perhaps the ranking majority member and the ranking minority member on committees might join in a request for rollcall votes.

But I do believe when we talk about an effective and orderly flow of business in the Senate of the United States, we can all think of interruptions we have had during very important Senate hearings. We have had to rush back and forth to the floor. I would certainly cooperate as one Member of this body if we could work some accommodation, as far as the rollcall votes are concerned. Perhaps the leaders do not want that great responsibility, but maybe those of us who share responsibilities as ranking minority members or majority members on the committees might work with the leaders in the Senate to see if we cannot in some way hold down the number of rollcalls we have almost on a daily basis.

When I first came to the Senate, I think it was around 200 and some. I do not know the exact number last year, but I guess it was well up to 400 or 500 rollcalls.

Mr. BAKER. Will the Senator yield?

Mr. DOLE. I yield to my colleague, the distinguished minority leader.

Mr. BAKER. Mr. President, I could not agree with the Senator from Kansas more. I think that not only are many rollcalls unnecessary, but I think, frankly, a lot of them are impositions on the Senate and its membership.

I would be more than happy to work out some sort of de facto arrangement, de facto rule or arrangement, to provide, as he suggests, that the majority leader and the minority leader might consult with the ranking members of the jurisdictional committees, or effective committees, and decide whether the rollcalls were, in fact, desirable, or not.

I suppose we could never totally enforce it, but we could establish a good precedent, if our colleagues would back us up.

I applaud the Senator from Kansas for his suggestion. I represent to him that I would be more than pleased to do that. I will certainly explore that at the first opportunity on our side and will communicate it, as well, to the majority leader and his side and hope we can carry the Senator from Kansas' suggestion into effect.

Mr. DOLE. I thank the distinguished minority leader.

It is a matter we discussed, as he recalls, briefly, a few weeks ago.

Mr. President, I might also correct the record, there were 520 rollcall votes in 1978.

I think we might have survived with 200 or 250. Maybe the 520 were necessary, but I doubt it. I doubt that many of my colleagues, as they look back on it, feel the votes they may have asked for were totally necessary.

ROUTINE MORNING BUSINESS

PROPOSED AMENDMENT TO THE TARIFF ACT—MESSAGE FROM THE PRESIDENT—PM 5

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

I am today transmitting to the Congress a proposal for legislation to extend until September 30, 1979, 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. The Secretary's authority to waive the imposition of countervailing duties expired on January 2, 1979. Extension of this authority is essential to provide the Congress with time to consider the results of the Tokyo Round of Multilateral Trade Negotiations (MTN). Failure to extend this authority is likely to prevent the reaching of a conclusion to these negotiations and could set back our national economic interests. Accordingly, I urge that the Congress enact the necessary legislation at the earliest possible date.

As stipulated by the Congress in the Trade Act of 1974, negotiation of a satisfactory code on subsidies and countervailing duties has been a primary U.S. objective in the Tokyo Round. We have sought an agreement to improve discipline on the use of subsidies which adversely affect trade. I am pleased to report that in recent weeks our negotiators have substantially concluded negotiations for a satisfactory subsidy/countervailing duty code which includes: (1) new rules on the use of internal and export subsidies which substantially increase protection of United States agricultural and industrial trading interests, and (2) more effective provisions on notification, consultation and dispute settlement that will provide for timely resolution of disputes involving trade subsidies in international trade.

My Special Representative for Trade Negotiations has informed me that negotiations on almost all MTN topics have been substantially concluded, and that those agreements meet basic U.S. objectives. However, final agreement is unlikely unless the waiver authority is extended for the period during which such agreements and their implementing legislation are being considered by the Congress under the procedures of the Trade Act of 1974.

Under current authority, the imposition of countervailing duties may be waived in a specific case only if, inter alia, "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 protected from the adverse effects of subsidized competition.

A successful conclusion to the MTN is essential to our national interest, as well as to the continued growth of world trade. If the waiver authority is not extended, such a successful conclusion will be placed in serious jeopardy. Accordingly, I urge the Congress to act positively upon this legislative proposal at the earliest possible date.

JIMMY CARTER.

THE WHITE HOUSE, *January 15, 1979.*

COMMUNICATIONS

The VICE PRESIDENT laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a summary of the Weather-Water Allocation Study; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2. A communication from the Acting Secretary of Agriculture, reporting, pursuant to law, as to the aggregate value of all agreements entered into under Title I of the Agricultural Trade Development and Assistance Act (Public Law 480) during fiscal year

1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report entitled "Improving Soils with Organic Wastes"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4. A communication from the Assistany Secretary of Agriculture, reporting, pursuant to law, the status of planned programming of Public Law 480, Title I commodities as of December 31, 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5. A communication from the Secretary of the Interior, reporting, pursuant to law, on an overobligation which occurred in the Bureau of Indian Affairs; to the Committee on Appropriations.

EC–6. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, the third-quarter fiscal year 1978 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products; to the Committee on Appropriations.

EC–7. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, a final award in favor of The Creek Nation in the sum of $7,718,427.92 entered in the Creek Nation v. United States, Docket No. 272, by the Indian Claims Commission on September 22, 1978; to the Committee on Appropriations.

EC–8. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the intent to obligate $16.8 million of funds available in the Army Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC–9. A communication from the Secretary of State, reporting, pursuant to law, on efforts the President and the Secretary of State have made to encourage the provision of adequate liability insurance by diplomatic missions to the United States against the risks of "loss or injury arising from the wrongful acts or omissions of the employees of such missions in the United States"; to the Committee on Appropriations.

EC–10. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, a report of final award of the Indian Claims Commission in *The Creek Nation* v. *The United States*, in the amount of $1,115,706.20; to the Committee on Appropriations.

EC–11. A communication from the Deputy Secretary of Defense, reporting, pursuant to law, that the authority provided in section 3732 of the Revised Statutes, 41 U.S.C. 11, was used to incur obligations during the last quarter of fiscal year 1978 in certain appropriations; to the Committee on Appropriations.

EC–12. A communication from the Deputy Comptroller General of the United States, reporting, pursuant to law, on the National Center for Productivity and Quality of Working Life, Travel Reimbursement Limitation; to the Committee on Appropriations.

EC–13. A communication from the Director, Agency for Volunteer Service, ACTION, reporting, pursuant to law, a technical violation of Section 3679 of the Revised Statutes, as amended (31 U.S.C. 665); to the Committee on Appropriations.

EC–14. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Veterans Administration for "Readjustment benefits" for the fiscal year 1979, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

EC–15. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, transfers of amounts appropriated to the Department of Defense recently made pursuant to the authority granted in Section 854 of the Department of Defense Appropriation Act, 1978; to the Committee on Appropriations.

EC–16. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under German Offset Agreement for the quarter July 1, 1978, through September 30, 1978; to the Committee on Appropriations.

EC–17. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Treasury for "Salaries and expenses," United States Customs Service for the fiscal year 1979, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

EC–18. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, the final award in favor of the Ottawa Tribe in the sum of $563,624.21 entered in The Ottawa Tribe, and Guy Jennison et al, as Representatives of the *Ottawa Tribe* v. *United States*, Nos. 133A and 302, by the Indian Claims Commission, August 17, 1978; to the Committee on Appropriations.

EC–19. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, the final awards entered in favor of plaintiffs in certain cases by the Indian Claims Commission on September 20, 1978; to the Committee on Appropriations.

EC–20. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Canal Zone Government for "Operating Expenses" for the fiscal year 1979, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation and that the Panama Canal Company Fund has been reapportioned on a basis which indicates a necessity for an increase in the statutory "Limitation on General and Administrative Expenses"; to the Committee on Appropriations.

EC–21. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, that no use was made of funds appropriated in the Department of Defense Appropriation Act, 1978, and Section 109 of the Military Construction Appropriation Act, 1978 during the period April 1, 1978–September 30, 1978, to make payments under contracts for any program, project, or activity in a foreign country except where, after consultation with a designee of the Secretary of the Treasury, it was determined that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law was not feasible for the reason that the Treasury Department was not holding excess foreign currencies in the country involved; to the Committee on Appropriations.

EC–22. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, the final award in favor of the plaintiffs in the sum of $116,144.00 entered in *The Peoria Tribe of Oklahoma* v. *The United States*, No. 314–B, by the Indian Claims Commission, September 29, 1978; to the Committee on Appropriations.

EC–23. A communication from the Clerk, United States Court of Claims, transmitting, pursuant to law, the final award in favor of the plaintiffs and intervenor in the sum of $888,623.04 entered in *Citizen Bank of Potawatomi Indians of Oklahoma, et al. and Related Cases* v. *The United States*, Nos. 216, 15–L and 29–I, by the Indian Claims Commission, September 28, 1978; to the Committee on Appropriations.

EC–24. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on a construction project to be undertaken by the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC–25. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 8 construction projects to be undertaken by the U.S. Air Force Reserve; to the Committee on Armed Services.

EC–26. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 38 construction projects to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–27. A secret communication from the Assistant Secretary of Defense, transmitting, pursuant to law, 53 Selected Acquisition Reports (SARs) and the sar Summary Tables for the quarter ending September 30, 1978; to the Committee on Armed Services.

EC–28. A communication from the Acting Director, Defense Security Assistance Agency, transmitting, pursuant to law, information concerning the Department of the Navy's proposed Letter of Offer to the Federal Republic of Germany for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–29. A communication from the Secretary of the Army, reporting, pursuant to law, on a plan prepared to dispose of the remaining Hydrogen Cyanide at Tooele Army Depot, Utah; to the Committee on Armed Services.

EC–30. A communication from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting, pursuant to law, a supplemental submission to the consolidated Defense Related Employment Report for fiscal year 1977; to the Committee on Armed Services.

EC–31. A confidential communication from the Assistant Secretary of Defense, transmitting, pursuant to law, contract award information amending the report covering the period September 15, 1978 to December 15, 1978; to the Committee on Armed Services.

EC–32. A communication from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, that no real or personal property acquisitions of emergency supplies and equipment were acquired during the quarter ending September 30, 1978; to the Committee on Armed Services.

EC–33. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes to the Committee on Armed Services.

EC–34. A communication from the Acting Secretary of the Army transmitting, pursuant to law, the annual report of Department of the Army contracts for military construction awarded without formal advertisement, 1 October 1977 through 30 September 1978; to the Committee on Armed Services.

EC–35. A communication from the Secretary of Defense, reporting, pursuant to law, comparing the President's fiscal year 1979 Budget request with the initial allocation of the statutory civil authorization; to the Committee on Armed Services.

EC–36. A communication from the Principal Deputy Assistant Secretary of Defense (MRA&L), transmitting, pursuant to law, on the Selected Reserve Reenlistment Bonus Test Program authorized in section 403 of the Defense Authorization Act of July 30, 1977, for the cumulative period January 1 through July 31, 1978; to the Committee on Armed Services.

EC–37. A confidential communication from

the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to The Netherlands for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–38. A communication from the Assistant Secretary of the Army (Research, Development and Acquisition), transmitting, pursuant to law, a report on Department of the Army Research and Development Contracts for $50,000 or more which were awarded during the period 1 April 1978 through 30 September 1978; to the Committee on Armed Services.

EC–39. A communication from the Associate Director, Legislative Liason, Department of the Air Force, transmitting, pursuant to law, reports concerning military construction contracts awarded by the Air Force without formal advertisement for the periods October 1, 1977, through September 30, 1978; to the Committee on Armed Services.

EC–40. A communication from th Assistant Deputy Chief of Naval Material (Contracts and Business Management), transmitting, pursuant to law, the Department of the Navy's semiannual report of research and development procurement actions of $50,000 and over, covering the period 1 October 1977 through 30 September 1978; to the Committee on Armed Services.

EC–41. A communication from the Director, Defense Civil Preparedness Agency, transmitting, pursuant to law, a report of Financial Contributions to the States, Personnel and Administration for the fiscal year ending September 30, 1978; to the Committee on Armed Services.

EC–42. A communication from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on the Financial Contributions Program, Equipment and Facilities for fiscal year ending September 30, 1978; to the Committee on Armed Services.

EC–43. A communication from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting, pursuant to law, reports in compliance with the Aviation Career Incentive Act of 1974, as codified in 37 U.S.C. 301a; to the Committee on Armed Services.

EC–44. A communication from the Deputy Secretary of Defense, reporting, pursuant to law, on the annual compensation of officers or employees (Federal Contract Research Center) in excess of $45,000 from federal funds; to the Commitee on Armed Services.

EC–45. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 24 construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC–46. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on contract award dates for the period November 15, 1978 to February 15, 1979; to the Committee on Armed Services.

EC–47. A communication from the Secretary of the Army, transmitting, pursuant to law, the annual report of the United States Soldiers' and Airmen's Home for fiscal year 1977 and a report of the Annual General Inspection of the Home, 1978, by the Inspector General of the Army; to the Committee on Armed Services.

EC–48. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report of actions taken by the Eximbank from July 1, 1978 through September 30, 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–49. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Administration of U.S. Export Licensing Should Be Consolidated To Be More Responsive To Industry," October 31, 1978; to the Commtitee on Banking, Housing, and Urban Affairs.

EC–50. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, its tenth Annual Report on Truth in Lending; to the Committee on Banking, Housing, and Urban Affairs.

EC–51. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, a proposed regulation implementing sections 909 and 911 of the Electronic Fund Transfer Act, Public Law 95–630, and the analysis of the economic impact of the proposed sections of the regulation on participants in EFT systems; to the Committee on Banking, Housing, and Urban Affairs.

EC–52. A communication from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, a progress report of the Cost Accounting Standards Board for the year ended September 30, 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–53. A communication from the Assistant Attorney General Antitrust Division, transmitting, pursuant to law, a report on the enforcement of Title I of the Consumer Credit Protection Act of 1968 (Public Law 90–321) for calendar year 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–54. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on Indian and Alaska Native Housing and Community Development Programs; to the Committee on Banking, Housing, and Urban Affairs.

EC–55. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of September 1978, on total itemized revenues and expenses, revenues and expenses of each train operated, and revenues and total expenses attributable to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC–56. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of October 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC–57. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report of contracts negotiated under 10 U.S.C. 2304(a)(11) during the period April 1, 1978 to September 30, 1978; to the Committee on Commerce, Science, and Transportation.

EC–58. A communication from the Administrator, National Aeronautics and Space Administration transmitting, pursuant to law, information with respect to contracts negotiated by NASA under 10 U.S.C. 2304(a)(11) and (16) for the period January 1, 1978 through June 30, 1978; to the Committee on Commerce, Science, and Transportation.

EC–59. A communication from the President, Communications Satellite Corporation, transmitting, pursuant to law, a report on the operations, activities and accomplishments of COMSAT; to the Committee on Commerce, Science, and Transportation.

EC–60. A communication from the Acting Secretary of the Interstate Commerce Commission, reporting, pursuant to law, that the Commission is unable to render a final decision in Docket No. 36731 (Sub-No. 28), Liquified Petroleum Gas, Flomation, Alabama, to Western Trunk Line Territory, within the initially-specified 7-month period; to the Committee on Commerce, Science, and Transportation.

EC–61. A communication from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Surface Impoundments and Their Effects on Ground-Water Quality in the United States—A Preliminary Survey"; to the Committee on Commerce, Science, and Transportation.

EC–62. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a copy of the Commission's letter to the Director, Office of Management and Budget, concerning S. 2, the Sunset Act of 1978; to the Committee, Science, and Transportation.

EC–63. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report for calendar year 1978 on the utilization of the authority granted in 37 U.S.C. 306 (to pay special pay to U.S. Coast Guard officers holding positions of unusual responsibility and of critical nature); to the Committee on Commerce, Science, and Transportation.

EC–64. A communication from the Chairman, Migratory Bird Conservation Commission, transmitting, pursuant to law, a report of the Migratory Bird Conservation Commission for fiscal year ending September 30, 1978; to the Committee on Commerce, Science, and Transportation.

EC–65. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of September 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC–66. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of July 1978, on total itemized revenues and expenses, revenues and expenses of each train operated, and revenues and total expenses attributable to each railroad over which service is provided; to the Committee on Commerce, Science, and Transportation.

EC–67. A communication from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting, pursuant to law, recommendations concerning Federal organization for marine and atmospheric affairs; to the Committee on Commerce, Science, and Transportation.

EC–68. A communication from the President, United States Railway Association, transmitting, pursuant to law, its quarterly report for July 1, 1978 through September 30, 1978; to the Committee on Commerce, Science, and Transportation.

EC–69. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of August 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC–70. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's letter to the Office of Management and Budget appealing the resource levels provided by OMB for fiscal year 1980; to the Committee on Commerce, Science, and Transportation.

EC–71. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the implementation of the Federal Fire Prevention and Control Act of 1974; to the Committee on Commerce, Science, and Transportation.

EC–72. A communication from the Admin-

istrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on the Effectiveness of the Civil Aviation Security Program for the period January 1 to June 30, 1978; to the Committee on Commerce, Science, and Transportation.

EC–73. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a copy of the Board's request to the Office of Management and Budget for a partial examption to the hiring limitation imposed by the President on October 24, 1978; to the Committee on Commerce, Science, and Transportation.

EC–74. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Commission's annual report covering its accomplishments during the fiscal year ended September 30, 1977; to the Committee on Commerce, Science, and Transportation.

EC–75. A communication from the Chairman, Civil Aeronautics Board, transmitting, pursuant to law, the Board's annual report covering fiscal year 1977; to the Committee on Commerce, Science, and Transportation.

EC–76. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report for the month of July 1978, on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad; to the Committee on Commerce, Science, and Transportation.

EC–77. A communication from the Secretary of the Interior, reporting, pursuant to law, that Sunmark Exploration Company, a division of Sun Oil Company (Delaware), has submitted an application to the Department for repayment of rental totaling $17,280.00 for lease OCS–G 2750, East High Island Block 365, offshore Texas; to the Committee on Energy and Natural Resources.

EC–78. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The United States and International Energy Issues," December 18, 1978; to the Committee on Energy and Natural Resources.

EC–79. A communication from the Under Secretary, Department of Energy, transmitting, pursuant to law, a report entitled "Application and System Design Study for Cost-Effective Solar Photovoltaic Systems at Federal Installations," November 1978; to the Committee on Energy and Natural Resources.

EC–80. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, reports on (1) Petroleum Market Shares: Report on Sales of Refined Petroleum Products; and (2) Petroleum Market Shares: Report of Sales of Retail Gasoline; to the Committee on Energy and Natural Resources.

EC–81. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–82. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the Development Plan and Stream Classification for the Obed Wild and Scenic River in Tennessee; to the Committee on Energy and Natural Resources.

EC–83. A communication from the Deputy Assistant Secretary for Environment, Department of Energy, transmitting, pursuant to law, a report on Plutonium Air Transportable Package Model PAT–1; to the Committee on Energy and Natural Resources.

EC–84. A communication from the Secretary of the Interior, reporting, pursuant to law, that Union Oil Company of California has submitted an application to the Department for repayment of one year's rental totaling $17,280 for lease OCS–G 2481, Destin Dome Block 208, offshore Florida; to the Committee on Energy and Natural Resources.

EC–85. A communication from the Assistan Secretary of the Interior, reporting, pursuant to law, that an adequate soil survey and land classification has been made of the lands in the Westside Water District, Improvement District No. 1, and that the lands to be irrigated are suceptible to the production of agricultural crops by means of irrigation; to the Committee on Energy and Natural Resources.

EC–86. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, a report on the implementation and actions taken under the Emergency Natural Gas Act of 1977 (Public Law 95–2); to the Committee on Energy and Natural Resources.

EC–87. A communication from the Director, Office of Territorial Affairs, Department of the Interior, transmitting, pursuant to law, a report of the administration of the Guam Development Fund during 1978, as submitted by the Governor of Guam; to the Committee on Energy and Natural Resources.

EC–88. A communication from the Secretary of the Interior, transmitting proposed amendments relating to Title II, National Park System, Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

EC–89. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on Petroleum Market Shares; Report on Sales of Refined Petroleum Products, July 1978; to the Committee on Energy and Natural Resources.

EC–90. A communication from the Administrator, Energy Information Administration, transmitting, pursuant to law, a report on sales of retail gasoline, July 1978; to the Committee on Energy and Natural Resources.

EC–91. A communication from the President of the United States, transmitting, pursuant to law, a proposal to designate a 50.4-mile segment of the Illinois River within the Siskiyou National Forest in Oregon as an element of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

EC–92. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–93. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "First Progress Report to the Congress, California Desert Conservation Area"; to the Committee on Energy and Natural Resources.

EC–94. A communication from the President of the United States transmitting, pursuant to law, a proposal to designate a 1.9 million acre River of No Return Wilderness on portions of the Bitterroot, Boise, Challis, Nezperce, Fayette and Salmon National Forests in Idaho; to the Committee on Energy and Natural Resources.

EC–95. A communication from the Director, Office of Hearings and Appeals, Department of Energy, transmitting, pursuant to law, the quarterly report on private grievances and redress; to the Committee on Energy and Natural Resources.

EC–96. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)) for the period June 22, 1977, to March 31, 1978; to the Committee on Commerce, Science, and Transportation.

EC–97. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Projected Timber Scarcities in the Pacific Northwest: A Critique of 11 Studies," December 12, 1978; to the Committee on Energy and Natural Resources.

EC–98. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on (1) Petroleum Market Shares: Report on Sales of Refined Petroleum Products; and (2) Petroleum Market Shares: Report on Sales of Retail Gasoline; to the Committee on Energy and Natural Resources.

EC–99. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on the Interstate Compact to Conserve Oil and Gas; to the Committee on Energy and Natural Resources.

EC–100. A communication from the Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, its report covering fiscal year 1976 with its transition quarter (July 1, 1975, to September 30, 1976) and fiscal year 1977; to the Committee on Energy and Natural Resources.

EC–101. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Water Conservation Opportunities Study, September 1978"; to the Committee on Energy and Natural Resources.

EC–102. A communication from the Secretary of the Interior, reporting, pursuant to law, that Mesa Petroleum Company has submitted an application to the Department for repayment of rental totaling $17,280.00 for lease OSC-G 2410, High Island Block A-313, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–103. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report for the period July through September 1978 concerning imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; to the Committee on Energy and Natural Resources.

EC–104. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities; to the Committeee on Environment and Public Works.

EC–105. A communication from the Chairman, United States Nuclear Regulatory Commission, Advisory Committee on Reactor Safeguards, transmitting, pursuant to law, a report on the safety research program; to the Committee on Environment and Public Works.

EC–106. A communication from the Chairman, Council on Environmental Quality, Executive Office of the President, transmitting, pursuant to law, a report entitled "Progress in Environmental Quality"; to the Committee on Environment and Public Works.

EC–107. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the final conclusions of the Department regarding the impact of trans-Alaska pipeline construction traffic on the Alaska highway system; to the Committee on Environment and Public Works.

EC–108. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, the National Water Quality Inventory Report for 1977; to the Committee on Environment and Public Works.

EC–109. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for 820 Elkridge Landing Road, Friendship, Maryland; to the Committee on Environment and Public Works.

EC–110. A communication from the Deputy Under Secretary, Department of the Army, transmitting, pursuant to law, a report concerning required cooperation agreements on water resource projects; to the Committee on Environment and Public Works.

EC–111. A communication from the Director, Hoover Institution on War, Revolution and Peace, transmitting, pursuant to law, a report on the expenditure of funds on the Herbert Hoover Federal Memorial Building by the Hoover Institution; to the Committee on Environment and Public Works.

EC–112. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a memorandum of understanding delineating respective agency responsibilities in the conduct of epidemiological planning studies; to the Committee on Environment and Public Works.

EC–113. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on contracts per section 11, Public Law 95–601, NRC's 1979 Authorization Act; to the Committee on Environment and Public Works.

EC–114. A communication from the Director, Office of Water Research and Technology, Department of the Interior, transmitting, pursuant to law, a report entitled "Evaluation of Technical Material and Information for Potential Desalting Demonstration Plants," December 1978; to the Committee on Environment and Public Works.

EC–115. A communication from the Acting Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Fruits and Vegetables, transmitting, pursuant to law, the Committee's report on the US-Indian Tropical Products Agreement which was consummated by an exchange of letters on July 26, 1978; to the Committee on Finance.

EC–116. A communication from the Acting Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Fruits and Vegetables, transmitting, pursuant to law, the Committee's report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed in Washington, D.C., on December 2, 1977; to the Committee on Finance.

EC–117. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the final report on the "advantages and disadvantages of extending coverage under Title XVIII of the Social Security Act to urban or rural comprehensive mental health centers and to centers for treatment of alcoholism and drug abuse; to the Committee on Finance.

EC–118. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his decision that import relief for the domestic bicycle tire and tube industry is not in the national economic interest, and explaining the reasons for his decision; to the Committee on Finance.

EC–119. A communication from the Chairman, The Renegotiation Board, transmitting, pursuant to law, the Board's annual report for fiscal year ending September 30, 1978; to the Committee on Finance.

EC–120. A communication from the Chairman, The Renegotiation Board, reporting, pursuant to law, pertaining to the Board's annual report; to the Committee on Finance.

EC–121. A communication from the Special Representative for Trade Negotiations, transmitting, pursuant to law, reports of the Industry Sector Advisory Committees on the US-Indian Tropical Products Agreement, which was concluded on July 26, 1978; to the Committee on Finance.

EC–122. A communication from the Secretary of Health, Education, and Welfare transmitting pursuant to law, the Department's fourth report on State Medicaid program compliance with section 1903(g) of the Social Security Act; to the Committee on Finance.

EC–123. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his determination that import relief for the U.S. Artificial Bait and Flies Industry is not in the national economic interest and explaining the reasons for his decision; to the Committee on Finance.

EC–124. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his decision that import relief on unwrought, unalloyed copper is not in the national economic interest, and explaining the reasons for his decision; to the Committee on Finance.

EC–125. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his determination to provide import relief for the U.S. High Carbon Ferrochromium Industry and explaining the reasons for his decision; to the Committee on Finance.

EC–126. A communication from the Vice Chairman, Unitd States International Trade Commission, transmitting, pursuant to law, its sixteenth quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC–127. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his decision to modify the import relief recommendation of the U.S. International Trade Commission (USITC) by proclaiming increased tariffs of 15 percent on iron or steel bolts, nuts, and large screws for a three-year period and giving the reasons for his decision; to the Committee on Finance.

EC–128. A communication from the President of the United States, transmitting proposals relating to international trade; to the Committee on Finance.

EC–129. A communication from the Acting Chairman, The Renegotiation Board, transmitting, pursuant to law, the Board's report covering the fiscal year ending September 30, 1978; to the Committee on Finance.

EC–130. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "Combined Statement of Receipts, Expenditures and Balances of the United States Government for the fiscal year ended September 30, 1978"; to the Committee on Finance.

EC–131. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, a notice on leasing systems for the oil and gas lease Sale No. 51, central and western Gulf of Mexico, scheduled to be held on December 19, 1978; to the Committee on Energy and Natural Resources.

EC–132. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report required by Title VII, Public Law 95–118; to the Committee on Foreign Relations.

EC–133. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Independent Review and Evaluation at the Asian Development Bank," October 18, 1978; to the Committee on Foreign Relations.

EC–134. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–135. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–136. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (IBRD); to the Committee on Foreign Relations.

EC–137. A communication from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, increased budget level for Radio Free Europe/Radio Liberty, Inc., because of the downward fluctuations in foreign currency exchange rates; to the Committee on Foreign Relations.

EC–138. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–139. A communication from the Senior Adviser and Director for International Narcotics Control, Department of State, transmitting, pursuant to law, planned changes in allocations of fiscal year 1979 funds authorized and appropriated for the International Narcotics Control Program; to the Committee on Foreign Relations.

EC–140. A communication from the Assistant Administrator for Legislative Affairs, Department of State, transmitting, pursuant to law, a report required under Section 653(a) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Relations.

EC–141. A communication from the Assistant Secretary for Congressional Relations, Department of State, reporting, for the information of the Senate, on the tragedy in Guyana; to the Committee on Foreign Relations.

EC–142. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–143. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–144. A communication from the Chairman, Board of Foreign Scholarships, transmitting, pursuant to law, a report entitled "Report on Exchanges"; to the Committee on Foreign Relations.

EC–145. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–146. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–147. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (BRD); to the Committee on Foreign Relations.

EC–148. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60

days after the execution thereof; to the Committee on Foreign Relations.

EC–149. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–150. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (BRD); to the Committee on Foreign Relations.

EC–151. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–152. A communication from the Assistant Secretary for Economic and Business Affairs, Department of State, transmitting, pursuant to law, a report summarizing the trade controls of COCOM countries, current to April 15, 1978; to the Committee on Foreign Relations.

EC–153. A communication from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on excess defense articles delivered to foreign governments for the fourth quarter of fiscal year 1978, and the cumulative status for the year, October 1, 1977 through September 30, 1978; to the Committee on Foreign Relations.

EC–154. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–155. A communication from the Secretary of State, transmitting, pursuant to law, a report on United States policy toward the Soviet Union; to the Committee on Foreign Relations.

EC–156. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the disposal of certain foreign excess property; to the Committee on Governmental Affairs.

EC–157. A communication from the Mayor, The District of Columbia, transmitting, pursuant to law, the 1978 Alcoholism State Plan; to the Committee on Governmental Affairs.

EC–158. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Electric Energy Options Hold Great Promise for the Tennessee Valley Authority," November 29, 1978; to the Committee on Governmental Affairs.

EC–159. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "What Was the Effect of the Emergency Housing Program on Single-Family Housing Construction?" November 21, 1978; to the Committee on Governmental Affairs.

EC–160. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Evaluation of Four Energy Conservation Programs—Fiscal Year 1977," November 21, 1978; to the Committee on Governmental Affairs.

EC–161. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on the positions which NASA has established as of September 30, 1978, pursuant to the authority provided in Section 203(c)(2)(A) of the National Aeronautics and Space Act of 1958 as amended (42 U.S.C. 2473(c)(2)(A)); to the Committee on Governmental Affairs.

EC–162. A communication from the Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, the sixth quarterly report covering the activities of his office for the period July 1 to September 30, 1978; to the Committee on Governmental Affairs.

EC–163. A communication from the Chairman, United States Postal Service, reporting, pursuant to law, on compliance with the Government in the Sunshine Act for calendar year 1978; to the Committee on Governmental Affairs.

EC–164. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Problems in Auditing Medicaid Nursing Home Chains," January 9, 1979; to the Committee on Governmental Affairs.

EC–165. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, a report of personal property donated under section 203(j) of the Federal Property and Administrative Services Act; to the Committee on Governmental Affairs.

EC–166. A communication from the Assistant Attorney General for Administration, Department of Justice, reporting, pursuant to law, its intention to modify an existing system of records; to the Committee on Governmental Affairs.

EC–167. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status of the Implementation of the National Health Planning and Resources Development Act of 1974," November 2, 1978; to the Committee on Governmental Affairs.

EC–168. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Management Weaknesses Cry Out for Alternatives to Deliver Programs and Services to Indians to Improve Their Quality of Life," October 31, 1978; to the Committee on Governmental Affairs.

EC–169. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Effective Action by the Environmental Protection Agency Needed to Enforce Industrial Compliance With Water Pollution Control Discharge Permits," October 17, 1978; to the Committee on Governmental Affairs.

EC–170. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Bail Process Fosters Inequities," October 17, 1978; to the Committee on Governmental Affairs.

EC–171. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Victims of Unfair Business Practices Get Limited Help From the Federal Trade Commission," October 17, 1978; to the Committee on Governmental Affairs.

EC–172. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Fundamental Changes Needed to Improve the Independence and Efficiency of the Military Justice System," October 31, 1978; to the Committee on Governmental Affairs.

EC–173. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Fly America Act Should Allow More Agency Discretion in Authorizing Use of Military-Flag Air Carriers to Conduct Business Overseas," October 31, 1978; to the Committee on Governmental Affairs.

EC–174. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Getting a Better Understanding of the Metric System—Implications if Adopted by the United States," October 30, 1978; to the Committee on Governmental Affairs.

EC–175. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a Department of the Navy proposed new system of records; to the Committee on Governmental Affairs.

EC–176. A communication from the General Counsel, Federal Trade Commission, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–177. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Effective Action is Needed on Auditors' Findings—Millions Can Be Collected or Saved," October 25, 1978; to the Committee on Governmental Affairs.

EC–178. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of September 1978; to the Committee on Governmental Affairs.

EC–179. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Reserved Water Rights for Federal and Indian Reservations: A Growing Controversy in Need of Resolution," November 16, 1978; to the Committee on Governmental Affairs.

EC–180. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, reports on Privacy Act systems of records; to the Committee on Governmental Affairs.

EC–181. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, an Office of the Secretary of Defense proposed new record system; to the Committee on Governmental Affairs.

EC–182. A communication from the Records Management Division and Privacy Liaison Officer, Federal Communications Commission, transmitting, pursuat to law, a report on a revised system of records; to the Committee on Governmental Affairs.

EC–183. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Patent and Trademark Fees Need to be Raised," November 14, 1978; to the Committee on Governmental Affairs.

EC–184. A communication from the Deputy Administrator, Veterans Administration, transmitting, pursuant to law, a report on its activities in the disposal of foreign excess property covering the period October 1, 1977 through September 30, 1978; to the Committee on Governmental Affairs.

EC–185. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Getting a Better Understanding of the Metric System—implications if Adopted by the United States," October 20, 1978; to the Committee on Governmental Affairs.

EC–186. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Free Legal Services for the Poor—Increased Coordination, Community Legal Education, and Outreach Needed," November 6, 1978; to the Committee on Governmental Affairs.

EC–187. A communication from the General Counsel, Securities and Exchange Commission, transmitting, pursuant to law, a report relating to the modification of one of the systems of records; to the Committee on Governmental Affairs.

EC–188. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Community-Managed Septic Systems—A Viable Alternative to Sewage Treatment Plants," November 3, 1978; to the Committee on Governmental Affairs.

EC–189. A communication from the Director, Office of Administration, United States Nuclear Regulatory Commission, tranmitting, pursuant to law, a report on a proposed new system of records; to the Committee on Governmental Affairs.

EC–190. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–191. A communication from the General Counsel, Federal Trade Commission, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–192. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–193. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of November 1978; to the Committee on Governmental Affairs.

EC–194. A communication from the Acting Assistant Secretary for Administration, Department of the Treasury, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–195. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Issues Concerning Air Force KC–10A Advanced Tanker/Cargo Aircraft," January 5, 1979; to the Committee on Governmental Affairs.

EC–196. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the factors which contribute to the Navy's favorable readiness posture for the submarine launched ballistic missile force, as well as measures which could be taken to improve these areas and the potential applicability to other Navy programs; to the Committee on Governmental Affairs.

EC–197. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Federal Strategy is Needed to Help Improve Medical and Dental Care in Prisons and Jails," December 22, 1978; to the Committee on Governmental Affairs.

EC–198. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Navy's Submarine Launched Ballistic Missile Force is Highly Ready," December 21, 1978; to the Committee on Governmental Affairs.

EC–199. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need for Uniform Security Measures in Transporting Arms, Ammunition, and Explosives," December 21, 1978; to the Committee on Governmental Affairs.

EC–200. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Labor Needs to Manage its Workplace Consultation Program Better," December 18, 1978; to the Committee on Governmental Affairs.

EC–201. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "How to Dispose of Hazardous Waste—A Serious Question That Needs to be Resolved," December 19, 1978; to the Committee on Governmental Affairs.

EC–202. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Adjustment Assistance to Firms Under the Trade Act of 1974—Income Maintenance or Successful Adjustment?" December 21, 1978; to the Committee on Governmental Affairs.

EC–203. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting, pursuant to law, AID's fiscal year 1978 report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–204. A communication from the Director, Procurement and Contracts Management Directorate, Department of Energy, transmitting, pursuant to law, a report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–205. A communication from the Director, International Communication Agency, transmitting, pursuant to law, a report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–206. A communication from the Assistant Director for General Services, Facilities and Support Services Division, United States Environmental Protection Agency, transmitting, pursuant to law, a report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–207. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–208. A communication from the Chief, Procurement and Property Management Branch, Administrative Services Division, Community Services Administration, transmitting, pursuant to law, a report on utilization of foreign excess property for fiscal year 1978; to the Committee on Governmental Affairs.

EC–209. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–210. A communication from the Chairman, United States Nuclear Regulatory Commission, transmitting, pursuant to law, a report on full-time permanent employees hired and promoted; to the Committee on Governmental Affairs.

EC–211. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "What Are the Capabilities of the Selective Service System?" December 14, 1978; to the Committee on Governmental Affairs.

EC–212. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on a new proposed system of records; to the Committee on Governmental Affairs.

EC–213. A communication from the Acting Administrator, General Services Administraton, transmitting, pursuant to law, responses on a report of meeting, Board of Visitors, United States Naval Academy made to the President in May 1977; to the Committee on Governmental Affairs.

EC–214. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Liberal Deposit Requirements of States' Social Security Contributions Adversely Affected Trust Funds," December 18, 1978; to the Committee on Governmental Affairs.

EC–215. A communication from the Deputy Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation concerning the claim of Mr. James C. Wilkinson, an employee of the Department of the Interior; to the Committee on Governmental Affairs.

EC–216. A communication from the Acting Director, United States Arms Control and Disarmament Agency, transmitting, pursuant to law, a report for calendar year 1978 on the fourteen scientific or professional positions authorized for establishment in the agency; to the Committee on Governmental Affairs.

EC–217. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a proposed new system of records by the Defense Logistics Agency; to the Committee on Governmental Affairs.

EC–218. A communication from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on improving the distribution of information on Federal assistance programs; to the Committee on Governmental Affairs.

EC–219. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of the Financial Statements of the Panama Canal Company and the Canal Zone Government for Fiscal Periods 1977, Transition Quarter, and 1976," November 30, 1978; to the Committee on Governmental Affairs.

EC–220. A communication from the Director, Agency for Volunteer Service, ACTION, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–221. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Labor Department Should Reconsider its Approach to Employment Security Automation," December 28, 1978; to the Committee on Governmental Affairs.

EC–222. A communication from the Chairman, Copyright Royalty Tribunal, transmitting, pursuant to law, a report on implementation of the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–223. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "State and Local Government Productivity Improvement: What is the Federal Role?" December 6, 1978; to the Committee on Governmental Affairs.

EC–224. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Government's Severence Pay Programs Need Reform," December 7, 1978; to the Committee on Governmental Affairs.

EC–225. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "State Department Office of Inspector General, Foreign Service, Needs to Improve its Internal Evaluation Process," December 6, 1978; to the Committee on Governmental Affairs.

EC–226. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–227. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1978; to the Committee on Governmental Affairs.

EC–228. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a proposed modification to an existing system of records; to the Committee on Governmental Affairs.

EC–229. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the United States Capitol Historical Society for the Year Ended January 31, 1978"; to the Committee on Government Affairs.

EC–230. A communication from the Assistant Attorney General for Administration,

Department of Justice, transmitting, pursuant to law, a report of the FBI's intention to more adequately describe records in the FBI Central Records System by creating a new system of records; to the Committee on Governmental Affairs.

EC–231. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, comments on a report of the President's Commission on Olympic Sports made to the President in January 1977; to the Committee on Governmental Affairs.

EC–232. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the Administration's efforts to reduce paperwork during the period from April 1 to July 1, 1978; to the Committee on Governmental Affairs.

EC–233. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Status of the Federal Aviation Administration's Microwave Landing System," October 19, 1978; to the Committee on Governmental Affairs.

EC–234. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report of a proposed new system of records by the Department of the Army; to the Committee on Governmental Affairs.

EC–235. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–236. A communication from the Assistant Secretary for Management and Budget, Department of Health, Education, and Welfare, transmitting, pursuant to law, a proposed new system of records; to the Committee on Governmental Affairs.

EC–237. A confidential communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for greater emphasis on solving environmental problems at U.S. overseas military facilities; to the Committee on Governmental Affairs.

EC–238. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Worker Adjustment Assistance Under the Trade Act of 1974 to New England Workers Has Been Primarily Income Maintenance," October 31, 1978; to the Committee on Governmental Affairs.

EC–239. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting pursuant to law, a proposed new system of records for the Drug Enforcement Administration; to the Committee on Governmental Affairs.

EC–240. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–241. A communication from the Deputy Administrator, General Services Administration, transmitting, pursuant to law, comments on a report of the Commission on the Review of the National Policy Toward Gambling, made to the President in October 1976; to the Committee on Governmental Affairs.

EC–242. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Government Needs to do a Better Job of Collecting Amounts Owed by the Public," October 20, 1978; to the Committee on Governmental Affairs.

EC–243. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report of proposed new system of records for the Department of the Army; to the Committee on Governmental Affairs.

EC–244. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a proposed new system of records for the Defense Mapping Agency; to the Committee on Governmental Affairs.

EC–245. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, a proposed modification of an existing system of records; to the Committee on Governmental Affairs.

EC–246. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Regulation of Propane and Naphtha: Is It Necessary?" October 24, 1978; to the Committee on Governmental Affairs.

EC–247. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on poverty-related research and demonstration projects delegated to the department as of July 1973; to the Committee on Human Resources.

EC–248. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on "Progress Toward A Free, Appropriate Public Education"; to the Committee on Human Resources.

EC–249. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on "Alcohol and Health"; to the Committee on Human Resources.

EC–250. A communication from the U.S. Commissioner of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, notice of interpretation of Title I, ESEA requirements for the establishment of parent advisory councils and the selection of their members; to the Committee on Human Resources.

EC–251. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, a document entitled "Educational Information Centers Program—HEW Final Regulation, Title IV–A–5 of the Higher Education Act of 1965, as amended"; to the Committee on Human Resources.

EC–252. A communication from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the foundation's annual report for 1977–1978; to the Committee on Human Resources.

EC–253. A communication from the Chairman, The Ohio White House Conference on Library and Information Services, transmitting, pursuant to law, its recommendations of the delegates to the national conference; to the Committee on Human Resources.

EC–254. A communication from the Chairperson, Community Education Advisory Council, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report entitled "An Evaluation of the Community Education Program"; to the Committee on Human Resources.

EC–255. A communication from the Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, relative to the Comprehensive Employment and Training Act; to the Committee on Human Resources.

EC–256. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the 1977 report on the administration of the Public Health Service; to the Committee on Human Resources.

EC–257. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the administration of the Black Lung Benefits Act; to the Committee on Human Resources.

EC–258. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulation for Title I, Elementary and Secondary Education Act, Part 116d—Governing Children of Migratory Agricultural Workers or Migratory Fishermen; to the Committee on Human Resources.

EC–259. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the operation of the special pay program for medical officers of the Commissioned Corps of the Public Health Service; to the Committee on Human Resources.

EC–260. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the activities carried on under the provisions of Title IX and sections 314(a), 314(b), 314(c), 314(d), and 314(e) of Title III of the Public Health Service Act; to the Committee on Human Resources.

EC–261. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a policy interpretation regarding the applicability of Title IX of the Education Amendments of 1972 to collegiate athletics; to the Committee on Human Resources.

EC–262. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the Survey Report on Medical, Nursing and Osteopathic School Admissions Policy Relating to Abortions/Sterilizations; to the Committee on Human Resources.

EC–263. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on Family Planning Services and Population Research, that was prepared based on 1976 data gathered by the program; to the Committee on Human Resources.

EC–264. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the need for and feasibility of establishing an American Indian School of Medicine; to the Select Committee on Indian Affairs.

EC–265. A communication from the Assistant Secretary, Indian Affairs, Department of the Interior, reporting, pursuant to law, on adjustments or eliminations of reimbursements charges of the Federal Government existing as debts against individual Indians or Indian tribes; to the Select Committee on Indian Affairs.

EC–266. A communication from the Assistant Secretary, Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Sisseton-Wahpeton Sioux judgment funds in Docket 363, Second Claim (1867 Treaty and 1872 Agreement), before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–267. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period of October 2 through October 31, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–268. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–269. A communication from the Chief Commissioner, United States Court of Claims, reporting, pursuant to law, on *Rawleigh Moses & Co., Inc.* v. *The United States*, Con-

gressional Reference No. 1-77; to the Committee on the Judiciary.

EC-270. A communication from the Chief Commissioner, United States Court of Claims, reporting, pursuant to law, on *Carl Johnstone, Jr.* v. *The United States*, Congressional Reference No. 1-73; to the Committee on the Judiciary.

EC-271. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on identical bidding in advertised public procurement; to the Committee on the Judiciary.

EC-272. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report on the administration of the Foreign Agents Registration Act for the calendar year 1977; to the Committee on the Judiciary.

EC-273. A communication from the Director, Bureau of the Census, Department of Commerce, transmitting, pursuant to law, a report entitled "Registration and Voting in November 1976—Jurisdictions Covered by the Voting Rights Act Amendments of 1975"; to the Committee on the Judiciary.

EC-274. A communication from the Corporation Agent, Legion of Valor of the United States of America, Inc., transmitting, pursuant to law, its financial statement for fiscal year ending April 30, 1978; to the Committee on the Judiciary.

EC-275. A communication from the President, National Safety Council, transmitting, pursuant to law a report of audit of financial transactions for the fiscal year ended June 30, 1978; to the Committee on the Judiciary.

EC-276. A communication from the Executive Secretary, National Music Council, transmitting, pursuant to law, a report of audit for the fiscal period ending April 30, 1978; to the Committee on the Judiciary.

EC-277. A communication from the Certified Public Accountant, American Veterans of World War II, National Headquarters, transmitting, pursuant to law, a report of financial statement, August 31, 1978; to the Committee on the Judiciary.

EC-278. A communication from the Chairman, Copyright Royalty Tribunal, transmitting, pursuant to law, its first annual report for fiscal year ending September 30, 1978; to the Committee on the Judiciary.

EC-279. A communication from the President, National Safety Council, transmitting, pursuant to law, their 1978 "Report to the Nation"; to the Committee on the Judiciary.

EC-280. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period of December 1 through December 27, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-281. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting pursuant to law, reports covering the period of November 1 through November 30, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-282. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period June 16 through June 30, 1977, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-283. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC-284. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC-285. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC-286. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Impact of the Freedom of Information and Privacy Acts on Law Enforcement Agencies," November 15, 1978; to the Committee on the Judiciary.

EC-287. A communication from the Director, The Federal Judicial Center, transmitting, pursuant to law, the Center's annual report for fiscal year 1978; to the Committee on the Judiciary.

EC-288. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, an order in the case of an alien who has been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-289. A communication from the Chief Justice of the United States, transmitting, pursuant to law, the proceedings of the meeting of the Judicial Conference of the United States held in Washington, D.C., on September 21 and 22, 1978; to the Committee on the Judiciary.

EC-290. A communication from the Vice Chairman, Federal Election Commission, transmitting, pursuant to law, correspondence which was sent to the Office of Management and Budget; to the Committee on Rules and Administration.

EC-291. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a copy of correspondence which was sent to the Office of Management and Budget; to the Committee on Rules and Administration.

EC-292. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, its 1977 annual report of activities and accomplishments; to the Select Committee on Small Business.

EC-293. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1977 through June 1978; to the Select Committee on Small Business.

EC-294. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1977 to May 1978; to the Select Committee on Small Business.

EC-295. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1977 to July 1978; to the Select Committee on Small Business.

EC-296. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1977 to April 1978; to the Select Committee on Small Business.

EC-297. A communication from the Under Secretary of Defense, Research and Engineering, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1977 to August 1978; to the Select Committee on Small Business.

EC-298. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report on the necessity and desirability of including recipients of Federal grants other than from the Veterans Administration in the 85-15 ratio computation; to the Committee on Veterans' Affairs.

EC-299. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, reports concerning Exchange of Medical Information and Sharing of Medical Resources programs of the Veterans Administration for fiscal year 1978; to the Committee on Veterans' Affairs.

EC-300. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report for fiscal 1978 on the nature and disposition of all cases in which an institution, approved for veterans benefits, utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation; to the Committee on Veterans' Affairs.

EC-301. A communication from the Administrator, Veterans Administration, transmitting, pursuant to law, a report entitled "Progress or Abuse—A Choice," a study to investigate the need for legislative and administrative actions regarding standards of progress provisions of the G.I. bill and class session requirements of the Veterans Administration Regulations; to the Committee on Veterans' Affairs.

EC-302. A communication from the Architect of the Capitol, transmitting, pursuant to law, a semiannual report; which was ordered to lie on the table and to be printed.

EC-303. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, December 1978; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Committee on Human Resources, the Committee on Energy and Natural Resources, the Committee on the Judiciary, the Committee on Finance, and the Committee on Governmental Affairs, jointly, pursuant to order of January 30, 1975.

EC-304. A communication from the Comptroller General of the United States, commenting, pursuant to law, on the President's First Special Message for Fiscal Year 1979; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Human Resources, the Committee on Energy and Natural Resources, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Finance, and the Committee on Governmental Affairs, jointly, pursuant to order of January 30, 1975.

EC-305. A communication from the Direc-

tor, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report of rescissions and deferrals, November 1978; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Human Resources, the Committee on Energy and Natural Resources, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Finance, and the Committee on Governmental Affairs, jointly, pursuant to order of January 30, 1975.

EC–306. A communication from the General Counsel, General Accounting Office, reporting, pursuant to law, on the status of budget authority that was proposed, but rejected, for rescission; to the Committee on Appropriations, the Committee on the Budget, and the Committee on Human Resources, jointly, pursuant to order of January 30, 1975.

EC–307. A communication from the Comptroller General of the United States, commenting on the President's 11th Special Message for fiscal year 1978 that was transmitted to the Congress pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, and the Committee on Human Resources, jointly, pursuant to order of January 30, 1975.

EC–308. A communication from the Deputy Comptroller General of the United States, commenting on the President's Second Special Message for fiscal year 1979 that was transmitted to the Congress pursuant to the Impoundment Control Act of 1974; to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975.

EC–309. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report of rescissions and deferrals, January 1979; to the Committee on the Budget, the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, and the Committee on Human Resources jointly, pursuant to order of January 30, 1975.

PETITIONS

The VICE PRESIDENT laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–1. A concurrent resolution adopted by the legislature of the State of Michigan; laid on the table:

"HOUSE CONCURRENT RESOLUTION No. 668

"Whereas, There can be no doubt that the single most important issue facing America today is jobs for our people. That the federal government has thus far seemingly ignored this, the very paramount problem which permeates virtually every fiber of our society, is absolutely appalling. This is especially true in light of the President's avowed commitment to human rights; and

"Whereas, In recent years, the awesome effects of high unemployment have come to the fore and the ensuing economic sociological, and psychological damage done has wreaked havoc on the well-being of the country. This fact is undeniably an intolerable affront to a nation that purports to be the greatest in the world; and

"Whereas, It is a national tragedy of the highest magnitude that not all our people can find work and that unemployment is allowed to erode an individual's sense of self-respect, dignity, and pride. Unemployment is the most tortuous barb inflicted on the human psyche and literally undermines all sense of hope. Indeed, this situation cannot and must not be tolerated any longer; and

"Whereas, In addition to the grievous ruination of the individual's state of mind and economy, the entire society suffers drastically from high unemployment. The financial burden borne by literally every level of government and the loss to private business erodes the very foundations of our fiscal strength; and

"Whereas, Indeed, the crime of this abhorrent situation is that there is work that needs doing and needs doing now. We have hardly begun to fulfill the tremendous potential that is the apparent American birthright. It is sinful that the able-bodied, sound-minded, and willing hands and hearts of men and women unable to find work lay dormant; and

"Whereas, This scenario is an attestation of the urgency with which the Humphrey-Hawkins Full Employment Bill (H.R. 50 and S. 50) must be made law. This landmark piece of legislation would place employment as a goal of the highest priority. And surely this dilemma dictates that nothing less than the highest calling of effort and policy be implemented; and

"Whereas The Humphrey-Hawkins Full Employment Bill utilizes specific programs and guidelines to greatly reduce both unemployment and inflation. Moreover, this desperately needed plan commits all the nation's resources to achieving maximum employment. One cannot overemphasize what this restoration of the human right to work will mean to the poor, discouraged, discriminated against, and minorities; and

"Whereas, Nowhere in this country has the crushing burden of unemployment been more keenly felt than in Michigan. The cyclical nature of our economy has left us prey to the individual and collective horrors of unemployment and has ravaged the security and stability of many among us; and

"Whereas, Anything less than the policy of maximum employment set forth in the Humphrey-Hawkins Full Employment Bill is a sham on the notion of government serving the people's needs. Thus we call on the Congress and President to heed the words of the late Senator Hubert Humphrey, when he uncategorically and succinctly declared, "This legislation is a must . . . an indispensable step toward economic justice"; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That the Michigan Legislature hereby memorialize Congress in the strongest terms to swiftly enact the Humphrey-Hawkins Full Employment Bill (H.R. 50 and S. 50); and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate and the Speaker of the United States House of Representatives and to each member of the Michigan Delegation to the Congress of the United States."

POM–2. A resolution adopted by the Board of Directors of the Church Council of Greater Seattle, Seattle, Wash., relating to national defense; to the Committee on Armed Services.

POM–3. A resolution adopted by the City Council of the City of Philadelphia, Pa. relating to a site for rehabilitation of the U.S.S. *Saratoga* and other carrier vessels in its Service Life Extension Program; to the Committee on Armed Services.

POM–4. A resolution adopted by the Puerto Rico Bar Association, San Juan, Puerto Rico, relating to presence of the U.S. Navy in the Island of Vieques; to the Committee on Armed Services.

POM–5. A resolution adopted by the Legislature of the State of New Jersey; to the Committee on Armed Services:

"SENATE RESOLUTION

"Whereas, On November 1, 1942, while heroically resisting a determined enemy onslaught near the Matanikau River on Guadalcanal, United States Marine Corps Corporal Anthony Casamento was seriously and grievously wounded by 14 bullets and innumerable grenade fragments.

"Whereas, Anthony Casamento's single-handed action prevented his position from being overrun, protected his wounded comrades from a murderous bayonet slaughter, and kept the enemy forces from gaining a commanding ridge position from which a withering fire on the rest of the battalion; and,

"Whereas, By any reasonable standard, such valiant efforts would more than qualify Anthony Casamento for the Medal of Honor; and,

"Whereas, in 1965 the Board of Decorations and Medals of the Department of the Navy recognized the heroism of Anthony Casamento and unanimously recommended that he receive the Medal of Honor; and,

"Whereas, In spite of this recommendation by the Board, the testimony of eyewitnesses and the obvious merit and justification of awarding the Medal of Honor to Anthony Casamento, the Department of the Navy has inexplicably refused to give its necessary endorsement to such award; and,

"Whereas, Members of the House of Representatives, the United States Senate, countless veterans from the Armed Forces of the United States, and many concerned American citizens are requesting that this matter be reopened and consideration again be given to awarding Anthony Casamento the Medal of Honor; and,

"Whereas, This effort is being spearheaded in New Jersey by the Corporal Phillip A. Reynolds Detachment of Marine Corps League in Freehold, which has brought this matter to the attention of the New Jersey State Senate; and,

"Whereas, The Senate of the State of New Jersey, on the eve of the 37th Anniversary of Pearl Harbor, wishes to add its collective voice to those already raised in requesting that the case of Anthony Casamento be reopened and consideration again be given to awarding him the Medal of Honor; now, therefore,

"Be It Resolved by the Senate of the State of New Jersey:

"That the Senate does hereby memorialize the President of the United States and the Congress of the United States to do everything within their power to have the case of Anthony Casamento re-examined and that serious consideration be made on awarding him the Medal of Honor; and,

"Be It Further Resolved, That duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary, be forwarded to the President of the United States, the Vice President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the House of Representatives, the Chairman of the House of Representatives Committee on Armed Forces, the Chairman of the Senate Committee on Armed Forces, each member of Congress elected from New Jersey, the Corporal Phillip A. Reynolds Detachment of the Marine Corps League, and Anthony Casamento."

POM–6. A joint resolution adopted by the Legislature of the First Northern Marianas

Commonwealth Legislature; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION

"Whereas, the Commonwealth of the Northern Mariana Islands is strategically located and forms a crossroad for aviation travel to and from the continental United States and the Orient; and

"Whereas, several airlines have expressed an interest in establishing landing and passenger rights at the Saipan International Airport so that passengers can debark and embark on Saipan while others seek permission to land at the airport for refueling purposes; and

"Whereas, the Commonwealth of the Northern Mariana Islands has limited natural resources and it is imperative that it establish, within the next several years, a tax base sufficient to support its growing requirements and to reduce its financial dependence upon the United States of America; and

"Whereas, at the present time, the Saipan International Airport is being under-utilized and, as a result, its operational costs are extremely high; and

"Whereas, the establishment of an open-sky would have the positive effect of increasing tourism, of providing additional needed revenue to the Commonwealth of the Northern Mariana Islands and of providing the travelling public with a beautiful primary or lay-over destination; now therefore,

"Be it resolved, by the First Northern Marianas Commonwealth Legislature, First Regular Session, 1978, that the United States Government be and hereby is requested to declare an open-sky policy for the Commonwealth of the Northern Mariana Islands; and

"Be it further resolved that the Senate President shall certify and the Senate Clerk shall attest to the adoption hereof and thereafter transmit a copy to the President of the United States, the Secretary of the U.S. Department of State, the Secretary of the U.S. Department of Interior, the Speaker of the United States House of Representatives, the President of the United States Senate, the Representative to the United States for the Commonwealth of the Northern Mariana Islands, the Secretary of the U.S. Department of Commerce and to the Chairman of the U.S. Civil Aeronautics Board."

POM–7. A resolution adopted by the First Northern Marianas Commonwealth Legislature, to the Committee on Finance:

"A HOUSE RESOLUTION

"Whereas, it has come to the attention of the members of the House of Representatives of the First Northern Marianas Commonwealth Legislature that the United States Congress has disapproved a rider to H.R. 13511, said rider having the effect of denying to the residents of the Commonwealth of the Northern Mariana Islands the benefits of Title XVI of the Social Security Act, as amended; and

"Whereas, Subsection 1 of Section 502 of Public Law 94–241, The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America provides, in part, that ". . . Title XVI of the Social Security Act shall be applicable to the Commonwealth of the Northern Mariana Islands"; and

"Whereas, the Covenant was executed in good faith by representatives of the United States of America and representatives of the Northern Mariana Islands; and

"Whereas, the Supplemental Security Income program has provided valuable and needed assistance to the aged, the blind and the disabled within the Commonwealth; and

"Whereas the members of the United States Congress have responded to the needs of the people of the Northern Mariana Islands and have disapproved this rider which would have imposed severe and undue hardship on the aged, the blind and the disabled; now, therefore,

"Be it resolved by the House of Representatives of the First Northern Marianas Commonwealth Legislature, Second Regular Session, 1978, that the sincere appreciation of the House of Representatives of the First Northern Marianas Commonwealth Legislature is hereby expressed to the Congress of the United States in disapproving a rider to H R. 13511, as said rider would have had the effect of denying to the residents of the Commonwealth of the Northern Mariana Islands the benefits of Title XVI of the Social Security Act, as amended; and

"Be it further resolved that the Speaker of the House of Representatives shall certify and the House Clerk shall attest to the adoption hereof and thereafter transmit certified copies to the Honorable President of the U.S. Senate; the Honorable Speaker of the U.S. House of Representatives, Thomas O'Neill; Honorable Al Ullman, Chairman of the House Ways and Means Committee; Honorable Barber B. Conable, Jr., Ranking Minority Leader of the House Ways and Means Committee; Honorable Phillip Burton, Chairman, House Subcommittee on National Parks and Insular Affairs; Honorable James A. Burke, Chairman, House Subcommittee on Social Security; Honorable Dan Rostenkowski, Chairman, House Subcommittee on Health; Honorable Charles A. Vanik, Chairman, House Subcommittee on Trade; Honorable James C. Corman, Chairman, Subcommittee on Public Assistance and Unemployment Compensation; and to the Honorable Edward DLG. Pangelinan, Representative to the United States for the Commonwealth of the Northern Mariana Islands."

POM–8. A resolution adopted by the Southeastern Association of State Highway and Transportation Officials, Nashville, Tenn., commending Congress for the enactment of the Surface Transportation Act of 1978; to the Committee on Environment and Public Works.

POM–9. A resolution adopted by the Italian American Labor Council, New York, N.Y., relating to NATO; to the Committee on Foreign Relations.

POM–10. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Foreign Relations:

"RESOLUTION

"To repudiate the Resolution of the United Nations Decolonization Committee regarding Puerto Rico's political status, since we consider that the determination of our political destiny is a matter of the exclusive jurisdiction of the people of Puerto Rico and the people of the United States of America, and to repudiate the active participation of several of our compatriots who instigated the approval of said Resolution.

"STATEMENT OF MOTIVES

"The United Nations Decolonization Committee recently approved a Resolution regarding the political status of Puerto Rico. Although it is true that said Resolution has been the subject of multiple and varied interpretations in regard to its content and its projections, what is clearly evident is that a group of nations that is totally unaware of the Puerto Rican reality pretends to dictate to us the patterns of political destiny which would be to our best advantage.

"Aside from the question as to whether it can be interpreted that said Resolution declares Puerto Rico to be a 'colony', it is obvious that its philosophy is absolutely contrary to the principle of permanent union to the United States of America, a principle which time and again has been clearly established at the polls and in the heart of the people of Puerto Rico. It is really astonishing that the Resolution proposes the elimination of the permanent ties between the United States and Puerto Rico, but it is even more amazing that the highest leaders of the Popular Democratic Party, though its Past President, Rafael Hernández Colón, have joined the separatist forces of Juan Mari-Bras to encourage and achieve the approval of the Resolution by a group of communist dictatorships which are completely hostile to the United States of America and to the democratic principles upheld by that great Nation, and ignoring the federated statehood, which is the ideological alternative supported by the majority of the people of Puerto Rico.

"This House of Representatives repudiates the unwarranted interference of that group of communist countries in the internal affairs of Puerto Rico. It is consternated by the active participation of several of our fellow-citizens who, in a complete reversal of their supposed political convictions, now pretend to disjoin us from the United States.

"Be it resolved by the House of Representatives of Puerto Rico:

"Section 1. To repudiate the Resolution of the United Nations Decolonization Committee regarding Puerto Rico's status, because we consider that it is an unwarranted interference in our internal affairs, since the determination of our political destiny is a matter of the exclusive jurisdiction of the people of Puerto Rico and the people of the United States of America.

"Section 2. To repudiate the active participation of several of our fellow-citizens who instigated the approval of said Resolution.

"Section 3. A certified copy of this Resolution shall be sent to the Secretary-General of the United Nations, to the President of the United States, the House of Representatives and the Senate of the United States, the United States Ambassador at the United Nations, the Decolonization Committee of the United Nations and the information media of the country, for its publication."

POM–11. A resolution adopted by a delegation of members of the Southern Legislators Conference of the Council of State Governments, New Orleans, Louisiana, relating to the Republic of China; to the Committee on Foreign Relations.

POM–12. A joint resolution adopted by the First Northern Marianas Commonwealth Legislature; to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION

"Whereas, the Overseas Private Investment Corporation was formed by the United States Congress to provide funding assistance to U.S. companies that locate in and assist developing countries in improving their economic institutions by providing developmental loans for viable economic projects; and

"Whereas, since its formation in 1971, the Overseas Development Corporation has made great strides towards bringing the U.S. business community closer to nations that are less developed and that are less familiar with potential opportunities for the future; and

"Whereas, basic to the well-being of any country is the viability of its economic development; and

"Whereas, under provisions of the Covenant to Establish the Commonwealth of the Northern Mariana Islands it was envisioned that the Northern Mariana Islands would become self-sufficient, and to this end, the United States Government agreed to provide a certain level of financial assistance for a specified period of time until private investment could be encouraged; and

"Whereas, in order to expedite the development of the economy, several potentially via-

ble economic projects have been identified, but cannot be implemented because of the lack of start-up capital; and

"Whereas, several potential investors have expressed a deep interest in investing in the Northern Mariana Islands, but have not met with any success in obtaining sufficient capital to ensure the viability of these economic ventures; and

"Whereas, since the Northern Mariana Islands is undeveloped and since it is an integral part of the United States political family, every possible assistance should be extended to potential U.S. investors in the Northern Mariana Islands; now, therefore,

"Be it resolved by the First Northern Marianas Commonwealth Legislature, Second Regular Session, 1978, that the Overseas Private Investment Corporation be and it hereby is requested to extend its economic development loan programs to United States Companies that have identified viable economic projects in the Northern Mariana Islands; and

"Be it further resolved that the Speaker certify to and the Clerk attest the adoption hereof and thereafter transmit copies of the same to the President of the United States of America, the Speaker of the United States House of Representatives and the President of the United States Senate, the Chairman of the Board of Directors of the Overseas Private Investment Corporation at 1129 Twentieth Street, N.W., Washington, D.C. 20527, the Secretary of the United States Department of the Interior, the Chairman of the House Committee on Interior and Insular Affairs, the Chairman of the Senate Committee on Energy and Natural Resources, and to the Representative to the United States for the Commonwealth of the Northern Mariana Islands."

POM–13. A resolution adopted by the Legislature of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION

"Whereas, About the year 1000 B.C. Jerusalem was captured by David, founder of the joint kingdom of Israel and Judah, and the city became a Jewish capital; and

"Whereas, David's son, King Solomon, extended the city and built his Temple therein and this holy undertaking determined the sacred character of Jerusalem as a center of holiness for the Jewish people; and

"Whereas, Down through the centuries of history the city of Jerusalem has been sacked and despoiled, its king deported and its sacred Temple destroyed by adversaries of the Jewish people; and

"Whereas, The Jewish people have never forgotten the Holy City and its existence is memoralized in the Bible with the passage: "If I forget thee O Jerusalem, let my right hand forget its cunning", and

"Whereas, For Jews throughout the world, Jerusalem is the focus of age-old yearnings, a living proof of ancient grandeur and a center of national and religious renaissance; now, therefore, be it

"Resolved, That this legislative body respectfully memorializes the Congress, the President and the Secretary of State of the United States, to immediately recognize Jerusalem as the capital of the state of Israel and take such formal diplomatic steps to implement this decision and further to take such other action as may be necessary to insure that the city of Jerusalem remain the undivided capital of Israel thereby bringing to fruition the vow of Israeli Prime Minister Menachem Begin to the Israeli people that "Jerusalem will remain undivided for all generations and until the end of the world"; and be it further

"Resolved, That copies of this Resolution be transmitted to the Congress, the President and the Secretary of State of the United States."

POM–14. A petition from a citizen of San Diego, California, relating to national health care; to the Committee on Human Resources.

POM–15. A petition from a citizen of Borger, Texas, relating to national health care; to the Committee on Human Resources.

POM–16. A resolution adopted by the American Legion, in support of the Central Intelligence Agency and the Federal Bureau of Investigation; to the Select Committee on Intelligence.

POM–17. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on the Judiciary:

"RESOLUTION

"STATEMENT OF MOTIVES

"Senate Bill 1315 approved by the Senate of the United States on November 8, 1977, authorizes the use of the Spanish language in the Federal Court for the District of Puerto Rico. The same purpose is pursued in House Bill 13950 which was filed at the House of Representatives by our Resident Commissioner in Washington, the Honorable Baltasar Corrada del Río. The approval of this legislation by the Congress would allow the Federal Court for the District of Puerto Rico to determine the occasions on which the proceedings must be conducted in Spanish in order to achieve better administration of justice.

"The constitutional right to due process of law is not adequately guaranteed in proceedings in which the defendant has no knowledge of the language that is being used, and therefore does not fully understand what is said, nor can he add to his own defense.

"Another way in which the use of English has an adverse effect is in the selection of the jury. The limited number of people who can understand complicated juridical processes in English, causes the jury panel to be made up of persons that do not represent a true cross-section of our Community.

"The Spanish language is our vernacular, and that of two billion inhabitants of the world. The teaching of Spanish has increased greatly in the United States, and could become a second language in that country, which would contribute to a better understanding between the people of the Western Hemisphere.

"The House of Representatives of Puerto Rico understands that the approval of these measures which are now before the Congress, would be a determining factor in achieving more just and efficient proceedings in the Federal Court for the District of Puerto Rico.

"Be it resolved by the House of Representatives of Puerto Rico:

"Section 1. The absolute support of the House of Representatives of Puerto Rico of the measures before the Congress of the United States to authorize the use of the Spanish language, our vernacular, in the proceedings of the Federal Court for the District of Puerto Rico is hereby expressed.

"Section 2. A copy of this Resolution, duly translated into English, shall be sent to the President of the United States of America, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Resident Commissioner of Puerto Rico at Washington, and all the information media of Puerto Rico for their publication."

POM–18. A concurrent resolution adopted by the Legislature of American Samoa; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION 116

"Whereas, notwithstanding the tremendous help of the U.S. House of Representatives and all its fine supporters and co-sponsors of the American Samoan Non-Voting Delegate Bill (H.R. 13702) we would like to especially thank two hard-working Senators who helped immeasurably in securing passage of the bill through the Senate; and

"Whereas, United States Senators Daniel K. Inouye and Spark M. Matsunaga have always displayed their friendship and loyalty to our Territory of American Samoa through their efforts in our behalf; and

"Whereas, it took time away from other important subjects and issues, but they were equal to the task of their never flagging aid and assistance; and

"Whereas, they had less time within which to effect a happy conclusion of the measure; and

"Whereas, we the Fono, for the people of American Samoa wish to particularly thank those bold dedicated and fearless friends of American Samoa in the U.S. Senate, Senators Daniel K. Inouye and Spark M. Matsunaga.

"Now, therefore, be it resolved by the Senate of the Territory of American Samoa, the House of Representatives concurring:

"That, the entire Fono, on behalf of the people of the Territory of American Samoa, thanks and especially commends United States Senators Daniel K. Inouye and Spark M. Matsunaga from the Aloha State of Hawaii, our sister jurisdiction, for their able and kind assistance in securing passage through the Senate of our Non-Voting Delegate bill (H.R. 13702); and

"Be it further resolved, that the Secretary of the Senate is directed to send copies of this resolution to: Honorable Walter F. Mondale, President of the Senate; Honorable Daniel K. Inouye, Member of Appropriations, Commerce, Science and Transportation Committee; Honorable Spark M. Matsunaga, Member, Energy and Natural Resources, Finance and Veterans' Affairs Committee; Honorable Peter Tali Coleman, Governor of American Samoa; and Honorable A. P. Lutali, Delegate-at-Large to the U.S. Government."

POM–19. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on the Judiciary:

"RESOLUTION

"STATEMENT OF MOTIVES

"Senate Bill 1315 approved by the Senate of the United States on November 8, 1977, authorizes the use of the Spanish language in the Federal court for the District of Puerto Rico. The same purpose is pursued in the House Bill 13950 which was filed at the House of Representatives by our Resident Commissioner in Washington, the Honorable Baltasar Corrada del Rio. The approval of this legislation by the Congress would allow the Federal Court for the District of Puerto Rico to determine the occasions on which the proceedings must be conducted in Spanish in order to achieve better administration of justice.

"The constitutional right to due process of law is not adequately guaranteed in proceedings in which the defendant has no knowledge of the language that is being used, and therefore does not fully understand what is said, nor can he add to his own defense.

"Another way in which the use of English has an adverse effect is in the selection of the jury. The limited number of people who can understand complicated juridical processes in English, causes the jury panel to be made up of persons that do not represent a true cross-section of our Community.

"The Spanish language is our vernacular, and that of two million inhabitants of the world. The teaching of Spanish has increased greatly in the United States, and could become a second language in that country, which would contribute to a better understanding between the people of the Western Hemisphere.

"The House of Representatives of Puerto Rico understands that the approval of these measures which are now before the Con-

gress, would be a determining factor in achieving more just and efficient proceedings in the Federal Court for the District of Puerto Rico.

"Be it resolved by the House of Representatives of Puerto Rico:

"Section 1. The absolute support of the House of Representatives of Puerto Rico of the measures before the Congress of the United States to authorize the use of the Spanish language, our vernacular, in the proceedings of the Federal Court for the District of Puerto Rico is hereby expressed.

"Section 2. A copy of this resolution, duly translated into English, shall be sent to the President of the United States of America, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Resident Commissioner of Puerto Rico at Washington, and all the information media of Puerto Rico for their publication."

POM–20. A resolution adopted by the Puerto Rico Chapter of the Federal Bar Association, in support of the appointment of a jurist from Puerto Rico to the newly created fourth judgeship position in the U.S. Court of Appeals for the First Cricuit; to the Committee on the Judiciary.

POM–21. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on the Judiciary:

"SENATE RESOLUTION 319

"That the Senate of Puerto Rico in its session of Tuesday, October 24, 1978, approved Senate Resolution 319, which reads as follows:

"RESOLUTION

"For this High Body to express its complete support of the Congressional measures that authorize the use of the Spanish language in the Federal Court of Puerto Rico.

"STATEMENT OF MOTIVES

"Senate Bill 1315 and House Bill 10129 provide for the use of the Spanish language in the Federal District Court of Puerto Rico. If such legislation is approved as suggested, the Federal Court of Puerto Rico could exercise its discretion to hold court in Spanish or English, as it may deem necessary or convenient.

"We believe that every accused person should have the right to understand everything that is said or alleged in the Court perfectly, particularly if it is against him. The plaintiff must understand it so that he can help in his own defense.

"Language is also vitally important from the viewpoint of trial by jury. It is generally known that the plaintiff has the right that the jury that is to judge him represents the various segments of society as far as possible so that he may have a better opportunity for a fair and impartial trial. In Puerto Rico, the language barrier imposes a severe limitation on this, since the jurors in our Federal Court must have a complete command of English in order to be able to understand and analyze the evidence, and although we know that a great majority of the people of Puerto Rico are bilingual, there are sectors of the population, nevertheless, that do not have command of the English language.

"On the other hand, language difficulties limit the number of lawyers who may conduct lawsuits in the Federal Court, which in turn, means that the plaintiffs have less opportunities to contract defense attorneys.

"The Senate of Puerto Rico considers that the obligation to hold trials in English in the Federal Court is contrary to the plaintiff's right to a fair and impartial trial before the Judge who presides over the Court, and before the jurors who represent the civil society. Nothing should impede the attainment of a civil right that is so fundamental and essential in our present system of government.

"Be it resolved by the Legislature of Puerto Rico:

"Section 1. To express its unconditional support of the measures before the Congress that authorize the use of the Spanish language in the Federal Court of Puerto Rico.

"Section 2. To remit a copy of this Resolution to the President of the United States, the President Pro Tempore of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Resident Commissioner of Puerto Rico in the United States, and all the news media of our country."

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. DOLE (for himself and Mr. MCGOVERN):

S. 1. A bill to improve farm income, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MUSKIE (for himself, Mr. ROTH, Mr. GLENN, Mr. ROBERT C. BYRD, Mr. CRANSTON Mr. BIDEN, Mr. PERCY, Mr. PELL, Mr. HATFIELD, Mr. BAUCUS, Mr. BELLMON, Mr. BAYH, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. HARRY F. BYRD, Jr., Mr. CANNON, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. COHEN, Mr. CULVER, Mr. DANFORTH Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. DURKIN, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GARN, Mr. HART, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. JAVITS, Mr. LAXALT Mr. LEAHY, Mr. MCCLURE, Mr. MCGOVERN, Mr. MATHIAS, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MORGAN, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. STEWART, Mr. STONE Mr. THURMOND, Mr. TOWER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2. A bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 3. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. MCGOVERN, and Mr. JAVITS):

S. 4. A bill to provide assistance and coordination in the provision of child care services for children living in homes with working parents, and for other purposes; to the Committee on Human Resources.

By Mr. CHILES:

S. 5. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies; to the Committee on Governmental Affairs.

By Mr. LEAHY:

S. 6. A bill to amend the Agricultural Act of 1949, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 7. A bill to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DOLE:

S. 8. A bill to extend diplomatic privileges and immunities to any principal liaison office of the Republic of China that may be established in Washington, District of Columbia, and to members thereof; to the Committee on Foreign Relations.

By Mr. JACKSON:

S. 9. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAYH (for himself, Mr. HATCH, Mr. BAUCUS, Mr. BENTSEN, Mr. CHAFEE, Mr. CRANSTON, Mr. DOLE, Mr. GRAVEL, Mr. HATFIELD, Mr. INOUYE, Mr. KENNEDY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. METZENBAUM, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. STONE, and Mr. WILLIAMS):

S. 10. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 11. A bill to amend the Alaska Native Claims Settlement Act to provide clarifications and improvements in the provisions thereof; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. LUGAR, Mr. MCCLURE, Mr. SCHMITT, Mr. TOWER, Mr. HELMS, Mr. GOLDWATER, and Mr. JEPSEN):

S. 12. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the individual tax rates and in the amount of personal exemptions; to the Committee on Finance.

By Mr. DOLE:

S. 13. A bill to amend the Congressional Budget Act of 1974 to impose limits on the amounts of total budget outlays and Federal revenues set forth in concurrent resolutions on the budget, to require a two-thirds vote for agreeing to concurrent resolutions on the budget which set forth a deficit, and for other purposes; to the Committee on Governmental Affairs and the Committee on the Budget, jointly, pursuant to order of August 4, 1977.

By Mr. CHURCH:

S. 14. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 15. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of geography in the issuance and use of credit cards; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WEICKER:

S. 16. A bill to provide for a nationwide Presidential primary for the nomination of candidates for election to the Office of President and to limit federal campaign contributions and expenditures to the year in which a federal election is held; to the Committee on Rules and Administration.

By Mr. MCCLURE:

S. 17. A bill to provide for and maintain the continued existence of a viable United States Sugar Industry; to the Committee on Finance.

S. 18. 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. BAYH:

S. 19. A bill for the relief of Silbert Anderson; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 20. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the office of Poet Laureate of the United States; to the Committee on Human Resources.

By Mr. WEICKER:

S. 21. A bill to terminate public financing of Presidential campaigns; to the Committee on Finance.

By Mr. PROXMIRE:

S. 22. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations; to the Committee on Commerce, Science, and Transportation.

By Mr. CHURCH:

S. 23. A bill to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 24. A bill to amend the Internal Revenue Code of 1954 with respect to .22 caliber ammunition recordkeeping requirements; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. KENNEDY, Mr. GLENN, Mr. DOLE, and Mr. PERCY):

S. 25. A bill to designate the birthday of Martin Luther King, Junior, a legal public holiday; to the Committee on the Judiciary.

By Mr. GOLDWATER:

S. 26. A bill for the relief of Samuel S. H. Leung, his wife Carol O. K. Leung, and his sons Johnny C. Y. Leung and Jimmy C. M. Leung; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 27. A bill to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, and to provide for the deposit of moneys received from the sale of such tin; to the Committee on Armed Services.

By Mr. INOUYE:

S. 28. A bill for the relief of Librado Perez; to the Committee on the Judiciary.

By Mr. HATCH:

S. 29. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Human Resources.

By Mr. HELMS:

S. 30. A bill to repeal section 11(n) of the Federal Reserve Act (12 U.S.C. 248(n)); to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HART:

S. 31. A bill to provide for a reduction in individual tax rates in calendar years 1980 through 1982 and thereafter, provided that targets limiting the growth of Federal spending and limiting the Federal deficit are achieved; to the Committee on Finance.

By Mr. PRESSLER:

S. 32. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. MCCLURE, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. COCHRAN, Mr. SCHMITT, Mr. SIMPSON, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. ARMSTRONG, and Mr. HELMS):

S. 33. A bill to provide for permanent tax rate reductions for individuals; to the Committee on Finance.

S. 34. A bill entitled the "Spending Limitation Act of 1979"; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. HELMS:

S. 35. A bill to repeal the Credit Control Act (12 U.S.C. 1901 et seq.); to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PROXMIRE:

S. 36. A bill to abolish the Small Business Administration, and for other purposes; to the Committee on Governmental Affairs.

S. 37. A bill to repeal a section of Public Law 95-630; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCLURE:

S. 38. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 39. A bill to amend the Bank Holding Company Act and the Bank Merger Act to restrict the activities in which registered bank holding companies may engage and to control the acquisition of banks by bank holding companies and other banks; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FORD (for himself, Mr. HUDDLESTON, and Mr. DECONCINI):

S. 40. A bill to extend the period for SBA disaster low interest loans from October 1, 1978 to October 1, 1979; to the Select Committee on Small Business.

By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 41. A bill to authorize the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Kentucky, to the Board of Education, Bell County, Kentucky; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON:

S. 42. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. WALLOP, Mr. DURKIN, Mr. HUMPHREY, Mr. LAXALT, Mr. LEAHY, Mr. MELCHER, and Mr. SIMPSON):

S. 43. A bill to promote safety and health in skiing and other outdoor winter recreational activities; to the Committee on the Judiciary.

By Mr. HATCH:

S. 44. A bill entitled the "Fair Treatment for Skilled Trades Act of 1979"; to the Committee on Human Resources.

By Mr. MCCLURE:

S. 45. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any crime of violence and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. STONE:

S. 46. A bill extending diplomatic privileges and immunities to all offices representing the Republic of China in the United States; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. 47. A bill to reform and simplify the Federal individual income tax; to the Committee on Finance.

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

S. 48. A bill to authorize flood control and flood protection measures for the Tug Ford and Levisa Fork of the Big Sandy River, West Virginia and Kentucky and the Cumberland River, Ky.; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 49. A bill for the relief of Fon-Chiau Shih; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 50. A bill to require a refund value for certain beverage containers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN:

S. 51. A bill to amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

S. 52. A bill to reduce duplicative and conflicting Federal rules or regulations, and for other purposes; to the Committee on Governmental Affairs.

S. 53. A bill to modify the procedures used for the promulgation of rules or regulations by the independent regulatory agencies, and for other purposes; to the Committee on Governmental Affairs.

S. 54. A bill to reduce the costs of Federal regulations, and for other purposes to the Committee on Governmental Affairs.

By Mr. BENTSEN (for himself, Mr. LONG, Mr. CHILES, Mr. STENNIS, Mr. ZORINSKY, and Mr. JOHNSTON):

S. 55. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 56. A bill for the relief of Cheh-Hsiung Chen; to the Committee on the Judiciary.

S. 57. A bill for the relief of Sun Ok Kim, Ok Lyun Kim, Koang Hi Kim, Chin Hi Kim, Hyun Soo Kim; to the Committee on the Judiciary.

S. 58. A bill for the relief of Joseph Y. Quijano, his wife Marichu Larrazabel Quijano, and his son, Franz Joseph Quijano; to the Committee on the Judiciary.

S. 59. A bill for the relief of Bounrid Vonghacdy, Phouangchith Vongphacdy, Chanmany Vongphacdy, Chandara Vongphacdy, Khamwa Phixanoukan; to the Committee on the Judiciary.

S. 60. A bill for the relief of Mr. Sushil Kuman Garg; to the Committee on the Judiciary.

S. 61. A bill for the relief of Mrs. Shu-Yung Gloria Kaw; to the Committee on the Judiciary.

S. 62. A bill for the relief of Graciela Castillo; to the Committee on the Judiciary.

S. 63. A bill for the relief of Mr. and Mrs. B. William Magallanes; to the Committee on the Judiciary.

S. 64. A bill for the relief of Mrs. Etsuko Kogachi Bowman; to the Committee on the Judiciary.

S. 65. A bill for the relief of Faatoaga Laufou; to the Committee on the Judiciary.

S. 66. A bill for the relief of Shon Ning Lee; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. BAKER, Mr. BELLMON, Mr. BURDICK, Mr. CHAFEE, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GRAVEL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. LEAHY, Mr. MAGNUSON, Mr. MATHIAS, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PACKWOOD, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. STAFFORD, Mr. STEVENSON, Mr. TSONGAS, Mr. WILLIAMS, and Mr. ZORINSKY):

S.J. Res. 1. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S.J. Res. 2. Joint resolution to require the Federal Government to end deficit financing; to the Committee on the Judiciary.

By Mr. HARRY F. BYRD, JR. (for himself, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 3. Joint resolution regarding mutual defense treaties (which was read the first time).

By Mr. LUGAR:

S.J. Res. 4. Joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

By Mr. DOLE:

S.J. Res. 5. Joint resolution proposing an amendment to the Constitution to provide expenditures of the Government may not exceed the revenues of the Government during any fiscal year, and for limits on Federal spending and taxing; to the Committee on the Judiciary.

By Mr. STENNIS:

S.J. Res. 6. Joint resolution to require the Federal Government to end deficit financing; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S.J. Res. 7. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues; to the Committee on the Judiciary.

By Mr. CRANSTON:

S.J. Res. 8. Joint resolution to establish a national policy for the taking of predatory or scavenging mammals and birds on public lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. McCLURE:

S.J. Res. 9. Joint resolution to amend the Constitution of the United States to provide that appropriations made by the United States shall not exceed 33⅓ percent of the average national income of the prior 3 calendar years, except as specified during war or national emergency; to the Committee on the Judiciary.

S.J. Res. 10. Joint resolution to require a balanced budget; to the Committee on the Judiciary.

By Mr. TALMADGE (for himself and Mr. NUNN):

S.J. Res. 11. Joint resolution to amend the Constitution relating to a balanced budget; to the Committee on the Judiciary.

By Mr. HELMS:

S.J. Res. 12. Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn; to the Committee on the Judiciary.

S.J. Res. 13. Joint resolution to amend the Constitution of the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself and Mr. McGOVERN):

S. 1. A bill to improve farm income, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD AND AGRICULTURE ACT OF 1979

Mr. DOLE. Mr. President, today I am pleased to introduce the Food and Agriculture Act of 1979. This legislation, I believe, is especially pertinent and timely; 1978 was a tough year financially for our farmers. The farm problem has not gone away and will not go away quickly. Many farmers are still suffering severe financial losses and are bearing the major brunt of inflation.

YEAR OF PARTIAL RECOVERY

The year 1978 was a year of partial recovery for agriculture. The recovery, though, was not fast enough or strong enough. There were some modest improvements in price and income levels for some commodities.

NET INCOME

U.S. farmers will have a total net income of about $27 billion for 1978, up from $20.3 billion in 1977. However, the total is modest when one takes the inflation out of it. In 1967 dollars, 1978 total net farm income is worth only about $13.5 billion.

Purchasing power is still the bottom line for farmers and, as of December 15, farm prices averaged only 72 percent of parity. This is a definite improvement over the 63 percent of parity figure in September 1977, but still far short of a fair and reasonable return, considering the cost of production, living expenses, and the rate of inflation.

There is a need for new farm legislation. Farmers are not receiving an adequate return on their investment and time. Many farmers are having to sell all or part of their farming operation to pay debts. The family farm system, so vital to the future of our country, is in serious economic condition.

BACKS AGAINST THE WALL

Without new farm legislation, American farmers could spend all of 1979 with plenty of clouds on the horizon:

First, the probability of double-digit inflation again in 1979 will cause farmers' cost of production to continue to rise.

Second, the possibility of a recession could cause the demand for farm products to fall off and decrease the price of farm products.

Third, the near 15 percent OPEC price hike will cause a new spiral in energy costs for farmers. Gasoline delivered to the farm in eastern Kansas in May of 1977 cost 52 cents per gallon. In May of 1978 it was 58.3 cents per gallon and in January of 1979 had risen to 63.1 cents per gallon. It is predicted to go to 65.1 cents per gallon by May of this year. Diesel fuel was 41.4 cents per gallon in May of 1977 and is predicted to be almost 46 cents per gallon by May of 1979.

Fourth, interest costs to farmers are at record high levels. Farmers in Kansas are paying from 10 to 12½ percent for the money they borrow. With the present economic conditions farmers are borrowing record amounts of capital. Farmers start 1979 with $136 billion in outstanding debt and the prospect that debt service outlays will cost them more than $11 billion during the year. This will be a terrible drag on the farmers cash flow problem.

Farmers Home Administration loans to farmers are at an all-time high. The demand outstrips the supply. The loans made only to farmers who cannot obtain credit from private sources.

Too many of our Nation's family farmers are in deep financial trouble and will remain so in 1979 unless the Congress acts and acts quickly. Increased farm income and a significant decrease in the inflation rate are both needed before the farmer will be in an improved financial situation.

The administration is trying to convince everyone that farmers are now well off. This is not the situation. The farmers' economic situation is still critical. Farmers cannot pay their bills with the smooth public relations program from the White House to convince Americans that farmers are well off financially.

The Food and Agriculture Act of 1979 I introduce today contains several basic provisions:

1. VARIABLE TARGET PRICE PROGRAM

This program is designed to support the family farm by bringing about increased market prices for farm products while keeping enough supplies of food products on hand to supply our domestic and foreign markets and food for peace programs.

Whenever the Secretary of Agriculture formulates a set-aside program he will set a schedule of set-asides and target prices. The farmer then chooses the price he needs for his crop and then sets aside the respective percentage of the acreage as set by the Secretary.

The program applies this variable target price concept to wheat, feed grains, and upland cotton. The higher the established (target) price the producer needs for his crop, the greater the amount of cropland on the farm a producer voluntarily sets aside. The producer shall qualify for an established price equal to 100 percent of the parity price for the commodity if the producer voluntarily sets aside from production the maximum percentage of set-aside as prescribed by the Secretary.

This program thus provides for a variable schedule of target prices, when there is a set-aside, ranging from the established (target) price now provided in law to an established price of 100 percent of parity for the maximum set-aside of cropland.

This program will allow farmers to set aside different percentages of their cropland depending on their cost of production and their own management decisions about how to maximize their farm income. The program will significantly help small family farmers to survive.

This variable target price program will not be a costly one. It should not cost any more than present set-aside programs but will provide farmers with much more flexibility in their farming operations. It should also improve the market price of the respective farm commodities. The program is designed to assist family farmers in their battle to stay alive economically in this time of low farm prices, high interest rates, rising fuel costs, and double digit inflation. The program is not costly nor inflationary.

Farmers have to cover their costs of production and make a profit in the long run to stay in business. It is in the best interests of American consumers that family farmers stay in business and produce food. We cannot refuse to raise farm prices under the banner of fighting inflation when farmers are losing money. The battle to save our family farmers is

one worth fighting and worth winning. When we win this fight all Americans win. There will be an adequate supply of fairly priced farm products. We will have the largest food supply possible at the lowest price possible.

2. MILK PRICE SUPPORT

The statutory authority for support of manufactured dairy products at 80 percent of parity, contained in the 1977 Agriculture Act, expires on March 31, 1979. Last September, Secretary Bergland set the support rate for the marketing year beginning October 1, 1978, and ending September 30, 1979, at 80 percent of parity.

If Congress does nothing to extend or change the law, USDA will have the option on October 1, 1979, to set the support level for the new marketing year beginning October 1, 1979, as low as the statutory minimum of 75 percent of parity.

This provision will extend the authority contained in the 1977 Food and Agriculture Act providing that the price supports for milk be no less than 80 percent of parity. This level has proved an acceptable level to maintain dairy production without stimulating overproduction.

3. SUGAR PRICE SUPPORT

This provision will require the Secretary of Agriculture to set the price support loan for sugar at a percent of parity equal to 16.5 cents per pound. This provision extends the de la Garza amendment to the 1977 Food and Agriculture Act and expresses the intent that the Secretary maintain the market price as near as possible to this figure by the use of quotas and import fees to minimize the loan level as a market price determinant.

In October 1978, because of the conflict with administration sugar policy, we were unable to pass meaningful sugar legislation. To date, the administration has not proposed any new solutions and therefore, I feel an increase in the loan provision is necessary and appropriate to provide the farmers the assurances they need and deserve. Without this we could become as dependent on imported sugar as we are on imported oil. I am sure Chairman LONG of the Finance Committee will come up with alternative approaches that will be considered in the Finance Committee. It is important we move ahead with this approach at this time.

4. FOOD STAMP PROGRAM

It is extremely important that we repeal the authorization ceiling, or "cap" in the food stamp program. The current services cost estimate for fiscal years 1980 and 1981 is substantially above the legislated authorization levels. If such action is not taken, benefits will be cut sharply to all 16 million participants the last quarter of next year—and every other year where economic conditions are worse than was predicted.

In a very real sense, legislating a specific authorization level is fundamentally inconsistent with the goals and structure of the food stamp program. The food stamp program is unique in its ability to respond quickly to changing economic conditions. An increase or decrease in the cost of food or the unemployment rate will immediately impact on the cost of the program. A study of the program found that a 1-percent increase in the unemployment rate will increase participation in the food stamp program by 500,000 to 750,000. In short, it is almost impossible to predict with any degree of accuracy the cost of the program in future years. The participants of the program should not have to bear the burden of poor economic forecasts and management.

The primary motivation for requiring a "cap" was to hedge against the elimination of the purchase requirement costing more than it was originally estimated to cost. USDA is just now in the process of implementing the new food stamp law. However, it is clear that the new, and unfortunately, higher current services cost estimate for the 1980 food stamp program is the result of changing economic conditions and not the structure of the 1977 program.

If greater oversight of the program is desired, other options are available to the Congress. Under the current law, the program expires in 2 years, 1981. The program will have to be extended at that time, which provides an excellent opportunity to review the approach adopted in 1977 and to change it if it is not satisfactory. If we are still not sure, the program can be extended for only a short period of time.

In addition to repealing the cap, the bill addresses the need to achieve greater efficiency in the food stamp program. State error rates are still too high. Questions have been raised by the General Accounting Office over the authorization of retailers which sell only token amounts of staple foods. Food stamp redemption controls need strengthening. Investigation of suspected violations should be expedited.

In my opinion, substantial savings could be achieved by greater efficiency in these areas, particularly from lowering the error rates. If we are able to save $100 to $150 million, not only is it that much less of a burden on the taxpayer, but we improve the public image of the program.

This legislation requires, therefore, that the Secretary conduct an intensive investigation of these issues and report back to Congress within a few months. While I am normally skeptical about asking for studies, with the food stamp program the precedent is rather good. It was S. Res. 58 which was passed in the 94th Congress that laid the foundation for the overall reform of the program.

5. PUBLIC LAW 480 AMENDMENT

Public Law 480 or food-for-peace legislation was signed by President Eisenhower in 1954 with his strong endorsement. Since then over $30 billion worth of farm commodities have been exported under its provisions.

The great value of this program, in terms of assisting hungry and malnourished people in developing countries is impossible to comprehend. It is one of the great practical humanitarian steps of all time.

This is a time when the hungry of the world need food and our farmers need markets. In order to achieve the twin objectives of helping the hungry and malnourished in developing nations while helping American farmers expand their markets, this provision will establish a Public Law 480 minimum quantity of 7 million tons for each of the next 3 fiscal years.

I believe that Public Law 480, title I countries could use considerably more food assistance than these minimums. Certainly export supplies are more than adequate. This provision will meet these goals and should contribute to a more even flow of food assistance throughout the fiscal year since the minimum amounts will be provided for in the budgetary process rather than being subject to the whims of the Office of Management and Budget.

6. NATIONAL AGRICULTURAL PRODUCTION COST BOARD

This provision would establish a National Agricultural Production Cost and Statistical Standards Board for the purpose of implementing and standardizing the cost of production information as it relates to agricultural production. This would be a one-time 3-year board.

I believe there is a high degree of urgency relating to the development of both method and standards in the analysis of agricultural costs as they are developed at the production level.

The advent of the Agricultural Act of 1973 and the subsequent act of 1977, which mandated the Secretary of Agriculture to conduct cost of production studies provided only very sketchy directions as to standards and methodology.

Under these circumstances it is surprising that the studies which were conducted in 1974 and published in 1976 were of any significant value considering the speed with which they were assembled. There are areas in these studies which leave the agricultural community in a very apprehensive frame of mind. Cost of production statistics need to be resolved from the standpoint of accuracy as well as to their validity at the producer level.

Legislation to establish a board was introduced last year by Senator ROBERT MORGAN of North Carolina. I have included this bill within this legislation because I think it is important enough to warrant consideration in an omnibus bill.

Senator MORGAN has notified me that he intends to introduce his bill again later this week. This will provide the Congress with the option of considering the board under separate legislative authority. I believe this board is in the best interest of farmers and the Nation.

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

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

S. 1

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 "Food and Agriculture Act of 1979".

TITLE I—PRICE SUPPORT FOR WHEAT, FEED GRAINS, AND UPLAND COTTON; GRAIN RELEASE PRICES

VARIABLE TARGET PRICE PROGRAM FOR 1980 AND 1981 CROPS

SEC. 101. Effective only with respect to the 1980 and 1981 crops of wheat, feed grains, and upland cotton, title I of the Agricultural Act of 1949, as amended (7 U.SC. 1421–1445g), is amended by adding at the end thereof a new section as follows:

"1980 AND 1981 WHEAT, FEED GRAIN, AND UPLAND COTTON TARGET PRICES

"SEC. 113. Notwithstanding any other provision of this Act, the Secretary shall formulate, announce, and put into operation for each of the 1980 and 1981 crops of wheat, feed grains, and upland cotton for which a set-aside program is in effect a program under which the level of the established price to be paid to any producer shall be based on the amount of cropland that such producer voluntarily elects to set aside from production. The higher the established price the producer elects to receive, the greater the amount of cropland on the farm the producer must set aside from production in order to qualify for such higher established price. If a producer elects to receive the maximum established price, which shall be equal to 100 per centum of the parity price for the commodity concerned, the producer must set aside from production a percentage of the cropland on the farm equal to the highest set-aside percentage prescribed by the Secretary under the set-aside program.".

GRAIN RELEASE PRICES

SEC. 102. (a) Effective only for the 1980 and 1981 crops of wheat and feed grains—

(1) Section 110(b)(5) of the Agricultural Act of 1949, as amended (7 U.S.C. 1445e(b)(5)), is amended by striking out "wheat has attained a specified level which is not less than 140 per centum nor more than 160 per centum of the then current level of price support for wheat or such appropriate level for feed grains, as determined by the Secretary" and inserting in lieu thereof "the commodity has attained a specified level which is not less than 90 per centum of the current parity price for such commodity".

(2) Section 110 (b)(6) of the Agricultural Act of 1949, as amended (7 U.S.C. 1445e (b)(6)), is amended by striking out "is not less than 175 per centum of the then current level of price support for wheat of such appropriate level for feed grains as determined by the Secretary under this Act" and inserting in lieu thereof "is not less than 105 per centum of the current parity price for such commodity".

(b) Effective only for the 1980 and 1981 crops of wheat and feed grains, section 110 (d) of the Agricultural Act of 1949, as amended (7 U.S.C. 1445e (d)), is amended by striking out "150 per centum of the then current level of price support for such commodity" and inserting in lieu thereof "90 per centum of the parity price for such commodity".

COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS FOR WHEAT AND FEED GRAINS

SEC. 103. Effective only for the marketing years for the 1980 and 1981 crops of wheat and feed grains, the language following the third colon in the third sentence of section 407 of the Agricultural Act of 1949, as amended by section 408 of the Food and Agriculture Act of 1977 (7 U.S.C. 1427), is amended by striking out "115 per centum of the current national average loan rate" and inserting in lieu thereof "90 per centum of the current parity price".

TITLE II—MILK PRICE SUPPORT

SEC. 201. The second sentence of subsection (c) of section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446 (c)), is amended by striking out "March 31, 1979" and inserting in lieu thereof "March 31, 1981".

TITLE III—SUGAR PRICE SUPPORT

SEC. 301. Effective only with respect to the 1979 through 1981 crops of sugar beets and sugar cane, section 201 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446), is amended—

(1) by striking out in the first sentence "honey, and milk" and inserting in lieu thereof the following: "honey, milk, sugar beets, and sugar cane"; and

(2) by adding at the end thereof a new subsection (g) as follows:

"(g) (1) The price of the 1979 through 1981 crops of sugar beets and sugar cane, respectively, shall be supported through loans or purchases with respect to the processed products thereof at a level not in excess of 70 per centum nor less than 57 per centum of the parity price therefor, except that in no event may the support level be less than 6.5 cents per pound raw sugar equivalent. In carrying out the price support program authorized by this subsection, the Secretary shall establish minimum wage rates for agricultural employees engaged in the production of sugar.

"(2) Notwithstanding any other provision of law, the Secretary may suspend the operation of the price support program authorized by this subsection whenever the Secretary determines that an international sugar agreement is in effect which assures the maintenance in the United States of a price for sugar not less than 16.5 cents per pound raw sugar equivalent.".

TITLE IV—FOOD STAMP PROGRAM

SEC. 401. The first sentence of section 18 (a) of the Food Stamp Act of 1977 (7 U.S.C. 2027) is amended to read as follows: "To carry out the provisions of this Act, there are hereby authorized to be appropriated such sums as may be necessary for the fiscal years ending September 30, 1980, and September 30, 1981.".

SEC. 402. The Secretary shall conduct a study of the food stamp program. The Secretary shall report the results of such study to Congress by July 1, 1979, with recommendations for legislative changes that will:

(1) reduce error rates by increasing the accuracy of eligibility determinations;

(2) provide more effective monitoring and control of food coupon redemption; and

(3) provide more timely investigation and resolution of suspected violations.

The Secretary may include in the report any other recommendations the Secretary deems desirable.

TITLE V—PUBLIC LAW 480

SEC. 501. The Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof a new section 406 as follows:

"SEC. 406. (a) In order more adequately to meet the food requirements of hungry and malnourished people in the developing countries, a minimum aggregate quantity of seven million metric tons of United States farm commodities shall be exported under titles I, II, and III of this Act during each of the following fiscal years: fiscal year 1980, fiscal year 1981, and fiscal year 1982. This aggregate quantity requirement shall not affect the title II minimum quantities required under section 201(b) of this Act, since those minimums shall be a part of the total minimum requirement for all titles.

"(b) The export of an aggregate quantity of seven million metric tons of each such fiscal year under titles I, II, and III shall be mandatory unless (1) export supplies are not available as determined under section 401 (a) of this Act, or (2) food needs of developing countries do not merit such quantity as gauged by (A) a lack of request for food assistance by the developing countries, or (B) a determination by the Food and Agriculture Organization of the United Nations that unfilled food requirements of the developing nations are less than seven million metric tons during such fiscal year.

"(c) Should less than the minimum quantities required by this section be exported because of the criteria in subsection (b) of this section, the President shall report to the appropriate committees of Congress the specific reasons for such shortfall.".

TITLE VI—NATIONAL AGRICULTURAL PRODUCTION COST AND STATISTICAL STANDARDS BOARD

ESTABLISHMENT OF BOARD; COMPOSITION

SEC. 601. (a) There is hereby established an advisory board to be known as the "National Agricultural Production Cost and Statistical Standards Board" (hereinafter in this title referred to as the "Board").

(b) The Board shall be composed of sixteen members appointed by the Secretary of Agriculture (hereinafter in this title referred to as the "Secretary").

(c)(1) The terms of the members first taking office shall expire (as designated by the Secretary at the time of appointment) as follows: four at the end of one year, four at the end of two years, four at the end of three years and four at the end of four years. Thereafter terms of all members shall be four years, except that the term of any person appointed to fill a vacancy on the board shall be appointed only for the unexpired term of such member's predecessor.

(2) The Secretary shall appoint persons to the Board who are producers of one or more commodities designated as feed grains, food grains, sugar crops, cotton, tobacco, livestock, or livestock products.

(3) Persons appointed to the Board shall have proven their competence to serve on such board by having demonstrated to the Secretary that they consistently manage their agricultural operation with the assistance of an enterprise cost system that reflects accurate costs of production for their operations and that they have a high level of comprehension relating to the functional aspects of such a system.

(4) The Secretary shall appoint at least one person to the Board who, by virtue of education, experience, and training, has extensive knowledge of matters relating to the cost of producing agricultural commodities.

(5) The Secretary shall designate, by and with the advice and consent of the Senate, one member of the Board to serve as chairman and one member to serve as vice chairman for the term of the appointment of such member.

(6) The Secretary shall also appoint one person to represent the interests of the consumers on the Board.

(7) No person may serve as a member of the Board for more than two consecutive terms.

FUNCTION OF THE BOARD

SEC. 602. (a) It shall be the function of the Board to coordinate and assist in the development and improvement of cost of production and financial statistical standards that relate to the production of agricultural commodities in the United States.

In carrying out such function, the Board shall—

(1) counsel with the various economic agencies of the Department of Agriculture, universities, and producers groups for the purpose of developing adequate coordinated standards among these parties for the measurement of production cost components that relate to the production of agricultural commodities;

(2) review the adequacy and accuracy of cost of production formulas, including the information relied upon in arriving at such formulas that have been developed by the Department of Agriculture for the purpose of determining the cost of producing the various agricultural commodities, and counsel with those involved in the development of such formulas and make recommendations for improvements in such formulas;

(3) review the adequacy of the parity formula, counsel with those involved in the analysis of the data used in such formula, and make recommendations for improvements in the formula and in related areas that may require improvement;

(4) review the adequacy of agricultural financial statistics that are being compiled by the Department of Agriculture, counsel with those involved in these compilations, and make recommendations that the Board believes will improve the accuracy of such statistics;

(5) advise the Secretary whether the cost of production formulas used by the Departmnt of Agriculture in connection with the administration of its price support programs are fair and accurate and recommend to the Secretary how such formulas might be improved including, when necessary, the submission of findings on actual costs of production; and

(6) advise the Secretary, at the Secretary's request, on such other matters that may relate to price targeting, price support operations, or the disposition of surplus agricultural commodities.

(b) The Secretary shall report to the Board on the disposition of its recommendations, including reasons for not implementing the recommendations of the Board.

(c) The Board shall submit annually to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report discussing the activities of the Board during the preceding year, including any findings or recommendations made to the Secretary with respect to its duties set forth in this title. The Board shall include in each such report a list of the recommendations made to the Secretary and the disposition made by the Secretary of such recommendations.

(d) The Board shall meet at least twice annually or more often if such meetings are necessary to meet the purposes of this Act.

OFFICE SPACE, EQUIPMENT; STAFF

Sec. 603. The Secretary shall provide the Board with such office space, equipment, and staff as may be necessary for the Board to perform its functions under this Act.

COMPENSATION; TRAVEL EXPENSES

Sec. 604. No member of the Board may receive any compensation for such member's services as a Board member, but may be paid travel expenses, including per diem in lieu of subsistence, as provided in the regulations issued under section 7 of the Federal Advisory Committee Act.

EXPIRATION OF BOARD

Sec. 605. The Board and the authority provided under this title shall expire December 31, 1983.

Mr. McGOVERN. Mr. President, I do not think the Nation will ever see the day when improvements to our food and fiber programs are not appropriate. Though the Congress passed a monumental omnibus farm bill in the first session of the 95th Congress, we came back with several changes in the second session with respect to commodity programs.

And so in the 96th Congress there is need for improvement in several areas, not all of which are necessarily associated with the commodity end of the Department's business. Farmers are constantly visiting my office and I am on a regular basis talking to farmers on trips to my home State. Without question, there is still uncertainty and unrest in the farm community. Though the parity ratio has improved somewhat over the past year, the composite ratio has only recently edged up to 72 percent and this has largely been due to improved prices for livestock. The parity index for wheat farmers still stands at a ridiculously low 55 percent and corn is but 54 percent. Given an annual wheat crop averaging about 2 billion bushels and corn crops in the 6 billion bushel range, the prices received by farmers can hardly be called encouraging.

With those thoughts in mind, I have worked closely during the recess with my good friend from Kansas (Mr. DOLE), and we have fashioned a housekeeping bill for the Department covering a broad range of departmental interests which we feel would be useful and constructive. We hope that the Department will give our suggestions its serious and sympathetic attention. I can assure the Secretary of Agriculture that the provisions of this bill would be looked on by farmers as partial answers to a good many of their questions.

VARIABLE TARGET PRICE PROGRAM

There are few who question that the target price system is here to stay. Many of us question the figures the Department will accept as target goals. There are few even at the Department who will seriously state that the present target price on wheat, for instance, remotely resembles the cost of producing a bushel of wheat.

With that thought in mind, Senator DOLE and I are suggesting that there be a provision of law that cranks more flexibility into the target price system. Title I of the Food and Agriculture Act of 1979 provides authority for the Secretary in years in which there is a set-aside program in effect to formulate a program whereby a farmer who chooses to participate in the farm program may receive a higher target price by taking additional land out of production. The legislation itself contains no formulas nor does it contain numbers. It does, however, direct the Secretary to "formulate, announce, and put into effect for 1980 and 1981 a plan for wheat, feed grains and cotton." The higher the established price the producer voluntarily elects to receive, the greater the amount of cropland the producer must set aside—the maximum amount a product could receive would be 100 percent of the parity price for the commodity concerned.

We view this provision as an effective production control tool for the Department and an opportunity for the farmer to vary his cultivation practices and receive a decent price for that portion of his crop which he chooses to put into production. Certainly it is a valid experiment to give the farmer a choice. Additionally, flexibility in the administration of farm programs has been generally found to be more desirable than rigid practices.

In the event this program is adopted, adjustment is necessary in the release prices for the grain reserve. Section 102 of this bill contains such a provision by providing release figures in terms of current parity for the commodity rather than percentages of the acquisition figures. Section 103 makes the same adjustment for Commodity Credit Corporation sales price restrictions by providing that sales under the present lot at 115 percent of the current national average loan rate be changed to 90 percent of the current parity price for that portion of CCC inventories acquired under the flexible target price program.

MILK PRICE SUPPORT

Title II of the bill concerns itself with the milk program and is only technical in nature. The 80 percent of parity support program is scheduled to expire and this provision merely extends it through March 31, 1981.

There should be little controversy in this title. The current milk program works well and the dairy community, I understand, is satisfied with it. The fact of the matter is that farmers in the dairy business find themselves among the healthiest economic sectors of Americal agriculture. The program should be continued according to its present provisions.

SUGAR PRICE SUPPORT

I confess to my colleagues that sugar is not a commodity that raises high sentiments in South Dakota. I can state without fear of contradiction that there is not a single sugar beet grower in my State. Nevertheless, it is an important agricultural commodity throughout many portions of the country and a major crop to South Dakota's closest neighbors, North Dakota and Minnesota. Title III of the Food and Agriculture Act of 1979 supports sugar through loans or purchases at a level not in excess of 65 percent nor less than 52.5 percent of parity with an absolute floor of not less than 16.5 cents per pound raw sugar equivalent.

Though the sugar problem is not one I must face in talking to South Dakota farmers, I am acutely aware of the severe economic distress in sugar growing areas. Sugar, be it beet or cane, is an expensive crop to grow; machinery costs are high and current price returns are tragically low. Many beet growers have simply sold out or switched to other crops. If we are to maintain a viable sugar industry in the Nation we simply must provide the financial incentives to remain in business.

FOOD STAMP PROGRAM

Title IV of this legislation would prevent a serious, impending food stamp problem that could drastically reduce benefits to all 16 million food stamp recipients.

The Food Stamp Act of 1977 estab-

lished specific authorization ceilings based on the economic forecasts at the time. Unfortunately, the forecasts underestimated the food price inflation we have experienced in recent years and the predicted rise in the unemployment rate—the two factors that have the greatest impact on the cost of the program.

Food prices are now expected to rise almost 50 percent between 1977 and 1981. Unemployment is also expected to rise this year and next, with each 1 percent increase raising participation by 500,000 to 750,000 persons.

In short, it is extremely difficult to legislate specific authorization levels for a program which is intended to respond quickly to economic fluctuations. It was a poor idea to attempt to do so, and the cap should be repealed.

NATIONAL AGRICULTURAL PRODUCTION COST AND STATISTICAL STANDARDS BOARD

The Food and Agriculture Act of 1977 for the first time introduced the phrase "cost of production" into the lexicon of American agriculture. The great debate is on the variables involved in cost of production. Few could agree on formulas and there were just about as many conclusions as there were analysts.

Even today, farmers throughout the country seriously question the economic models used by the Department in computing cost of production. Though it is probably the aim of the Department to ultimately replace parity with cost of production as a guideline for commodity supports, I personally can inform the Department that parity is alive and well in South Dakota. It is as ingrained in their minds as their love for the land and the opportunity given to them to make things grow.

Given the state of cost of production at the Department of Agriculture, might it not make some sense to let the farmers in on it? Title VI of the Food and Agriculture Act of 1979 establishes a National Agricultural Production Cost and Statistical Standards Board of 16 members appointed by the Secretary and requires that such members be producers of grains or livestock or cotton. The function of the Board is to advise the Secretary on financial statistical standards which relate to the production of agricultural commodities. It just might be that if there is input from actual producers, the Department might change the attitudes it has developed in the past.

So that there is no criticism of the Board being more Government, let me hasten to point out that the members serve without compensation save travel costs and Government per diem. In some respects, this is a case of "let's let the farmers play in their own ball game" rather than allowing all the pocketbook decisions to be left in the hands of Department of Agriculture employees who have no real stake in the outcome of the game.

I know that there is support for this concept out in the country and I think that it should be adopted.

PUBLIC LAW 480—FOOD FOR PEACE

As a former Administrator of the Food for Peace Program in the early 1960's, I continue to maintain an active interest in its progress. Over the last 24 years, $30 billion of farm commodities have been exported under this program. Unfortunately, in recent years the level of exports has fallen to an average of only 4 to 5 million metric tons under the three titles of the program. The tendency has been to cut back in fiscally short years or in years when there is a drop in production.

In order to fulfill the humanitarian intentions of this program, it is our judgment that the intent of the Congress could best be served if the Congress mandated a minimum level of participation. This assures the continuity of the program as well as giving underdeveloped countries advance knowledge of what they can expect. It also tends to place a greater level of control in the Congress than in the administration. For this reason, this title of the bill provides for a minimum of 7 million metric tons to be placed in the stream in each of the coming fiscal years.

Mr. President, I feel that this bill addresses itself to agriculture's pressing problems and urge its adoption.

By Mr. MUSKIE (for himself, Mr. ROTH, Mr. GLENN, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. BIDEN, Mr. PERCY, Mr. PELL, Mr. HATFIELD, Mr. BAUCUS, Mr. BELLMON, Mr. BAYH, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BURDICK, Mr. HARRY F. BYRD, Jr., Mr. CANNON, Mr. CHAFEE, Mr. CHILES, Mr. CHURCH, Mr. COHEN, Mr. CULVER, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. DURENBERGER, Mr. DURKIN, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GARN, Mr. HART, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HELMS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. JAVITS, Mr. LAXALT, Mr. LEAHY, Mr. MCCLURE, Mr. MCGOVERN, Mr. MATHIAS, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MORGAN, Mr. NUNN, Mr. PACKWOOD, Mr. PRESSLER, Mr. PRYOR, Mr. SIMPSON, Mr. STAFFORD, Mr. STEVENS, Mr. STEWART, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. WILLIAMS, and Mr. ZORINSKY):

S. 2. A bill to require authorizations of new budget authority for Government programs at least every 10 years, to provide for review of Government programs every 10 years, and for other purposes; to the Committee on Governmental Affairs.

SUNSET ACT OF 1979

Mr. MUSKIE. Mr. President, it is with a sense of great expectation that I am reintroducing the Sunset Act of 1979, along with many cosponsors.

I do so with a sense of optimism because at the end of the 95th Congress, the Senate passed the Sunset bill by a margin of 87 to 1, and I hope that we will witness a similar endorsement early in this Congress of this extremely important legislation.

We have just come through an election year in which one of the overriding concerns of the American public was that Government is not working as well as it should. People expect more from their tax dollars than they are getting. Sunset can provide a way for Government to discipline its appetite for tax dollars, and do a better job with the resources at its command.

In the simplest sense, sunset proposes nothing more than a process through which Congress can begin to exercise greater control over the product of its legislative efforts—the hundreds of individual programs we have created over the years and which affect the daily lives of all Americans in so many ways.

In its most far-reaching sense, sunset proposes nothing less than to make Government more effective, by improving the quality of services which Government programs are intended to provide.

Sunset attacks the notion that Government programs, once enacted, should remain forever on the books. Instead it proposes that a program should continue only if Congress decides that it is needed and is still working well. If a program cannot meet these conditions, it goes out of business.

Under sunset, virtually all Federal programs would come up for a systematic review and reauthorization on a rotating 10-year basis. The bill also proposes that similar programs be considered at the same time. That way we can see whether dozens, and sometimes hundreds of programs in a particular area are still needed.

I believe sunset should be enacted for a number of reasons:

First, it would complement the budget process as an important weapon in bringing Government spending under control, and thus provide an important tool in the fight against inflation.

Second, it would strengthen the congressional authorization process, the most important policy process the Congress has.

Third, it would enhance the ability of the Congress to respond to changing national problems and priorities.

And, fourth, it would respond rationally and responsibly to the public mood which demands that Government programs be brought under control and that tax dollars be spent more effectively.

In 1978, we made little, if any, progress in streamlining and simplifying the many programs on the books. Committee reform has helped. But we still have a number of Federal programs which are conflicting or overlapping.

State and local governments continue to cite excessive program fragmentation and redtape as a major obstacle to effective policy. And the GAO continues to churn out evidence of wasted dollars because of a program structure which has grown needlessly complex.

Mr. President, perhaps the most compelling reason for enacting sunset legislation is the need to bring Government spending under control in the battle against rising inflation.

What does sunset have to do with inflation? Clearly the public understands the nexus between the two. According to the latest Harris survey 76 percent of the American people view Federal spending as the principal cause of inflation. And a look at the projection for

future budgets bolsters the case for the public's concern.

As part of its 5-year projection for the first budget resolution for this year, the Budget Committee calculated the potential cost of 31 new program initiatives likely to come before Congress between now and 1983. The list was by no means exhaustive. But it did include such major items as national health insurance and additional defense expenditures.

The committee found that between 1980 and 1983, these 31 initiatives could cost as much as $416 billion in new spending. The committee also found, as did CBO, that with a moderate rate of growth between now and then, we could expect only about $120 billion in additional revenues to pay for these new demands.

Many of the initiatives the committee studied are programs we need—and the public wants to have, and there will undoubtedly be others before the next decade is out.

Yet with the economy approaching full capacity—and with inflation on the rise—spending increases of the magnitude projected by the committee are clearly out of the question.

It is obvious from these numbers that we can only afford new programs by making selective cuts in programs we now have but which we may not need. It would require a commitment from every one of us to put our favorite programs to the test—to see if they are still needed, or if they are working well. And whether we like it or not, the burden rests with us.

It is the Congress which sets national policy, through the programs we enact. If those programs have grown unresponsive and ineffective, it is we who must bear the blame. For it is our job not just to initiate new programs—but also to insure that old programs are working as well as they should.

Sunset offers us a unique opportunity to provide the extra spending discipline we need.

The sunset bill I have proposed is geared very specifically to the way Congress works. It seeks to remedy a congressional problem by building upon existing congressional processes—and to use those processes more fully to help us do a better job.

In spite of the mystique of sunset, the approach taken in the bill now before us is very simple indeed.

Title 1 sets out a 10-year five-Congress schedule for the review and reauthorization of all Federal programs, with only a few exceptions. Within this schedule, programs are grouped by budget function and subfunction, in order to encourage review of programs with related purposes during the same period of time.

The bill requires that programs, including those now permanent—save the few exceptions—be specifically reauthorized in accordance with the schedule. To enforce this requirement, title 1 also provides that a point of order would lie against consideration of an appropriation for any program not so reauthorized.

These two provisions—the reauthorization requirement and the schedule for review—taken together, are the essence of the sunset bill. Either provision without the other would leave the process incomplete.

In formulating this legislation, Mr. President, we had two very simple goals in mind. We wanted to force a regular congressional decision on Federal programs, and we wanted those decisions to be made in a broader context than that in which they are made today.

To promote these goals, we sought a process as flexible as possible. We wanted a framework in which Congress could continue to do what it does best—to make political judgments and decisions about public policy.

We worked from the assumption that no reform, no matter how well-intentioned or conceived, will work unless Congress wants it to. We realized that better decisionmaking cannot be legislated, it can only be encouraged and made easier to accomplish.

The bill before us meets these tests. It establishes a limited, precise process. But beyond a minimal threshold it does not dictate how that process should be carried out. I stress this point, Mr. President, because of concerns I have heard that sunset is too heavyhanded an approach.

The legislation now before us has come a long way in the past 3 years. Those of us who have worked on it have learned a great deal about the nature of the Federal program structure. Through this learning process, many who were once skeptical have been convinced that the need for sunset is real.

In an important way, having at our disposal the knowledge to make informed decisions concerning legislation we enact, is what sunset is all about.

The extent of support for the Sunset idea is evidenced by the fact that legislation was cosponsored by more than one-half of the Senate and well over 100 Members cosponsored it in the House in both the 94th Congress and 95th Congress. The bill has been approved by both the Committee on Governmental Affairs and the Rules Committee only after the most careful scrutiny, and then, in the final days of the last Congress, it was endorsed in this Chamber by an overwhelming vote.

More than anything else, Mr. President, sunset has opened up a much-needed dialog in the Congress on the important task of making Government more effective and efficient. We welcome all who would like to join us in this undertaking because we believe it is one in which liberals and conservatives alike have a vital stake.

Mr. President, I ask unanimous consent that the text of S. 2 be included in the RECORD at this point.

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

S. 2

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 "Sunset Act of 1979".

SEC. 2. The purposes of this Act are—

(1) to require that most Government programs be reauthorized according to a schedule at least once every ten years;

(2) to limit the length of time for which Government programs can be authorized to ten years;

(3) to bar the expenditure of funds for Government programs which have not been provided for by a law enacted during the ten-year sunset reauthorization cycle; and

(4) to encourage the reexamination of selected Government programs each Congress.

SEC. 3. (a) For purposes of this Act:

(1) The term "budget authority" has the meaning given to it by section 3(2) of the Congressional Budget Act of 1974.

(2) The term "permanent budget authority" means budget authority provided for an indefinite period of time or an unspecified number of fiscal years which does not require recurring action by the Congress, but does not include budget authority provided for a specified fiscal year which is available for obligation or expenditure in one or more succeeding fiscal years.

(3) The term "Comptroller General" means the Comptroller General of the United States.

(4) The term "agency" means an executive agency as defined in section 105 of title 5, United States Code, except that such term includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office.

(5) The term "sunset reauthorization cycle" means the period of five Congresses beginning with the Ninety-seventh Congress and with each sixth Congress following the Ninety-seventh Congress.

(b) For purposes of this Act, each program (including any program exempted by provision of law from inclusion in the Budget of the United States) shall be assigned to the functional and subfunctional categories to which it is assigned in the Budget of the United States Government, fiscal year 1979. Each committee of the Senate or the House of Representatives which reports any bill or resolution which authorizes the enactment of new budget authority for a program not included in the fiscal year 1979 budget shall include in the committee report accompanying such bill or resolution (and, where appropriate, the conferees shall include in their joint statement on such bill or resolution), a statement as to the functional and subfunctional category to which such program is to be assigned.

(c) For purposes of titles I, II, III, and V of this Act, the reauthorization date applicable to a program is the date specified for such program under section 101(b).

TITLE I—REAUTHORIZATIONS OF GOVERNMENT PROGRAMS

SEC. 101. (a) Each Government program (except those listed in section 103) shall be reauthorized at least once during each sunset reauthorization cycle during the Congress in which the reauthorization date applicable to such program (pursuant to subsection (b)) occurs.

(b) The first reauthorization date applicable to a Government program is the date specified in the following table, and each subsequent reauthorization date applicable to a program is the date ten years following the preceding reauthorization date:

Programs included within subfunctional category and first reauthorization date:

254 Space, Science, Applications and Technology.
272 Energy Conservation.
301 Water Resources.
352 Agriculture and Research Services.
371 Mortgage Credit and Thrift Insurance.
376 Other Advancement and Regulation of Commerce.
501 Elementary, Secondary, and Vocational Education.
601 General Retirement and Disability Insurance.
602 Federal Employment Retirement and Disability.

703 Hospital and Medical Care for Veterans.
806 Other General Government.
851 General Revenue Sharing, September 30, 1982.
051 Department of Defense—Military.
053 Atomic Energy Defense Activities.
154 Foreign Information and Exchange Act.
251 General Science and Basic Research.
306 Other Natural Resources.
351 Farm Income Stabilization.
401 Ground Transportation.
502 Higher Education.
553 Education and Training of Health Care Work Force.
701 Income Security for Veterans.
752 Federal Litigative and Judicial Activities.
802 Executive Director and Management.
803 Central Fiscal Operations, September 30, 1984.
054 Defense Related Activities.
152 Military Assistance.
155 International Financial Programs.
253 Space Flight.
255 Supporting Space Activities.
274 Emergency Energy Preparedness.
302 Conservation and Land Management.
304 Pollution Control and Abatement.
407 Other Transportation.

Programs included within subfunctional category, and first reauthorization date:

504 Training and Employment.
506 Social Services.
554 Consumer and Occupational Health and Safety.
704 Veterans Housing.
751 Federal Law Enforcement Activities.
801 Legislative Function.
852 Other General Purpose Fiscal Assistance, September 30, 1986.
153 Conduct of Foreign Affairs.
271 Energy Supply.
303 Recreational Resources.
402 Air Transportation.
505 Other Labor Services.
551 Health Care Services.
604 Public Assistance and Other Income Supplements.
702 Veterans Education, Training, and Rehabilitation.
753 Federal Correctional Activities.
805 Central Personnel Management.
902 Other Interest, September 30, 1988.
151 Foreign Economic and Financial Assistance.
276 Energy Information, Policy and Regulation.
372 Postal Service.
403 Water Transportation.
451 Community Development.
452 Area and Regional Development.
453 Disaster Relief and Insurance.
503 Research and General Education Aids.
552 Health Research.
603 Unemployment Compensation.
705 Other Veterans Benefits and Services.
754 Criminal Justice Assistance.
804 General Property and Record Management.
901 Interest on the Public Debt, September 30, 1990.

(c)(1) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for a period of more than ten fiscal years, for an indefinite period, or (except during the Congress in which such next reauthorization date occurs) for any fiscal year beginning after the next reauthorization date applicable to such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment to the bill or resolution which would make the authorization period conform to the requirement of such sentence.

(2)(A) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program for any fiscal year beginning after the first (or any subsequent) reauthorization date applicable to such program under paragraph (b), unless the provision of such new budget authority is specifically authorized by a law which constitutes a required authorization for such program.

(B) For the purposes of this subsection, the term "required authorization" means a law authorizing the enactment of new budget authority for a program, which complies with the provisions of paragraph (1) and is enacted during the Congress in which the reauthorization date for such program occurs, or during a Congress after such date and prior to the Congress in which the next authorization date for such program occurs.

(3) No new budget authority may be obligated or expended for a program for a fiscal year beginning after the last fiscal year in a sunset reauthorization cycle unless a provision of law providing for the continuation of such program has been enacted during such sunset reauthorization cycle.

(4) Any provision of law providing permanent budget authority for a program shall cease to be effective (for the purpose of providing such budget authority) on the first reauthorization date applicable to such program.

(5) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which provides new budget authority for a program unless the bill or resolution, or amendment thereto, (or the report which accompanies such bill or resolution) includes a specific reference to the provision of law which constitutes a required authorization for such program. Notwithstanding the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which provides such reference to the appropriate provision of law.

SEC. 102. (a) It shall not be in order in either the Senate or the House of Representatives to consider any bill or resolution, or amendment thereto, which has been reported by a committee and which authorizes the enactment of new budget authority for a program for a fiscal year beginning after the next reauthorization date applicable to such program, unless a reauthorization review (to the extent the committee or committees having jurisdiction deem appropriate) of such program has been completed during the Congress in which the reauthorization date for such program occurs (or during a subsequent Congress when such required authorization is considered), and the report accompanying such bill or resolution includes a separate section entitled 'Reauthorization Review' recommending, based on such review, whether the program or the laws affecting such program should be continued without change, continued with modifications, or terminated, and also includes, to the extent the committee or committees having jurisdiction deem appropriate, each of the following matters:

(1) Information and analysis on the organization, operation, costs, results, accomplishments, and effectiveness of the program.

(2) An identification of any other programs having similar objectives, and a justification of the need for the proposed program in comparison with those other programs which may be potentially conflicting or duplicative.

(3) An identification of the objectives intended for the program, and the problems or needs which the program is intended to address, including an analysis of the performance expected to be achieved, based on the bill or resolution as reported.

(4) A comparison of the amount of new budget authority which was authorized for the program in each of the previous four fiscal years and the amount of new budget authority provided in each such year.

(b) It shall not be in order in either the Senate or the House of Representatives to consider a bill or resolution, or amendment thereto, which authorizes the enactment of new budget authority for a program for which there previously has been no such authorization unless the report accompanying such bill or resolution sets forth, to the extent that the committee or committees having jurisdiction deem appropriate, the information specified in subsection (a) (2) and (3).

(c) Each committee having legislative jurisdiction over a program included in section 103 shall conduct a review of such program of the type described in subsection (a) at least once during each sunset reauthorization cycle, during the Congress in which the reauthorization date applicable to such program occurs, and shall submit to the Senate or the House of Representatives, as the case may be, a report containing its recommendations and other information of the type described in subsection (a) to the extent that the committee deems appropriate. It shall not be in order to consider a bill or resolution reported by the committee having legislative jurisdiction which authorizes the enactment of new budget authority for such program unless such report accompanies such bill or resolution, or has been submitted during the Congress in which the reauthorization date for such program occurred as provided in section 101(b), whichever first occurs.

SEC. 103. (a) Section 101(c) shall not apply to the following:

(1) Programs included within functional category 900 (Interest).

(2) Any Federal programs or activities to enforce civil rights guaranteed by the Constitution of the United States or to enforce antidiscrimination laws of the United States, including but not limited to the investigation of violations of civil rights, civil or criminal litigation or the implementation or enforcement of judgments resulting from such litigation, and administrative activities in support of the foregoing.

(3) Programs which are related to the administration of the Federal judiciary and which are classified in the fiscal year 1979 budget under subfunctional category 752 (Federal litigative and judicial activities).

(4) Payments of refunds of internal revenue collections as provided in title I of the Supplemental Treasury and Post Office Departments Appropriation Act of 1949 (62 Stat. 561), but not to include refunds to persons in excess of their tax payments.

(5) Programs included in the fiscal year 1979 budget in subfunctional categories 701 (Income security for veterans), 702 (Veterans education, training, and rehabilitation), 704 (Veterans housing), and programs for providing health care which are included in such budget in subfunctional category 703 (Hospital and Medical care for veterans).

(6) Social Security and Federal employee retirement programs including the following:

(A) Programs funded through trust funds which are included with subfunctional categories 551 (Health care services), 601 (General retirement and disability insurance), or 602 (Federal employee retirement and disability).

(B) Retirement pay and retired pay of military personnel on the retired lists of the Army, Navy, Marine Corps, and the Air Force, including the Reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve; and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code (survivor's benefits), classified in the fiscal year 1979 budget in subfunctional category 051 (Department of Defense-military).

(C) Retirement pay and medical benefits for retired commissioned officers of the Coast Guard, the Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric Commissioned Corps and their

survivors and dependents, classified in the fiscal year 1979 budget in subfunctional category 551 (health care services) or in subfunctional category 306 (other natural resources).

(D) Retired pay of military personnel of the Coast Guard and Coast Guard Reserve, members of the former Lighthouse Service, and for annuities payable to beneficiaries of retired military personnel under the retired serviceman's family protection plan (10 U.S.C. 1431–1446) and survivor benefit plan (10 U.S.C. 1447–1455), classified in the fiscal year 1979 budget in subfunctional category 403 (Water transportation).

(E) Payments to the Central Intelligence Agency Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 054 (Defense-related activities).

(F) Payments to the Civil Service Retirement and Disability Fund for financing unfunded liabilities, classified in the fiscal year 1979 budget in subfunctional category 805 (Central personnel management).

(G) Payments to the Foreign Service Retirement and Disability Fund, classified in the fiscal year 1979 budget in subfunctional category 153 (Conduct of foreign affairs).

(H) Payments to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, classified in the fiscal year 1979 budget in various subfunctional categories.

(I) Administration of the retirement and disability programs set forth in this section.

(b) If a question is raised in the Senate with respect to the application of any paragraph of subsection (a) to any bill, resolution, or amendment, or to any provision of law, the Presiding Officer shall submit the question to the Senate for decision.

SEC. 104. (a) It is the sense of the Congress that all programs should be considered and reauthorized in program categories which constitute major areas of legislative policy. Such authorizations should be for sufficient periods of time to enhance oversight and the review and evaluation of Government programs.

(b) The reauthorization schedule contained in section 101(b) may be changed by concurrent resolution of the two Houses of the Congress (except that changes in the schedule affecting permanent appropriations may be made only by law).

(c) All messages, petitions, memorials, concurrent resolutions, and bills proposing changes in section 101(b) and all bills proposing changes in section 103(a), shall be referred first to the committee with legislative jurisdiction over any program affected by the proposal and sequentially to the Committee on Rules in the House of Representatives or to the Committee on Rules and Administration in the Senate as provided for in subsection (d).

(d) Except as provided in subsection (f), the Committee on Rules in the House of Representatives or the Committee on Rules and Administration in the Senate shall report any concurrent resolution or bill referred to it under the provisions of subsection (c) and which previously has been reported favorably by a committee of legislative jurisdiction within thirty days (not counting any day on which the Senate or the House of Representatives is not in session), beginning with the day following the day on which such resolution or bill is so referred, with its recommendations.

(e) The recommendations of the Committee on Rules or the Committee on Rules and Administration pursuant to subsection (d) or (f) shall include a statement on each of the following matters:

(1) The effort the proposed change would have on the sunset reauthorization schedule.

(2) The effect the proposed change would have on the jurisdictional and reauthorization responsibilities and workloads of the authorizing committees of Congress.

(3) Any suggested grouping of similar programs which would further the goals of this Act to make more effective comparisons between programs having like objective.

(f) Any concurrent resolution or bill proposing a change in section 101(b) or 103(a) which has been reported by a committee before July 1, 1980, shall be referred in the House to the Committee on Rules and in the Senate to the Committee on Rules and Administration. Such committee shall report an omnibus concurrent resolution or bill containing its recommendations regarding the proposed changes by August 1, 1980, and consideration of such bill or resolution shall be highly privileged in the House of Representatives and privileged in the Senate. The provisions of subsections (c) and (d) of section 1017 of the Impoundment Control Act of 1974, insofar as they relate to consideration of rescission bills, shall apply to the consideration of concurrent resolutions and bills proposing changes reported pursuant to this subsection, amendments thereto, motions and appeals with respect thereto, and conference reports thereon.

(g) It shall not be in order in the Senate or the House of Representatives to consider a bill or resolution reported pursuant to subsection (b), (c), (d), or (f) which proposes a reauthorization date for a program beyond the final reauthorization date of the sunset reauthorization cycle then in progress. Notwithstanding, the preceding sentence, it shall be in order to consider a bill or resolution for the purpose of considering an amendment which meets the requirements of this subsection.

TITLE II—PROGRAM INVENTORY

SEC. 201. (a) The Comptroller General and the Director of the Congressional Budget Office, in cooperation with the Director of the Congressional Research Service, shall prepare an inventory of Federal programs (hereafter in this title referred to as the 'program inventory').

(b) The purpose of the program inventory is to advise and assist the Congress in carrying out the requirements of titles I and III. Such inventory shall not in any way bind the committees of the Senate or the House of Representatives with respect to their responsibilities under such titles and shall not infringe on the legislative and oversight responsibilities of such committees. The Comptroller General shall compile and maintain the inventory, and the Director of the Congressional Budget Office shall provide budgetary information for inclusion in the inventory.

(c) Not later than January 1, 1980, the Comptroller General, after consultation with the Director of the Congressional Budget Office and the Director of the Congressional Research Service, shall submit the program inventory to the Senate and House of Representatives.

(d) In the report submitted under this section, the Comptroller General, after consultation and in cooperation with and consideration of the views and recommendations of the Director of the Congressional Budget Office, shall group programs into program areas appropriate for the exercise of the review and re-examination requirements of this Act. Such groupings shall identify program areas in a manner which classifies each program in only one functional and only one subfunctional category and which is consistent with the structure of national needs, agency missions, and basic programs developed pursuant to section 201(i) of the Budget and Accounting Act, 1921.

(e) The program inventory shall set forth for each program each of the following matters:

(1) The specific provision(s) of law authorizing the program.

(2) The committees of the Senate and the House of Representatives which have legislative or oversight jurisdiction over the program.

(3) A brief statement of the purpose or purposes to be achieved by the program.

(4) The committees which have jurisdiction over legislation providing new budget authority for the program, including the appropriate subcommittees of the Committees on Appropriations of the Senate and the House of Representatives.

(5) The agency and, if applicable, the subdivision thereof responsible for administering the program.

(6) The grants-in-aid, if any, provided by such program to State and local governments.

(7) The next reauthorization date for the program.

(8) A unique identification number which links the program and functional category structure.

(9) The year in which the program was originally established and, where applicable, the year in which the program expires.

(10) Where applicable, the year in which new budget authority for the program was last authorized and the year in which current authorizations of new budget authority expire.

(f) The inventory shall contain a separate tabular listing of programs which are not required to be reauthorized pursuant to section 101(c).

(g) The report also shall set forth for each program whether the new budget authority provided for such programs is—

(1) authorized for a definite period of time;

(2) authorized in a specific dollar amount but without limit of time;

(3) authorize without limit of time or dollar amounts;

(4) not specifically authorized; or

(5) permanently provided,

as determined by the Director of the Congressional Budget Office.

(h) For each program or group of programs, the program inventory also shall include information prepared by the Director of the Congressional Budget Office indicating each of the following matters:

(1) The amounts of new budget authority authorized and provided for the program for each of the preceding four fiscal years and, where applicable, the four succeeding fiscal years.

(2) The functional and subfunctional category in which the program is presently classified and was classified under the fiscal year 1979 budget.

(3) The identification code and title of the appropriation account in which budget authority is provided for the program.

SEC. 202. The General Accounting Office, the Congressional Research Service, and the Congressional Budget Office shall permit the mutual exchange of available information in their possession which would aid in the compilation of the program inventory.

SEC. 203. The Office of Management and Budget, and the Executive agencies and the subdivisions thereof shall, to the extent necessary and possible, provide the General Accounting Office with assistance requested by the Comptroller General in the compilation of the program inventory.

SEC. 204. Each committee of the Senate and the House of Representatives, the Congressional Budget Office, and the Congressional Research Service shall review the program inventory as submitted under section 201 and not later than March 1, 1980, each shall advise the Comptroller General of any revisions in the composition or identification of programs and groups of programs which it recommends. After full consideration of the reports of all such committees and officials, the Comptroller General in consultation with the committees of the Senate and the House of Representatives shall re-

port, not later than May 1, 1980, a revised program inventory to the Senate and the House of Representatives.

SEC. 205. (a) The Comptroller General, after the close of each session of the Congress, shall revise the program inventory and report the revisions to the Senate and the House of Representatives.

(b) After the close of each session of the Congress, the Director of the Congressional Budget Office shall prepare a report, for inclusion in the revised inventory, with respect to each program included in the program inventory and each program established by law during such session, which includes the amount of the new budget authority authorized and the amount of new budget authority provided for the current fiscal year and each of the five succeeding fiscal years. If new budget authority is not authorized or provided or is authorized or provided for an indefinite amount for any of such five succeeding fiscal years with respect to any program, the Director shall make projections of the amounts of such new budget authority necessary to be authorized or provided for any such fiscal year to maintain a current level of services.

(c) Not later than one year after the first or any subsequent reauthorization date, the Director of the Congressional Budget Office, in consultation with the Comptroller General and the Director of the Congressional Research Service, shall compile a list of the provisions of law related to all programs subject to such reauthorization date for which new budget authority was not authorized. The Director of the Congressional Budget Office shall include such a list in the report required by subsection (b). The committees with legislative jurisdiction over the affected programs shall study the affected provisions and make any recommendations they deem to be appropriate with regard to such provisions to the Senate and the House of Representatives.

SEC. 206. The Comptroller General and the Director of the Congressional Budget Office shall include in their respective reports to the Congress pursuant to sections 202(f) and 702(e) of the Congressional Budget Act of 1974 an assessment of the adequacy of the functional and subfunctional categories contained in section 101(b) for grouping programs of like missions or objectives.

SEC. 207. (a) The Director of the Congressional Budget Office shall tabulate and issue an annual report on the progress of congressional action on bills and resolutions reported by a committee of either House or passed by either House which authorize the enactment of new budget authority for programs.

(b) The report shall include an up-to-date tabulation for the fiscal year begining October 1 and the succeeding four fiscal years of the amounts of budget authority (1) authorized by law or proposed to be authorized in any bill or resolution reported by any committee of the Senate or the House of Representatives, or (2) if budget authority is not authorized or proposed to be authorized for any of the five fiscal years, the amounts necessary to maintain a current level of services for programs in the inventory.

(c) The Director of the Congressional Budget Office shall issue periodic reports on the programs and the provisions of laws which are scheduled for reauthorization in each Congress pursuant to the reauthorization schedule in section 101(b). In these reports, the Director shall identify each provision of law which authorizes the enactment of new budget authority for programs scheduled for reauthorization and the title of the appropriation bill, or part thereof, which would provide new budget authority pursuant to each authorization.

TITLE III—PROGRAM REEXAMINATION

SEC. 301. (a) Each committee of the Senate and the House of Representatives periodically shall provide through the procedure established in section 302, for the conduct of a comprehensive reexamination of selected programs or groups of programs over which it has jurisdiction.

(b) In selecting programs and groups of programs for reexamination, each committee shall consider each of the following matters:

(1) The extent to which substantial time has passed since the program or group of programs has been in effect.

(2) The extent to which a program or group of programs appears to require significant change.

(3) The resources of the committee with a view toward undertaking reexaminations across a broad range of programs.

(4) The desirability of examining related programs concurrently.

SEC. 302. (a)(1) The funding resolution first reported by each committee of the Senate in 1981, and thereafter for the first session of each Congress, shall include a section setting for the committee's plan for reexamination of programs under this title. Such plan shall include each of the following matters:

(A) The programs to be reexamined and the reasons for their selection.

(B) The scheduled completion date for each program reexamination: *Provided*, That such date shall not be later than the end of the Congress preceding the Congress in which the reauthorization date applicable to a program occurs as provided in section 101(b), unless the committee explains in a statement in the report accompanying its proposed funding resolution the reasons for a later completion date, except that reports on programs scheduled for reauthorization during the 97th Congress and selected for reexamination in a committee's plan adopted in 1981 may be submitted at any time until February 15, 1982.

(C) The estimated cost for each reexamination.

(2) The report accompanying the funding resolution reported by each committee in 1981 and thereafter for the first session of each Congress, shall with respect to each reexamination include in its plan both the following matters:

(A) A description of the components of the reexamination.

(B) A statement of whether the reexamination is to be conducted (i) by the committee, or (ii) at the request and under the direction of or under contract with, the committee, as the case may be, by one or more instrumentalities of the legislative branch, one or more instrumentalities of the executive branch, or one or more nongovernmental organizations, or (iii) by a combination of the foregoing.

(3) It shall not be in order to consider a funding resolution reported by a committee of the Senate in 1981, and thereafter for the first session of a Congress unless—

(A) such resolution includes a section containing the information described in paragraph (1) and the report accompanying such resolution contains the information described in paragraph (2); and

(B) the report required by subsection (c) with respect to each program reexamination scheduled for completion during the preceding Congress by such committee has been submitted for printing.

(4) It shall not be in order to consider an amendment to the section of a funding resolution described in paragraph (1) reported by a committee for a year—

(A) if such amendment would require reexamination of a program which has been reexamined by such committee under this section during any of the five preceding years;

(B) if such amendment would cause such section not to contain the information described in paragraph (1) with respect to each program to be reexamined by such committee; or

(C) if notice in writing of intention to propose such amendment has not been given to such committee and the committee on Rules and Administration in the Senate not later than January 20 of the calendar year in which such year begins or the first day of the session of the Congress in which such year begins, whichever is later. The notice required by this subparagraph shall include the substance of the amendment intended to be proposed and, if such amendment would add one or more programs to be reexamined, shall include the information described in paragraphs (1) and (2) with respect to each such program. This subparagraph shall not apply to amendments proposed by such committee or by the Committee on Rules and Administration, as the case may be.

(b) In order to achieve coordination of program reexamination each committee shall, in preparing each reexamination plan required by subsection (a), consult with appropriate committees of the Senate or appropriate committees of the House of Representatives, as the case may be, and shall inform itself of related activities of and support or assistance that may be provided by (1) the General Accounting Office, the Congressional Budget Office, the Congressional Research Service, and the Office of Technology Assessment, and (2) appropriate instrumentalities in the executive and judicial branches.

(c) Each committee shall prepare and have printed a report with respect to each reexamination completed under this title. Each such report shall be delivered to the Secretary of the Senate not later than the date specified in the resolution and printed as a Senate document. To the extent permitted by law or regulation, such number of additional copies as the committee may order shall be printed for the use of the committee. If two or more committees have legislative jurisdiction over the same program or portions of the same program, such committees may reexamine such program jointly and submit a joint report with respect to such reexamination.

(d) The report pursuant to subsection (c) shall set forth the findings, recommendations, and justifications with respect to the program, and shall include to the extent the committee deems appropriate, each of the following matters:

(1) An identification of the objectives intended for the program and the problem it was intended to address.

(2) An identification of any trends, developments, and emerging conditions which are likely to affect the future nature and extent of the problems or needs which the program is intended to address and an assessment of the potential primary and secondary effects of the proposed program.

(3) An identification of any other program having potentially conflicting or duplicative objectives.

(4) A statement of the number and types of beneficiaries or persons served by the program.

(5) An assessment of the effectiveness of the program and the degrees to which the original objectives of the program or group of programs have been achieved.

(6) An assessment of the cost effectiveness of the program, including where appropriate, a cost-benefit analysis of the operation of the program.

(7) An assessment of the relative merits of alternative methods which could be considered to achieve the purposes of the program.

(8) Information on the regulatory, privacy, and paperwork impacts of the program.

(e) A report submitted pursuant to this section shall be deemed to satisfy the reauthorization review requirements of title I.

SEC. 303. (a) Each department or agency of the executive branch which is responsible for the administration of a program selected for reexamination pursuant to this title, shall, not later than six months before the completion date specified for reexamination reports pursuant to section 302(a)(1)(B), submit to the Office of Management and Budget and to the appropriate commit-

tee(s) of the Senate and the House of Representatives a report of its findings, recommendations, and justifications with respect to each of the matters set forth in section 302(d), and the Office of Management and Budget shall submit to such committee(s) such comments as it deems appropriate.

(b) With respect to programs selected for review pursuant to a plan adopted by a committee in 1981, the respective committees and department or agency may provide for a more appropriate time for submission of the report required by this section.

SEC. 304. For the purposes of this title:

(1) The term "funding resolution" means, with respect to each committee of the Senate, the first authorization resolution reported by such committee for a year under section 133(g) of the Legislative Reorganization Act of 1946, or any action taken in lieu of such funding resolution, which in any event shall occur not later than May 15.

(2) An amendment to a funding resolution includes a resolution of the Senate which amends such funding resolution.

TITLE IV—CITIZENS' COMMISSION ON THE ORGANIZATION AND OPERATION OF GOVERNMENT

SEC. 401. There is authorized to be established, as an independent instrumentality of the United States, the Citizens' Commission on the Organization and Operation of Government (hereinafter in this title referred to as the "Commission").

SEC. 402. It is hereby declared to be the policy of the Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government.

SEC. 403. (a) The Commission shall conduct a nonpartisan study and investigation of the organization and methods of operation of all departments, agencies, independent instrumentalities, and authorities of the executive branch of the Government in the following major policy areas:

(1) International affairs and defense.
Functions:
050—National defense.
150—International affairs.
(2) Resources and technology.
Functions:
250—General science, space, and technology.
270—Energy.
300—Natural resources and environment.
(3) Economic development.
Functions:
350—Agriculture.
370—Commerce and housing credit.
400—Transportation.
450—Community and regional development.
(4) Human resources.
Functions:
500—Education, training, employment, and social services.
550—Health.
600—Income security.
700—Veterans benefits and services.
(5) General Government.
Functions:
750—Administration of justice.
800—General Government.
850—General purpose fiscal assistance.
900—Interest.

The Commission shall make such recommendation as it determines necessary to—

(1) increase the effectiveness of Government services, programs, and activities by changing the structure and execution of administrative responsibilities;

(2) improve delivery of services through elimination of needless duplication or overlap, consolidation of similar services, programs, activities, and functions, and termination of such services, programs, and activities which have outlived their intended purpose;

(3) maintain expenditures at levels consistent with the efficient performance of essential services, programs, activities, and functions;

(4) simplify and eliminate overlaps in agency regulatory functions by review of the laws, regulations, and administrative reports and procedures; and

(5) determine the appropriate responsibilities of each level of government, the manner and alternative means for each level of government to finance such responsibilities, the forms and extent of intergovernmental aid and assistance, and the organization required for proper balance and division of respective Federal, State, and local government roles, responsibilities, and authorities.

(b) The Commission shall submit to the President, the Committee on Governmental Affairs of the Senate, and the Committee on Government operations of the House of Representatives such interim reports as it deems advisable, and, not later than four years after the appointment and qualification of a majority of the Commission Members, a final report setting forth the Commission's findings and recommendations. The final report of the Commission shall include the comments of the appropriate congressional committees.

(c) At least once every year for two years after the submission of the final report, the Comptroller General shall report to the Congress on the status of actions taken on the Commission's final report.

SEC. 404. (a) The Commission shall be composed of fifteen members appointed from among individuals with extensive experience in or knowledge of United States Government as follows:

(1) Five members appointed by the President by and with the advice and consent of the Senate.

(2) Five members appointed by the President pro tempore of the Senate, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the Senate.

(3) Five members appointed by the Speaker of the House of Representatives, three upon recommendation of the majority leader and two upon recommendation of the minority leader of the House.

(b)(1) Two members appointed under subsection (a)(1) shall be appointed to serve as Chairman and Vice Chairman (as provided in paragraph (2) of this subsection) and shall not engage in any other business, vocation, or employment. Such two members shall not be of the same political affiliation.

(2) The member described in paragraph (1) who is, when appointed, not of the same political affiliation as the President shall serve as Chairman of the Commission and the other such member shall serve as vice Chairman of the Commission.

(c) Of the members appointed and qualified under subsection (a)(1) other than the members to whom subsection (b) applies, not more than two shall be of the same political affiliation.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Eight members of the Commission shall constitute a quorum, but the Commission may establish a lesser number to constitute a quorum for the purpose of holding hearings.

SEC. 405. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable.

(b)(1) Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by him and shall be served by any person designated by the Chairman or such member. Any member of the Commission may administer oaths or affirmation to witnesses appearing before the Commission.

(2) The provisions of section 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under authority conferred by this section shall be paid from funds appropriated to the Commission.

(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than six months, or both. Upon the certification by the Chairman of the Commission of the facts concerning any such willful disobedience by any person to the United States attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

(c) The Commission is authorized to secure directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission deems useful in the discharge of its duties. All departments, agencies, independent instrumentalities, and other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission in accordance with existing law.

SEC. 406. (a) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

(1) to appoint and fix the compensation of an Executive Director and such additional staff personnel as it deems necessary in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and—

(A) in the case of the Executive Director, at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) in the case of not more than three additional staff members, at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(b) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

SEC. 407. (a) The Chairman of the Commission shall receive compensation at a rate equal to the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the Vice Chairman shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) All other members of the Commission who are not officers or employees of the Federal Government shall receive compensation at the rate of $200 for each day such member is engaged in the performance of the duties vested in the Commission.

(c) Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of the Commission.

SEC. 408. The Commission shall cease to exist ninety days after the submission of its final report.

SEC. 409. There is authorized to be appropriated until September 30, 1984, without fiscal year limitations, the sum of $4,000,000 to carry out the provisions of this title.

SEC. 410. The Commission shall be subject to the Federal Advisory Committee Act.

TITLE V—REGULATORY IMPACT

SEC. 501. (a) The Congress finds that the Government regulation can at times be more of a burden than a benefit to American consumers, American businesses, and to the American economy as a whole.

(1) Regulatory policies often have contributed to inflation through approval of regulations not commensurate with the public interest, frequently without due consideration of the relative costs and benefits involved in such decisions, without due consideration of the competitive impact of such decisions, or without adequate provision for public participation in such decisions.

(2) Some regulatory policies harm both industry and consumers by denying businesses the chance to compete and by depriving consumers of the lower prices and diversity of services that greater competition can present.

(3) Too often, regulatory agencies have neglected critical economic issues, and failed to set clear priorities, articulate cogent policies, or to integrate planning into operational functions. As a result, certain agencies have fostered a pattern of red tape, stagnation, and waste, which has led to public frustration and confusion.

(4) Frequent use of inefficient after-the-fact case-by-case adjudication, rather than general rulemaking, by most regulatory agencies has burdened business with excessive paperwork and unreasonable delays, impaired the ability of many industries to adopt to changing market conditions and beneficial new technology, and contributed to price rises, inefficiencies, and misallocations of resources.

(5) By consistently failing to take consumer and business interests adequately into account and by arbitrarily limiting the operation of the free enterprise system, regulatory agencies too often have poorly served the public interest in disregard of their congressional mandates.

(b) (1) It is the purpose of this title to require over a period of ten years the President to submit once in each Congress and to encourage the Congress to act upon, a plan designed to prevent unnecessary or harmful regulation which has led to inflationary consumer prices, a reduction of competition in the providing of important goods and services, and other economic inefficiencies that disrupt the operation of a free enterprise system without correspondingly benefiting the health, safety, or economic welfare of the Nation.

(2) It is the further purpose of this title to require that regulation by the Federal Government be systematically and comprehensively reviewed and modified so as to assure that such regulation, where it is necessary, is aimed at and structured to achieve substantial benefits to the Nation exceeding the costs thereof, and toward this end, that each regulatory agency perform its mandated responsibilities in the most effective and least dilatory and costly manner so as to maximize the intended benefits to the Nation.

AGENCY REFORM PLANS

SEC. 502. (a) Not later than the first day of February in the first session of the Ninety-seventh Congress, the Ninety-eighth Congress, the Ninety-ninth Congress, the One-hundredth Congress, and the One-hundred and first Congress, the President shall submit an analysis containing the information required to be included under subsection (b) and the President shall submit a legislative plan containing the information called for in subsection (c) as follows:

(1) By April 1, 1981, a plan with respect to regulation of securities, trade practices, banking and finance, and communications matters by the following agencies:

(A) Securities and Exchange Commission.

(B) Federal Trade Commission.

(C) Office of Comptroller of the Currency.

(D) Federal Deposit Insurance Corporation.

(E) Federal Communications Commission.

(2) By April 1, 1983, a plan with respect to regulation of surface transportation and safety matters by the following agencies:

(A) National Highway Traffic Safety Administration.

(B) Interstate Commerce Commission.

(3) By April 1, 1985, a plan with respect to regulation or environmental, occupational, and food and health safety matters by the following agencies:

(A) Food and Drug Administration.

(B) Consumer Product Safety Commission.

(C) Environmental Protection Agency.

(D) Occupational Safety and Health Administration.

(4) By April 1, 1987, a plan with respect to regulation of air transportation matters by the following agencies:

(A) Civil Aeronautics Board.

(B) Federal Aviation Administration.

(5) By April 1, 1989, a plan with respect to regulation of energy and maritime transportation by the following agencies:

(A) Federal Maritime Commission.

(B) Federal Energy Regulatory Administration.

(C) Nuclear Regulatory Commission.

(b) An analysis submitted by the President pursuant to subsection (a) shall contain the following information with respect to agencies or designated units thereof which are referenced in paragraphs (1) through (5) of subsection (a)—

(1) the purposes for which each agency was established;

(2) significant changes which have occurred in the areas regulated by each agency, the impact of such changes on the effectiveness of the agency, and the continued appropriateness of those original purposes;

(3) the net impact of the agency and the degree to which it has accomplished its purposes;

(4) the timeliness of agency decisionmaking;

(5) the cost-effectiveness and efficiency of the operations of each agency;

(6) the extent to which agency actions may contribute to inflation; and

(7) consideration of practical alternative approaches to achieving presently demonstrated regulatory needs.

(c) A legislative plan submitted by the President pursuant to subsection (a) shall include specific legislation following up on the analysis earlier submitted by the President with respect to agencies or designated units thereof which are referenced in paragraphs (1) through (5) of subsection (a), and may include—

(1) recommendations for the transfer, consolidation, modification, or elimination of agency functions;

(2) recommendations for organizational, structural, and procedural reforms;

(3) recommendations for the merger, modification, establishment, or abolition of agencies or their enabling legislation;

(4) recommendations for eliminating or phasing out outdated, overlapping, or conflicting agency rules and mandates;

(5) recommendations for alleviating agency delays;

(6) recommendations for increasing public participating in agency proceedings;

(7) recommendations for making agency regulation more cost-effective; and

(8) recommendations for increasing economic competition.

(d) The plans submitted by the President pursuant to subsections (a) and (c) shall be referred to the committee(s) of the House of Representatives and the Senate with legislative jurisdiction over the agencies affected by the plan(s).

(e) The "Reauthorization Review" required by section 102(a) shall include a new section (5) as follows:

(5) a comparison between the recommendation of the committee and the regulatory reform plan submitted pursuant to this title, and the basis for the committee recommendation, for the program or agency which would be reauthorized by the legislation which this report accompanies.

(f) Along with each plan submitted by the President pursuant to subsections (a) and (c), the President shall report on the cumulative impact on specific industry groupings of all Government regulatory activity reviewed to that date. The report shall include recommendations to ensure that the cumulative impact of Government regulation is in the Nation's best interests. Wherever practicable, in the formulation of each plan, the President shall give explicit consideration to the particular impact of Government regulatory activity on the following relevant industry groupings:

(1) transportation and agriculture industries;

(2) mining, heavy manufacturing, and public utilities industries;

(3) construction and light manufacturing industries; and

(4) communications, finance, insurance, real estate, trade, and service industries.

LEGISLATIVE AGENCY REVIEW

SEC. 503. (a) The Comptroller General of the United States and the Director of the Congressional Budget Office shall submit, contemporaneously with the submission of the analysis required under subsection 502 (b), a report assessing each of the agencies to be included in the plan submitted by the President with respect to the same criteria set forth in that subsection.

(b) The Comptroller General of the United States and the Director of the Congressional Budget Office shall submit to the Congress not later than June 1 of each year in which a plan is submitted by the President as provided in subsections 502 (a) and (c) of this title, a complete and thorough analysis of such plan.

TITLE VI—GOVERNMENT ACCOUNTABILITY

SEC. 601. (a) At the beginning of the ninety-seventh Congress and every two years thereafter the President shall submit to the Congress a report on the management of the executive branch (hereinafter called the Management Report). The Management Report shall be submitted as part of the budget on the same day as the budget is transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921.

(b) It is the intent of Congress that the President shall be granted full discretion in the design of the Management Report provided that—

(1) Programs shall be—

(i) designated within each executive department and within each independent establishment, according to their relative effectiveness, as "excellent", "adequate", or "unsatisfactory", and

(ii) ranked as to their effectiveness relative to all other programs within each category in that executive department or within that independent establishment.

(2) The designation and ranking of programs as to relative effectiveness shall be determined by the degree to which each program's statutory objective is being met, which shall be based on—

(i) the clarity of the statutory design and objective upon which the program is based,

(ii) the overall design of the program as effectuated by the responsible executive department or independent establishment, and

(iii) the overall quality of the management of the program by the responsible executive department or independent establishment.

(c) The Management Report shall include the President's reasons for the program designations and rankings he has made.

(d) The Management Report shall include a list of those programs or areas the President recommends for administrative or congressional improvement during that Congress.

(e) The Management Report shall include the report of the Director of the Office of Management and Budget required under section 602 of this Act, including the President's recommendations and proposed actions pursuant to it.

SEC. 602. (a) The Director of the Office of Management and Budget (hereinafter called the Director) shall provide an evaluative report on Federal programs to the President which shall be forwarded to the Congress by the President with his Management Report.

(b) In his report the Director shall identify any programs that are contradictory to other Federal programs and recommend corrective legislation. The Director shall also recommend the termination or modification of any programs whose relative ineffectiveness no longer justifies continued Federal expenditures or only justifies a lower level of Federal expenditures.

SEC. 603. The President may from time to time submit to the Congress reports supplementary to the Management Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the purposes of this Act. The Director may, from time to time, submit to the President reports supplementary to the report required by section 602.

SEC. 604. (a) For the purposes of this title:

(1) The term "program" means an organized set of activities carried out pursuant to separate statutory authorization or for which Federal expenditures are specifically allocated by the Federal Government, and which can be evaluated in terms of relative effectiveness in pursuing a governmental goal, but shall not include national foreign intelligence activities.

(2) The term "executive department" shall have the meaning given it in section 101 of title 5, United States Code.

(3) The term "independent establishment" shall have the meaning given it in section 104 of title 5, United States Code, except that it includes the United States Postal Service and the Postal Rate Commission but does not include the General Accounting Office or the Independent Regulatory Agencies.

TITLE VII—MISCELLANEOUS

SEC. 701. Section 206 of the Budget and Accounting Act, 1921 (31 U.S.C. 15), is amended by inserting immediately before the period a comma and "or at the request of a committee of either House of Congress presented after the day on which the President transmits the budget to the Congress under section 201 of this Act for the fiscal year".

SEC. 702. Nothing in this Act shall require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law. In addition nothing in this Act shall require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.

SEC. 703. (a) The provisions of this section and sections 101(a), 101(b), 101(c)(1), 101(c)(2), 101(c)(5), 102, 103(b), 104(a), 104(c), 104(d), 104(e), 104(f), 104(g), title III (except section 303) section 705, and section 706 of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) is any time, in the same manner, and to the same extent as in the case of any other rule of such House.

(b) In the Senate, paragraphs (2) and (5) of section 101(c) shall also be treated as amendments to rule XVI of the Standing Rules of the Senate.

(c) Any provision of this Act which is enacted as an exercise of the rulemaking power of the Senate may be waived or suspended in the Senate by a majority vote of the Members voting.

SEC. 704. (a)(1) To assist in the review or reexamination of a program, the head of an agency which administers such program and the head of any other agency, when requested, shall provide to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program such studies, information, analyses, reports, and assistance as the committee may request.

(2) Not later than six months prior to the first reauthorization date specified for a program in section 101(b) the head of the agency which administers such program or the head of any other agency, when requested by a committee of the Senate or House of Representatives, shall conduct a review of those regulations currently promulgated and in use by that agency which the committee specifically has requested be reviewed and submit a report to the Senate or the House of Representatives as the case may be, setting forth the regulations that agency intends to retain, eliminate, or modify if the program is reauthorized and stating the basis for its decision.

(3) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the Comptroller General shall furnish to each committee of the Senate and the House of Representatives which has legislative jurisdiction over such program a listing of the prior audits and reviews of such program completed during the preceding six years.

(4) Consistent with the discharge of the duties and functions imposed by law on them or their respective Offices or Service, the Comptroller General, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each committee of the Senate and the House of Representatives such information, analyses, and reports as the committee may request to assist it in conducting reviews or evaluations of programs.

(b)(1) On or before October 1 of the year preceding the Congress in which occurs the reauthorization date for a program, the President, with the cooperation of the head of each appropriate agency, shall submit to the Congress a "Regulatory Duplication and Conflicts Report" for all such programs scheduled for reauthorization in the next Congress.

(2) Each such regulatory duplication and conflicts report shall—

(A) identify regulatory policies, including data collection requirements, of such programs or the agencies which administer them, which duplicate or conflict with each other or with rules or regulations or regulatory policies of other programs or agencies, and identify the provisions of law which authorize or require such duplicative or conflicting regulatory policies or the promulgation of such duplicative or conflicting rules or regulations;

(B) identify the regulatory policies, including data collection requirements, of such programs which are, or which tend to be, duplicative of or in conflict with rules or regulations or regulatory policies of State or local governments;

(C) contain recommendations which address the conflicts or duplications identified in subsections (A) and (B).

(3) The regulatory duplication and conflicts report submitted by the President pursuant to this subsection shall be referred to the committee(s) of the House of Representatives and the Senate with legislative jurisdiction over the programs affected by the reports.

SEC. 705. (a) For purposes of this section and title I, the term "required authorization waiver resolution" means only a resolution of the Senate or the House of Representatives—

(1) which is introduced by the chairman of a committee pursuant to subsection (b);

(2) which waives the provisions of subsection 101(c)(2) of this Act for the purpose of allowing consideration of a bill or resolution providing a new budget authority for a program for not more than one fiscal year in an amount which does not exceed the amount of new budget authority required to maintain the current level of services being provided during the fiscal year preceding the fiscal year for which new budget authority would be provided; and for purposes of this section, such current level of services shall be determined initially from the report submitted to the Congress pursuant to section 605 of the Congressional Budget Act of 1974 and shall be certified by the Director of the Congressional Budget Office; and

(3) the matter after the resolving clause of which is as follows: "That it is in order in the Senate (House of Representatives) to consider a bill (resolution) providing new budget authority for for the fiscal year in an amount not to exceed $." (with the first blank space being filled with identification of the program; the second blank space being filled with the fiscal year for which the new budget authority would be provided; and the third blank space being filled with the amount of new budget authority necessary to maintain the current level of services for such program for the fiscal year preceding the fiscal year for which such new budget authority would be provided).

(b) The chairman of the committee of the Senate or the House of Representatives having legislative jurisdiction over a program or programs shall introduce a required authorization waiver resolution for such program or programs not later than the fifth day (not counting any day on which the Senate or the House, as the case may be, is not in session) following the occurrence of either of the following:

(1) A bill authorizing the enactment of new budget authority for the same program or programs has been under consideration for not less than fifteen hours, including debate on the motion to consider the authorization bill, and no limitation of debate has been agreed to; or

(2) A bill authorizing the enactment of new budget authority for the same program or programs has been vetoed by the President and such veto has been sustained by either the Senate or the House of Representatives.

(c) A required authorization waiver resolution relating to a program introduced in, or received by, the Senate or the House of Representatives shall be referred to the appropriate committee of the Senate or the House of Representatives, as the case may be; except that any resolution introduced, received after September 1 of the second session of a Congress shall immediately be placed on the appropriate calendar. With respect to any resolution still pending before a committee on September 1, of the second session of a Congress, the committee shall be automatically discharged and the resolution placed on the appropriate calendar.

(d) The provisions of section 912 of title 5, United States Code, relating to the consideration of resolutions of disapproval of reorganization plans shall apply in the House of Representatives and the Senate to the consideration of required authorization waiver resolutions.

SEC. 706. The Committees on Governmental Affairs and on Rules and Administration of the Senate and the Committees on Government Operations and on Rules of the House of Representatives shall review the operation of the procedures established by this Act, and shall submit a report not later than December 31, 1986, and each five years thereafter, setting forth their findings and recommendations. Such reviews and reports may be conducted jointly.

SEC. 707. There are hereby authorized to be appropriated through fiscal year 1990 such sums as may be necessary to carry out the review requirements of titles I and III and the requirements for the compilation of the inventory of Federal programs as set forth in title II.

Mr. BIDEN. Mr. President, I am pleased to join today with Senator MUSKIE and others in reintroducing Sunset legislation and urging its prompt adoption by the Senate.

When adopted, it will provide Congress with an essential tool for reviewing the need for Federal programs; controlling the growth of Federal spending; alleviating the overkill of regulatory activity; and restraining the sprawling Federal bureaucracy. I know that is a lot to claim for one proposal. But I have been working on this idea for years—as has my friend and colleague from Maine—and I am convinced it can lead to more effective and responsible congressional control over our Government, without sacrificing a single essential Government service. In fact, it should enhance the provision of truly necessary Government services.

Simply stated, the bill would terminate most Federal spending programs automatically on a regular schedule. Then, after a careful review by the appropriate Senate committee, the Senate and the Congress would decide whether to continue the program—or modify it—or terminate it. The two parts go together—the possibility of termination forces a review—and the review assures that the decision to continue or not continue the program will be a rational one. It is really a very simple mechanism—like all good mechanisms. It is also good because it builds on the existing practice of reauthorization.

We need legislation of this kind because the American people know we are not doing our job of stemming the tide of Government growth in this country. They know we are not doing our best to provide effective programs to meet their needs, but are choosing the easy way of trying to overwhelm problems with a multitude of duplicative programs. This is clear from my constituent mail. I think the perennially low performance ratings that Congress gets shows this. So I have felt for a long time that Congress should act to control government before the electorate forces action upon us.

In considering this legislation it is important that the Senate dispense with further lengthy review and discussion. Sunset passed the Senate overwhelmingly last fall and it must do so again early this year. The ideas behind sunset are not new or difficult to understand. Both Senator MUSKIE and I introduced our original versions of sunset legislation in the 94th Congress. These proposals were studied by two Senate committees and a staff study group representing all committees. The Senate debated them at length before passing the legislation in 1978.

The history of sunset in the Senate is a long one. It is a history filled with careful study and lengthy hearings, but also, unfortunately, with delays which prevented its final passage in 1976 and again in 1978. I do not see how there can be further profitable study of this legislation. Rather, it is time for the Senate to pass it promptly so that the House of Representatives will have adequate time to consider and adopt it.

The sunset process is of particular importance right now because of the bleak outlook for Federal finances over the next few years. Congress is about to embark on the difficult course of bringing Federal spending under control; balancing the budget; and reducing the tax burden. It will not be easy. If we are to put our Government's financial affairs in order, it is essential that we use every available means to restrain Federal spending and eliminate waste and duplication. Four years of work on the sunset concept has convinced me that it is an essential tool. With the present rate of Federal spending we cannot get it too soon.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to be an original cosponsor of S. 10, a bill to protect the civil rights of institutionalized persons. In brief, the bill gives to the U.S. Attorney General the authority to institute civil action in an appropriate U.S. district court in instances where the constitutional and Federal statutory rights of institutionalized persons have been violated. I would like to thank the primary sponsors of this bill, the Senator from Indiana (Mr. BAYH) and the Senator from Utah (Mr. HATCH) for the work that they have done on this bill.

This legislation has the support of the National Association for Retarded Citizens, the Mental Health Association, the American Bar Association, and other legal organizations. The problems addressed with this legislation have nagged our society for years. I am hopeful this bill will extend the basic rights most of us take for granted to those who are now denied them.

In the past, the Attorney General has occasionally intervened to litigate on behalf of the mentally ill, the mentally retarded, juvenile delinquents, and the incarcerated in instances where abuse has occurred. Sometimes the Federal district courts have requested the help of the Attorney General. Recent court rulings have questioned the Attorney General's authority to become involved when civil rights of institutionalized persons have been violated. This bill would provide him with explicit authority, if all possible alternatives have been used.

I wish to make clear, however, that the Attorney General is not free to intervene until all State measures have been exhausted to resolve the problems. The Attorney General may not become involved until State grievance procedures have been used, and he must inform the State of the resources available to correct the substandard conditions.

The bill makes it very clear that the Attorney General may become involved only as a last resort, when State and local authorities have proven unable or unwilling to correct the injustices. Ideally, the Attorney General should never need to intervene.

However, experience has shown that many States have a poor record of protecting the institutionalized person. Oftentimes, it is a forgotten constituency, a neglected group of citizens which society finds easy to overlook. In addition, some States' attorneys general are bound by law to defend the agencies responsible for the unconstitutional conditions. It is simple to understand how conflicts of interest can occur.

Mr. President, this legislation is not radical, but it seeks to protect persons in our society who traditionally have been the most helpless, the most dependent, and therefore the most vulnerable. The institutionalized oftentimes do not know their rights, have no access to legal aid, and may be punished if they attempt to complain of their treatment.

After careful review of this legislation, I feel that appropriate measures have been taken to insure that the Attorney General may not intervene until every attempt has been made to correct the problem at the State level. Certainly, I have no wish to increase Federal participation in State matters, but where there is evidence that constitutional rights have been violated under the current system, then there needs to be redress. I believe this bill, S. 10, offers that correction, and I urge my colleagues to join in support of this legislation .

By Mr. HELMS:

S. 3. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application

of the legislatures of two-thirds of the States, pursuant to article V of the Constitution; to the Committee on the Judiciary.

FEDERAL CONSTITUTIONAL CONVENTION PROCEDURES ACT

Mr. HELMS. Mr. President, when, by the terms of article V, the legislatures of two-thirds of the States petition Congress to call a convention for proposing amendments, Congress is obligated to provide for such a convention. This procedure does not involve State "memorials" to Congress which give rise to no more than a moral obligation on the part of Congress and have no legal effect. The legislation which I am introducing implements article V by establishing procedures for a constitutional convention.

One of the most significant questions in this issue is whether once two-thirds of the States have acted, can Congress call a convention limited solely to the consideration of a single, specified amendment or can the convention, once brought into existence, revise the entire Constitution.

Of course, there is nothing to prevent State legislatures from submitting petitions calling for a general or so-called "wide-open" convention. In fact, several States have done so. But to transform every petition asking for a specific amendment into a call for a convention of general jurisdiction, constitutes a strained and simplistic interpretation of article V at odds with the drafting of article V and the constitutional powers of the States.

Article V is reduced to a dead letter and absurdity if Congress is forced to call a general convention to rewrite the entire Constitution after receiving, for example, calls from 12 States seeking a balanced, 10 States limiting taxes and 12 more States seeking to limit Presidential tenure. The fact that Congress has received over 350 different convention calls and has not yet acted to call a general convention, suggests that a specific convention call mandates a limited convention.

In 1971, the Senate Judiciary Committee reported that it was the responsibility of Congress "to enact legislation which makes article V meaningful" and not to make the constitutional convention "a dead letter."

In 1973, a special study committee of the American Bar Association concluded that it is important and proper for Congress to establish procedures for implementation of an article V convention and "improper to place unnecessary and unintended obstacles in the way of its use." I believe that distorting the intention of the framers of the Constitution to require that any convention called under article V must be a general convention is just such an unnecessary obstacle.

As James Madison explained in Federalist No. 43, article V "guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the State governments to originate the amendment of errors as they may be pointed out by experience." The Founding Fathers clearly intended the convention method to be a workable, although not easy, method of balancing inaction in Congress.

During the last Congress I introduced S. 1880, the Federal Constitutional Convention Procedures Act. This legislation, with the exception of several technical changes, is identical to that introduced by my friend and distinguished former Senator from North Carolina, the Honorable Sam J. Ervin, Jr., which passed the Senate in 1971 and 1973. It is identical to the legislation which I am introducing today.

Writing in the Michigan Law Review 10 years ago, Senator Ervin wisely stated: "the contention that any constitutional convention must be a wide open one is neither a practicable nor a desirable one. If the subject matter of amendments were to be left entirely to the convention, it would be hard to expect the States to call for a convention in the absence of a general discontent with the existing constitutional system. This construction would effectively destroy the power of the States to originate the amendment of errors pointed out by experience, as Madison expected them to do."

My legislation specifically provides that upon receipt of valid applications from two-thirds of the States requesting a convention on the same subject, Congress is required to call a convention by concurrent resolution, specifying in the resolution the nature of the amendment for which the convention is being called. My bill further provides that the convention may not propose amendments on other subjects, that the delegates to the convention must take an oath to that effect, and that if it does propose amendments in violation of the act, Congress may refuse to submit them to the States for ratification.

I believe that when a significant number of States call on Congress to propose a convention limited to a specific subject, that Congress will either limit the jurisdiction of such a convention or act favorably on the proposed amendment.

This legislation provides an even-handed, nonpartisan, and fair resolution of the problems inherent in calling a convention under article V. It provides these procedures now, in the absence of a constitutional crisis in which a dispassionate resolution of the problems may not be possible.

The procedures which this legislation establishes do not favor or assist any particular call for a constitutional convention. Support of this proposal should not be viewed as support or opposition to any presently proposed constitutional amendment or convention call.

Mr. President, perhaps the best analysis of the problems involved in proposing amendments through a constitutional convention was written by former Senator Ervin for the March, 1968, issue of the Michigan Law Review. That article, entitled "The Convention Method of Amending the Constitution," was recently reprinted in the spring, 1977, issue of the Human Life Review.

Mr. President, I ask unanimous consent that the following excerpts from former Senator Ervin's article and the text of the bill be printed at this point in the RECORD.

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

S. 3

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 "Federal Constitutional Convention Procedures Act".

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

SEC. 2. The legislature of a State, in making application to the Congress for a constitutional convention under article V of the Constitution of the United States, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments to the Constitution of the United States and stating the nature of the amendment or amendments to be proposed.

APPLICATION PROCEDURE

SEC. 3. (a) For the purpose of adopting or rescinding a resolution pursuant to section 2 or section 5 of this Act, the State legislature shall follow the rules of procedure that govern the enactment of a statute by that legislature, but without the need for approval of the legislature's action by the Governor of the State.

(b) Questions concerning the adoption of a State resolution cognizable under this Act shall be determinable by the Congress of the United States and its decisions thereon shall be binding on all others, including State and Federal courts.

TRANSMITTAL OF APPLICATIONS

SEC. 4. (a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or, if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution;

(2) the exact text of the resolution signed by the presiding officer of each house of the State legislature; and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Within ten days after the receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislature of every other State and to each Member of the Senate and House of Representatives of the Congress of the United States.

EFFECTIVE PERIOD OF APPLICATION

SEC. 5. (a) An application submitted to the Congress by a State, unless sooner rescinded by the State legislature, shall remain effective for seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an appli-

cation calling for a constitutional convention on the same subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 6 of this Act, calling for a constitutional convention.

(b) A State may rescind its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of rescission in conformity with the procedure specified in sections 3 and 4 of this Act, except that no such rescission shall be effective as to any valid application made for a constitutional convention upon any subject after the date on which two-thirds or more of the State legislatures have valid applications pending before the Congress seeking amendments on the same subject.

(c) Questions concerning the rescission of a State's application shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each subject. Whenever applications made by two-thirds or more of the States with respect to the same subject have been received, the Secretary and the Clerk shall so report in writing to the officer to whom those applications were transmitted, and such officer thereupon shall announce on the floor of the House of which he is an officer the substance of such report. It shall be the duty of such House to determine that there are in effect valid applications made by two-thirds of the States with respect to the same subject. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same subject, it shall be the duty of that House to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that usbject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the nature of the amendment or amendments for the consideration of which the convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than one year after adoption of the resolution.

DELEGATES

SEC. 7. (a) A convention called under this Act shall be composed of as many delegates from each State as it is entitled to Senators and Representatives in Congress. In each State two delegates shall be elected at large and one delegate shall be elected from each congressional district in the manner provided by law. Any vacancy occurring in a State delegation shall be filled by appointment of the Governor of that State.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function shall certify to the Vice President of the United States the name of each delegate elected or appointed by the Governor pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

(d) Each delegate shall receive compensation for each day of service and shall be compensated for traveling and related expenses. Provision shall be made therefor in the concurrent resolution calling the convention. The convention shall fix the compensation of employees of the convention.

CONVENING THE CONVENTION

SEC. 8. (a) The Vice President of the United States shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to refrain from proposing or casting his vote in favor of any proposed amendment to the Constitution of the United States relating to any subject which is not named or described in the concurrent resolution of the Congress by which the convention was called. Upon the election of permanent officers of the convention, the names of such officers shall be transmitted to the President of the Senate and the Speaker of the House of Representatives by the elected presiding officer of the convention. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the payment of the expenses of the convention.

(c) The Administrator of the General Services shall provide such facilities, and the Congress and each executive department, agency, or authority of the United States, including the legislative branch and the judicial branch, except that no declaratory judgment may be required, shall provide such information and assistance as the convention may require, upon written request made by the elected presiding officer of the convention.

PROCEDURES OF THE CONVENTION

SEC. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within one year after the date of its first meeting unless the period is extended by the Congress by concurrent resolution.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSAL OF AMENDMENTS

SEC. 10. (a) Except as provided in subsection (b) of this section, a convention called under this Act may propose amendments to the Constitution by a vote of a majority of the total number of delegates to the convention.

(b) No convention called under this Act may propose any amendment or amendments of a nature different from that stated in the concurrent resolution calling the convention. Questions arising under this subsection shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

APPROVAL BY THE CONGRESS AND THE TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b)(1) Whenever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of General Services upon the expiration of the first period of ninety days of continuous session of the Congress following the date of receipt of such amendment unless within that period both Houses of the Congress have agreed to (A) a concurrent resolution directing the earlier transmission of such amendment to the Administrator of General Services and specifying in accordance with article V of the Constitution the manner in which such amendment shall be ratified, or (B) a concurrent resolution stating that the Congress disapproves the submission of such proposed amendment to the States because such proposed amendment relates to or includes a subject which differs from or was not included among the subjects named or described in the concurrent resolution of the Congress by which the convention was called, or because the procedures followed by the convention in proposing the amendment were not in substantial conformity with the provisions of this Act. No measure agreed to by the Congress which expresses disapproval of any such proposed amendment for any other reason, or without a statement of any reason, shall relieve the President of the Senate and the Speaker of the House of Representatives of the obligation imposed upon them by the first sentence of this paragraph.

(2) For the purposes of paragraph (1) of this subsection, (A) the continuity of a session of the Congress shall be broken only by an adjournment of the 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 shall be excluded in the computation of the period of ninety days.

(c) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the time within which and the manner in which such amendment shall be ratified, and a copy of this Act.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified.

(b) Acts of ratification shall be by convention or by State legislative action as the Congress may direct or as specified in subsection (c) of this section. For the purpose of ratifying proposed amendments transmitted to the States pursuant to this Act the State legislatures shall adopt their own rules of procedure. Any State action ratifying a proposed amendment to the Constitution shall be valid without the assent of the Governor of the State.

(c) Except as otherwise prescribed by concurrent resolution of the Congress, any proposed amendment to the Constitution shall become valid when ratified by the legislatures of three-fourths of the several States within seven years from the date of the submission thereof to the States, or within such

other period of time as may be prescribed by such proposed amendment.

(d) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATIONS

SEC. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) Questions concerning State ratification or rejection of amendments proposed to the Constitution of the United States, shall be determined solely by the Congress of the United States, and its decisions shall be binding on all others, including State and Federal courts.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 14. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 15. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

THE CONVENTION METHODS OF AMENDING THE CONSTITUTION

(By Sam J. Ervin, Jr.)

Article V of the Constitution of the United States [1] provides that constitutional amendments may be proposed in either of two ways—by two-thirds of both houses of the Congress or by a convention called by the Congress in response to the applications of two-thirds of the state legislatures. Although the framers of the Constitution evidently contemplated that the two methods of initiating amendments would operate as parallel procedures, neither superior to the other, this has not been the case historically. Each of the twenty-five constitutional amendments ratified to date was proposed by the Congress under the first alternative. As a result, although the mechanics and limitations of congressional power under the first alternative are generally understood, very little exists in the way of precedent or learning relating to the unused alternative method in article V. This became distressingly clear recently following the disclosure that thirty-two state legislatures had, in one form or another, petitioned the Congress to call a convention to propose a constitutional amendment permitting states to apportion their legislatures on the basis of some standard other than the Supreme Court's "one man-one vote" requirement. The scant information and considerable misinformation and even outright ignorance displayed on the subject of constitutional amendment, both within the Congress and outside of it—and particularly the dangerous precedents threatened by acceptance of some of the constitutional misconceptions put forth—prompted me to introduce in the Senate a legislative proposal designed to implement the convention amendment provision in article V . . .

Footnotes at end of article.

III. QUESTIONS RAISED BY THE BILL

Before going to specific issues and matters of detail, it seems appropriate to discuss briefly two threshold problems posed by the bill: whether the Congress has the power to enact such legislation, and, if it does, what policy considerations should guide it in exercising such power.

I have no doubt that the Congress has the power to legislate about the process of amendment by convention. The Congress is made the agency for calling the convention, and it is hard to see why the Congress should have been involved in this alternative method of proposal at all unless it was expected to determine such questions as when sufficient appropriate applications had been received and to provide for the membership and procedures of the convention and for review and ratification of its proposals. Obviously the fifty state legislatures cannot themselves legislate on this subject. The constitutional convention cannot do so for it must first be brought into being. All that is left, therefore, is the Congress, which, in respect to this and other issues not specifically settled by the Constitution, has the residual power to legislate on matters that require uniform settlement. Add to this the weight of such decisions as *Coleman* v. *Miller*,[9] to the effect that questions arising in the amending process are nonjusticiable political questions exclusively in the congressional domain, and the conclusion seems inescapable that the Congress has plenary power to legislate on the subject by amendment by convention and to settle every point not actually settled by article V of the Constitution itself.

With respect to the second problem, within what general policy limitations that power should be exercised, I think the Congress should be extremely careful to close as few doors as possible. Any legislation on this subject will be what might be called "quasi-organic" legislation; in England it would be recognized as a constitutional statute. When dealing with such a measure, it is wise to bear in mind Marshall's well-worn aphorism that it is a Constitution we are expounding and not get involved in "an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must [be] seen dimly, and which can best be provided for as they occur." [10] This approach is reflected at several points in the bill, notably in its failure to try to anticipate and enumerate the various grounds on which Congress might justifiably rule a state petition invalid, and its failure to prescribe rigid rules of procedure for the convention. In addition, I think the Congress, in exercising its power under article V, should bear in mind that the Framers meant the convention method of amendment to be an attainable means of constitutional change. This legislation can be drawn so as to place as many hurdles as possible in the way of effective use of the process; or it can be drawn in a manner that will make such a process a possible, however improbable, method of amendment. The first alternative would be a flagrant disavowal of the clear language and intended function of article V. I have assumed that the Congress will wish to take the second road, and the bill is drawn with that principle in mind.

OPEN OR LIMITED CONVENTION?

Perhaps the most important issue raised by the bill is the question of the power of the Congress to limit the scope and authority of a convention convened under article V in accordance with the desires of the states as set forth in their applications. This was, as I have noted, one of the issues that most troubled me when I first heard of the efforts by the states to call a convention.

It has been argued that the subject matter of a convention convened under article V cannot be limited, since a constitutional convention is a premier assembly of the people, exercising all the power that the people themselves possess, and therefore supreme to all other governmental branches or agencies. Certainly, according to this argument, the states may not themselves, in their applications, dictate limitations on the convention's deliberations. They may not require the Congress to submit to the convention a given text of an amendment, nor even a single subject or idea. For the convention must be free to "propose" amendments, which suggests the freedom to canvass matters afresh and to weigh all posibilities and alternatives rather than ratify a single text or idea. The states may in their applications specify the amendment or amendments they would hope the convention would propose. But once the Congress calls the convention, those specifications would not control its deliberations. The convention could not be restricted to the consideration of certain topics and forbidden to consider certain other topics, nor could it be forbidden to write a new constitution if it should choose to do so.

I will concede that such an interpretation can be wrenched from article V—but only through a mechanical and literal reading of the words of the article, totally removed from the context of their promulgation and history. My reading of the debates on article V at the Philadelphia Convention and the other historical materials bearing on the intended function of the amendment process [11] leads me to the opposite conclusion. As I understand the debates, the Founders were concerned, first, that they not place the new government in the same straightjacket that inhibited the Confederation, unable to change fundamental law without the consent of every state.

The amendment process, rather a novelty for the time, was therefore included in the Constitution itself. Second, the final form of article V was dictated by a major compromise between those delegates who would utilize the state legislatures as the sole means of initiating amendments and those who would lodge that power exclusively in the national legislature. The forces at the convention that sought to limit the power of originating amendments to the states were at first dominant. The original Virginia Plan, first approved by the convention, excluded the national legislature from participation in the amendment process. On reconsideration, the forces that would limit the power of origination of amendments to the national legislature became prevalent. The arguments on both sides were persuasive: the improprieties or excess of power in the national government would not likely be corrected except by state initiative, while improprieties by the state governments or deficiencies in national initiative. In the spirit that typified power would not likely be corrected except by the 1787 Convention, the result was acceptance of a Madison compromise proposal which read, as the final article was to read, in terms of alternative methods.

It is clear that neither of the two methods of amendment was expected by the Framers to be superior to the other or easier of accomplishment. There is certainly no indication that the national legislature was intended to promote individual amendments while the state legislatures were to be concerned with more extensive revisions. On the contrary, there is strong evidence that what the members of the convention were concerned with in both cases was the power to make specific amendments. They did not appear to anticipate a need for a general revision of the Constitution. And certainly this was understandable, in light of the difficulties that they had in finding the compromises to satisfy the divergent interests needed for ratification of their efforts.

Provision in artcile V for two exceptions to the amendment power underlines the notion that the convention anticipated specific amendment or amendments rather than general revision. For it is doubtful that these exceptions could have been expected to control a later general revision.

This construction is supported by references to the amendment process in the *Federalist Papers*. In *Federalist No. 43*, James Madison explained the need and function of article V as follows:

That useful alterations will be suggested by experience, could not but be foreseen. It was requisite therefore that a mode for introducing them should be provided. The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the state governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other . . .

Apart from being inconsistent with the language and history of article V, the contention that any constitutional convention must be a wide open one is neither a practicable nor a desirable one. If the subject matter of amendments were to be left entirely to the convention, it would be hard to expect the states to call for a convention in the absence of a general discontent with the existing constitutional system. This construction would effectively destroy the power of the states to originate the amendment of errors pointed out by experience, as Madison expected them to do. Alternatively under that construction, applications for a limited convention deriving in some states from a dissatisfaction with the school desegregation cases, in other because of the school prayer cases, and in still others by reason of objection to the *Miranda* rule, could all be combined to make up the requisite two-thirds of the states needed to meet the requirements of article V. I find it hard to believe that this is the type of consensus that was thought to be appropriate to calling for a convention.

The bill provides that state petitions to the Congress which request the calling of a convention under article V shall state the nature of the amendment or amendments to be proposed by such convention. Upon receipt of valid applications from two-thirds or more of the states requesting a convention on the same subject or subjects, the Congress is required to call a convention by concurrent resolution, specifying in the resolution the nature of the amendment or amendments for the consideration of which the convention is being called. The convention may not propose amendments on other subjects and if it does, the Congress may refuse to submit them to the states for ratifications. . . .

MAY CONGRESS REFUSE TO CALL A CONVENTION?

Perhaps the next most important question raised by the bill is whether the Congress has any discretion to refuse to call a convention in the face of appropriate applications from a sufficient number of states.

Article V states that Congress "shall" call a convention upon the applications of the legislatures of two-thirds of the states. I have absolutely no doubt that the article is peremptory and that the duty is mandatory, leaving no discretion to the Congress to review the wisdom of the state applications. Certainly this is the more desirable construction, consonant with the intended arrangement of article V as described in the preceding section of this article. The founders included the convention alternative in the amending article to enable the states to initiate constitutional reform in the event the national legislature refused to do so. To conceded to the Congress any discretition to consider the wisdom and necessity of a particular convention call would in effect destroy the role of the states.

The comments of both Madison and Hamilton, subsequent to the 1787 Convention, sustain this construction. In a letter on the subject, Madison observed that the question concerning the calling of a convention "will not belong to the Federal Legislature. If two-thirds of the states apply for one, Congress cannot refuse to call it: if not, the other mode of amendments must be pursued."[13] Hamilton, in the *Federalist No. 85*, stated:

By the fifth article of the plan the congress will be *obliged*, "on the application of the legislatures of two-thirds of the states, (which at present amounts to nine) to call a convention for proposing amendments, which *shall be valid* to all intents and purposes, as part of the constitution, when ratified by the legislatures of three-fourths of the states, or by conventions in three-fourths thereof." The words of this article are peremptory. The Congress "*shall* call a convention." Nothing in this particular is left to the discretion. . . .

SUFFICIENCY OF STATE APPLICATIONS

Assuming the Congress may not weigh the wisdom and necessity of state applications requesting the calling of a constitutional convention, does it have the power to judge the validity of state applications and state legislative procedures adopting such applications? Clearly the Congress has some such power. The fact alone that Congress is made the agency for convening the convention upon the receipt of the requisite number of state applications suggests that it must exercise some power to judge the validity of those applications. The impotence or withdrawal of the courts underlines the necessity for lodging some such power in the Congress. The revelant question, then, concerns the extent of that power.

It has been contended that Congress must have broad powers to judge the validity of state applications and that such power must include the authority to look beyond the content of an application, and its formal compliance with article V, to the legislative procedures followed in adopting the application. The counterargument is that to grant Congress the power to reject applications particularly if that power is not carefully circumscribed would be to supply it with a means of avoiding altogether the obligation to call a convention. The result would be that the Congress could arbitrarily reject all applications on subjects it did not consider appropriate for amendment, leaving us in effect with only one amendment process. . . .

One further important point should be mentioned. Most of the states obviously do not now understand their role in designating subjects or problems for resolution by amendment, and many of them do not even know where to send their applications. By setting forth the formal requirements with respect to content of state applications and designating the congressional officers to whom hey must be transmitted, the bill furnishes guidance to the states on these questions and promises to avert in the future some of the problems that have arisen in the current effort to convene a convention. The bill also requires that all applications received by the Congress be printed in the *Congressional Record* and that copies be sent to all members of Congress and to the legislature of each of the other states. In this way, the element of congressional surprise can be eliminated, and each state can be given prompt and full opportunity to join in any call for a convention in which it concurs.

Footnotes at end of article.

THE ROLE OF STATE GOVERNORS

The argument has been made that a state application for a constitutional convention must be approved by both the legislature and the governor of the state to be effective. This argument rests on the claim that article V intended state participation in the process to involve the whole legislative process of the state as defined in the state constitution. I do not agree with that argument. We do not have here any question about the exercise of the lawmaking process by a state legislature in combination with whatever executive participation might be called for by state law. We have rather a question of heeding the voice of the people of a state in expressing the possible need for a change in the fundamental document.

Closely analogous court decisions support this interpretation. The Supreme Court in *Hawks* v. *Smith, No. 1*[14] interpreted the term "legislatures" in the ratification clause of article V to mean the representative lawmaking bodies of the states, since ratification of a constitutional amendment "is not an act of legislation within the proper sense of the word."[15] Certainly the term "legislature" should have the same meaning in both the application clause and the ratification clause of article V. Further support is found in the decision in *Hollingsworth* v. *Virginia*,[16] in which the Court held that a constitutional amendment approved for proposal to the states by a two-thirds vote of Congress need not be submitted to the President for his signature or veto.

The bill therefore provides specifically that a state application need not be approved by the state's governor in order to be effective.

MAY A STATE RESCIND ITS APPLICATIONS?

The question of whether a state should be allowed to rescind an application previously forwarded to the Congress is another of the political questions to which the courts have not supplied answers and presumably cannot. The Supreme Court has held that questions concerning the rescission of prior ratifications or rejections of amendments proposed by the Congress are determined solely by Congress.[17] Presumably, then, the question of rescission of an application for a convention is also political and nonjusticiable. Although the Congress has previously taken the position that a state may not rescind it prior ratification of an amendment, it has taken no position concerning rescission of applications. My strong conviction is that rescission should be permitted. Since a two-thirds consensus among the states at some point in time is necessary in order for the Congress to call a convention, the Congress should consider whether there has been a change of mind among some states that have earlier applied. Moreover, an application is not a final action, since it serves merely to initiate a convention, and does not commit even the applicant state to any substantive amendment that might eventually be proposed.

The bill therefore provides that state may rescind at any time before its application is included among an accumulation of applications from two-thirds of the states, at which the obligation of the Congress to call a convention becomes fixed. Incidentally, the bill also provides that a state may rescind its prior ratification of an amendment proposed by the convention up until the time there are existing valid ratifications by three-fourths of the states, and that a state may change its mind and ratify a proposed amendment that it previously has rejected . . .

The Congress and the courts have agreed that constitutional amendments proposed by the Congress and submitted to the states for ratification can properly remain valid for ratification for a period of seven years. It has been felt that there should be a "reasonably contemporaneous" expression by

three-fourths of the states that an amendment is acceptable in order for the Congress to conclude that a consensus in favor of the amendment exists among the people, and that ratification within a seven-year period satisfies this requirement.[18] Presumably, the same principle should govern the application stage of the constitutional amendment process . . .

CALLING THE CONVENTION

The bill provides that the Secretary of the Senate and the Clerk of the House of Representatives shall keep a record of the number of state applications received, according to subject matter. Whenever two-thirds of the states have submitted applications on the same subject or subjects, the presiding officer of each house shall be notified and shall announce the same on the floor. Each house is left free to adopt its own rules for determining the validity of the applicants, presumably by reference to a committee followed by floor action. Once a determination has been made that there are valid applications from two-thirds or more of the state legislatures on the same subject or subjects, each house must agree to a concurrent resolution providing for the convening of a constitutional convention on such subject or subjects. The concurrent resolution would designate the place and time of meeting of the convention, set forth the nature of the amendment or amendments the convention is empowered to consider and propose, and provide for such other things as the provision of funds to pay the expenses of the convention and to compensate the delegates. The convention would be required to be convened not later than one year after adoption of the resolution.

. . . the bill has been amended to require that delegates be elected—not appointed—and that they be elected by the same constituency that elects the states' representatives in Congress. Under the amended bill, each state will be entitled to as many delegates as it is entitled to Senators and Representatives in Congress. Two delegates in each state will be elected at large and one delegate will be elected from each congressional district in the manner provided by state law. Vacancies in a state's delegation will be filled by appointment of the governor.

CONVENTION PROCEDURE AND VOTING

The bill provides that the Vice President of the United States shall convene the constitutional convention, administer the oath of office of the delegates and preside until a presiding officer is elected. The presiding officer will then preside over the election of other officers and thereafter. Further proceedings of the convention will be in accordance with rules adopted by the convention. A daily record of all convention proceedings, including the votes of delegates, shall be kept, and shall be transmitted to the Archivist of the United States within thirty days after the convention terminates. The convention must terminate its proceedings within one year of its opening unless the period is extended by the Congress by concurrent resolution.

Finally, the bill provides that amendments may be proposed by the convention by a vote of a majority of the total number of delegates to the convention. The alternative would be to impose a two-thirds voting requirement analogous to the requirement for congressional proposal of amendments. However, article V does not call for this, and I think that such a requirement would place an undue and unnecessary obstacle in the way of effective utilization of the convention amendment process.

RATIFICATION OF PROPOSED AMENDMENTS

The bill provides that any amendment proposed by the convention must be transmitted to the Congress within the thirty days after the convention terminates its proceedings. The Congress must then transmit the proposed amendment to the Administrator of General Services for submission to the states. However, the Congress may, by concurrent resolution, refuse to approve an amendment for submission to the states for ratification, on the grounds of procedural irregularities in the convention or failure of the amendment to conform to the limitations on subject matter imposed by the Congress in the concurrent resolution calling the convention. The intent is to provide a means of remedying a refusal by the convention to abide by the limitations on its authority to amend the Constitution. Of course, unlimited power in the Congress to refuse to submit proposed amendments for ratification would destroy the independence of the second alternative amending process. Therefore, the Congress is explicitly forbidden to refuse to submit a proposed amendment for ratification because of doubts about the merits of its substantive provisions. The power is reserved for use only with respect to amendments outside the scope of the convention's authority or in the case of serious procedural irregularities.

Ratification by the states must be by state legislative action or convention, as the Congress may direct, and within the time period specified by the Congress. The Congress retains the power to review the validity of ratification procedures. As noted earlier, any state may rescind its prior ratification of an amendment by the same processes by which it ratified it, except that no state may rescind after that amendment has been validly ratified by three-fourths of the states. When three-fourths of the states have ratified a proposed amendment, the Administrator of General Services shall issue a proclamation that the amendment is a part of the Constitution, effective from the date of the last necessary ratification.

IV. CONCLUSION

There is some evidence that the current effort to require the Congress to call a convention to propose a reapportionment amendment has failed and that the danger of a consitutional crisis has passed. The two additional applications needed to bring the total to thirty-four have not been received and there is a strong likelihood that some applicant states will rescind their applications. Even if this is the case, however, the need for legislation to implement article V remains. There may well be other attempts to utilize the convention amendment process and, in the absence of legislation, the same unanswered questions will return to plague us. The legislation therefore is still timely, and the Congress may now have the opportunity to deal with the sensitive constitutional issues objectively, uninfluenced by competing views on state apportionment or any other substantive issue.

Some have argued that the convention method of amendment is an anomaly in the law, out of step with modern notions of majority rule and the relationship between the states and the federal government. If so, that part of article V should be stricken from the Constitution by the appropriate amendment process. It should not, however, be undermined by erecting every possible barrier in the way of its effective use. Such a course would be a disavowal of the clear language and history of article V. The Constitution made the amendment process difficult, and properly so. It certainly was not the intention of the original Convention to make it impossible. Nor is it possible to conclude that the Founders intended that amendments originating in the states should have so much harder a time of it than those proposed by Congress. As I have pointed out, that issue was fought out in 1787 Convention and resolved in favor of two originating sources, both difficult of achievement, but neither impossible and neither more difficult than the other. My bill seeks to preserve the symmetry of article V by implementing the convention alternative so as to make it a practicable but not easy method of constitutional amendment.

FOOTNOTES

[1] 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, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate, *U.S. Const. Art. V.*

[9] 307 U.S. 433 (1939).

[10] *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 407, 415 (1819).

[11] *E.g.*, LEGISLATIVE REFERENCE SERV., LIBRARY OF CONGRESS, THE CONSTITUTION OF THE UNITED STATES OF AMERICA; ANALYSIS AND INTERPRETATION, S. Doc. No. 39, 88th Cong., 1st Sess. 135–36 (1964); THE FEDERALIST NOS. 43 & 85 (J. Cooke ed. 1961); L. ORFIELD, AMENDING THE FEDERAL CONSTITUTION (1942); THE RECORDS OF THE FEDERAL CONVENTION OF 1787 (M. Farrand ed. 1937). The revelant excerpts from these and other sources are printed as an appendix to the *Hearings on the Federal Constitutional Convention Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, United States Senate, Oct. 30 and 31, 1967.

[12] U.S. BUREAU OF ROLLS AND LIBRARY, DOCUMENTARY HISTORY OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA V, 141, 143, *quoting* Madison's letter to Mr. Eve, dated Jan. 2, 1789.

[14] 253 U.S. 221 (1920).

[15] *Id.* at 229.

[16] 3 U.S. (3 Dall.) 378 (1798).

[17] *Coleman v. Miller*, 307 U.S. 433, 448–49 (1939).

[18] *Dillon v. Gloss*, 256 U.S. 368 (1921).

By Mr. CRANSTON (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. MCGOVERN, and Mr. JAVITS):

S. 4. A bill to provide assistance and coordination in the provision of child-care services for children living in homes with working parents and for other purposes; to the Committee on Human Resources.

CHILD CARE ACT OF 1979

Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Child and Human Development, I am pleased to introduce S. 4, the proposed Child Care Act of 1979. Joining me in cosponsorship are the chairman of the Human Resources Committee (Mr. WILLIAMS) who has provided steadfast support to the efforts of the Subcommittee on Child and Human Development on behalf of children, the ranking majority member of the subcommittee (Mr. RIEGLE), who has provided great support for the subcommittee's activities, and my colleague from South Dakota (Mr. MCGOVERN), whose concern for children is also well-known.

Mr. President, this bill is the culmination of more than 2 years of work in developing Federal legislation in this area. During the winter of last year, the sub-

committee held a series of four hearings in California and Washington, D.C., to solicit the comments of parents, child-care providers, and other concerned with the welfare of children about the need for Federal legislation in the child-care area and how best to shape such legislation. Over 50 witnesses appeared and numerous others have forwarded written testimony to be included as part of the hearing record. Those testifying included representatives of the administration, State officials, child-care service providers, researchers, and representatives from such organizations as the Children's Defense Fund, the Child Welfare League, the Day Care and Child Development Council of America, the National Association for Child Development and Education, the League of Women Voters, the National Council of Jewish Women, the Coalition of Labor Union Women, the American Home Economics Association, the American Academy of Pediatrics, and the California Children's Lobby. The subcommittee heard witnesses from all over the United States—from Arizona, California, Colorado, Connecticut, Florida, Kansas, Maryland, New Jersey, New York, Pennsylvania, Virginia, and Washington, and received written communications from numerous individuals from other States.

Following these hearings, on August 24, I presented to the Senate a floor statement summarizing the information derived from the hearings and outlining my thoughts on the direction new child-care legislation should take. That statement appears at pp. 27650–27657 of the daily edition.

NEED FOR MORE PROGRAMS

In my August 24 statement, Mr. President, I pointed out that the strongest theme to emerge from the hearings was the need for more child-care programs. Witness after witness told of the difficulties that parents face in trying to find good child care they can afford, of the long waiting lists for all type of child-care programs, and of the lack of funds to start new programs or to expand existing ones. Statistics released by the U.S. Department of Labor in March of 1977 estimated that there were then 6.4 million children in the Nation under the age of 6 whose mothers were working and 22.4 million children from 6 to 17 years with working mothers. Yet, according to 1976 HEW data, there are only 1.6 million licensed child-care openings, including center-based and family-based child care, available throughout the Nation.

In recent years, the number of working mothers of children under the age of 18 has dramatically increased from approximately 42 percent in 1970 to 53 percent in 1978—an increase of 26 percent in 8 years—and it continues to rise each year. For example, 1977 data from the Department of Labor indicate that 40.9 percent of all mothers of children under the age of 6 were in the labor force; this percentage had increased to 43.7 percent by March 1978—an increase of almost 7 percent in a single year. The percentage of labor force participation by mothers of children ages 6 to 18 also increased from 58.3 percent in 1977 to 60 percent in 1978—an increase of almost 4 percent.

Mr. President, I include in the RECORD at this point a chart providing a detailed breakdown, by age, showing the increasing participation of working mothers in the labor force in every category between 1977 and 1978.

Age of child	March 1977	March 1978	Percent change
0 to 18	50.7	52.9	+4.3
6 to 17	58.3	60.0	+2.9
(14 to 17)	(59.1)	(59.6)	+.8
(6 to 13)	(58.0)	(60.2)	+3.8
0 to 6	40.9	43.7	+6.8
(3 to 5)	(48.9)	(50.4)	+3.1
(0 to 3)	(35.1)	(39.1)	+11.3

Source: Bureau of Labor Statistics.

These figures illustrate without any doubt that a majority of mothers of children under the age of 18 are in the labor force and that the precentage of working mothers—patricularly mothers of younger children is growing every year. Yet, our witnesses clearly indicated that there has been no corresponding growth in the availability of licensed child care for the children of these working parents. Indeed, quite the contrary appears to be true. Existing programs are severely overtaxed, lengthy waiting lists prevail for admission to ongoing programs, and there is a great deal of uncertainty about what is happening to the hundreds of thousands of children whose mothers are working and for whom there simply are not enough licensed child-care openings. Census data tells us that at least 2 million school-age children between the ages of 7 and 13 are simply left alone without any supervision; and that another 20,000 pre-school children under the age of 6 are left alone while a parent works.

CALIFORNIA STATISTICS

Mr. President, since my August statement I have been presented with additional data on the dimensions of the child-care problem in my own State of California. A commission formed by Wilson Riles, the California Superintendent of Public Institutions, very recently completed a study that concludes that, in the 5-year period between 1978 and 1984, despite the decline in birth rate, the number of children under 14 years in California whose mothers work will increase by 215,000. By 1984, 52.4 percent of children under 6 years in California will have mothers who work—compared to 40.4 percent in 1978, and 61.1 percent of children over 6 years in California will have mothers who work—compared to 53.5 percent in 1978.

In addition, 24 percent of children under 14 years of age will be living in a one-parent family in California by 1984. The study reports that at present there are 1 million children in California who have working mothers and who need care and are unable to care for themselves. This figure excludes 372,000 children who may not need care while the mother works because another relative is available to care for them.

Yet, in California there are only 124,000 subsidized child-care spaces and 169,000 other licensed child-care spaces. This means that out of 1 million children in California whose mothers work, less than one-third or approximately 300,000 children can be served in licensed child care. If population trends and social indicators continue to follow the same trends across the Nation, the growing unmet need for child-care services may soon be reaching crisis proportions.

EXISTING FEDERAL CHILD-CARE PROGRAMS

Mr. President, the Federal Government presently subsidizes child care either directly through social services programs aimed at welfare recipients and families living below the poverty line or indirectly through the child-care tax credit under the Internal Revenue Code. It is estimated that the Federal Government contributes about $500 million a year to the cost of child care through the child-care tax credit. However, because of the nature of the tax credit and the structure of our tax system—the credit is not refundable and, on the average, four person families with incomes below $7,500 do not pay any Federal income taxes—the credit is largely of use to middle and upper income families. According to the Congressional Budget Office, two-thirds of the tax expenditure funds went to families with incomes over $15,000.

The major direct Federal spending for child care is through title XX of the Social Security Act. This program, aimed primarily at welfare recipients and families living below the poverty line, provides for a number of social services for these families; one of the authorized uses to which these funds may be put is child care. HEW estimates that in fiscal year 1977 about $800 million of the $2.7 billion for title XX was used for child-care services.

There are, additionally, a number of smaller federally supported programs involving child care aimed at welfare recipients or families living below the poverty line, such as the Head Start program and programs administered by such agencies as the Community Services Administration, the Department of Agriculture, the Department of the Interior, and the Department of Housing and Urban Development. Some of these programs are focused upon special populations, such as Native Americans through the Department of the Interior programs, or provide specialized support to child-care programs, for example, the child-care food program operated by the Department of Agriculture. Overall, the Congressional Budget Office has estimated that the Federal Government provides about $1.8 billion in direct spending for child care or child-care-related services under these various programs.

However, Mr. President, our present Federal activities provide little or no assistance to low-income working families, whose incomes are too low to benefit from the tax credit and too high to qualify for assistance under title XX or other programs targeted at welfare recipients or below-poverty-line families. These families, struggling to stay in the labor force—and off welfare—are often unable to receive any financial help for child care and are unable to find reasonable quality child care at prices they can

afford in the present marketplace. Indeed, the data indicate that there are not sufficient licensed child-care spaces available for families who can afford them, let alone those who cannot.

Finally, not only are many low-income working families who need assistance in finding reasonable quality child care left out of most Federal programs, the Federal Government's participation in the area of child care can best be characterized as an assortment of fragmented programs spread throughout a half dozen Federal agencies, with numerous conflicting and overlapping regulations, excessive redtape, and an overall absence of coordination or focus. There are virtually no activities by the Federal Government to provide any substantial assistance to the States in upgrading their child-care programs, to transmit innovative and cost-effective technique from one State to another, or to coordinate Federal policy and activities in the area of child care.

PURPOSES OF S. 4

Mr. President, the purpose of the proposed Child Care Act of 1979 is to promote the availability and diversity of quality child-care services for all children and families who need such services and provide assistance to the States in improving the quality of and coordination among child-care programs, and generally foster increased coordination of programs at the local, State, and Federal levels. The bill is also designed to provide mechanisms to facilitate an assessment of the extent of the need for child-care services throughout the Nation, both within the next few years and thereafter.

Additionally, and fundamentally, the bill is aimed at strengthening the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an undesirable care facility or arrangement. Much of the testimony received by the subcommittee in developing this legislation focused upon how important adequate child care is to supporting families where both parents must work and single-parent households. Finally, as I discussed at length in my August 24 statement, increasing adequate child-care services can have broader social impact in such areas as reduction of juvenile vandalism, delinquency, and alcohol and drug abuse.

SUMMARY OF S. 4, THE PROPOSED "CHILD CARE ACT OF 1979"

Mr. President, for the benefit of my colleagues, let me briefly describe the provisions of our bill.

Section 1 establishes the short title of the bill as the Child Care Act of 1979.

Section 2 sets forth the findings and purposes of the act which are to provide assistance to the States in improving the quality of and coordination among child-care programs and provide additional resources for child-care services; to provide mechanisms for assessing the extent of the need for child-care services in the Nation; to promote coordination at all governmental levels of child-care programs and other services for children and their families; to promote the availability and diversity of quality child-care services for all children and families who need such services; to provide assistance to families whose financial resources are insufficient to pay the full cost of necessary child-care services; and to strengthen the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an undesirable care facility or arrangement.

Section 3 provides that nothing in the act shall be construed to authorize any public agency or private organization or any individual associated therewith to interfere with, or to intervene in, any child-rearing decision of parents.

Section 4 provides for State participation under the act through the submissions to the Secretary of Health, Education, and Welfare of a State plan which provides for the specification of a State agency to be responsible for administration and oversight of the State plan which is to be designed to meet the need for child-care services within the State for pre-school children and school-age children, with special attention to meeting the need for services for migrant children, handicapped children, children with limited English-language proficiency, and other groups of children having special needs. The State agency specified under the plan is also to be responsible for coordinating, to the maximum extent feasible, the provision of services under this act with other child-care programs and services assisted under any State or other Federal provision of law, and with other appropriate services, including health and nutritional services, available to such children under other Federal and State programs.

Section 4 also provides that funds shall be distributed within the State, in accordance with the plan developed, to child-care providers who are licensed by the State and meet the quality standards developed by the Secretary for all child-care programs receiving Federal funds under this act. The distribution of these funds to eligible child-care providers may be by grant or contract or by alternative payment arrangements, such as vouchers. Section 4 further provides that priority will be given to child-care providers that provide priority for services for children on the basis of family need, taking into account factors such as family income, family size, and special needs of children from households with a single parent and, that to the maximum extent feasible, provide for an economic mix of children enrolled in the program. The State agency is also charged with the responsibility of distributing funds to a variety of child-care providers in each community, including both child-care centers and family day-care providers. The State plan also must provide for a fee schedule for services provided, based upon family income and size, as well as establishment of procedures for data collection to show how the child-care needs of the State are being met by programs assisted under the act, and the degree of unmet child-care needs within the State.

Section 4 specifically provides that the State plan must include the provision, by grant or contract, for the establishment or support of information and referral services to assist parents in securing child-care services, and for the training of child-care personnel. It also provides that the State plan must include provisions for the development and implementation of State licensing of child-care providers, establishment of procedures for meaningful parental involvement in State and local planning, monitoring and evaluation of programs and services provided under the act, and assurances that funds received under the act will be used to supplement, and not supplant, existing Federal funds used for the support of child-care services and related programs. Section 4 provides that, for each fiscal year, the State may not use more than 10 percent of the funds received for administration of the program.

Section 4 further provides, as part of the State plan requirements, for the establishment of a State advisory panel on child care, composed at least of 25 percent parents of children receiving child-care services under the act, at least 25 percent representatives of child-care providers within the State, including representatives of different types of child-care programs, and at least 25 percent professionals in the field of child development and related fields.

The State advisory panel is responsible for advising the State agency on the preparation of, and policy matters arising in the administration of, the State plan, and for the review and evaluation of child-care programs and services provided under the act and other provisions of the law, and may prepare and submit, through the State agency, recommendations to the Secretary. Section 4 provides for sufficient funds to be made available under the State plan for the State advisory panel to carry out its functions and to obtain the services of such professional, technical, and clerical personnel as necessary.

Section 4 provides that the Secretary shall approve any State plan which meets the requirements set forth in the act, and provides that the Secretary may not disapprove any State plan, except after reasonable notice, an opportunity to correct deficiencies in the plan, and notice of an opportunity for a hearing on the grounds for the disapproval. Finally, section 4 provides that the specified State agency shall provide the Secretary with a concise report on an annual basis describing activities, results, and performance of the State agency in meeting the objectives of the State plan and the purposes of the act.

Section 5 relates to the national administration of the act. The Secretary is directed to designate an identifiable administrative unit within HEW and an individual within that administrative unit to be responsible for carrying out the provisions of this act and for coordination of other activities within HEW relating to child care. The Secretary is also directed to make available to such unit such staff and resources as are necessary to carry out effectively its functions under the act. Section 5 also provides for the establishment of a National

Advisory Panel on Child Care Needs and Services, consisting of not less than 25 percent parents of children receiving child-care services under the act, not less than 25 percent representatives of child-care providers, including representatives of different types of child-care programs, and not less than 25 percent professionals in the field of child development and related fields. One-third of the members serving on the National Advisory Panel shall be individuals who are serving on, or have served on, a State advisory panel established under the act.

The National Advisory Panel is made responsible for reviewing Federal policies with respect to child-care services and advising the Secretary with respect to the standards developed for programs receiving assistance under the act.

Section 5 further provides that the Secretary, with the assistance of the National Advisory Panel, shall prepare not later than 12 months after the date of enactment of the act, proposed standards to be applied to programs receiving assistance under the act. Section 5 provides that the proposed standards shall cover factors having a demonstrated impact on the quality of child care, including, but not limited to, such factors as group size and composition in terms of the number of teachers and the number and ages of children, the qualifications of the child-care providers, and the physical environment, parental involvement, and necessary support services for child-care programs. These standards shall be published in the Federal Register for public comment and distributed to each State advisory panel and State agency designated or established under the act.

Mr. President, I have received several inquiries as to how the proposed standards under this act will relate to the Federal Interagency Day Care Regulations—FIDCR—which are currently being revised by HEW and are applicable to child-care programs receiving assistance under title XX of the Social Security Act. As my colleagues know, last year HEW submitted a report to Congress on the appropriateness of the FIDCR. The report concluded that Federal regulation of federally supported day care is appropriate and suggested that consideration be given to extending the revised requirements to all child care supported with Federal funds.

The report also suggested that the existing regulations be rewritten to improve their ability to further the well-being of children. The efforts now underway in HEW to rewrite these regulations appear to be in line with the guidelines for standards set forth in this act. It is my expectation that the FIDCR—when eventually completed—would be appropriate for application to programs supported under this act and that the same standards will be applied to all child-care programs supported by Federal funds.

However, in light of the undue delays and length of time that it has taken HEW to complete its appropriateness report and begin the ask of rewriting FIDCR, our bill has been drafted in such a manner as to stand alone at this point in time without any cross-reference to FIDCR. During the process of refining and moving forward with this act, if FIDCR should be completed and issued in final form, we may well decide to make appropriate references to those regulations in this legislation.

Section 6 provides authority to the Secretary to make direct grants or contracts to public and private organizations for the support of innovative, demonstration child-care projects in such areas as night-time care, and care for sick children, migrant children, handicapped children and children with limited English-language proficiency, or other special needs populations. Section 6 provides for evaluation of projects funded under this section and authorizes the Secretary to establish regulations to carry out these provisions.

Section 7 provides that States receiving assistance under the act shall submit to the Secretary a report outlining the current status of child-care licensing within the State, the deficiences, if any, in the existing licensing program, a plan by the State to expand its licensing program, and the types of assistance the State requires to make improvements in its licensing program. Section 7 provides that each State will make this report not less than 12 months after it first receives a payment under the act. Section 7 authorizes the Secretary to make grants to the State for the purpose of developing, improving, or implementing its child-care licensing program. Section 7 also provides that the Secretary, with the assistance of the National Advisory Panel, shall develop a Model State Licensing of Child Care Providers Act to be used by the States as a guide to improving licensing of child-care providers.

Section 8 provides that the Secretary is authorized to make grants to and enter into contracts with institutions of higher education, State and local public agencies, and private organizations to provide training programs for child-care providers and employees. Section 8 also authorizes the Secretary to provide technical assistance to the States in the planning, developing, and coordinating of child-care services, in the development, expansion and implementation of State licensing of child-care programs, and in the development and conduct of teacher or child-care provider training programs.

Section 9 provides for an allotment of 1 percent of the sums appropriated for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and allocation of the remainder of the sums appropriated among the States based equally upon, first, each States's relative proportion of children living in homes in which both parents are employed or the child resides with only one parent and that parent is employed, and, second, its relative proportion of children who reside in households having incomes which are equal to or less than one-half of the median income of the United States for families of the same size.

Section 9 also provides for reallotment of any State's allotment which is not utilized.

Section 10 provides for the Secretary to make payments to each State having a plan approved under section 4 in the amount allotted under section 9 and provides that payments under the act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

Section 11 authorizes the Secretary, after reasonable notice and opportunity for hearing, to withhold payments to any State where there has been a substantial failure to comply with any provision or any requirement set forth in the State plan of that State or of any applicable provision of this act. Section 11 authorizes the Secretary in his discretion to limit further payments to the State in such cases to programs or projects under the State plan, or portions thereof, not affected by such failure.

Section 12 provides for the Secretary to carry out reviews and evaluations of the programs and activities carried out under this act and conduct studies on child-care needs for the purpose of providing information aimed at enabling the Congress and the executive branch to agree upon specific, realistic objectives and expectations for programs and activities under the act, assure that programs and activities established and carried out under the act at the Federal, State, and local levels are likely to achieve progress toward such objectives and expectations, provide that sufficient data is obtained to measure progress under the act and to make such data available to the Congress and the executive branch, and to enable Congress and the executive branch to better understand the child-care needs of the Nation and how best to meet these needs in a cost-effective fashion. Section 12 directs the Secretary, in carrying out these functions, to consult with appropriate committees of the Congress and members of the executive branch, examine representative samples of actual programs, identify or develop cost-effective programs, and determine how the results of such reviews and evaluations can best be disseminated and utilized to achieve the purposes outlined. Section 12 also directs the Secretary to prepare and transmit to the President and the Congress on or before March 1 of each year a concise report of activities and progress under the act.

Mr. President, the evaluation and oversight provisions of our bill were developed with the assistance of the General Accounting Office. Last year, the Comptroller General released a report with respect to improving congressional oversight efforts. That report outlined a process for planning and carrying out congressional oversight programs. GAO staff provide great assistance to us in designing and drafting these provisions, and I am deeply appreciative of their efforts to assist us in building effective oversight mechanisms into our legislative efforts.

Section 13 sets forth definitions of the various terms utilized in the act. A

"child" is defined as any individual who has not attained the age of 15. A "parent" includes any natural parent, foster parent, or legal guardian with whom the child resides.

Section 14 authorizes the appropriation of such sums as may be necessary for fiscal year 1980 and for each of the four succeeding fiscal years to carry out the provisions of the act. Section 14 further provides that of the sums appropriated for any fiscal year, 75 percent shall be used for making grants under section 4, relating to grants for carrying out the State plan, 5 percent shall be used for making grants under section 6 relating to demonstration projects, 5 percent shall be used for making grants under section 7, relating to licensing assistance; 5 percent shall be used for making grants or contracts under section 8(a) relating to training programs, and 10 percent shall be used for carrying out the provisions of sections 5, 8(b), and 12 relating to national administration—including the reasonable expenses of the National Advisory Panel on Child Care Needs and Services—and training and technical assistance. Section 14 also provides that no funds are authorized to be appropriate for any fiscal year unless funds appropriated for the preceding fiscal year to carry out part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, are at least equal to the funds appropriated for such part for fiscal year 1979.

CONCLUSION

Mr. President, I believe that the proposed Child Care Act of 1979 addresses an important—and ever-growing—need in this country for a comprehensive, coordinated approach to child care. I know that there will be some who will question the feasibility of proposing a comprehensive child-care bill at this time of budget constraints. Yet, there is simply no question that the demand and need for child care will continue to grow. If we take steps today to design an efficient and cost-effective mechanism for meeting those needs, the ultimate savings will far outweigh the short-term expenditure. Indeed, child care itself is a long-term investment in the future. Short-term expenditures may be almost immediately offset by increased tax revenues derived from parent earnings and reductions in governmental and other expenditures necessitated by the effects of lack of adequate child-care arrangements. Some social costs such as juvenile vandalism, delinquency, and child abuse and neglect may also be reduced by prudent and cost-effective investments in child care today.

Mr. President, I am deeply grateful to the many individuals and organizations who participated in our hearings a year ago and who provided us with their insights and guidance on the development and formulation of this legislation. I believe that with the introduction of this legislation we are taking a major step toward enactment of a meaningful child-care measure which is so sorely needed and so long-awaited. I look forward to working with my colleagues and all of the interested individuals and organizations toward that end. We have scheduled hearings before the Subcommittee on Child and Human Development on this legislation on February 6 and 21, and plan to continue the process of refining and perfecting the bill after those hearings.

Mr. President, I ask unanimous consent that the text of S. 4 be printed in the RECORD.

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

S. 4

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 "Child Care Act of 1979".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the number of children living in homes where both parents work or where children are living with a single parent who work has increased dramatically over the last ten years;

(2) the number of licensed child-care openings is far short of the number required for children in need of child-care services;

(3) existing child-care programs are frequently filled to capacity and often have long waiting lists admission;

(4) the lack of available child-care services results in many children being left—some all day—without adequate supervision;

(5) rise in school vandalism, juvenile alcoholism, and serious juvenile crimes has been accompanied by an increase in the number of school-age children with working parents and without resources for afterschool supervision;

(6) many parents are unable to afford adequate child-care services and do not receive any financial assistance for such services through any established program;

(7) the years from birth to age six are especially important in the development of a child and the care children receive during this period is critical to the developmental process;

(8) making adequate child-care services and all natives available for working parents promotes and strengthens the well-being of families and the national economy; and

(9) there is a lack of coordination among existing child-care programs receiving Federal and State assistance and among such programs and other programs providing services to children and their families, and an absence of a coordinated administration of child-care programs and services at the Federal level.

(b) Recognizing that the parent is and must continue to be primary influence in the life of the child and that the parent must have ultimate responsibility for decisions on how child will be raised, it is the purpose of the Act—

(1) to provide assistance to States in improving the quality of and coordination among child-care programs and provide additional resources for child-care services;

(2) to provide mechanisms for assessing the extent of the need for child-care services in the Nation;

(3) to promote coordination at all governmental levels of child-care programs and other services for children and their families;

(4) to promote the availability and diversity of quality child-care services for all children and families who need such services;

(5) to provide assistance to families whose financial resources are insufficient to pay the full cost of necessary child-care services; and

(6) to strengthen the functioning of families by seeking to assure that parents are not forced by lack of available programs or financial resources to place a child in an undesirable care facility or arrangement.

PROTECTION OF PARENTAL RIGHTS

SEC. 3. Nothing in this Act shall be construed to authorize any public agency or private organization or any individual associated therewith to interfere with, or to intervene in, any child-rearing decision of parents.

STATE ACTIVITIES

SEC. 4. (a) Any State desiring to participate in a program authorized by this Act shall submit to the Secretary a plan, not less often than biennially, in such detail and form as the Secretary deems necessary. Each such plan shall—

(1) specify the State agency to be designated or created as the State agency which will, either directly or through arrangements with other State or local public agencies, act as the State agency responsible for the administration and oversight of the plan submitted under this subsection;

(2) provide that the specified State agency will—

(A) make an assessment of child-care needs in the State and an assessment of the effectiveness of programs and services under this Act and other provisions of law in meeting such needs;

(B) develop a plan designed to meet the need for child-care services within the State for preschool children and school-age children, with special attention to meeting the need for services of migrant children, handicapped children, children with limited English-language proficiency, and other groups of children having special needs;

(C) coordinate, to the maximum extent feasible, the provisions of services under this Act with other child-care programs and services assisted under any State or other Federal provisions of law, and with other appropriate services, including health and nutritional services, available to such children under other Federal and State programs; and

(D) prepare the reports required under subsection (d) of this section;

(3) provide that—

(A) funds under this Act will be distributed within the State in accordance with the plan submitted to the Secretary under this section and will be used for services provided only by child-care providers which—

(i) are licensed in the State or have applied for a renewal of such license and are determined by the State to be likely to be approved for renewal; and

(ii) meet the standards prescribed under section 5(c);

(B) funds will be distributed to eligible child-care providers by contract or grant, or may be distributed through vouchers issued to parents for use by parents with eligible child-care providers or other alternative payment arrangements; and

(C) priority will be given to child-care providers in the State that provide assurances that—

(i) priority for services will be given to children on the basis of family need, taking into account family income, family size, and the special needs of children from households with a single parent; and

(ii) each such child-care program will, to the maximum extent feasible, provide for an economic mix of children enrolled;

(4) provide that funds will be distributed, to the maximum extent feasible, to a variety of child-care providers in each community, including, but not limited to, child-care centers and family day care providers;

(5) provide for the establishment of fee schedules based upon the services provided and family income adjusted for family size for children receiving services assisted under this Act;

(6) provide for the establishment of pro-

cedures for data collection and evaluation designed to show (in a manner not inconsistent with guidelines established by the Secretary)—

(A) how the child-care needs of the State are being met by programs assisted under this Act,

(B) the degree to which child-care needs are not being met by programs assisted under this Act or other programs,

(C) the extent to which the availability of child care has been increased, including, but not limited to, measures of licensed child-care openings and of the extent to which existing programs are filled, and the numbers and average time associated with waiting lists for admission to existing programs,

(D) how the purposes of the Act and the objectives of the State set forth in each State plan are being met;

(7) provide, by grant or contract, for the support or establishment of information and referral services to assist parents in securing child-care services;

(8) provide, by grant or contract, for training programs for child-care personnel;

(9) establish procedures for the development and implementation of State licensing of child-care providers in accordance with the criteria prescribed pursuant to section 7(a);

(10) establish procedures for meaningful parental involvement in State and local planning, monitoring, and evaluation of programs and services provided under this Act;

(11) provide assurances that funds received under this Act will be used to supplement, and not supplant, existing Federal funds used for the support of child-care services and related programs;

(12) provide, for each fiscal year, that the State will use for administration of the State plan for such fiscal year an amount not to exceed 10 per centum of the funds distributed to such State, except that in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the State will use an amount not to exceed 5 per centum of the funds distributed to such State, for administrative costs; and

(13) provide for the establishment of a State Advisory Panel in accordance with subsection (b) of this section and specify the amount of funds to be allocated to such panel.

(b)(1) The State Advisory Panel on Child Care established by the State shall be composed of not less than sixteen members—

(A) of which at least 25 per centum will be parents of children receiving child-care services assisted under this Act,

(B) of which at least 25 per centum will be representatives of child-care providers within the State, including representatives of different types of child-care programs, and

(C) of which at least 25 per centum will be professionals in the field of child development and related fields.

(2) The State Advisory Panel shall—

(A) advise the State on the preparation of, and policy matters arising in the administration of, the State plan submitted under subsection (a) of this section,

(B) review and submit comments to the State agency on the State plan, and

(C) review and evaluate child-care programs and services under this Act and other provisions of law in the State and the progress of such programs and services in meeting the needs of the State in the provision of child-care services and make recommendations, as appropriate, on the development of State standards and policies relating to child-care programs and the provision of child-care services.

and may prepare and submit, through the State agency created or designated under clause (1) of subsection (a) of this section, such recommendations and evaluations, together with such additional comments, as that State agency deems appropriate, to the Secretary.

(3) Each State Advisory Panel shall meet within thirty days after the beginning of each fiscal year and establish the time, place, and manner of its future meetings, except that such panel shall have not less than two public meetings each year at which the public is given an opportunity to express views concerning the administration and operation of the State plan.

(4) Each State Advisory Panel shall be authorized to obtain the services of such professional, technical, and clerical personnel and to contract for such other services as may be necessary to enable the panel to carry out its functions under this Act. The Secretary shall assure that funds sufficient for the purpose of this paragraph are made available to each panel from funds available for the administration of the State plan.

(c) The Secretary shall approve any State plan, and any modification thereof, if (after approval of the first such plan) the State agency has complied with the provisions of subsection (d) of this section and if such plan complies with the provisions of subsections (a) and (b) of this section, and the Secretary shall not disapprove any State plan except after reasonable notice an opportunity to correct deficiencies in the plan and notice of an opportunity for a hearing.

(d) For the purpose of providing information to the Secretary and the Congress to aid in their oversight of the implementation and effectiveness of programs under this Act, the State agency specified under subsection 4(a)(1) of this Act shall prepare to submit to the Secretary not later than December 1 of each year, a precise report describing their activities, results, and performance in meeting the objective of the State plan and the purposes of the Act. The report submitted under this subsection shall contain the results of the data collection, reviews, and evaluations of the plan pursuant to subsections (a)(6) and (b)(2)(C) of this section.

NATIONAL ADMINISTRATION

SEC. 5. (a)(1) The Secretary shall designate an identifiable administrative unit and an individual in charge of such unit within the Department of Health, Education, and Welfare to carry out the provisions of this Act and to coordinate other activities within the Department of Health, Education, and Welfare relating to child care.

(2) The Secretary shall make available to such unit such staff and resources as are necessary to carry out effectively its functions under this Act.

(b)(1) The Secretary shall establish within six months after the date of enactment of this Act within the Office of the Secretary a National Advisory Panel on Child Care Needs and Services which shall be composed of not less than sixteen members—

(A) of which at least 25 per centum will be parents of children receiving child-care services under this Act,

(B) of which at least 25 per centum will be representatives of child-care providers, including representatives of different types of child-care programs, and

(C) of which at least 25 per centum will be professionals in the field of child development and related fields.

and not less than one-third of the members serving on the National Advisory Panel shall be individuals who are serving on, or have served on, a State Advisory Panel established by a State under section 4(b).

(2) The National Advisory Panel shall review Federal policies with respect to child-care services and shall make recommendations to and advise the Secretary with respect to the standards developed by the Secretary pursuant to subsection (c) of this section.

(3) The Secretary shall provide such personnel and technical assistance as may be required to permit the National Advisory Panel to carry out its functions under this section.

(4) Members of the National Advisory Panel who are not regular full-time employees of the United States shall, while attending meetings and conferences of the National Advisory Panel or otherwise engaged in the business of the National Advisory Panel, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for GS–18 in section 5332 of title 5, United States Code, including traveltime; and, while so serving on the business of the National Advisory Panel away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 title 5, United States Code, for persons employed intermittently in the Government service.

(c)(1) The Secretary shall, wih the assistance of the National Advisory Panel, not later than twelve months after the date of enactment of this Act, prepare and develop proposed standards to be applied to programs receiving funds under this Act. The standards developed pursuant to this subsection shall cover factors having a demonstrated impact on the quality of child care including but not limited to—

(A) group size and composition in terms of the number of teachers and the number and age of children,

(B) the qualifications of the child-care provider,

(C) the physical environment,

(D) parental involvement, and

(E) necessary support services.

(2) The Secretary shall publish the proposed standards in the Federal Register after distribution of the proposed standards to each State panel and State agency designated or established under section 4(a)(1).

(3) After taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1) of subsection (c) of this section but in no event later than 12 days after the Secretary publishes proposed standards under paragraph (2) of subsection (c) of this section the Secretary shall publish in the Federal Register final standards to be applied to programs receiving funds under this Act.

DEMONSTRATION PROJECTS

SEC. 6. (a) The Secretary is authorized to make grants to and enter into contracts with public agencies and private projects organizations to support innovative demonstration child-care, including projects providing night time care, care for sick children, migrant children, children with limited English-language proficiency, handicapped children, or other special needs populations. No grant may be made under this subsection unless adequate funds are included in such grant to evaluate and report to the Secretary on the effectiveness of the approach of the program receiving assistance in meeting the child-care needs of the families being served.

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines necessary. The Secretary is authorized to establish regulations to carry out the provisions of this section.

LICENSING IMPROVEMENT GRANTS

SEC. 7. (a) Each State receiving assistance under this Act shall prepare a report to be submitted to the Secretary outlining the

current status of child-care licensing within the State, deficiencies, if any, in the existing licensing program, the plan of the State for expanding its licensing program to cover all types of child-care providers (except where children are being cared for in their own homes, by a relative, or on a less than full-time basis in a noncommercial, neighborhood setting, such as a cooperative play group or occasional child-care arrangements) and the types of assistance the State requires to make improvements in its licensing program.

(b) The Secretary is authorized to make grants to States submitting a report under subsection (a) of this section for the purpose of developing, improving or implementing it child-care licensing program. No grant may be made under this section unless the State submits an application to the Secretary therefor at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

(c) The Secretary shall, with the assistance of the National Advisory Panel on Child Care Needs and Services and with the cooperation of the National Conference of Uniform Commissioners of State Laws, develop a Model State Licensing of Child Care Providers Act to be used by the States as a guide to improving licensing of child-care providers.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 8. (a) (1) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, State and local public agencies, and private organizations to provide preservice and inservice training to teachers and administrative personnel involved in child-care programs, to recruit and train low-income parents for child-care positions, to provide specialized training in early childhood education for certified elementary school teachers who are unemployed, to train information and referral workers, to train persons providing services to handicapped children, immigrant children, and children with limited English-language proficiency, and to develop and improve teacher certification criteria for child-care programs.

(2) The Secretary is authorized to provide technical asistance to States in planning, developing, and conducting child-care services, in the development, expansion, and implementation of State licensing of child-care programs, and in the development and conduct of teacher or child-care-provider training programs with special attention to the factors described in paragraph (1) of this subsection.

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

ALLOTMENTS

SEC. 9. (a) From the sums appropriated pursuant to section 14(a) for each fiscal year, the Secretary shall allot not more than one per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

(b) From the remainder of such sums, the Secretary shall allot—

(1) to each State the amount which bears the same ratio to 50 per centum of such remainder as the number of children living in homes in which—

(A) both parents of such child are employed, or

(B) the child resides with only one parent and that parent is employed,

in such State bears to the number of such children in all States; and

(2) to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children who reside in households having incomes which are equal to or less than oen-half of the median income of the United States for families of the same size, as determined in accordance with criteria established by the Secretary, in such State bears to the number of such children in all States.

For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) That portion of any State's allotment under subsection (a) for a fiscal year which the Secretary determines will not be required for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may fix to other States in proportion to the original allotment of such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum of the Secretary estimates will be needed in such State and will be used for such period for carrying out State plans approved under this Act, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) of this section for such year.

PAYMENTS

SEC. 10. (a) From the amounts allotted to each State under section 9 of this Act, the Secretary shall pay to each State having a plan approved by him under section 4 a grant in an amount equal to the total sums to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) Payments under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

WITHHOLDING OF GRANTS

SEC. 11. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State approved under section 4; or

(2) that in the operation of any program or project assisted under this Act there is a failure to comply substantially with any applicable provision of this Act, the Secretary shall notify such State of the findings and that no further payments may be made to such State under this Act (or in the discretion of the Secretary that further payments to the State will be limited to programs or projects under the State plan or portions thereof, not affected by such failure) until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

REVIEW AND EVALUATION

SEC. 12. (a) The Secretary shall make reviews and evaluations of the programs and activities carried out under this Act (to be conducted by persons not directly or indirectly involved in administration of the programs or activities to be reviewed or evaluated) and conduct studies of child-care needs for the purpose of providing information aimed at—

(1) enabling the Congress and the Executive Branch to agree upon specific, realistic objectives and expectations of achievement for programs and activities carried out under this Act;

(2) determining whether the programs and activities established and carried out under this Act at the Federal, State, and local levels will be likely to achieve progress toward such objectives and expectations;

(3) assuring that sufficient data necessary to ascertain such progress is collected and made available to the Congress and the Executive Branch; and

(4) improving the capability of the Congress and the Executive Branch to understand child-care needs in the Nation and how best to meet such needs in a cost-effective fashion.

(b) In carrying out reviews, evaluations, and studies under this section, the Secretary shall—

(1) ascertain the specific objectives and expectations for achievement regarding programs and activities carried out under this Act of appropriate managers and policymakers in the Executive Branch and of appropriate committees of the Congress;

(2) examine a representative sample of the actual operation and results of such programs and activities at the Federal, State, and local levels;

(3) compare the objectives and expectations for achievement with the actual operation and results of programs and activities, including comparisons of the objectives of State plans with the actual operation and results under such plans and an assessment of the effects of increased availability of child care (including changes in the incidence of child abuse, school vandalism, and juvenile delinquency, and other relevant effects such as in health status, school attendance, and school performance);

(4) identify or develop programs and activities, or parts of programs and activities, that are able, or are likely to be able, to achieve in a cost-effective fashion progress toward such objectives and expectations; and

(5) determine how the results of such reviews, evaluations, and studies can best be disseminated and utilized to achieve the purposes described in subsection (a) of this section.

(c) The Secretary shall prepare and transmit to the President and the Congress on or before March 1 of each year a concise report containing—

(1) a statement of specific, realistic objectives and expected progress toward such objectives over the next year for the programs and activities carried out under this Act, and a statement relating such objectives and expected progress to the purposes of this Act;

(2) the results of all comparisons made under subsection (b)(3) of this section, including comparisons necessary for judging the effectiveness with which State plans, and the objectives of such plans, are carried out at the State and local levels;

(3) the results of efforts under subsection (b)(4) of this section, including options or recommendations (or both) with respect to any legislative action deemed necessary or desirable for achieving the purposes set forth in subsection (a) of this section; and

(4) plans for reviews, evaluations, and studies under this section for the ensuing year, including a statement detailing the programs and activities (or parts thereof) carried out under this Act to be the subject of such activities.

(d) The Secretary shall prepare and transmit to the President and the Congress not later than four years after the date of enactment of this Act a report on child-care needs in the Nation. Such report shall include, but not be limited to, a summary of the results of data collection under sections 4(a)(6)(A), 4(a)(6)(B), and 4(b)(2)(C) and any studies of child-care needs conducted by the Secretary under this section, a summary of other relevant research on child-care needs, and an analysis of options for more fully meeting such needs including options for legislative action.

(e) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until

the expiration of three years after the completion of a program, project, or activity authorized or assisted under this Act, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants authorized to be made under this Act.

DEFINITIONS

SEC. 13. As used in this Act—

(1) "child" means any individual who has not attained the age of fifteen;

(2) "parent" includes any natural parent, foster parent, or legal guardian with whom the child resides;

(3) "Secretary" means the Secretary of Health, Education, and Welfare; and

(4) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) There are authorized to be appropriated for fiscal year 1980, and for each of the four suceeding fiscal years such sums as may be necessary for carrying out the provisions of this Act. Of the sums so appropriated for any fiscal year, 75 per centum shall be used for making grants under section 4, relating to grants for carrying out the State plan; 5 per centum shall be used for making grants under section 6, relating to demonstration projects; 5 per centum shall be used for making grants under section 7, relating to licensing assistance; 5 per centum shall be used for making grants or contracts under section 8(a), relating to training programs; and 10 per centum shall be used for carrying out the provisions of sections 5, 8(b), and 12 relating to national administration (including the reasonable expenses of the National Advisory Panel on Child Care Needs and Services) and training and technical assistance.

(b) No funds are authorized to be appropriated for any fiscal year unless funds appropriated for the preceding fiscal year to carry out part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, are at least equal to the funds appropriated for such part for the fiscal year 1970.

Mr. WILLIAMS. Mr. President, I am pleased to join my colleague, Senator CRANSTON, in cosponsoring the "Child Care Act of 1979," a measure designed to improve and expand quality child care services to children and their families in this country. Essentially, this legislation embodies many of the recommendations that were made by witnesses that testified before the Subcommittee on Child and Human Development on child care issues during the 95th Congress. The Senate Committee on Human Resources' Subcommittee on Child and Human Development held extensive hearings examining the role of the Federal Government in child care to determine what changes should be made to make the ongoing Federal effort more responsive to those who must have child care services but cannot afford them without assistance.

As we all know, the Federal Government has long been involved in the provision of child care services. The effort to provide critical child care services to American families has been intense, but sadly still falls far short of meeting the ever-burgeoning needs in this area. Senator CRANSTON has ably demonstrated in his statement that millions of children of all ages are in need of appropriate child care services because of working parent(s).

Statistics released by the U.S. Department of Labor in March of 1977 and data from DHEW in 1976 estimate that there were 6.4 million children in the Nation under 6 years of age whose mothers work. This data also illustrates that there are 22.4 million children from 6 to 17 years of age whose mothers work. In light of this data it seems quite shocking that there are only 1.6 million licensed child care openings available in the entire country. The programs are overtaxed, insufficient, and often result in young children that are left alone without any supervision whatsoever.

An evaluation of current Federal activities reveals that there is a scarcity of assistance to low-income working families. While struggling to stay off of welfare assistance and in the labor force, these low-income families find the door closed to reasonably priced quality child care. Unfortunately, the approach to child care for low- and moderate-income families has been scattershot or fragmented at best. To address this problem, "The Child Care Act of 1979" has been drafted to assist in improving the coordination and quality of child-care programs on the local, State, and Federal level. This measure would also seek to promote a diverse selection of quality child-care services for all children and families who need such services.

The need for an augmented effort to expand child care services is undeniable. In my own State of New Jersey, child care advocates have been strident in their commitment to improve and expand existing child care services. The consensus is, there is a need for an increased role of the Federal Government to expand existing child care services. To illustrate, Commissioner Ann Klein, of the Department of Human Services stated:

> We believe that the greatest need of this State, and probably of most others, is for a general increase in the level of Federal support for day care programs.

Day care services in New Jersey have expanded over the past decade, but the demand for child care services, for low and moderate working women has catapulted out of sight. While there is insufficient data to pinpoint the exact extent of the need in New Jersey, Commissioner Klein stated in her testimony before the Subcommittee on Child and Human Development:

> One study conducted during April through June 1976 by R. L. Associates for the New Jersey Department of Human Services estimated that there were 250,000 children in single-parent households in need for some type of day care. This group was described as having the "severest need" because of the correlation between the "frustrations and difficulties of one-adult, poor families and all kinds of social pathologies from child abuse to children in trouble with the police."
>
> Another study conducted in three communities in Union County, New Jersey, revealed that 71 percent of the families with children age 12 or younger needed some form of day care. In this study, 77 percent of the mothers who were employed during the past year said they needed day care, and 42 percent had problems with day care that interfered with their employment.

A provision in this new bill would address this problem of insufficient data and would facilitate the assessment of the need for child care services throughout the country.

In Newark, N.J., it is estimated that at least 13,000 children are in need of full-time child care because of working parents in training. Subcommittee witness, Rebecca Doggett Andrade of the Tri-City Citizen Union for Progress, Inc., stated:

> This figure does not include parents who would like early childhood programs for educational and social purposes. Nor does this figure include any calculation of how many of the 77,000 children in public school need after-care.

In the past, the consideration of child development legislation invoked the protest of individuals that interpreted that approach to abrogate or interfere with the rights and responsibilities of parents in the rearing of their children. This proposed child care bill is based on the family as the primary and most significant influence on children and one of the most important institutions in our country, and would in no way interfere with the rights of the family. In fact, an essential provision of the bill ensures the protection of parental rights and declares,

> Nothing in this Act shall be construed to authorize any public agency or provide nonprofit organization or any individual associated thereto to interfere with, or to intervene in, the child rearing decision of parents.

Grace Ibanez de Friedman of the Puerto Rican Congress, another New Jersey witness. states before the Child and Human Development Subcommittee,

> Good child care involves the parent intimately. He/she should make policy decisions about who should care for and help develop the child and under what conditions. . . .

Fundamentally, the bill is fashioned to strengthen the functioning of families by seeking to assure that parents are not forced to place a child in an unacceptable or undesirable care facility or arrangement because of the lack of adequate resources or facilities.

Mr. President, I believe that the adoption of this comprehensive child care bill can provide the needed initiative to: upgrade existing child care programs; expand child care eligibility criteria to include those groups most in need of such services; improve the coordination of the myriad overlapping child care programs; increase the level of funding to the States for the development and expansion of child day care services to day care has long been viewed by many individuals as an essential support service that meets a variety of social, educational, health and employment needs for many families. Thus, it is my view that the funds which could be made available to States and local communities under this measure for child care services are critical to our economy country. This bill represents a sound and and to the working parents of this realistic approach to an urgent national problem.

MR. RIEGLE. Mr. President, I am

pleased to join with Mr. CRANSTON in introducing the Child Care Act of 1979. Our bill provides essential assistance and coordination in improving the quality and quantity of child care services, especially for children with working parents.

As members of the Subcommittee on Child and Human Development during the 95th Congress, Chairman CRANSTON and I have confronted the problems of millions of American families where both parents (or the only parent) must work outside the home. Many child development specialists have advocated varied programs to deal with this problem, but congressional inaction has resulted only in a dearth of workable programs designed to improve child care services. The Child Care Act of 1979 is a comprehensive approach that I feel will be effective, efficient, and, most of all, humane through targeting assistance to families with working parents.

Millions of children with either both parents or their only parent working require some form of assistance, especially through arrangements that accommodate single-parent families. Parents deserve assurances that their children will be safe and well cared for, at a cost the individual family can afford.

One of the most important features of this bill is the clear protection of parental rights, enforcing our national tradition against intervention in parental child-rearing decisions. In addition, parents and their representatives will participate in State and National advisory panels to assure that their needs, and those of the children being served, are met.

The Congress has historically neglected the need for child care services in this Nation. In so doing, we have ignored the crying need to improve the environment for developing our greatest natural resource—our children.

Mr. McGOVERN. Mr. President, I am pleased to be a cosponsor of the "Child Care Act of 1979". In this, the International Year of the Child, I cannot think of a better way for Congress to demonstrate its commitment to children than to offer legislation enabling parents to provide their children with the best care possible.

I commend Senator CRANSTON for seeing the need for such services and working to create what I feel is a much needed service for children and families. This bill requires States desiring to participate in a program authorized by the Child Care Act, to develop a plan which will best meet the needs for child care services in the State for preschool children and school-age children. Among other things it requires coordination at all levels of government with other child care programs and services, and promotes a diversity of child care arrangements.

I am pleased that this bill also provides for mechanisms to assess the extent of the need for child care services in this country. For too long, government, both at the State and Federal level, has been throwing money at programs with little justification for their need. At a time when fiscal austerity is uppermost in people's minds, we child care advocates must have the hard facts as to why our policies are needed.

It is exciting to think that in a few years each State could have a coordinated child care plan and would know how many children needed child care, how many were receiving care, the type of care received, and what the effects of that care have on the family. Our commitment to children should be such that each State is aware of the needs of children and families and have coordinated efforts to see that families are receiving these services.

By Mr. CHILES:

S. 5. A bill to provide policies, methods, and criteria for the acquisition of property and services by executive agencies; to the Committee on Government Affairs.

Mr. CHILES. Mr. President, today, I am introducing the Federal Acquisition Reform Act. This legislation repeals the two basic laws governing Federal purchasing and replaces them with a single, modern statute which is designed to stimulate competition and encourage innovation.

The Federal Acquisition Reform Act builds on legislation, S. 1264, that I introduced during the 95th Congress. The Subcommittee on Federal Spending Practices held 5 days of hearings on S. 1264 and heard testimony from 20 witnesses representing the executive branch, the General Accounting Office, the academic community, the legal community, and the private sector. The subcommittee also received more than 80 written comments on the bill from a wide range of interested parties. As a result of the hearings and comments, as well as extensive discussions with executive agencies and the General Accounting Office, the subcommittee revised S. 1264, and the revised version was adopted by the Senate Governmental Affairs Committee and reported to the full Senate. At that time the Armed Services Committee expressed its interest in reviewing S. 1264. We agreed to refer the bill to that committee in order to benefit from the experience and expertise their oversight of the Defense Department's procurement activities has provided them with. A special working group, headed by Senator MORGAN and Senator GOLDWATER, conducted 2 days of hearings on the bill, but the Congress adjourned before the committee could take further action on the bill. During the last several months, the subcommittee has worked to accommodate the concerns raised during these Armed Services Committee hearings. I believe that these concerns have been handled in large part, and am confident that, if any differences remain, they can be quickly resolved.

Senator PROXMIRE submitted his views on S. 1264 during the Armed Services Committee hearings, and his comments reflected a thoughtful, comprehensive, and balanced assessment of the bill. We have worked with the Senator from Wisconsin and his capable staff during the past several months and I feel that, as a result of our discussions, the bill has been and will continue to be improved.

The Federal Acquisition Reform Act was not drafted overnight. Its origins date back to the 2½ years of work by the Commission on Government Procurement. The Commission, a congressionally created bipartisan body composed of experts from the private sector and the public sector issued its final report in 1973. Late in 1976, I took a first effort to implement the legislative recommendations of the Procurement Commission by introducing a bill, S. 3005. That bill was revised and reintroduced in the 95th Congress as S. 1264. The legislation I am introducing today has benefitted from this extensive consideration and review. It is, I believe, a mature, balanced bill which is ripe for consideration by the full Senate and for enactment into law.

Before outlining some of the changes incorporated into this bill, let me say that the major objectives of the bill remain unchanged. This bill would consolidate and modernize the statutory framework governing Federal procurement, and establish a single, simple procurement regulation with Government-wide applicability. It vests the authority to promulgate and to revise that regulation with one agency, the Office of Federal Procurement Policy, to insure that the current fragmentation of procurement regulations does not reoccur.

It severely restricts the use of detailed specifications in purchase descriptions and encourages the use of simple functional purchase descriptions. It places restrictions on the use of sole source procurement by requiring the marketplace rather than the Agency to determine if competition exists. It insures equity and fairplay in the award of contracts by establishing a statutory base for the General Accounting Office's resolution of bid protests. Finally, it streamlines and rationalizes Government audit and surveillance efforts by focusing them on large contractors, and providing a measure of relief from complex Government requirements for smaller contractors who operate competitively.

A major addition to the bill, which comes out of our investigations into the corruption of GSA, is a series of provisions designed to insure accountability on the part of agency employees and of contractors.

A new provision of the bill calls for the Office of Federal Procurement Policy, in consultation with the Office of Personnel Management, to issue a code of conduct for Government employees who are involved in Federal contracting. The code of conduct is designed to apply to all Government acquisition personnel and will set out methods of compliance with this legislation, as well as listing prohibited actions in the acquisition process. Agency Inspectors General are to investigate alleged violations of the code, and violators will be subject to disciplinary action in accordance with the Civil Service laws.

Section 306 has been revised to make it unlawful for a contractor to deprive the Government of the benefit of a true and free audit. Contractors who violate this provision will be subject to a range of penalties, including termination of the contract for default, debarment, fines, and imprisonment.

Finally, section 508 has been modified to require agencies to refer suspected contractor violations of criminal laws, as well as antitrust laws, to the Justice Department for appropriate action. It also now vests the responsibility for investigating such violations on the Federal Bureau of Investigation, in order to insure that there is an identifiable unit within the Government responsible for such investigations.

There are a number of laws and regulations on the books today which allow action to be taken against persons who violate the law while participating in the acquisition process. The GSA investigations have shown that these laws simply are not being enforced or even worse, that no one seems to understand that such laws exist. I have included new sanctions in this legislation for these reasons. First I believe that a statute which established basic policies and procedures for the Federal acquisition process should also contain provisions which set out penalties for violations of its provisions.

It helps assure that the implementation of new procurement procedures and the promulgation of penalties for violating those procedures takes place at the same time, and establishes a link between the two from the contract. Second, I believe that it is important to indicate who the Congress expects to enforce these sanctions. By vesting a great measure of this responsibility in agency inspectors general and the FBI, we facilitate congressional oversight of the acquisition process and create focal points within the executive branch to which allegations of violations may be referred.

I have also revised that provision of the bill which deals with multiple award schedules. Currently, GSA lists thousands of items on multiple award schedules, and the Government purchases over $2 billion of mostly commercial supplies each year through these schedules. The recent investigations into the purchasing practices of GSA have revealed serious problems with the operation of the multiple award schedule program, and have indicated that a more effective program could have saved the Government significant amounts of money. I want to stress that the language in the bill today is by no means set in concrete. It simply indicates the direction in which I think the Government needs to move on multiple award schedules. I believe that the present system could be vastly improved by reducing the number of items on the schedules, by stressing price, not discounts, as the basis for awards, and by creating stringent justification procedures whenever an agency wants to use anything but the lowest priced items. The General Accounting Office is reviewing the current multiple award schedule program, and plans to have a study completed sometime this spring. I have begun to look at the procurement system of our States to see how they operate, and to determine if there are lessons the Federal Government can learn from the States. One important step we should take is to stress market research and analyses in Federal purchasing. The Federal Government ought to look before it leaps, so to speak, and that means using market research to estimate the Government's needs, determine what products can meet these needs, who sells these products and how they can be most effectively obtained.

The limitations on discussions in competitive negotiations which is in section 303 of S. 1264 has been modified. As revised, it now strikes a balance by permitting full and meaningful discussions during negotiations while prohibiting those abusive practices, like auctioneering and technical leveling, which have compromised the integrity of the system and led to buy-ins and cost overruns in the past.

The issue of U.S. purchases from foreign governments and interested organizations has not been addressed in the bill. I understand the concern certain executive agencies, especially the Department of Defense, have over the absence of such a provision.

As I have indicated in the past, however, the impact such a provision would have on efforts to achieve a measure of commonality of equipment with our NATO partners makes it appropriate that any proposal be reviewed by the Armed Services Committee. I understand that that committee has been looking into this very problem and I would plan to give great weight to any proposals it makes to resolve this important problem.

NEED FOR LEGISLATION

In the last fiscal year the Federal Government spent over $80 billion on the purchase of supplies and services in more than 15 million contract actions. The Defense Department alone used more than 35,000 persons in over 600 offices in spending $65.2 billion for the acquisition of products and services. Yet, these activities, which are immense in scope and in economic impact, are controlled by two different 30-year-old laws, each of which has been amended at different times without regard to the other. Furthermore, past reforms in procurement have focused on a particular aspect of the process, or have attempted to redress a symptomatic abuse in the system. This fragmented approach has resulted in a dual regulatory system, one for the military agencies and another for civilian agencies. Studies by the Commission on Government Procurement revealed more than 30 troublesome inconsistencies between the two regulatory systems.

For example, major inconsistencies include:

Competitive discussions: The Armed Services Act requires but the Federal Property Act does not, that proposals for negotiated contracts be solicited from a maximum of qualified sources, and that discussions be conducted with all sources in a competitive range.

Truth in negotiations: The Armed Services Act requires but the Federal Property Act does not, that contractors and subcontractors submit cost or pricing data.

Negotiation authority for research and development: Both acts require agency head approval to negotiate research and development contracts. Under the Armed Services Act someone below the head of the agency can approve contracts up to $100,000. Under the Federal Property Act, the limit is $25,000.

Negotiation of certain contracts involving high initial investments: The Armed Services Act includes, but the Federal Property Act does not, an exception to the advertising requirement for negotiating certain contracts requiring high initial investment.

Specifications accompanying invitations for bid: The Armed Services Act states that an inadequate specification makes the procurement invalid. Comparable language is not found in the Federal Property Act.

I could go on for hours citing other examples of restrictions, inconsistencies, and areas for which there is no guidance whatsoever. These inconsistencies have been magnified in the flowdown from statute to regulation to actual practice. This cripples the Government by creating confusion and paperwork with acts to inhibit many businesses, especially small ones, from competing for Government contracts.

This procurement reform legislation seeks to substitute effective competition for regulation in Federal spending.

Nearly everyone shares the popular resentment over Government regulations—and in no area is the damage greater than in Federal contracting.

But although it is popular to call for eliminating Government regulations, we have to think for a moment. These regulations grew for an apparent reason: To gain control and accountability. In Federal spending practices, the regulatory controls grew, I believe, because effective competition was dying as the primary control mechanism.

It is not enough to eliminate regulations, we need to put effective competition back to work in their place. That is why the new contracting legislation is aimed at relieving a range of Government surveillance requirements—but only for those companies who operate in a competitive environment.

If you believe half of the business complaints about being buried under Government paperwork, private firms should welcome this approach. Contractors who do business with the Federal Government will have to stand up and be counted in the harsh light of open competition, however, and I am afraid our current contracting policies have gotten some big contractors' eyes adjusted to doing business by cost-plus candlelight.

The bill also seeks to design Federal spending practices to unleash a technological offensive to meet the Nation's needs.

Unless and until we can begin to unstack the layers of managers and management from Congress on down, and unless and until we begin to put wide-open competition to work instead of enforced regulatory stagnation, and unless and until we do these things—we are going to continue to crush our most invaluable and scarce national resource: the creative talent of American businesses.

Talk about American industrial productivity. Talk about standard of living.

Talk about agricultural output. Talk about balance of trade and strength of the American dollar shifting military balance. Talk about any of these things, and the odds are that one word will constantly appear: technology. New products and new services to meet growing needs.

Federal spending practices set the economic tone for this country. They set the rules by which major corporations lean to do business, especially high technology firms which are heavily, if not totally, dependent on Federal nourishment.

This new Federal acquisition legislation is designed to convert those Federal spending practices from insensible inhibitors into positive promoters of new technology. It is founded on the proposition that the Federal Government ought to contract with the person offering the best product at the lowest price, not the fellow most adept at filling out forms.

Mr. President, I ask unanimous consent that the bill be placed in the RECORD at this point.

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

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Federal Acquisition Reform Act."

(b) TABLE OF CONTENTS.—

DECLARATION OF POLICY

Findings

SEC. 2. (a) The Congress hereby finds that—

(1) the laws controlling Federal purchasing have become outdated, fragmented, and needlessly inconsistent;

(2) these deficiencies have contributed to significant inefficiency, ineffectiveness, and waste in Federal spending;

(3) a new consolidated statutory base is needed, as recommended by the Commission on Government Procurement;

(4) further, existing statutes need to be modernized to focus on effective competition and new technology in that—

(A) national producivity rests on a base of competitive industry applying new technology in its goods and services; and

(B) Federal spending practices can encourage the Nation's business community by stimulating effective competition and the application of new technology.

Policy

(b) It is the policy of the United States that when acquiring property and services for the use of the Federal Government, the Government shall, whenever practicable rely on the private sector, and shall act so as to—

(1) best meet public needs at the lowest total cost;

(2) maintain the independent character of private enterprise by substituting the incentives and constraints of effective competition for regulatory controls;

(3) encourage innovation and the application of new technology as a primary consideration by stating agency needs and analyzing the market so that prospective suppliers will have maximum latitude to exercise independent business and technical judgments in offering a range of competing alternatives;

(4) maintain and expand the available Federal supply base by judicious acquisition practices designed to assure Government contracting with new and small business concerns to the maximum practicable extent;

(5) make available for review and examination those pertinent Federal laws and regulations applicable to the awards of contracts and those which may impact the performance of contracts, including, for example, Federal laws and agency rules relating to air and water cleanliness requirements, and to occupational safety requirements;

(6) provide opportunities to minority business firms to grow through Government contracts;

(7) initiate large scale productions only after the item or equipment to be acquired has been proven adequate by operational testing;

(8) provide contractors with the opportunity to earn a profit on Government contracts commensurate with the contribution made to meeting public needs and comparable to the profit opportunities available in other markets requiring similar investments, technical and financial risks and skills;

(9) rely on and promote effective competition; to insure the availability to the Government of alternative offers that provide a range of concept, design, performance, price, total cost, service, and delivery; and to facilitate the competitive entry of new and small sellers. Effective competition is generally characterized by—

(A) timely availability to prospective sellers of information required to respond to agency needs;

(B) independence of action by buyer and seller;

(C) efforts of two or more sellers, acting independently of each other, to respond to an agency need by creating, developing, demonstrating, or offering products or services which best meet that need, whether that need is expressed as an agency mission need, as a desired function to be performed, performance or physical requirements to be met, or as some combination of these; and

(D) absence of bias or favoritism in the solicitation, evaluation, and awards of contracts.

DEFINITIONS

SEC. 3. For purpose of this Act—

(a) The term "acquisition" means the acquiring by contract with appropriated funds of property or services by and for the direct benefit or use of the Federal Government through purchase, lease, or barter, whether the property or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition includes such related functions as determinations of the particular agency need; solicitation; selection of sources; award of contracts; contract financing; contract performance; and contract administration.

(b) The term "executive agency" means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5 United States Code; the United States Postal Service; and a wholly owned Government Corporation as defined by section 846 of title 31, United States Code (but does not include the Tennessee Valley Authority or the Bonneville Power Administration).

(c) The term "agency head" means the head of an executive agency as defined in subsection (b).

(d) The term "contracting officer" means any person who, either by virtue of his position or by appointment in accordance with applicable regulations, has the authority to enter into and administer contracts and make determinations and findings with respect thereto. The term also includes the authorized representative of the contracting officer, acting within the limits of his authority.

(e) The term "property" includes personal property and leaseholds and other interests therein, but excludes real property in being and leaseholds and other interests therein.

(f) The term "total cost" means all resources consumed or to be consumed in the acquisition and use of property or services. It may include all direct, indirect, recurring, nonrecurring, and other related costs incurred, or estimated to be incurred in design, development, test, evaluation, production, operation, maintenance, disposal, training, and support of an acquisition over its luseful life span, whether each factor is applicable.

(g) The term "functional specification" means a description of the intended use of a product required by the Government. A

functional specification may include a statement of the qualitative nature of the product required and, when necessary, may set forth those minimum essential characteristics and standards to which such product must conform if it is to satisfy its intended use.

(h) The term "unsolicited proposal" means a written offer to perform a proposed effort, submitted to an agency by an individual or organization solely on its own initiative with the objective of obtaining a contract, and not in response to an agency request or communication.

TITLE I—REGULATORY GUIDANCE

ACQUISITION METHODS

SEC. 101. Except as otherwise authorized by law, an executive agency shall acquire property or services in accordance with the criteria set forth in this Act.

REGULATORY COMPLIANCE

SEC. 102. (a)(1) The Administrator for Federal Procurement Policy is authorized and directed, pursuant to the authority conferred by the Office of Federal Procurement Policy Act and subject to the procedures set forth in such Act—

(A) to promulgate a single, simplified, uniform Federal regulation implementing this Act and to establish procedures for insuring compliance with this Act and such regulation by all executive agencies within two years after the date of enactment of this Act;

(B) to review such regulation on a regular basis and issue revisions as necessary;

(C) to make periodic studies in order to determine whether agency compliance with this Act has been efficient and effective; and

(D) to establish and oversee a program to reduce agency use of detailed product specifications.

(2) In promulgating and revising the regulation required under paragraph (1), the Administrator for Federal Procurement Policy shall—

(A) utilize the procedures established under subsections (b) and (c) of section 8 of the Office of Federal Procurement Policy Act, and shall transmit the report required by such subsections to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Government Affairs of the Senate, and the Committee on Government Operations of the House of Representatives; and

(B) utilize the procedures established under section 14(b) of such Act to provide for open public meetings.

(b) The Administrator for Federal Procurement Policy shall include in his annual report required under section 8(a) of the Office of Federal Procurement Policy Act a report of his activities under this section, including his assessment of agency implementation of and compliance with the requirements of this Act (including, for example, specific reductions in the use of detailed specifications pursuant to this Act), and recommendations for revisions in this Act or any other provision of law.

CONTRACTING OFFICERS' COMPLIANCE CODE; ENFORCEMENT

SEC. 103. (a) The Office of Federal Procurement Policy after consultation with the Office of Personnel Management, shall establish a code of conduct with respect to which all contracting officers employed by executive agencies shall be subject, to insure that all laws, rules and regulations relating to the acquisition of property and services are complied with.

(b) The code of conduct established under subsection (a) shall—

(1) establish guidelines and standards for, and set forth actions which are prohibited in, the acquisition of property or services by contracting officers;

(2) set forth procedures and methods of compliance with the provisions of this Act and regulations prescribed under it; and

(3) contain such other matters as are necessary to insure compliance with laws, rules and regulations relating to the acquisition of property or services.

(c)(1) The Inspector General of an executive agency or another employee designated by the agency head shall receive any allegation of a violation of the code of conduct by a contracting officer of that agency and shall investigate the allegation to determine whether there are reasonable grounds to believe that a violation has occurred.

(2)(A) If, in connection with any investigation under paragraph (1), the Inspector General or designated employee determines that there is reasonable cause to believe that a criminal violation has occurred, the violation shall be reported to the Attorney General and the agency head.

(B) If, in connection with any investigation under paragraph (1), the Inspector General or designated employee determines that there is reasonable cause to believe that any violation of the code of conduct or any law, rule, or regulation has occurred which is not a criminal violation, the violation shall be reported to the agency head.

(d) The agency head shall review any matter referred to him under subsection (c) and, if he determines it necessary, shall take—

(1) an action under chapter 75 of this title or other disciplinary or corrective action in the case of a contracting officer covered by such chapter, or

(2) an action similar to actions described in paragraph (1) in the case of other contracting officers.

(e) Each executive agency shall provide contracting officers with such information with respect to the code of conduct established under this section as is necessary to enable such officers to comply with the code.

(f)(1) At the close of each calendar year each executive agency shall report to the Office of Federal Procurement Policy on the number and disposition of investigations conducted under subsection (c).

(2) The Office of Federal Procurement Policy shall review the reports received under paragraph (1) and shall compile and submit to the Congress a report on the investigations conducted under subsection (c) by all executive agencies and their disposition, together with any recommendations for legislation which the Office finds appropriate.

(g) The General Accounting Office shall from time to time review on a selected basis the methods of carrying out and disposing of investigations by executive agencies under this section to determine if the agencies are complying with the requirements of this section and shall periodically report its findings to the Congress and the Office of Federal Procurement Policy.

TITLE II—ACQUISITION BY COMPETITIVE SEALED BIDS

CRITERIA FOR USE

SEC. 201. The competitive sealed bids method shall be used in the acquisition of property and services when all of the following conditions are present—

(1) the anticipated total contract price exceeds the amount specified in title IV of this Act for use of the simplified small purchase method;

(2) the agency need can be practicably defined in terms not restricted by security requirements or proprietary design;

(3) the private sector will provide a sufficient number of qualified suppliers willing to compete for and able to perform the contract;

(4) suitable products or services capable of meeting the agency need are available so as to warrant the award of a fixed price contract to a successful bidder selected primarily on the basis of price;

(5) the time available for acquisition is sufficient to carry out the requisite administrative procedures.

(6) the property or service is to be acquired within the limits of the United States and the Territories, Commonwealths; and

(7) the price for the property or service has not been established by or pursuant to law or regulation.

INVITATION FOR SEALED BIDS

SEC. 202. (a) The invitation for sealed bids shall be publicized in accordance with section 512 of this Act and shall be issued in such a way that—

(1) the time prior to opening the bids will be sufficient to permit effective competition; and

(2) the invitation will be accessible to all interested or potential bidders; however, eligibility to participate in the bidding may be restricted to concerns eligible to participate in small business set-asides or other such authorized programs.

(b) The invitation shall include a description of any factors in addition to price that will be considered in evaluating bids.

(c) To the maximum extent practicable and consistent with needs of the agency, functional specifications shall be used to permit a variety of distinct products or services to qualify and to encourage effective competition.

(d) The preparation and use of detailed product specifications in a purchase description shall be subject to prior approval by the agency head. Such approval shall include written justification, to be made a part of the official contract file, delineating the circumstances which preclude the use of functional specifications and which require the use of detailed product specifications in the purchase descriptions.

(e) The contracting officer may request the submission of unpriced technical proposals and subsequently issue an invitation for sealed bids limited to those bidders whose technical proposals meet the standards set forth in the original invitation.

EVALUATION, AWARD, AND NOTIFICATIONS

SEC. 203. (a) All bids shall be opened publicly at the time and place stated in the invitation.

(b) Award shall be made to the responsible bidder whose bid conforms to the invitation and is most advantageous to the Government, price and other factors considered: *Provided,* That all bids may be rejected when the agency head determines that, for cogent and compelling reasons, it is in the Government's interest to do so.

(c) Notice of award shall be made in writing by the contracting officer with reasonable promptness and all other bidders shall be appropriately notified.

TITLE III—ACQUISITION BY COMPETITIVE NEGOTIATION

CRITERIA FOR USE

SEC. 301. The competitive negotiation method shall be used in the acquisition of property and services when—

(1) the anticipated total contract price exceeds the amount specified in title IV of this Act for use of the simplified small purchase method; and

(2) the acquistion does not meet the criteria set forth in section 201 of this Act for use of competitive sealed bids.

SOLICITATIONS

SEC. 302. (a) Solicitations for offers shall be issued to a sufficient number of qualified sources so as to obtain effective competition and shall be publicized in accordance with section 512 of this Act, with copies of the solicitation to be provided or made accessible to other interested or potential sources upon request; however, eligibility to respond to the

solicitation may be restricted to concerns eligible to participate in small business setasides or other such authorized programs.

(b)(1) Each solicitation shall include both the evaluation methodology and the relative importance of all significant factors to be used during competitive evaluation and for final selection. In any case, if price is included as a primary or significant factor, the Government's evaluation shall be based where appropriate on the total cost to meet the agency need.

(2) Any changes in the evaluation factors or their relative importance shall be communicated promptly in writing to all competitors.

(c) To the maximum extent practicable and consistent with agency needs, solicitations shall encourage effective competition by—

(1) setting forth the agency need in functional terms so as to encourage the application of a variety of technological approaches and elicit the most promising competing alternatives,

(2) not prescribing performance characteristics based on a single approach, and

(3) not prescribing technical approaches or innovations obtained from any potential competitor.

(d) If either the Government or an offeror, identifies inadequacies in the solicitation which cause misunderstandings of the agency's needs or requirements, clarification of intent shall be made to all offerors in a timely fashion and on an equal basis.

(e) The preparation and use of detailed product specifications in a solicitation shall be subject to prior approval by the agency head. Such approval shall include written justification to be made a part of the official contract file, delineating the circumstances which preclude the use of functional specifications and which require the use of detailed product specifications.

EVALUATIONS, AWARD, AND NOTIFICATIONS

SEC. 303. (a) Written or oral discussions shall be conducted with all offerors who submit proposals in a competitive range. An initial offer may be accepted without discussion when it is clear that the agency need would be satisfied on fair and reasonable terms without such discussions, and the solicitation has advised all offerors that award may be made without discussions. Discussions shall not disclose the strengths or weaknesses of competing offeror, or disclose any information from an offeror's proposal which would enable another offeror to improve his proposal as a result thereof. Auction techniques are strictly prohibited. Auction techniques include, but are not limited to, indicating to an offeror a price which must be met to obtain further consideration, or informing him that his price is not low in relation to another offeror, or making multiple requests for best and final offers.

(b) When awards are made for alternative approaches selected on the basis of the factors contained in the solicitation, whether for design, development, demonstration, or delivery, the contractors shall be sustained in competition to the maximum extent practicable until sufficient test or evaluation information becomes available to narrow the choice to a particular product or service.

(c) Until selection is made, information concerning the award shall not be disclosed to any person not having source selection responsibilities, except that offerors who are eliminated from the competition may be informed prior to awards

(d) Awards shall be made to one or more responsible offerors whose proposal(s), as evaluated in accordance with the terms of the solicitation are most advantageous to the Government. Notification of award to all unsuccessful offerors shall be made with reasonable promptness.

(e) Notwithstanding any other provision of this Act, the use of multiple award type schedules is authorized. However, competitive methods shall be used: (1) to limit the number of items on such schedules which meet the same need, and (2) to obtain the lowest competitively priced items which meet the minimum essential needs of the government.

NONCOMPETITIVE EXCEPTIONS

SEC. 304. (a) Compliance with the procedures prescribed in sections 302 and 303 is not required if the contract to be awarded stems from acceptance of an unsolicited proposal, or if the agency head determines that it is in the best interest of the Government to enter into a noncompetitive contract: *Provided,*

(1) That such determination, together with the reasons therefor, is in writing, and conforms with regulations issued by the Administrator for Federal Procurement Policy, pursuant to section 102(a)(1); and

(2)(A) for all contracts except those stemming from the acceptance of an unsolicited proposal, notice of intent to award such a contract shall be publicized pursuant to section 512 at least thirty days in advance of solicitation of a proposal from the prospective contractor; or, at least thirty days in advance of the proposed award date, when earlier notice is impracticable. Such notice shall include a description of the property or services to be acquired, the name of the prospective source, the time for accomplishment of the work, and the reason for selection of the source. If, after such notice, other sources demonstrate an ability to meet the requirements for the work to be performed, a solicitation or an invitation for sealed bids shall be issued to all such prospective offerors;

(B) in the case of those contracts stemming from the acceptance of an unsolicited proposal, notice of intent to award such a contract shall be publicized prior to award, pursuant to section 512 of this Act. Such notice shall include a description of the property or service to be acquired, the name of the prospective source, and the time for accomplishment of the work.

(b) Where there is no commercial usage of the product or service to be acquired under this section, and the agency head determines that substantial follow-on provision of such product or service will be required by the Government, the agency head shall, when he deems appropriate, take action through contractual provision, or otherwise, to provide the Government with a capability to establish one or more other competitive sources.

PRICE AND COST DATA AND ANALYSIS

SEC. 305. (a)(1) The term "price data" means actual prices previously paid, contracted, quoted, or proposed, for materials or services identical or comparable to those being acquired, and the related dates, quantities, and item descriptions which prudent buyers and sellers would reasonably expect to have a significant effect on the negotiation of a contract price or payment provisions.

(2) The term "cost data" means all facts which prudent buyers and sellers would reasonably expect to have a significant effect on the negotiation of a contract price or payment provisions. Such data are of a type that can be verified as being factual, and are to be distinguished from judgmental factors. The term does, however, include the facts upon which a contractor's judgment is based.

(3) The term "price analysis" means the process of examining and evacuating a price without evaluation of the individual cost and profit elements of the price being evaluated.

(4) The term "cost analysis" means the element-by-element examination and evaluation of the estimated or actual costs of contract performance, and involves analysis of cost data furnished by an offeror or contractor and the judgmental factors applied in projecting from such data to the offered price.

(b) The contracting officer shall obtain price data and shall use price analysis techniques to analyze and evaluate the reasonableness of a negotiated prime contract price or of a price adjustment pursuant to a modification thereto where—

(1) the price is expected to be $500,000 or less;

(2) the price is based on an established catalog or market price of a commercial item sold in substantial quantities to the general public; or

(3) there has been a recent comparable competitive acquisition.

(c) In the case of subcontracts, when any of the conditions in subsection (b) applies, price data shall be obtained and price analysis techniques shall be used to analyze and evaluate the reasonableness of—

(1) a subcontract price—where evaluation of a subcontract price is necessary to insure the reasonableness of the prime contract price, or

(2) a subcontract price adjustment pursuant to a prime contract modification.

(d) Except as provided in subsection (b)(2) and (3), cost data shall be obtained and cost analysis techniques shall be used to analyze and evaluate the reasonableness of prices—

(1) whenever the price of a negotiated prime contract or a price adjustment pursuant to a contract modification is expected to exceed $500,000; or

(2) for any subcontract price or price adjustment pursuant to a modification thereto in excess of $500,000 which forms part of a negotiated prime contract price or higher tier subcontract price.

(e) Notwithstanding subsection (b) hereof, the contracting officer may obtain cost data and use cost analysis techniques when authorized under circumstances set forth in regulations issued by the Administrator for Federal Procurement Policy pursuant to this Act.

(f) Contractors and subcontractors shall submit in writing such price data, or cost data as are required to be obtained pursuant to this section. Regulations issued by the Administrator for Federal Procurement Policy may authorize identification in writing of price data and cost data, in lieu of actual submission, under specified circumstances.

(g) Any prime contract or subcontract or modification thereto for which price data or cost data are required shall contain a provision that the price to the Government, including profit or fee, shall be adjusted to exclude any significant sums by which it may be determined by the contracting officer that such price was increased because of reliance on data which were inaccurate, incomplete, or noncurrent as of the date of submission or other date agreed upon between the parties (which date shall be as close to the date of agreement on the negotiated price or payment provisions as is practicable).

(h) The requirements of this section do not apply to contracts or subcontracts where the price negotiated is based on adequate price competition, prices set by law or regulation, or, in exceptional cases, where the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

ACCESS TO RECORDS BY EXECUTIVE AGENCIES AND THE COMPTROLLER GENERAL

SEC. 306. (a) Until three years after final payment under a contract or a subcontract negotiated or amended under this title, an executive agency is entitled to inspect the plants and examine any books, documents, papers, records, or other data of the con-

tractor and his subcontractors which involve transactions relating to the contract or subcontract or to the amendment thereof, including all such books, records, and other data relating to the negotiation, pricing, or performance of the contract or subcontract.

(b) Until three years after final payment under a contract or a subcontract negotiated or amended under this title, the Comptroller General of the United States or his authorized representative is entitled to inspect the plants and examine any books, documents, papers, records, or other data of the contractor and his subcontractors which directly pertain to and involve transactions relating to the negotiation, pricing, or performance of the contract or subcontract.

(c)(1) The provisions of subsection (b) may be waived for any contract or subcontract with a foreign contractor or subcontractor, if the agency head determines, with concurrence of the Comptroller General, that such waiver would be in the public interest. The concurrence of the Comptroller General or his designee is not required—

(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination; or

(B) where the agency head determines, after taking into account the price and availability of the property or services from sources in the United States, that the public interest would be best served by waiving the provisions of subsection (b).

(2) If the provisions of subsection (b) are waived for a contract or subcontract based on a determination under paragraph (1)(B), the agency head shall submit a written report concerning such determination to the Congress.

(d) Multiple inspections and examinations of a contractor or subcontractors by more than one executive agency shall be eliminated to the maximum extent practicable by coordinating inspection and examination responsibilities in accordance with regulations to be issued or authorized by the Administrator for Federal procurement policy pursuant to this Act.

(e)(1) Whoever, by collusion, under standing, or arrangement, deprives or attempts to deprive the United States of the benefit of a true and free audit of the books of a contractor shall be fined not more than $20,000 or imprisoned for not more than five years, or both.

(2) In accordance with such rules, regulations, or orders as the Administrator for Federal Procurement Policy may issue or adopt, the agency head may—

(A) recommend to the Attorney General that appropriate proceedings be brought to enforce the provisions of this section;

(B) cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or portion or portions thereof, for failure of a contractor or subcontractor to comply with the provisions of this section; or

(C) refrain from entering into further contracts, or extensions or other modifications of existing contracts with any contractor who fails to comply with the provisions of this section, until such contractor has satisfied the agency head that such contractor will comply with the provisions of this section.

(3) If an agency head terminates a contract under paragraph (2)(B), such termination shall be considered a termination for default.

(4) The action of an agency head under paragraph (2)(B) or (2)(C) shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

TITLE IV—ACQUISITION BY SIMPLIFIED SMALL PURCHASE METHOD

CRITERION FOR USE

SEC. 401. (a)(1) Whenever the anticipated total contract price for the acquisition of property or services does not exceed $10,000, a contracting officer may utilize—

(A) the simplified small purchase method established pursuant to this title; or

(B) one of the competitive methods established under title II or III.

(2) The Administrator for Federal Procurement Policy shall prescribe the procedures to be utilized by the agencies for the simplified small purchase method.

(b) The contracting officer shall choose the method for the acquisition of property or services under subsection (a) which is most advantageous to the Government.

(c) A contracting officer may not, for the purpose of utilizing the simplified small purchase method permitted under subsection (a), divide a contract with a total anticipated contract price in excess of $10,000 into smaller contracts which each have an anticipated contract price of less than $10,000.

SOLICITATIONS AND AWARDS

SEC. 402. The contracting officer shall use the simplified small purchase method established pursuant to this title to obtain competition to the maximum extent practicable, and may award the contract to the offeror whose offer is most advantageous to the Government. The provisions of this section shall not be applied so as to eliminate effective screening of proposed acquisitions for appropriate application of small business set-aside or other procedures designed to assist small businesses.

TITLE V—GENERAL PROVISIONS

CONTRACT TYPES

SEC. 501. (a) Contracts may be of any type or combination of types, consistent with the degree of technical and financial risk to be undertaken by the contractor, which will promote the best interests of the Government except that the cost-plus a percentage-of-cost system of contracting shall not be used under any circumstances.

(b) The preferred contract type shall be fixed price consistent with the nature of the work to be performed and the risk to be shared by the Government and the contractor.

(3) cancel a request for proposal and reject all offers.

(b) When requested, the agency head shall fully inform any unsuccessful offeror or bidder of the reasons for the rejection of his offer or bid.

MULTIYEAR CONTRACTS

SEC. 504. (a) Except as otherwise provided by law, an agency may make contracts for acquisition of property or services for periods not in excess of five years, when—

(1) appropriations are available and adequate for payment for the first fiscal year; and

(2) the agency head determines that—

(A) the Government need for the property or services being acquired over the period of the contract is reasonably firm and continuing; and

(B) such a contract will service the best interests of the United States by encouraging effective competition or promoting economics in performance and operation; and

(C) such a method of contracting will not inhibit small business participation.

(b) The Administrator for Federal Procurement Policy may grant exceptions to the five-year limitation imposed by subsection (a) upon the certification, in such form and of such content as the Administrator may require, by the agency head that such exception is in the best interests of the Government. A copy of each such certification and each exception granted shall be delivered to the chairman of the House Committee on Government Operations, the Senate Committee on Governmental Affairs, and the Committees on Appropriations of the House of Representatives and the Senate, respectively.

(c) Any cancellation costs incurred must be paid from appropriated funds originally available for performance of the contract, or currently available for acquisition of similar property or services, and not otherwise obligated, or appropriations made available for such payments.

ADVANCE, PARTIAL, AND PROGRESS PAYMENTS

SEC. 505. (a) Any executive agency may make advance, progress, partial, or other payments under contracts.

(b) Advance and progress payments under contracts with small business concerns shall be granted where possible and to the extent practicable under the circumstances existing for each acquisition. Provisions limiting advance and progress payments to small business concerns may be inserted into solicitations.

(c) Payments under subsections (a) and (b) shall not exceed the unpaid contract price.

(d) When progress payments are made, the Government shall have title to the property acquired or produced by the contractor and allocable or properly chargeable to the contact. Notwithstanding any other provisions of law, the title acquired by the Government under this section may not be divested by any action of the contractor or by a proceeding in bankruptcy, and may not be encumbered by any lien or security interest.

(e) Advance payments under subsection (a) or (b) shall not be made in excess of the amount required for contract performance, and may be made only upon adequate security and a determination by the agency head that to make such advance payments would be in the public interest. Such security may be in the form of a lien in favor of the Government on the property contracted for, on the balance in an account in which such payments are deposited, and on such property acquired for performance of the contract as the parties may agree. A lien established under this section is paramount to any other liens.

(f)(1) Payments under subsections (a) or (b) in the case of any contract, other than partial, progress, or other payments specifically provided for in such contract at the time such contract was initially entered into, may not exceed $25,000,000 unless the appropriate committees of the Senate and the House of Representatives have been notified in writing of such proposed payments and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has passed a resolution stating in substance that that House does not favor the payments contained in the notification submitted pursuant to this subsection.

(2) The provisions of sections 908, 910, 911, and 912 of title 5, United States Code, shall apply to any resolution considered under this subsection. For the purposes of the preceding sentence—

(A) all references in such sections to "reorganization plan" shall be treated as referring to "payments contained in the notification submitted under section 505(e) of the Federal Acquisition Act of 1979", and

(B) all references in such sections to "resolution" shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the (name of the resolving House of Congress) does not approve of the payments contained in the notification

submitted on ———, 19—, under section 505 (e) of the Federal Acquisition Act of 1979", the blank spaces therein being appropriately filled.

(3) For the purposes of this subsection—

(A) continuity of session is broken only by an adjournment 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 calendar days of continuous session.

REMISSION OF LIQUIDATED DAMAGES

SEC. 506. Upon the recommendation of the Agency head the Comptroller General of the United States may remit all or part, as he considers just and equitable, of any liquidated damages provided by the contract for delay in performing the contract.

DETERMINATIONS AND FINDINGS

SEC. 507. (a) Determination, findings, approvals, and decisions provided for by this Act may be made with respect to contracts individually or with respect to classes of contracts and shall be final.

(b) Each determination, approval, or decision shall be based upon written findings of the officer making the determination, approval, or decision, and shall be retained in the official contract file.

ENFORCEMENT AND PENALTY

SEC. 508. (a) If the contracting officer or any other agency employee has reason to believe that any bid, proposal, offer, or action by a contractor in carrying out the provisions of a contract or subcontract or amendment thereto evidences a violation of the criminal or antitrust laws, the matter shall be referred, in accordance with the procedures of the executive agency, to the Attorney General of the United States for appropriate action.

(b) The agency head shall make available to the Attorney General information which the Attorney General considers necessary and relevant to any investigation, prosecution, or other action by the United States under criminal or antitrust laws.

(c) The agency head shall render needed assistance to the Attorney General in any investigation and prosecution commenced in connection with activities under this Act.

(d) The Federal Bureau of Investigation is primarily responsible for the investigation of collusive bidding and other improper conduct under this Act that may give rise to the commencement of investigation, prosecution, or other action under the criminal or antitrust laws. The provisions of the preceding sentence shall not preclude appropriate action by other executive agencies, including the Federal Trade Commission, the Internal Revenue Service, and the Securities and Exchange Commission.

GOVERNMENT SURVEILLANCE REQUIREMENTS

SEC. 509. (a) Notwithstanding any other provisions of law, an agency shall, upon application by a contractor, waive the requirements listed in 509(c) for that part of a contractor's operation which is separately managed and accounted for if, for the contractor's most recent fiscal year, more than 75 per centum of the business of the activity, as measured by total revenues is conducted under commercial and/or competitive Government contracts. To be competitive for purposes of this section, the Government contracts must be firm fixed-price or fixed-price with escalation with price the deciding factor in the award.

(b) The waiver provided in 509(a) shall not be granted if the contractor's activity for the most recent fiscal year, had costs incurred of over $10,000,000, under Government contracts where the contract prices were based on estimated or actual costs. This category would include such contracts as cost reimbursement type contracts, firm fixed-price contracts negotiated without price competition, fixed-price incentive contracts, and time and material contracts.

(c) The waiver provided for in 509(a) shall apply to any or all of the following:

(1) reviews of contractor management and procurement systems;

(2) determinations of reasonableness of indirect overhead costs;

(3) the provisions of section 103 of the Act of August 15, 1970 (84 Stat. 796, as amended; 50 U.S.C. App. 2168);

(4) advance agreements for independent research and development and bid proposal activities.

(d) The waiver period shall not exceed two years without reconsideration by the Agency. The waiver may be canceled at any time or may be withheld altogether if the Agency head makes a written determination that the waiver should not apply. Any such cancellation shall have prospective effect only.

(e) The waiver provided for in 509(a) shall not affect the General Accounting Office access-to-records authority as set forth in section 306 of this Act.

MAINTENANCE OF REGULATIONS

SEC. 510. Notwithstanding any provision of law, any regulation of any executive agency in effect on or before the date of the enactment of this Act which is affected by any provision of, or amendment or repeal made by, this Act shall remain in effect until the earlier of—

(1) its repeal by order of the Administrator for Federal Procurement Policy, or

(2) the date two years after the date of the enactment of this Act.

An agency shall not amend any regulation referred to in the preceding sentence without the prior approval of the Administrator.

PAYMENTS OF FUNDS DUE

SEC. 511. A clause shall be included in every contract awarded by the United States pursuant to this Act which shall provide for interest to be paid by the Federal Government to the contractor on any amount due to the contractor for more than thirty days. No amount shall be considered due until (1) the Government agency office designated in the contract for submission of invoices has received a proper invoice and any substantiating documentation required. Interest shall accrue and be paid at a rate which the Secretary of the Treasury shall specify as applicable to the period beginning on July 1, 1979, and ending on December 31, 1979, and to each six month period thereafter. Such rate shall be determined by the Secretary of the Treasury, taking into consideration current private commercial rates of interest for new loans maturing in approximately five years.

PUBLICATIONS OF INTENT

SEC. 512. It shall be the duty of the Secretary of Commerce, and he is empowered, to obtain notice of all proposed acquisitions of above $10,000, from any executive agency engaged in acquisitions in the United States; and to publicize such notices in the daily publication "United States Department of Commerce Synopsis of the United States Government Proposed Procurement Sales, and Contract Awards", immediately after the necessity for the acquisition is established; except that nothing herein shall require publication of such notices with respect to those acquisitions—

(1) which for security reasons are of a classified nature; or

(2) which involve perishable subsistence supplies; or

(3) which are for utility services and the acquiring agency in accordance with applicable law has predetermined the utility concern to whom the award will be made; or

(4) which are of such unusual and compelling emergency that the Government would be seriously injured if notice were required to be publicized thirty days in advance of the proposed contract award date. In all such cases, notice shall be published at the earliest practicable opportunity; or

(5) which are made by an order placed under an existing contract; or

(6) which are made from another Government department or agency, or a mandatory source of supply; or

(7) for which it is determined in writing by the procuring agency, with the concurrence of the Administrator, Small Business Administration, that advance publicity is not appropriate or reasonable.

REVISIONS OF THRESHOLDS

SEC. 513. At least every three years beginning with the third year after enactment of this Act, the Administrator for Federal Procurement Policy shall review the prevailing costs of labor and materials and may revise the amounts stated in sections 305, 401, 509, and 512 or any prior revisions thereof, not withstanding any other provision of law, to reflect an increase or decrease by at least 10 per centum in the costs of labor and materials. At least sixty days in advance of its effective date, the Administrator shall report to Congress any such revision which by itself, or cumulatively with earlier increases, represents 50 per centum or more increase.

SUNSET FOR SPECIFICATIONS

SEC. 514. All specifications shall be reviewed at least every five years, and shall be canceled, modified, revised, or reissued as determined by such review.

MINORITY BUSINESS PARTICIPATION

SEC. 515. The Administrator for Federal Procurement Policy is authorized and directed to initiate, in consultation with the Small Business Administration, periodic reviews of acquisition programs within the executive branch with the objective of making minority business participation in government contracting more effective and assuring that minority businesses have full opportunity to compete for Government contracts. Targets should be set which reflect the Government's commitment to increasing minority business participation in Federal contracting.

LIMITATION ON CONTRACT CLAIMS

SEC. 516. Any claim by an executive agency against a contractor under a provision of a contract awarded by the agency pursuant to this Act shall be made within six years from the date of final payment under the contract.

TITLE VI—DELEGATION OF AUTHORITY

DELEGATION WITHIN AN EXECUTIVE AGENCY

SEC. 601. Each agency head may delegate any authority under this Act, provided that such delegation is made in accordance with regulations established by the Administrator for Federal Procurement Policy. Delegation of authority to make determinations under sections 202, 302(e), 304, 305, 306, and 509 shall be maintained at the highest organizational level practicable in order to protect the integrity of the acquisition process consistent with the nature and the size of the acquisition decision. The authority in section 702(b) to authorize the award of a contract notwithstanding a protest pending before the Comptroller General may not be delegated below the level of Assistant Secretary or comparable level.

JOINT ACQUISITIONS

SEC. 602. (a) To facilitate acquisition of property or services by one executive agency for another executive agency, and to facilitate joint acquisition by those agencies—

(1) the Agency head may, within his agency, delegate functions and assign responsibilities relating to the acquisition;

(2) the heads of two or more executive agencies may by agreement delegate acquisition functions and assign acquisition responsibilities from one agency to another of those

agencies or to an officer or employee of another of those agencies; and

(3) the heads of two or more executive agencies may create joint or combined offices to exercise acquisition functions and responsibilities.

(b) Subject to the provisions of section 686 of title 31, United States Code—

(1) appropriations available for acquisition of property and services by an executive agency may be made available for obligation for acquisition of property and services for its use by any other agency in amounts authorized by the head of the ordering agency and without transfer of funds on the books of the Department of the Treasury;

(2) a disbursing officer of the ordering agency may make disbursement for any obligation chargeable under subsection (a) of this section, upon a voucher certified by an officer or employee of the acquisition agency.

TITLE VII—PROTESTS

PURPOSE

SEC. 701. Under the authority contained in the Budget and Accounting Act, 1921, as amended, protests shall be decided in the General Accounting Office if filed with that Office in accordance with this title. For purposes of this title, the term "protest" means a challenge to a solicitation, or to the award or proposed award of any contract to be financed by appropriated funds for the acquisition by an agency of property or services or for any sale or lease by an agency and the term "agency" means an executive department as defined by section 101 of title 5, United States Code; an independent establishment as defined by section 104 of title 5, United States Code (except that it shall not include the General Accounting Office); a military department as defined by section 102 of title 5, United States Code; the United States Postal Service; a wholly owned Government corporation as defined by section 846 of title 31, United States Code (but does not include the Tennessee Valley Authority or the Bonneville Power Administration); and any department or agency or other activity of the Federal Government whose accounts are subject to settlement by the Comptroller General of the United States pursuant to the Budget and Accounting Act, 1921, as amended.

JURISDICTION

SEC. 702. (a) In accordance with the procedures issued pursuant to section 704, the Comptroller General shall have authority to decide any protest submitted by an interested party or referred by any agency or Federal instrumentality. An interested party is a firm or an individual whose direct economic interest would be affected as contractor or subcontractor by the award or nonaward of the contract.

(b) No contract shall be awarded after the contracting activity has received notice of a protest to the Comptroller General while the matter is pending before him: Provided, *however*, That the head of an agency may authorize the award of a contract notwithstanding such protest, upon a written finding that the interest of the United States will not permit awaiting the decision of the Comptroller General: *And provided further*, That the Comptroller is advised of such finding prior to the award of the contract.

(c) With respect to any solicitation, proposed award, or award of contract protested to him in accordance with this title, the Comptroller General is authorized to declare whether such solicitation, proposed award, or award comports with law and regulation.

PROCEEDINGS

SEC. 703. (a) To the maximum extent practicable, the Comptroller General shall provide for the inexpensive, informal, and expeditious resolution of protests.

(b) Each decision of the Comptroller General shall be signed by him or his delegee and shall be issued under the authority of the Comptroller General to settle the accounts of the Government under the Budget and Accounting Act, 1921, as amended. A copy of the decision shall be furnished to the interested parties and the executive agency or agencies involved.

(c) There shall be no ex parte proceeding in protests before the Comptroller General or his representative, except that this subsection shall not be deemed to preclude informal contacts with the parties for procedural purposes.

(d) The Comptroller General is authorized to dismiss any protest he determines to be frivolous or which, on its face, does not state a valid basis for protest.

(e) Where the Comptroller General has declared that a solicitation, proposed award, or award of a contract does not comport with law or regulation, he may further declare the entitlement of an appropriate party to bid and proposal preparation costs. In such cases the Comptroller General may remand the matter to the agency involved for a determination as to the amount of such costs. Declarations of entitlement to monetary awards shall be paid promptly by the agency concerned out of funds available for the purpose.

GENERAL PROVISIONS

SEC. 704. The Comptroller General shall issue such procedures, not inconsistent with this title, as may be necessary in the execution of the protest decision function. He may delegate his authority to other officers or employees of the General Accounting Office.

JUDICIAL REVIEW

SEC. 705. Any person adversely affected or aggrieved by the action, or the failure to act, of an agency, or of the Comptroller General, with respect to a solicitation or award hereunder may obtain judicial review thereof to the extent provided by sections 702 through 706 of title 5, United States Code, including determinations necessary to resolve disputed material facts or when otherwise appropriate.

TITLE VIII—APPLICABILITY OF SUBSEQUENT LAWS

APPLICABILITY

SEC. 801. No law enacted after the date of enactment of this Act, including any limitation in any appropriation bill or any limitation of any provision authorizing the appropriation of funds, may be held, considered, or construed as amending any provision of this Act, unless such law does so by specifically and explicitly amending or superseding a specific and separately referenced provision of this Act.

SEPARABILITY

SEC. 802. 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.

TITLE IX—AMENDMENTS AND REPEALS

AMENDMENTS

SEC. 901. (a) The Agriculture Department Appropriation Act, 1923, is amended by striking out ", after due advertisement and on competitive bids," in the first proviso on the page at forty-second Statutes at Large, page 517 (7 U.S.C. 416).

(b) Section 101(d) and 104 of the Department of Agriculture Organic Act of 1944 (58 Stat. 734, 736; 7 U.S.C. 430, 432) are amended by striking out "in the open market".

(c) Section 2356(b) of title 10, United States Code, is amended by striking out the last sentence.

(d) Sections 4504 and 9504 of title 10, United States Code, are each amended by striking out everything after "United States" and inserting in lieu thereof a period.

(e) Sections 4505 and 9505 of title 10, United States Code, are each amended by striking out the second sentence.

(f) Clause (2) of section 502(c) of the Act of August 10, 1948 (62 Stat. 1283; 12 U.S.C. 1701c(b)(2)), is amended by striking out ", without regard to section 3709 of the Revised Statutes".

(g) Section 502(e) of the Act of December 31, 1970 (84 Stat. 1784; 12 U.S.C. 1701z-2(e)), is amended by striking out ", without regard to section 3709 of the Revised Statutes,".

(h) Section 708(h) of the Act of June 27, 1934, as amended August 10, 1948 (62 Stat. 1279; 12 U.S.C. 1747g(h)), is amended by striking out the proviso at the end.

(i) Section 712 of the Act of June 27, 1934, as amended August 10, 1948 (62 Stat. 1281; 12 U.S.C. 1747k) is amended by striking out "and without regard to section 3709 of the Revised Statutes".

(j) Section 208(b) of the Act of June 26, 1934, as amended October 19, 1970 (84 Stat. 1014; 12 U.S.C. 1788(b)), is amended by striking out the last sentence.

(k) Clause (4) of section 2(b) of the Act of July 18, 1958 (72 Stat. 386; 15 U.S.C. 634(b)(4)), is amended by striking out: "Section 3709 of the Revised Statutes, as amended (41 U.S.C., section 5), shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator or as a result of loans made under this Act if the premium therefor or the amount thereof does not exceed $1,000.".

(l) Section 3 of the Act of April 24, 1950 (64 Stat. 83; 16 U.S.C. 580c), is amended to read as follows:

"SEC. 3. The Forest Service is authorized to make purchases of (1) materials to be tested or upon which experiments are to be made or (2) special devices, test models, or parts thereof, to be used (a) for experimentation to determine their suitability for or adaptability to accomplishment of the work for which designed or (b) in the designing or developing of new equipment: *Provided*, That not to exceed $50,000 may be expended in any one fiscal year pursuant to this authority and not to exceed $10,000 on any one item or purchase.".

(m) Section 2(b)(1) of the Act entitled "An Act to authorize the construction of a National Fisheries Center and Aquarium in the District of Columbia and to provide for its operation", approved October 9, 1962 (76 Stat. 753; 16 U.S.C. 1052), is amended by striking out ", without regard to the provisions of section 3709 of the Revised Statutes of the United States (41 U.S.C. 5,".

(n) Section 224(a) of the Act of November 8, 1965 (79 Stat. 1228; 20 U.S.C. 1034(a)), is amended by striking out ", and, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5),".

(o) Section 7 of the Act of December 20, 1945, as amended October 10, 1949 (59 Stat. 621; 22 U.S.C. 287e), is amended by striking out ", all without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5)".

(p) Section 707 of the Act of August 13, 1946 (60 Stat. 1019; 22 U.S.C. 1047), is amended by striking out ", without regard to section 3709 of the Revised Statutes".

(q) Section 22(e)(7) of the Act of December 29, 1970 (84 Stat. 1613, 29 U.S.C. 671(e)(7)), is amended by striking out ", and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding."

(r) Section 6(b) of the Act of August 31, 1954 (68 Stat. 1010; 30 U.S.C. 556(b)), is amended by striking out "and without regard to the provisions of section 3709, Revised Statutes (41 U.S.C. 5)".

(s) Section 1820(b) of title 38, United States Code, is amended by striking out "sec-

tion 5 of title 41" and inserting in lieu thereof the "Federal Acquisition Act of 1977" and by deleting "if the amount of such contract exceeds $1,000.".

(t) Selection 5002 of title 38, United States Code, is amended by substituting a period for the comma after "work" and striking out the remainder of the section.

(u) The Act of October 10, 1940, as amended (54 Stat. 1109; 41 U.S.C. 6a, b(a), is amended by striking out section 2, and by striking out "without regard to the provisions of section 3709 of the Revised Statutes, as amended," in subsection (a). The Act of July 27, 1965 (79 Stat. 276; 41 U.S.C. 6a–1) is amended by striking out any and all references to section 3709 of the Revised Statutes in sections relating to Architect of the Capitol.

(v) Section 11 of the Act of June 30, 1936 (49 Stat. 2039, renumbered section 12 in 66 Stat. 308, 41 U.S.C. 45), is amended to read as follows:

"SEC. 12. The provisions of this Act requiring the inclusion of representations with respect to minimum wages shall apply only to purchases or contracts relating to such industries as have been the subject matter of a determination by the Secretary of Labor.".

(w) Section 356(b) of the Act of July 1, 1944, as added October 18, 1968 (82 Stat. 1175; 42 U.S.C. 263d(b)), is amended by striking out the references to section 3709 of the Revised Statutes and 41 U.S.C. 5 in clause (3), and by striking out the parenthetical phrase "(by negotiation or otherwise)" in clause (4).

(x) Section 1(b) of the Act of October 14, 1940 (54 Stat. 1126; 42 U.S.C. 1521(b)), is amended by striking out the reference to section 3709 of the Revised Statutes in the first parenthetical phrase, and by striking out the first provisio and inserting in lieu thereof; "*Provided*, That the cost plus a percentage of cost system shall not be used.".

(y) Section 202(b) of the Act of October 14, 1940 (55 Stat. 362; 42 U.S.C. 1532(b)), is amended by striking out the reference to section 3709 of the Revised Statutes, and by adding the following proviso at the end of paragraph 1532(b); "*Provided*, That the cost plus a percentage of cost system shall not be used.".

(z) Section 309 of the Act of September 1, 1951 (65 Stat. 307; 42 U.S.C. 1592h), is amended by striking out clause (a), and amending clause (b) to read as follows:

"(b) the fixed-fee under a contract on a cost-plus-a-fixed-fee basis shall not exceed 6 per centum of the estimated cost;".

(aa) Section 103(b)(4) and 104(a)(2) of the Act of July 14, 1955, as amended November 21, 1967 (81 Stat. 486, 487; 42 U.S.C. 1857 (b)(4), b–1(a)(2)), is amended by striking out the references to section 3709 of the Revised Statutes and to section 5 of title 41, United States Code.

(bb) Secton 31(b) of the Atomic Energy Act of 1954 (68 Stat. 927; 42 U.S.C. 2051(c)) is amended to read as follows:

"(c) The Commission may make available for use in connection with arrangements made under this section, such of its equipment and facilities as it may deem desirable.".

(cc) Section 41(b) of the Atomic Energy Act of 1954 (68 Stat. 928; 42 U.S.C. 2061(b)) is amended by striking out the last three sentences in this section.

(dd) Section 43 of the Atomic Energy Act of 1954 (68 Stat. 929; 42 U.S.C. 2063) is amended by striking out the following: "without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.".

(ee) Section 55 of the Atomic Energy Act of 1954 (68 Stat. 931; 42 U.S.C. 2075) is amended by striking out the second and third sentences in this section.

(ff) Section 66 of the Atomic Energy Act of 1954 (68 Stat. 933; 42 U.S.C. 2096) is amended by striking out the following: "Any purchase made under this section may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.".

(gg) Section 203(e) of the Act of April 3, 1970 (84 Stat. 115; 42 U.S.C. 4372(e)), is amended by striking out the references to section 3709 of the Revised Statutes and to section 5 of title 41, United States Code.

(hh) Section 703 of the Act of June 29, 1936 (49 Stat. 2008; 46 U.S.C. 1193), is amended by striking out subsection (a), by striking out "For the construction, reconstruction, or reconditioning of vessels, and" in subsection (c), and by renumbering subsections (b) and (c) as (a) and (b), respectively.

(ii) Section 8(a) of the Act of September 30, 1965 (79 Stat. 894; 49 U.S.C. 1638(a)), is amended by striking out the references to section 3709 of the Revised Statutes and to section 5 of title 41, United States Code, in paragraph (1), and by striking out paragraphs (3) and (4).

(jj) Section 5012 of title 38, United States Code, is amended by striking out the second sentence in subsection (a) and all of subsection (c).

(kk) Section 832(g) of title 16, United States Code, is amended by striking out "$500" and inserting in lieu thereof "$10,000".

(ll) Section 2075 of title 42, United States Code, is amended by striking out the second sentence and the third sentence in this section.

(mm) Section 6009(d) of title 42, United States Code, is amended by striking out the last sentence.

(nn) Section 286d(a)(7) of title 42, United States Code, is amended by striking out "without regard to section 529 of title 31 and section 5 of title 41".

(oo) Section 287b(c)(3) of title 42, United States Code, is amended by striking out "without regard to section 529 of title 31 and section 5 of title 41".

REPEALS

SEC. 902. The following statutes or provisions of statutes are repealed.

Chapters 135 and 137 and sections 4535, 7522, and 9535 of title 10, United States Code; section 637(e) of title 15, United States Code; section 7 of the Act of May 18, 1938 (52 Stat. 406; 16 U.S.C. 833f); section 7 of the Act of March 3, 1875, as amended (18 Stat. 450; 25 U.S.C. 96); section 3 of the Act of August 15, 1876, as amended (19 Stat. 199; 25 U.S.C. 97); sections 602(d)(3) and 602(d)(10) of the Federal Property and Administrative Services Act as amended (40 U.S.C. 474 (3), (8), (10), and (19); sections 10(a) and 10(b) of the Act of September 9, 1959 (73 Stat. 481; 40 U.S.C. 609(a), (b)); section 3735 of the Revised Statutes (41 U.S.C. 13); section 3653 of the Revised Statutes, as amended by the Act of July 7, 1884 (23 Stat. 204; 41 U.S.C. 24); title III of the Federal Property and Administrative Services Act of 1949 as amended (41 U.S.C. 251 et seq.); 41 U.S.C. 254(b); section 10(a) of the Act of September 5, 1950 (64 Stat. 591; 41 U.S.C. 256a); section 242m(f) of title 42, United States Code; section 292f of title 42, United States Code; section 300c–11(b)(4) of title 42, United States Code; section 300c–22(d) of title 42, United States Code; section 300d–5(d) of title 42, United States Code; section 300e–2(g) of title 42, United States Code; section 300e–3(h) of title 42, United States Code; section 510(a) of the Act of July 15, 1949 (63 Stat. 437; 42 U.S.C. 1480 (a)); section 6(e) of the EURATOM Cooperation Act of 1958 (72 Stat. 1005; 42 U.S.C. 2295(e)); section 1345(b) of the Act of August 1, 1968 (82 Stat. 585; 42 U.S.C. 4081(b)); section 404 of the Act entitled "An Act to authorize appropriations during the fiscal year 1969 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, approved September 20, 1968 (82 Stat. 849); section 403c of title 50, United States Code.

By Mr. LEAHY:

S. 6. A bill to amend the Agricultural Act of 1949, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEAHY. Mr. President, I have introduced legislation today which would continue the current price support levels for dairy products for an additional 3 years.

The Agricultural Act of 1949 as amended established a price support program for milk at a price level that the Secretary of Agriculture—

. . . determines necessary to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production and assure a level of farm income adequate to maintain productive capacity sufficient to meet future anticipated needs.

This basic legislative directive to the Secretary focuses on maintaining dairy production on U.S. farms so as to meet the demands of American consumers.

At the time the Food and Agriculture Act of 1977 was passed, the minimum dairy price support level as set at 80 percent of parity, an increase over the 75 percent minimum provided under the 1949 act. This provision was made effective only through March 31, 1979, however, rather than through 1981 as was the case with most provisions of the 1977 legislation.

The shorter term of the provision was for a sound reason. Conditions in the dairy industry can, and do, change rapidly. By adopting the higher minimum support level for a 2-year period, it was felt that it would provide for an assessment of conditions this year, 1979, and afford the opportunity to make whatever adjustments were necessary.

As the 96th Congress convenes, we face a situation where the demand for milk and dairy products is very strong, economic alternatives are reasonably good for dairy farmers and there is a need to put force behind the legislative directive embodied in the dairy price support law. For these reasons, I am introducing legislation which will continue the 80 percent of parity minimum price support level through September 30, 1981. Milk production in 1978 totaled 122.3 billion pounds, slightly under 1977. With rising demand, however, we have seen substantial price increases for milk and dairy products over the past year. The surest way to avoid excessive price in-

creases at the consumer level is to take those actions that will assure the needed production to meet market demand.

Total consumption of milk in all forms reached a record 119.5 billion pounds in 1978, 3 billion pounds above 1977. Per capita consumption was at the highest level since 1971. A major factor in these increases has been the rising price of meat. This has resulted in a sharp increase in cheese consumption as consumers have turned to dairy products as a source of animal protein.

In recent weeks, we have heard the predictions of continued rising meat prices through the coming year. This will maintain pressure on milk supplies and continue the strong demand trend.

While the meat price situation encourages increased consumption of dairy products, it also works to discourage or or restrain milk production. Higher beef prices have encouraged the culling of dairy herds and are providing a strong economic alternative for dairy farmers who might be considering leaving the business in favor of an enterprise that is less confining, less demanding in terms of daily attention. Utility cow prices on the Omaha market averaged $20.59 per hundredweight in November 1976, $23.80 in November 1977, and were up to $39.30 in November 1978. This strong demand for beef will encourage continued heavy culling of dairy herds, tending to slow any expansion of milk production.

The continuation of the 80 percent of parity minimum price support will provide dairy farmers the level of price assurance needed to maintain and expand production to meet market needs. It will not result in milk price increases. The present price support level is $9.64 per hundredweight for manufacturing grade milk. The market price for that milk last month was $10.35 per hundredweight. It is estimated that 80 percent of parity next April 1 will be $10.08 per hundredweight (3.5 percent butterfat) and that it will reach about $10.55 by October 1, 1979.

Despite the relatively favorable milk price level, dairy farmers are faced with rising production costs. Major feed items—the major cost factor in a dairy operation are up from a year ago. On the Chicago market, corn was 15 cents a bushel higher in November than a year earlier. Soybean meal, the industry's major protein supplement was $15 per ton higher. A 16 percent protein dairy ration was up $1¢ per ton from 1977.

Recent discussion of milk and dairy product price levels have indicated the price increases taking place due to increased demand. They have not, however, placed the prices for these products in perspective with other food prices or all consumer prices. For October 1978, the Consumer Price Index stood at 200.9 (1967 equals 100). The all food segment of the index was 216.8. The index for all dairy products was 191.1. Thus, while the prices for these products have increased, they still lag behind the overall level of consumer prices and trail the prices for all foods by an even greater margin.

Dairying is a long-term enterprise which depends on stability of market as a major requirement. By acting to provide the level of price assurance called for in my bill, we can maintain that level of price assurance. On this basis, dairy farmers can make the commitment to their operations that will bring forth the milk needed by the consumers of the Nation.

We are not talking here about increasing the level of price assurance. This is simply an extension of the provision of the 1977 Food and Agriculture Act.

By Mr. CRANSTON:

S. 7. A bill to amend title 38, United States Code, to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' HEALTH CARE AMENDMENTS OF 1979

Mr. CRANSTON. Mr. President, I am today introducing, for appropriate reference, S. 7, the proposed "Veterans' Health Care Amendments of 1979," a bill to revise and improve certain health-care programs of the Veterans' Administration, to authorize the construction, alteration, and acquisition of certain medical facilities, and to expand certain benefits for disabled veterans; and for other purposes.

BACKGROUND

This legislation is the culmination of a 7-year effort by the Senate Veterans' Affairs Committee and the Senate to improve health services to our Nation's veterans. It incorporates provisions to establish a program of readjustment counseling for Vietnam-era veterans, to enhance the VA's drug and alcohol treatment and rehabilitation programs, and to provide for a new program of preventive health-care services for veterans with service-connected disabilities. I have introduced legislation containing susbtantially similar provisions in the previous four Congresses—S. 2108, 92d Congress; S. 284, 93d Congress; S. 2908 94th Congress; and S. 1693, 95th Congress—and each time the Senate passed these provisions, but the House did not act on them. Thus, the effort of the Senate Veterans' Affairs Committee and the Senate to provide these greatly needed services has been frustrated.

This year, however, I am confident that we will be able to achieve enactment. As evidenced at the close of the last Congress, the need for the programs is now more widely and clearly recognized than ever before. The administration requested readjustment counseling and drug and alcohol treatment legislation, which I introduced in the Senate as S. 3021, on May 2, 1978, and S. 3101, on May 18, 1978, respectively. Subsequently, the President, in his message to Congress on Vietnam-era veterans on October 10, 1978, urged the Congress to enact his proposals—which are very similar to those that I am introducing today—for a program of readjustment counseling for Vietnam-era veterans and for VA authority to contract with community halfway houses, therapeutic communities, and psychiatric residential treatment centers for the treatment and rehabilitation of veterans with drug and alcohol dependency or abuse disabilities.

In addition, Mr. President, I am extremely pleased that the leadership of the House Veterans' Affairs Committee is now fully supportive of these programs as well. Before the close of the last session of Congress, in an effort to achieve enactment of these measures I entered into extensive negotiations with the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD). As a result, we fashioned an extensive package of veterans health-care legislation that, I believe, represents a fair and reasonable compromise of the concerns of the two bodies regarding health-care programs, and would be of tremendous value and benefit to our Nations' veterans. In addition to provisions for readjustment counseling, alcohol and drug abuse treatment, and preventive health services, it incorporated, with modifications, the major provisions of H.R. 5025, the proposed Veterans' Administration Medical Facilities Acquisition Act, as passed by the House in the 95th Congress, requiring approval by the House and Senate Veterans' Affairs Committees of construction or acquisition of major VA health-care facilities. It also contained amendments to title 38 of the United States Code relating to other veterans' health-care benefits and administrative and personnel matters. Unfortunately, due to the parliamentary logjam in the House and the Senate at the end of the last session, clearance of this measure was not achieved. Although I was deeply disappointed that the legislation was not enacted last session, I was very gratified with the assurances I received from Chairman SATTERFIELD and the chairman of the House Veterans' Affairs Committee (Mr. ROBERTS) that they would do everything possible to achieve passage of this legislation early in the 96th Congress.

SUMMARY OF PROVISIONS

Mr. President, the bill being introduced today represents a further refinement and revision of the agreement we reached last session. I would like to summarize briefly the highlights of this legislation.

READJUSTMENT COUNSELING FOR VIETNAM-ERA VETERANS

Mr. President, S. 7 would provide for the establishment of a program of readjustment counseling to any veteran who served on active duty during the Vietnam era who requests such counseling within 2 years from discharge or release or within 2 years after the date of enactment, whichever is later. The bill also would provide that, in the event of another declaration of war, the Administrator would be required to recommend to the Congress, within 6 months of such declaration, whether the readjustment counseling program should be extended to veterans of such war. Necessary followup mental-health services would be authorized, including services for family members of eligible veterans where essential to the effective treatment and rehabilitation of the veteran.

With respect to former service personnel who are not eligible for readjustment counseling services because they were discharged or released from active-duty service under conditions other than honorable or who would otherwise be ineligible, the legislation would require the VA to provide referral services to help them use non-VA mental health services and, if pertinent, to advise such individuals of their right to apply for reviews of their discharges which might lead to eligibility for VA benefits. Provision is also made for the Chief Medical Director to train such professional, paraprofessional, and lay personnel as are necessary to carry out this program effectively and for the Administrator to cooperate with the Secretary of Defense in notifying veterans of potential eligibility under the program.

DRUG AND ALCOHOL DEPENDENCE OR ABUSE PROGRAM

Mr. President, S. 7 would also provide for the establishment of a special pilot program for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities. Under this program, the Administrator would, for a period of 5 years, be authorized to contract for alcohol and drug treatment for veterans in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. A report on the Administrator's findings and recommendations based on the first 3 years of the experience under the pilot program would be required.

In addition, the VA would be directed to cooperate with the Secretary of Labor and the Director of the Office of Personnel Management with respect to employment opportunities for rehabilitated former addict veterans. In the cases of former service personnel who are not eligible for VA alcohol and drug treatment and rehabilitation services, because they were discharged or released from active-duty service under conditions other than honorable or who would otherwise be ineligible, the legislation would require the VA to provide referral services to help them use non-VA services and, if pertinent, to advise such individuals of their right to apply for reviews of their discharges which might lead to eligibility for VA benefits. Finally, certain procedural safeguards would be provided for the treatment of active-duty service personnel by the VA prior to the end of their enlistments or tours of duty.

PREVENTIVE HEALTH-CARE SERVICES

Mr. President, the proposed measure would also establish a 5-year pilot program of preventive health services providing for: First, the provision of such preventive health-care services as the Administrator may deem feasible and appropriate for veterans with a 50-percent-or-more disability rating and for veterans receiving treatment involving a service-connected disability; second, the use of interdisciplinary health-care teams in providing such services; third, a maximum expenditure of $25 million in any fiscal year to carry out this program; and fourth, inclusion of a comprehensive report on this program in the Administrator's annual report to the Congress.

EXAMINATION FOR SERVICE-CONNECTED DISABILITIES

Mr. President, this legislation would clarify the statutory hierarchy of outpatient treatment priorities in section 612(i) of title 38, United States Code, by providing that medical examinations for service-connected disability compensation claims be included in the third priority for outpatient care along with nonservice-connected care for veterans with service-connected disability ratings. In addition, it would make clear that examinations for eligibility for service-connected health care would also be included in the third priority.

OUTPATIENT DENTAL SERVICES FOR FORMER POW'S AND 100-PERCENT SERVICE-CONNECTED DISABLED VETERANS

Mr. President, the proposed legislation would extend all outpatient dental-care benefits eligibility to veterans who were prisoners of war for more than 6 months or who have 100-percent service-connected disabilities. These provisions are derived from H.R. 898 and H.R. 12018 which were introduced in the House last Congress.

SERVICE-CONNECTED CARE FOR FILIPINO VETERANS IN THE UNITED STATES

Mr. President, the bill would provide eligibility for Commonwealth Army veterans and new Philippine Scouts to receive hospital care, nursing home care, and medical services for their service-connected disabilities at VA facilities in the United States. The anomalous situation presently exists that these Filipino veterans of World War II, while eligible for VA-financed care in the Philippines—although no funds for such purposes have been appropriated for the current fiscal year—are not eligible for any VA care in the United States, even if the care would be for service-connected disabilities and they had become citizens of this country. This provision would authorize service-connected care for these Filipino veterans in VA facilities in the United States and is derived from section 303 of H.R. 5029 as passed by the Senate last Congress.

NONSERVICE-CONNECTED CONTRACT CARE

Mr. President, the proposed legislation would restore limited authority to expand the circumstances under which veterans would be eligible for contract outpatient treatment—so-called fee-basis care—for non-service-connected disabilities, by revising certain amendments to chapter 17 of title 38 made by Public Law 94-581, the Veterans' Omnibus Health Care Act of 1976. It would provide that, if the general conditions for the provision of contract care are satisfied—that facilities are incapable of providing the required care in an economical fashion, because of geographic inaccessibility—veterans eligible for regular aid-and-attendance or housebound benefits may be provided fee-basis care if, on the basis of a physical examination, it is determined that "the medical condition of such veteran precludes appropriate treatment in a VA-operated or other Government facility."

Second, the measure would provide specific authority for contract diagnostic services necessary to make determinations of eligibility for "obviate" care at VA facilities that do not have the capability of performing such diagnostic services.

These provisions are derived from section 101 of H.R. 5027 as passed by the Senate last Congress.

REPORT ON CONTRACT CARE

Mr. President, this bill would provide for a full report on the VA's use of its contract care authorities, to be submitted annually on February 1, beginning in 1980.

CONVENTION HEALTH CARE

Mr. President, S. 7 would authorize the Administrator to contract with veterans' organizations recognized by the VA under section 3402 of title 38 to furnish emergency medical services at the national conventions of such organizations. The provision of such services would be on a reimbursable basis except that no reimbursement would be required for health-care services rendered to veterans entitled under law to such care. This provision was included as section 307 in the Senate-passed version of H.R. 5029 in the last Congress.

CONSTRUCTION AND ACQUISITION OF MEDICAL FACILITIES

Mr. President, as I have indicated, this legislation includes, with modifications, the provisions of H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act of 1977," which was passed by the House in the 95th Congress. A major feature of this part of the bill would provide the House and Senate Committees on Veterans' Affairs with a substantial role in the planning for and the approval of funding for major VA medical facilities as part of the congressional authorization and appropriations processes. Thus, the bills would provide that "no appropriation shall be made" for the construction, alteration, or acquisition of any VA medical facility costing more than $2 million, or for the lease of any medical facility at an annual rental of more than $500,000, without the House and Senate Veterans' Affairs Committees having adopted resolutions approving the project. This process would apply to both administration-requested projects and those initiated by the Congress.

In order to obtain the committees' approval for a particular administration-proposed facility, the Administrator would submit to the committees a "prospectus" for the facility, which would include a detailed description of the project, including cost estimates. If funds were not appropriated for a facility within 1 year after approval, either committee would be able to rescind approval, by resolution, before an appropriation is made.

This legislation is also designed to make needed improvements in planning for construction and acquisition of VA medical facilities by requiring the VA to submit two annual reports to the committees, a June 30 report—containing a 5-year plan for construction, replacement, and alteration of the most needed new or replacement medical facilities, a priority listing of the 10, or more, hos-

pitals most needed, and general plans for each such medical facility—and a January status report of all approved but uncompleted facilities.

In addition, the bill would, first, require that construction and equipment cost increases of more than 10 percent must be approved by subsequent committee resolutions; second, require that the committees be notified, in advance, of any proposed reprograming of funds; and third, establish and authorize appropriations for a revolving fund for garage and parking construction projects involving expenditures of $2 million or less at VA medical facilities.

Mr. President, S. 7 would also recodify and make various minor, technical, and conforming amendments to the provisions of title 38, United States Code, relating to the construction and acquisition of VA facilities.

STANDARDS FOR FOREIGN ADOPTIONS

Mr. President, S. 7 would require, in order for VA benefits to be paid to or on behalf of a child who was adopted and is residing outside the United States, that there be certain assurances that the adoptive parent actually assumed the parental role and responsibilities. Thus, it would require that the adoptive child be under age 18 at the time of the adoption, be receiving one-half or more of such child's annual support from the veteran, be residing with the veteran except in certain specified circumstances, and not be residing with the child's natural parent unless the natural parent is the veteran's spouse. After the veteran's death, such an adoption would be recognized for VA benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for at least 1 year prior to the veteran's death. This provision is derived from section 201 of H.R. 5029 as passed by the Senate last Congress.

STUDY OF BENEFITS PAID OUTSIDE THE UNITED STATES

Mr. President, the bill would also require the VA to conduct, in consultation with the Secretary of State, a comprehensive study of the issues involved in the payment of benefits to persons residing outside the 50 States and the District of Columbia. This study would be required to be performed in conjunction with a similar study, mandated by section 308 of Public Law 95–588, the Veterans' and Survivors' Pension Improvement Act of 1978, regarding the payment of pension benefits overseas. S. 7 would require both reports to be combined for submission. This provision is also derived from H.R. 5029 as passed by the Senate—section 203.

MISCELLANEOUS PROVISIONS

Mr. President, the proposed legislation would also make some changes in title 38 of the United States Code with respect to administrative and personnel matters. Specifically, it would, first, permit payment by non-Federal agencies, organizations, and individuals for travel expenses of certain VA employees in connection with their official duties in certain limited circumstances; second, provide for confirmation by the Senate of the Deputy Administrator of Veterans' Affairs; third, make technical revisions in the provisions relating to benefits for overseas VA employees; and, fourth, make amendments relating to the salary schedules of the Department of Medicine and Surgery to conform those schedules, as set forth in title 38, to the October 7, 1978, Federal pay raise contained in Executive Order 12087.

EFFECTIVE DATES

Mr. President, the majority of provisions in S. 7 would become effective on October 1, 1979. These include, in order to comply with the provisions of the Congressional Budget Act of 1974, the provisions relating to readjustment counseling for Vietnam-era veterans, drug and alcohol dependence or abuse programs, preventive health-care services, outpatient dental-care services, and service-connected care for Filipino veterans in the United States. Also included are the provisions relating to the construction and acquisition of medical facilities, except that the first annual VA report of its 5-year plans for the construction, replacement, and alteration of medical facilities would be due on June 30, 1979, and this legislation would not apply to any VA medical facility construction, alteration, or acquisition that is approved by the President before October 1, 1979.

The provision requiring Senate confirmation of the Deputy Administrator of Veterans' Affairs would take effect on July 1, 1979.

The remaining provisions in the bill, including those relating to examinations for service-connected disabilities, nonservice-connected contract care, emergency medical services at certain conventions, standards for foreign adoptions, the study of benefits paid outside the United States, and employee travel expenses, would take effect upon enactment.

HEARINGS SCHEDULED

Mr. President, the Committee on Veterans' Affairs will hold hearings on S. 7, the proposed "Veterans' Health Care Amendments of 1979" on Thursday, January 25, at 9:30 a.m., in room 6226 of the Dirksen Senate Office Building. After we have had an opportunity to hear from the administration, veterans' organizations, and other individuals and groups wishing to comment on this legislation, I would hope to bring the bill through the committee and to the floor very rapidly.

Mr. President, I ask unanimous consent that the text of S. 7 be printed in the RECORD.

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

S. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Health Care Amendments of 1979".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH SERVICES PROGRAMS

PRIORITY FOR MEDICAL EXAMINATIONS FOR SERVICE-CONNECTED DISABILITIES

SEC. 101. Clause (3) of section 612(i) is amended by inserting "(including any veteran being examined to determine the existence or rating of a service-connected disability)" before the period.

DENTAL SERVICES AND TREATMENT FOR CERTAIN VETERANS

SEC. 102. Subsection (b) of section 612 is amended—

(1) by striking out "or" at the end of clause (5);

(2) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clauses:

"(7) from which any veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering; or

"(8) from which a veteran who has a service-connected disability rated as total is suffering.".

READJUSTMENT COUNSELING PROGRAM FOR VETERANS OF THE VIETNAM ERA

SEC. 103. (a)(1) Subchapter II of chapter 17 is amended by inserting after section 612 the following new section:

"§ 612A. Eligibility for readjustment counseling and related mental health services

"(a) Upon the request of any veteran who served on active duty during the Vietnam era, the Administrator shall, within the limits of Veterans' Administration facilities, furnish counseling to such veteran to assist such veteran in readjusting to civilian life if such veteran requests such counseling within two years after the date of such veteran's discharge or release from active duty or two years after the effective date of this section, whichever is later. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

"(b)(1) If, on the basis of the assessment furnished under subsection (a) of this section, a physician employed by the Veterans' Administration (or, in areas where no such physician is available, a physician carrying out such function under a contract or fee arrangement with the Administrator) determines that the provision of mental health services to such veteran is necessary to facilitate the successful readjustment of the veteran to civilian life, such veteran shall, within the limits of Veterans' Administration facilities as defined in section 601(4)(A), (B), and (C)(vi) of this title, be furnished such services on an outpatient basis under the conditions specified in clause (1)(B) of section 612(f) of this title. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be considered to have been furnished by the Veterans' Administration as a part of hospital care. Any hospital care and other medical services considered necessary on the basis of the assessment furnished under subsection (a) of this section shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including the eligibility criteria set forth in section 611(b) of this title).

"(2) Mental health services furnished under paragraph (1) of this subsection may, if determined to be essential to the effective treatment and readjustment of the veteran,

include such consultation, counseling, training, services, and expenses as are described in section 601(6)(B) of this title.

"(c) Upon receipt of a request for counseling under this section from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such counseling, the Administrator shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside the Veterans' Administration; and

"(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

"(d) The Chief Medical Director may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 1685 of this title), in initial intake and screening activities.

"(e) The Administrator, in cooperation with the Secretary of Defense, shall take such action as the Administrator considers appropriate to notify veterans who may be eligible for assistance under this section of such potential eligibility.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 612 the following new item:

"612A. Eligibility for readjustment counseling and related mental health services.".

(b) In the event of a declaration of war by the Congress after the date of the enactment of this Act, the Administrator of Veterans' Affairs, not later than 6 months after the date of such declaration, shall determine and recommend to the Congress whether eligibility for the readjustment counseling and related mental health services provided for in section 612A of title 38, United States Code (as added by subsection (a) of this section) should be extended to the veterans of such war.

PILOT PROGRAM FOR TREATMENT AND REHABILITATION OF VETERANS WITH ALCOHOL OR DRUG DEPENDENCE OF ABUSE DISABILITIES

SEC. 104. (a) Subchapter II of chapter 17 is amended by adding at the end thereof the following new section:

"§ 620A. TREATMENT AND REHABILITATION FOR ALCOHOL OR DRUG DEPENDENCE OR ABUSE DISABILITIES; PILOT PROGRAM

"(a)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Administrator may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities of eligible veterans suffering from alcohol or drug dependence or abuse disabilities. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Administrator, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care and services to veterans with such disabilities in contract facilities as authorized by this section, rather than in facilities over which the Administrator has direct jurisdiction.

"(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(b) The Administrator, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for alcohol or drug dependence or abuse disabilities and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"(c) Upon receipt of an application for treatment and rehabilitative services under this title for an alcohol or drug dependence or abuse disability from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such treatment and services, the Administrator shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and rehabilitative services from sources outside the Veterans' Administration; and

"(2) if pertinent, advise such individual of such individual's right to apply to the appropriate military, naval, or air service and the Veterans' Administration for review of such individual's discharge or release from such service.

"(d)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may not be transferred to any facility in order for the Administrator to furnish care or treatment and rehabilitative services for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Administrator, subject to the provisions of the Act of March 4, 1915 (31 U.S.C. 686).

"(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time during the last thirty days of such person's enlistment period or tour of duty. No such person transferred pursuant to such a request may be furnished such care and services by the Administrator beyond the period of time specified in such request, unless such person requests in writing an extension for a further specified period of time and such request is approved by the Administrator.

"(e) The Administrator may not furnish care and treatment and rehabilitative services under subsection (a) of this section after the last day of the fifth year following the fiscal year in which the pilot program authorized by such subsection is initiated.

"(f) Not later than March 31, 1983, the Administrator shall report to the Committee on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Administrator pertaining to the operation through September 30, 1982, of the pilot program authorized by this section.".

(b) The table of sections at the beginning of chapter 17 is amended by adding after the item relating to section 620 the following new item:

"620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities; pilot program.".

PILOT PROGRAM OF PREVENTIVE HEALTH-CARE SERVICES

SEC. 105. (a) Chapter 17 is amended by adding at the end thereof the following new subchapter:

"Subchapter VII—Preventive Health-Care Services Pilot Program

"§ 661. Purpose

"The purpose of this subchapter is to provide for a preventive health-care services pilot program under which the Administrator may attempt to (1) ensure the best possible health care for certain veterans with service-connected disabilities rated at 50 per centum or more and for certain veterans being furnished treatment involving a service-connected disability under this chapter, by furnishing to such veterans feasible and appropriate preventive health-care services, and (2) to determine the cost-effectiveness and medical advantages of furnishing such preventive health-care services.

"§ 662. Definition

"For the purposes of this subchapter, the term 'preventive health-care services' means—

"(1) periodic medical and dental examinations;

"(2) patient health education (including nutrition education);

"(3) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

"(4) mental health preventive services;

"(5) substance abuse prevention measures;

"(6) immunizations against infectious disease;

"(7) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

"(8) genetic counseling concerning inheritance of genetically determined diseases;

"(9) routine vision testing and eye care services;

"(10) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and

"(11) such other health-care services as the Administrator may determine to be necessary to provide effective and economical preventive health care.

§ 663. Preventive health-care services

"(a)(1) In order to carry out the purpose of this subchapter, the Administrator, within the limits of Veterans' Administration facilities and in accordance with regulations which the Administrator shall prescribe, may furnish to any veteran described in section 612(f)(2) of this title, and to any veteran receiving care and treatment under this chapter involving a service-connected disability, such preventive health-care services as the Administrator determines are feasible and appropriate.

"(2) In connection with preventive health-care services furnished under paragraph (1) of this subsection, the Administrator, in accordance with regulations which the Administrator shall prescribe, may institute appropriate controls and carry out followup studies (including research) to determine the medical advantages and cost-effectiveness of furnishing such preventive health-care services.

"(b) In carrying out the pilot program provided for by this subchapter, the Administrator may not furnish preventive health-care services after the last day of

the fifth fiscal year following the fiscal year in which such program is initiated.

"(c) In carrying out this subchapter, the Administrator shall emphasize the utilization of interdisciplinary health-care teams composed of various professional and paraprofessional personnel.

"(d) The Administrator may not expend more than $25,000,000 in any fiscal year to carry out the program provided for in this subchapter or, in any fiscal year in which such program is in effect for a period of less than a full fiscal year, not more than an amount that bears the same ratio to $25,000,000 as such period (considered as a fraction of a year) bears to one year.

"§ 664. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator considers necessary.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER VII—PREVENTATIVE HEALTH-CARE SERVICES PILOT PROGRAM

"661. Purpose.
"662. Definition.
"663. Preventative health-care services.
"664. Reports.".

HOSPITAL AND NURSING HOME CARE AND MEDICAL SERVICES WITHIN THE UNITED STATES FOR COMMONWEALTH ARMY VETERANS AND NEW PHILIPPINE SCOUTS

SEC. 106. (a) Subchapter IV of chapter 17 is amended by redesignating section 634 as section 635 and by inserting after section 633 the following new section:

"§ 634. Hospital and nursing home care and medical services in the United States

"The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.".

(b) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to section 634 and inserting in lieu thereof the following new items:

"634. Hospital and nursing home care and medical services in the United States.
"635. Definitions.".

EFFECTIVE DATE OF CERTAIN PROVISIONS

SEC. 107. The amendments made to title 38, United States Code, by sections 102, 103, 104, 105, and 106 of this Act shall be effective on October 1, 1979.

TITLE III—CONTRACT-CARE PROGRAMS

DEFINITION OF "VETERANS' ADMINISTRATION FACILITIES"

SEC. 201. (a) Paragraph (4) of section 601 is amended—

(1) by inserting "or of a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in facilities described in clauses (A) and (B) of this paragraph "before the semicolon at the end of subclause (ii) of clause (C);

(2) by striking out "or" after the semicolon at the end of subclause (iv) of clause (C), and striking out the period at the end of such clause and inserting in lieu thereof a semicolon and the following new subclauses: "(vi) mental health services described in section 612A of this title for a veteran in Alaska or Hawaii; or (vii) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, the provision of medical services at independent Veterans' Administration outpatient clinics to obviate the need for hospital admission."; and

(3) by adding below clause (C) the following new sentence:

"In the case of any veteran for whom the Administrator contracts to provide treatment in a private facility pursuant to the provisions of this paragraph, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provisions.".

(b) Not later than February 1, 1980, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(v) of title 38, United States Code, and the amendments made by this section, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), 612(g), 612A (as added by section 103(a)(1) of this Act), and section 620A (as added by section 104(a) of this Act).

EMERGENCY MEDICAL SERVICES AT NATIONAL CONVENTIONS OF RECOGNIZED VETERANS' SERVICE ORGANIZATIONS

SEC. 202. Section 611 is amended by adding at the end thereof the following new subsection:

"(c) The Administrator may contract with any organization recognized by the Administrator for the purposes of section 3402 of this title to provide for the furnishing by the Administrator, on a reimbursable basis (as prescribed by the Administrator), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.".

TITLE III—CONSTRUCTION, ALTERATION, LEASE, AND ACQUISITION OF MEDICAL FACILITIES

REVISION OF AUTHORITY FOR CONSTRUCTION, ALTERATION, LEASE, AND AQUISITION OF MEDICAL FACILITIES

SEC. 301. (a) Subchapter I of chapter 81 is amended to read as follows:

"SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

"§ 5001. Definitions

"For the purposes of this subchapter:

"(1) The term 'alter', with respect to a medical facility, means to repair, remodel, improve, or extend such medical facility.

"(2) The terms 'construct' and 'alter', with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies and such surveys, designs, plans, working drawings, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried out after the completion of the advanced planning (including the development of project requirements and preliminary plans) for such facility.

"(3) The term 'medical facility' means any facility or part thereof which is, or will be, under the jurisdiction of the Administrator for the provision of health-care services (including hospital, nursing home, or domiciliary care or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage, facilities leading thereto, abutting sidewalks, accommodations for attending personnel, and recreation facilities associated therewith.

"(4) The term 'committee' means the Committee on Veterans' Affairs of the House of Representatives or the Committee on Veterans' Affairs of the Senate, and the term 'committee' means both such committees.

"§ 5002. Acquisition of medical facilities

"(a) The Administrator shall provide medical facilities for veterans entitled to hospital, nursing home, or domiciliary care or medical services under this title.

"(b) No medical facility may be constructed or otherwise acquired or altered except in accordance with the provisions of this subchapter.

"(c) In carrying out this subchapter, the Administrator—

"(1) shall provide for the construction and acquisition of medical facilities in a manner that results in the equitable distribution of such facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility; and

"(2) shall give due consideration to excellence of architecture and design.

"§ 5003. Authority to construct and alter, and to acquire sites for, medical facilities

"(a) Subject to section 5004 of this title, the Administrator—

"(1) may construct or alter any medical facility and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Administrator considers necessary for use as the site for such construction or alteration;

"(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise any facility (including the site of such facility) that the Administrator considers necessary for use as a medical facility; and

"(3) in order to assure compliance with section 5010(a)(2) of this title, in the case of any outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, shall execute a lease for such facility within 12 months after funds are made available for such purpose.

"(b) Whenever the Administrator considers it to be in the interest of the United States to construct a new medical facility to replace an existing medical facility, the Administrator (1) may demolish the existing facility and use the site on which it is located for the site of the new medical facility, or (2) if in the judgment of the Administrator it is more advantageous to construct such medical facility on a different site in the same locality, may exchange such existing facility and the site of such existing facility for the different site.

"(c) Whenever the Administrator determines that any site acquired for the construction of a medical facility is not suitable for that purpose, the Administrator may exchange such site for another site to be used for that purpose or may sell such site.

"§ 5004. Congressional approval of certain medical facility acquisitions

"(a) In order to ensure the equitable distribution of medical facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility—

"(1) no appropriation may be made for the construction, alteration, or acquisition (not including exchanges) of any medical

facility which involves a total expenditure of more than $2,000,000 unless such construction, alteration, or acquisition is first approved by a resolution adopted by each committee; and

"(2) no appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless such lease is first approved by a resolution adopted by each committee.

"(b) In the event that the President or the Administrator proposes to the Congress the funding of any construction, alteration, lease, or other acquisition to which subsection (a) of this section is applicable, the Administrator shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Such prospectus shall include—

"(1) a detailed description of the medical facility to constructed, altered, leased, or otherwise acquired under this subchapter, including a description of the location of such facility;

"(2) an estimate of the cost of the United States of the construction, alteration, lease, or other acquisition of such facility (including site costs, if applicable); and

"(3) an estimate of the cost to the United States of the equipment required for the operation of such facility.

"(c) The estimated cost of any construction, alteration, lease, or other acquisition that is approved under this section may be increased by the Administrator in the contract for such construction, alteration, lease, or other acquisition by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, alteration, lease, or other acquisition costs, as the case may be, from the date of transmittal of such prospectus to the committees to the date of contract, but in no event may the amount of such an increase exceed 10 per centum of such estimated cost.

"(d) In the case of any medical facility approved for construction, alteration, lease, or other acquisition by each committee under subsection (a) of this section for which funds have not been appropriated within one year after the date of such approval, either such committee may by resolution rescind its approval at any time thereafter before such funds are appropriated.

"(c) In any case in which the Administrator proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Administrator shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

"(f) The Administrator may accept gifts or donations for any of the purposes of this subchapter.

"§ 5005. Structural requirements

"(a) Each medical facility (including each nursing home facility for which the Administrator contracts under section 620 of this title and each State home facility constructed or altered under section 5031 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

"(b)(1) In order to carry out this section, the Administrator shall appoint an advisory committee to be known as the Advisory Committee on Structural Safety of Veterans' Administration Facilities', on which shall serve at least one architect and one structural engineer who are experts in structural resistance to fire, earthquake, and other natural disasters and who are not employees of the Federal Government.

"(2) Such advisory committee shall advise the Administrator on all matters of structural safety in the construction and altering of medical facilities in accordance with the requirements of this section and shall review and make recommendations to the Administrator on the regulations prescribed under this section.

"(3) The Associate Deputy Administrator, the Chief Medical Director or the designee of the Chief Medical Director, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such advisory committee.

"§ 5006. Construction contracts

"(a) The Administrator may carry out any construction or alteration authorized under this subchapter by contract if the Administrator considers it to be advantageous to the United States to do so.

"(b)(1) The Administrator may obtain, by contract or otherwise, the services of individuals who are architects or engineers and of architectural and engineering corporations and firms, to the extent that the Administrator may require such services for any medical facility authorized to be constructed or altered under this subchapter.

"(2) No corporation, firm, or individual may be employed under the authority of paragraph (1) of this subsection on a permanent basis.

"(c) Notwithstanding any other provision of this section, the Administrator shall be responsible for all construction authorized under this subchapter including the interpretation of construction contracts, the approval of materials and workmanship supplied pursuant to a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

"§ 5007. Reports to congressional committees

"(a) In order to promote effective planning for the orderly construction, replacement, and alteration of medical facilities in accordance with the comparative urgency of the need for the services to be provided by such facilities, the Administrator shall submit to each committee an annual report on the construction, replacement, and alteration of medical facilities. Such report shall be submitted to the committees on the same day, which shall not be later than June 30 of each year (beginning in 1979) and shall contain—

"(1) a five-year plan for the construction, replacement, or alteration of those medical facilities that, in the judgment of the Administrator, are most in need of construction, replacement, or alteration;

"(2) a list, in order of priority, of not less than ten hospitals that in the judgment of the Administrator, are most in need of construction or replacement; and

"(3) general plans (including projected costs, site location, and, if appropriate, necessary land acquisition) for each medical facility included in the five-year plan required under clause (1) of this subsection or the list required under clause (2) of this subsection.

"(b) The Administrator shall submit to each committee not later than January 31 of each year (beginning in 1981) a report showing the location, space, cost, and status of each medical facility the construction, alteration, lease, or other acquisition of which has been approved under section 5004(a) of this title and, in the case of the second and each succeeding report made under this subsection, which was uncompleted as of the date of the last preceding report made under this subsection.

"§ 5008. Contributions to local authorities

"The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a medical facility if considered necessary for safe ingress or egress.

"§ 5009. Garages and parking facilities

"(a) The Administrator may construct, alter, operate, and maintain, on reservations of medical facilities, garages and parking facilities for the accommodation of privately owned vehicles of employees of such facilities and vehicles of visitors and other individuals having business at such facilities.

(b)(1) The Administrator may establish and collect (or provide for the collection of) fees for the use of such garages and parking facilities at such rate or rates which the Administrator determines would be reasonable under the particular circumstances; but no fee may be charged for the accommodation of any publicly or privately owned vehicle used in connection with the transportation of a veteran to or from any medical facility for the purposes of examination or treatment or in connection with any visit to any patient in such facility. Employees using such garages shall make such reimbursement therefor as the Administrator may deem reasonable.

"(2) The Administrator may contract, by lease or otherwise, with responsible persons, firms, or corporations for the operation of such parking facilities, under such terms and conditions as the Administrator shall prescribe, and without regard to the laws concerning advertising for competitive bids.

"(c)(1) There are authorized to be appropriated such amounts as are necessary to finance in part the construction, alteration, operation, and maintenance of garages and parking facilities (other than the construction or alteration of any garage or parking facility involving the expenditure of more than $2,000,000). Amounts appropriated under the authority of this section, and all income from fees collected for the use of such garages and parking facilities, shall be administered as a revolving fund to effectuate the provisions of this section, but only to the extent provided for in appropriation Acts.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States, except that such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various garages and parking facilities may be placed in depositories selected by the Administrator.

"§ 5010. Operation of medical facilities

"(a)(1) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than one hundred and twenty-five thousand hospital beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans. The Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

"(2) The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 612 of this title

"(3) The Chief Medical Director shall periodically analyze agencywide admission poli-

cies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administrator shall annually advise each committee of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services.

"(b) The Administrator, subject to the approval of the President, is authorized to establish and operate not less than twelve thousand beds during fiscal year 1980, and during each fiscal year thereafter, for the furnishing of nursing home care to eligible veterans in facilities over which the Administrator has direct jurisdiction. The beds authorized by this subsection shall be in addition to the beds provided for in subsection (a) of this section.

"(c) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendation of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

"§ 5011. Use of Armed Forces facilities

"The Administrator and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy may enter into agreements and contracts for the mutual use or exchange of use of hospitals and domiciliary facilities, and such supplies, equipment, and material as may be needed to operate such facilities properly, or for the transfer, without reimbursement of appropriations, of facilities, supplies, equipment, or material necessary and proper for authorized care for veterans, except that at no time shall the Administrator enter into any agreement which will result in a permanent reduction of Veterans' Administration hospital and domiciliary beds below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of eligibles under this title, or in any way subordinate or transfer the operation of the Veterans' Administration to any other agency of the Government.

"§ 5012. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under the supervision or control of the Administrator are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.

"§ 5013. Property formerly owned by National Home for Disabled Volunteer Soldiers

"If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United States, by gift, purchase, cession, or otherwise, absolute title to, and complete jurisdiction over all such property.

"§ 5014. Use of federally owned facilities; use of personnel

"(a) The Administrator, subject to the approval of the President, may use as medical facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Veterans' Administration upon the request of the Administrator.

"(b) The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in the construction and alteration of medical facilities, and the President may employ for such purposes individuals and agencies not connected with the Government, if in the opinion of the President such is desirable, at such compensation as the President may consider reasonable.

"§ 5015. Acceptance of certain property

"The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of disabled persons, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. The President may designate which agency of the Federal Government shall have the control and management of any property so accepted.".

(b)(1) Subchapter II of chapter 81 is amended by redesignating sections 5011, 5012, 5013, and 5014 as sections 5021, 5022, 5023, and 5024, respectively.

(2) Section 5022(b) (as so redesignated) is amended by striking out the comma and "clinical, medical, and out-patient treatment" after "administrative".

(c) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to subchapter I and all that follows through the item relating to section 5014 and inserting in lieu thereof the following:

"SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

"Sec.
"5001. Definitions.
"5002. Acquisition of medical facilities.
"5003. Authority to construct and alter, and to acquire sites for, medical facilities.
"5004. Congressional approval of medical facility acquisitions.
"5005. Structural requirements.
"5006. Administrative provisions.
"5007. Reports to congressional committees.
"5008. Contributions to local authorities.
"5009. Garages and parking facilities.
"5010. Operation of medical facilities.
"5011. Use of Armed Forces facilities.
"5012. Partial relinquishment of legislative jurisdiction.
"5013. Property formerly owned by National Home for Disabled Volunteer Soldiers.
"5014. Use of federally owned facilities; use of Federal and non-Federal personnel.
"5015. Acceptance of certain property.

"SUBCHAPTER II—PROCUREMENT AND SUPPLY

"5021. Revolving supply fund.
"5022. Authority to procure and dispose of property and to negotiate for common services.
"5023. Procurement of prosthetic appliances.
"5024. Grant of easements in Government-owned lands.".

EFFECTIVE DATES

SEC. 302. (a) The amendments made by this title shall take effect on October 1, 1979, but shall not apply with respect to the acquisition, construction, or alteration of any medical facility (as defined in section 5001 (3), as added by section 301(a) of this Act) if such acquisition, construction, or alteration (not including exchange) was approved before such date by the President.

(b) The provisions of section 5007(a), as added by section 301(a) of this Act, shall take effect on the date of the enactment of this Act.

TITLE IV—BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

CHILDREN ADOPTED UNDER LAWS OF FOREIGN COUNTRIES

SEC. 401. Paragraph (4) of section 101 is amended—

(1) by inserting "(A)" before "The" and redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(2) by adding at the end of such paragraph the following new subparagraph:

"(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section 101(20) of this title and including the Commonwealth of the Northern Mariana Islands)—

"(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section 1766 of this title) unless such person—

"(I) was less than eighteen years of age at the time of adoption;

"(II) is receiving one-half or more of such person's annual support from such veteran;

"(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

"(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

"(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

"(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

"(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.".

STUDY OF BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES

SEC. 402. (a) The Administrator of Veterans' Affairs, in consultation with the Secretary of State, shall carry out a comprehensive study of benefits payable under the

provisions of title 38, United States Code, to persons who reside outside the fifty States and the District of Columbia. The Administrator shall include in such study—

(1) an analysis of the issues involved in the payment of such benefits to persons who reside outside the fifty States and the District of Columbia, together with analyses of such aspects of the economy of each foreign country and each territory, possession, and commonwealth of the United States in which a substantial number of persons receiving such benefits reside as are relevant to such issues (such as the rate of inflation, the standard of living, and health care, educational, housing, and burial costs);

(2) an analysis of the issues involved in the payment of such benefits as the result of adoptions under laws other than the laws of any of the fifty States or the District of Columbia;

(3) an analysis of the amounts and method of payment of benefits payable to persons entitled, by virtue of sections 107 and 1765 of such title, to benefits under chapters 11, 13, and 35 of such title;

(4) estimates of the present and future costs of paying monetary benefits under such title to persons described in clauses (1) and (3);

(5) an evaluation of the desirability of continuing to maintain the Veterans' Administration Regional Office in the Republic of the Philippines, taking into consideration (A) the current and expected future workload of such office, (B) the estimated cost in fiscal years 1981 through 1985 of continuing to maintain such regional office, (C) the feasibility and desirability of transferring appropriate functions of such regional office to the United States Embassy in the Republic of the Philippines, and (D) a provisional plan, which the Administrator shall develop, for the closing of such office and so transferring such functions, together with cost estimates for fiscal years 1981 through 1985 for the implementation of such plan assuming that such office is closed before October 1, 1981; and

(6) an evaluation of the effects of the amendments to such title made by section 501 of this Act.

(b) Not later than February 1, 1980, the Administrator shall report to the Congress and to the President on the results of such study together with the Administrator's recommendations for resolving the issues to be analyzed and evaluated in such study.

(c) The Administrator shall (1) carry out the study required under subsection (a) of this section in conjunction with the study required under section 308(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), and (2) submit the reports of such studies as a combined report.

TITLE V—MISCELLANEOUS PROVISIONS

ACCEPTANCE OF PAYMENT FOR TRAVEL OF EMPLOYEES

SEC. 501. Section 4108 is amended by adding after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of law, the Administrator may prescribe regulations establishing conditions under which officers and employees of the Department of Medicine and Surgery who are nationally recognized principal investigators in medical research may be permitted, in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Veterans' Administration, or in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Veterans' Administration, to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals, for travel and such reasonable subsistence expenses as are approved by the Administrator pursuant to such regulations, to be retained by such officers and employees to cover the cost of such expenses or deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.".

CONFIRMATION OF DEPUTY ADMINISTRATOR OF VETERANS' AFFAIRS

SEC. 502. (a) The first sentence of section 210(d) is amended by striking out "by the Administrator" and inserting in lieu thereof "by the President, by and with the advice and consent of the Senate".

(b) The amendment made by subsection (a) shall take effect on July 1, 1979.

OVERSEAS AUTHORITIES

SEC. 503. (a) Section 230 is amended by striking out subsection (c).

(b) Section 235 is amended—

(1) in the matter preceding clause (1), by striking out "or to the Veterans' Administration office in Europe, established pursuant to section 230(c) of this title,";

(2) in clause (2), by striking out "and (7)" and inserting in lieu thereof "(7), and (11)"; and

(3) by inserting after clause (5) the following new clauses:

"(6) Section 5724a(a)(3) of title 5 (relating to subsistence expenses for 30 days in connection with the return to the United States of the employee and such employee's immediate family).

"(7) Section 5724a(a)(4) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).".

(c)(1) The section heading of section 235 is amended by striking out "oversea" and inserting in lieu thereof "overseas".

(2) The item relating to section 235 in the table of sections at the beginning of chapter 3 is amended by striking out "oversea" and inserting in lieu thereof "overseas".

CONFORMING AMENDMENTS TO REFLECT PREVIOUS ADJUSTMENTS MADE IN DEPARTMENT OF MEDICINE AND SURGERY SALARY SCHEDULES

SEC. 504. (a) Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

"SECTION 4103 SCHEDULE

"Chief Medical Director, $68,909.

"Deputy Chief Medical Director, $66,104.

"Associate Deputy Chief Medical Director, $63,315.

"Assistant Chief Medical Director, $61,449.

"Medical Director, $52,429 minimum to $59,421 maximum.

"Director of Nursing Service, $52,429 minimum to $59,421 maximum.

"Director of Podiatric Service, $44,756 minimum to $56,692 maximum.

"Director of Chaplain Service, $44,756 minimum to $56,692 maximum.

"Director of Pharmacy Service, $44,756 minimum to $56,692 maximum.

"Director of Dietetic Service, $44,756 minimum to $56,692 maximum.

"Director of Optometric Service, $44,756 minimum to $56,692 maximum.".

(b) Paragraph (1) of subsection (b) of such section is amended to read as follows:

"(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"PHYSICIAN AND DENTIST SCHEDULE

Director grade, $44,756 minimum to $56,692 maximum.

"Executive grade, $41,327 minimum to $53,729 maximum.

"Chief grade, $38,160 minimum to $49,608 maximum.

"Senior grade, $32,442 minimum to $42,171 maximum.

"Intermediate grade, $27,453 minimum to $35,688 maximum.

"Full grade, $23,087 minimum to $30,017 maximum.

"Associate grade, $19,263 minimum to $25,041 maximum.

"NURSE SCHEDULE

"Director grade, $38,160 minimum to $49,608 maximum.

"Assistant Director grade, $32,442 minimum to $42,171 maximum.

"Chief grade, $27,453 minimum to $35,688 maximum.

"Senior grade, $23,087 minimum to $30,017 maximum.

"Intermediate grade, $19,263 minimum to $25,041 maximum.

"Full grade, $15,920 minimum to $20,699 maximum.

"Associate grade, $13,700 minimum to $17,813 maximum.

"Junior grade, $11,712 minimum to $15,222 maximum.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade, $38,160 minimum to $49,608 maximum.

"Senior grade, $32,442 minimum to $42,171 maximum.

"Intermediate grade, $27,453 minimum to $35,688 maximum.

"Full grade, $23,087 minimum to $30,017 maximum.

"Associate grade, $19,263 minimum to $25,041 maximum.".

By Mr. DOLE:

S. 8. A bill to extend diplomatic privileges and immunities to any principal liaison office of the Republic of China that may be established in Washington, D.C., and to members thereof; to the Committee on Foreign Relations.

UNITED STATES-CHINESE RELATIONS AND THE ISSUE OF SECURITY

Mr. DOLE. Mr. President, much effort has been made by the Carter administration in the past few days to downplay the suddeness with which our agreement to normalize relations with mainland China evolved. The administration has consistently tried to link Carter's abrupt decision with the Nixon and Ford initiatives, highlighted by the Shanghai Communique, as part of an inevitable evolution leading to the Friday night bombshell. But the fact that there were no lengthy or well-handled negotiations with Peking is borne out by this point: The United States did not gain a single advantage in the exchange.

Presidents Nixon and Ford could have made this same agreement long ago in the negotiating process, but they were not willing to cave in to the Communist bargaining demands. The chief obstacle was always the status of our longtime ally and friend, the Republic of China on Taiwan. But Mr. Carter found it expedient to abandon Taiwan without a warning to its government or consultation with our own.

GREAT POTENTIAL FOR UNITED STATES-PEKING TIES

The resultant public criticism of the President's action makes it easy to misunderstand the position of those who op-

pose the abrogation of military and political ties with Taiwan in order to gain the recognition with Peking. There are tremendous potential benefits for the American people in a closer relationship with the 1 billion Chinese on the continent. As a representative of a Midwestern State with large farming interests, I am keenly aware of the economic advantages increased trade might bring, as well as the cultural and strategic benefits that would accrue to the United States. It is already apparent that the administration plans to use these potential gains to beat down the opposition and confuse the real issue. This issue is not the diplomatic recognition of Peking. It is the manner in which the negotiations were consummated and the price that was demanded in payment.

The United States cannot afford to abandon good allies and friends for short-term political expediency. The international perception of our own country as an honorable, reliable Nation, willing to abide by its agreements and to stand firm for its principles, is bound to suffer. This is especially true with a perceived reduction in strength of the United States vis-a-vis the Soviet Union, and the withdrawal of U.S. forces from Vietnam, Korea, and the Panama Canal.

RETURN OF THE IMPERIAL PRESIDENCY

Jimmy Carter had pledged to conduct important foreign policy negotiations openly, "with the participation of Congress from the outset." While it is true that sometimes the delicate nature of negotiating prohibits immediate public disclosure, in this case the President has made only token efforts to consult with Congress, even after the passage of the Dole-Stone amendment by a vote of 94 to 0 in the Senate. This amendment specifically expressed the sense of the Senate, and later the sense of the Congress that any new relationship with Peking and Taiwan be first discussed with Congress, precisely because so many Members of Congress were deeply concerned about the safety of Taiwan and our economic and strategic interests in Asia.

During the Carter-Ford debates, Mr. Carter said he "would never let that friendship (with Peking) stand in the way of preservation of the independence and freedom of the people of Taiwan." Yet the President received absolutely no commitment from Peking in this latest agreement that the safety of Taiwan would be assured. In fact, Mr. Carter agreed with the mainland position that Taiwan was a part of China and that its future would, therefore, become an internal matter for the Chinese to decide themselves. Naturally, the President does not believe an invasion of the island republic is imminent. For the moment it better suits the purpose of the current ruling elite in Peking to let matters stand as they are. The future of the Republic of China is left very much in doubt, however.

Over the next 5 years, China, by its enhanced world prestige and position after U.S. recognition, can further isolate Taiwan. With the inevitably reduced flow of modern weapons to Taipei, and the concomitantly increased gains in technology on the mainland, China will then be able to virtually dictate terms to the island they outnumber 45 to 1.

To take one small example: When Red China entered the worldwide satellite communication system, they demanded that all matters regarding Taiwan be cleared by Peking. This would have meant that the Republic of China would be barred from modern, international communications and would have seriously hampered the island's business economy. Only strong U.S. action prevented this from becoming true. We can expect this same ploy to occur over and over again in every conceivable international organization or group. Yet when the United States no longer officially recognizes Taiwan, can we expect to be able to prevent it? The future of Taiwan looks bleak indeed.

In the meantime, Peking has adroitly played its "U.S. card" in its dealings with the Soviet Union, and delayed indefinitely the previously certain SALT II rapprochement between Carter and Brezhnev. Only the Red Chinese have received any benefits in this latest example of Carter diplomacy. They had much to gain and lost nothing—why should they not agree to our recognition.

CLOSER TIES OF POTENTIAL VALUE

As it stands now, not only did we not receive any concessions from Peking, we did not even make sure the United States would be in a position to take advantage of the potential benefits of normalization. Under the proper circumstances I am very much in favor of normalizing our relationship with the Peoples' Republic of China. The possible cultural and trade benefits are enormous, but we must first make certain the Communists are going to deal on equal terms with us. Other nations that have established relations with Peking have learned that trade with China is usually a one-way street. The Chinese have far to come to reach Western standards of living, and analysts say they are two generations away from being able to buy consumer goods in any significant quantities.

Nevertheless, I believe opportunities for economic exchange are possible. I would first like to see Peking agree to accept credits from foreign trading partners. I would like to see that American buying and selling offices are allowed to open on the continent. I would like to make certain that U.S. financial institutions have the chance to handle trade transactions between our two countries. There are many details such as these that must be carefully worked out. They had not been fully worked out when the decision was made to jettison Taiwan.

SOCIAL BENEFITS IN NORMALIZATION

China should carry some of the responsibilities of expanded world participation if it is to stand in the forefront of the world political scene. It is my intention to require China to join with other nuclear nations in banning atmospheric tests, which are frequently made in China, to the peril of the health of the citizens throughout the world. Expanded travel and communication with the Chinese people should broaden their knowledge of Western culture. This open-door policy may lead to some alleviation of China's extremely repressive human rights activities. In the area of financial responsibility, the Carter administration has failed to get a commitment from Peking to settle more than $200 million in U.S. claims against the Chinese Communist Government. This point must be resolved.

The most significant failure of our negotiating team however, was in not insuring that our strategic interests in the Pacific and the future of the people of Taiwan will continue to be secure. Since President Carter's announcement on December 15 extending diplomatic recognition to mainland China, the present ruling elite in Peking have made many vague or contradictory statements about their intentions toward the Republic of China on Taiwan. The recognition of the Peoples' Republic of China has great potential for good between our two countries and for the world in general. However, it must be the role of the Senate to ascertain the conditions from which our future relations will have to grow. We must be sure our essential interests and commitments are met.

These two measures I am introducing are intended to clarify and structure our relations with the Republic of China. The resolution provides a basis for the continued security of Taiwan and the bill calls for a governmental liaison identical to the one provided for the Peoples' Republic of China in 1973. The United States has a long tradition of friendship and alliance with the Republic of China which has served well our continuing strategic interests in the Asian Pacific. We have additionally many strong cultural and financial ties with the people of Taiwan represented by some 59 treaties with Taipei. I am sure you will agree the United States must act to insure not only the security of Taiwan from aggression, and the maintenance of our own strategic capability in the region, but to protect the reputation of our Nation within the world community as one who honors our commitments.

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

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

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested, under such terms and conditions as he determines and consonant with the purpose of continuing diplomatic relations with the Republic of China, to extend, or to enter into an agreement extending, to any principal liaison office of the Republic of China that may be established in Washington, District of Columbia, or to any branch offices in the United States that may be established, and to the members thereof, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

S. RES. 13

Whereas the United States and the Republic of China and their peoples have been allies for more than 25 years;

Whereas the President unilaterally gave notice to the Republic of China that the United States intended to terminate on January 1, 1980, the Mutual Defense Treaty between the United States of America and the Republic of China;

Whereas the United States established diplomatic relations with the People's Republic of China on January 1, 1979;

Whereas the governments of the Republic of China and the People's Republic of China claim sovereignty over the same territory;

Whereas the continued security and stability of the Asian Pacific region, and especially the continued peace and prosperity of the people of the Republic of China, is of major strategic interest to the United States; and

Whereas the United States seeks to maintain such confidence as is essential to financial investment in such region and as is essential to making commercial agreements between the United States and the Republic of China and between the United States and the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of the United States—

(1) does not condone any threat or use of force in any attempt to unify the Republic of China and the People's Republic of China;

(2) does not recognize the right of either the Government of the Republic of China or the Government of the People's Republic of China to subvert the other by means of the use of force or the threat of an imminent use of force;

(3) should, in accordance with its constitutional processes, take all steps necessary to assist the Republic of China in ensuring its security and the security of the United States in the event of an act of aggression by the People's Republic of China against the Republic of China;

(4) should interpret any interference by any country with the commercial or cultural programs or military or economic assistance programs between the United States and the Republic of China as an unfriendly act and should react accordingly; and

(5) should use its voice and vote in each international organization of which the United States is a member to prevent the exclusion or the removal of the Republic of China from membership in each such organization.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

By Mr. JACKSON:

S. 9. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

Mr. JACKSON. Mr. President, I am introducing today the Alaska National Interest Lands Conservation Act. The bill is identical, except for technical corrections, to H.R. 39 as reported by the Committee on Energy and Natural Resources on October 9, 1978 (S. Rept. 95–1300). I believe it is one of the most important Federal land policy proposals ever considered by the Congress. It is the product of intensive consideration by the committee of Alaska land issues over the last 5 years, including the longest markup (46 meetings) ever conducted by the committee.

The principal purpose of this legislation is to designate approximately 100 million acres of Federal land in Alaska for protection of their resource values under permanent Federal ownership and management. Enactment of this bill would more than double the size of the National Park System and the National Wildlife Refuge System. It would triple the size of the National Wilderness Preservation System. It would virtually complete the public land allocation process in Alaska which began with the Statehood Act of 1958 which granted the State the right to select approximately 104 million acres of public land. This Federal land disposal process was continued by the Alaska Native Claims Settlement Act which granted Alaska Natives the right to select approximately 44 million acres of Federal land.

In order to carry out the principal purpose, the bill includes a number of other significant provisions, which together with the land designations are discussed in the following summary of major provisions. I ask unanimous consent that the summary of major provisions be printed in the RECORD.

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

SUMMARY OF MAJOR PROVISIONS

Title I—Purposes, Definitions, and Maps—Sets forth the purposes of the bill and spells out general definitions and map references.

Title II—National Park System—Establishes or expands 14 management units of the National Park System totaling 44.33 million acres. Sets out specific rules for management and use of these areas.

Title III—National Wildlife Refuge System—Establishes or expands 12 management units from the National Wildlife System totaling 35.79 million acres. Sets out specific rules for management and use of these areas.

Title IV—National Conservation Areas—Establishes 4 national conservation areas totaling 7.37 million acres and one national recreation area comprising an additional million acres, to be administered by the Secretary of Interior through the Bureau of Land Management. Sets out specific rules for management and use of these areas.

Title V—National Forest System—Establishes one new National Forest of 5.4 million acres, adds 3.04 million acres to existing National Forests, and establishes a 1.2 million acre Seward National Recreation Area in the existing Chugach National Forest. Sets out specific rules for management and use of these areas.

Title VI—National Wild and Scenic Rivers System—Designates 24 rivers or river segments as components of the Wild and Scenic Rivers System and designates 10 rivers for study for possible inclusion in the System. Sets out specific rules for management and use of these areas.

Title VII—National Wilderness Preservation System—Designates 37.2 million acres as part of the National Wilderness Preservation System and designates 3 million acres for wilderness study. Sets out specific rules for management and use of these areas.

Title VIII—Subsistence Management and Use—Recognizes the importance of subsistence uses of fish, wildlife and other resources by many Alaskans. Establishes a statutory preference for subsistence resource use over other uses including sport hunting and fishing. Establishes a special management system to assure that the preference is implemented.

Title IX—Implementation of Alaska Native Claims Settlement Act and Alaska Statehood Act—Expedites conveyance of Federal lands to Alaska Natives and the State of Alaska so as to fulfill the land grants made under the Alaska Native Claims Settlement Act and the Alaska Statehood Act.

Title X—Federal North Slope Lands Study Program—Recognizes the unique combination of wilderness, wildlife, and oil and gas values on the Alaska North Slope by directing a special study of all Federal lands in the area to assure that all elements of resource use and preservation will be presented to Congress at the same time. Includes a special oil and gas exploration program on the Arctic National Wildlife Range, an oil and gas leasing program for non-North Slope Federal lands and a mineral resource assessment program.

Title XI—Transportation and Utility Systems In and Across, and Access Into, Conservation System Units—Establishes special procedures for allowing access for transportation and other purposes across and into conservation system units. Recognizes the need to balance protection of the resources and the need for access to permit development of Federal, State and private lands not included in such units.

Title XII—Federal-State Cooperation—Establishes an Alaska Land Use Council as an innovative vehicle for Federal and State cooperation in the management of Federal and State lands. Also authorizes special cooperative agreements for wildlife refuges and designates the Bristol Bay Cooperative Region as a unique experiment in Federal-State cooperation in land and resource management.

Title XIII—Administrative Provisions—Contains a variety of specal management provisions dealing with various land management systems and other specific management concerns.

Title XIV—Amendments to the Alaska Native Claims Settlement Act and Related Provisions—Contains a number of amendments to the Alaska Native Claims Settlement Act which will simplify administration of that Act and assure that the Natives receive full benefits which the Congress intended in the original law. Also authorizes a number of specific land selections which will benefit both the Natives and the Federal Government. Two of the amendments related to Native taxation issues and originally included in this title have become Public Law and have therefore been deleted from the text of this bill (See P.L. 95–600, the Tax Reform Act of 1978).

Title XV—National Need Mineral Activity Recommendation Process—Establishes a special procedure under which the President, with Congressional approval, can permit mineral exploration, development and extraction which is prohibited under existing law, but may be needed to meet future national needs.

Mr. JACKSON. Mr. President, I ask that a summary of the acreage differences between the committee reported bill and the House-passed bill be printed in the RECORD at this point.

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

*Designation and acreage, Alaska national interest lands**

	Senate Committee	H.R. 39 passed by House
National Park System:		
Parks and monuments	20.677	27.172
Preserves	20.532	15.548
Recreation areas	2.655	0.000
Total	43.864	42.720
National Wildlife Refuge System	35.790	78.059
National Conservation Areas (BLM):		
Conservation areas	7.370	0.000
Recreation area	1.000	0.000
National Forest System:		
New forest	5.820	0.000
Forest additions	3.040	2.740
Recreation area in existing forest	1.412	0.000
National Wilderness Preservation System:		
Wilderness in parks and monuments	22.682	32.170
Wilderness in preserves	7.098	9.520
Wilderness in wildlife refuges	4.354	19.933
Wilderness in forests	2.888	3.919
Total wilderness	37.022	65.542
Wilderness Study Areas:		
Forest	2.00	
Preserve	1.04	
Rivers or Segments:		
National Wild and Scenic Rivers System:		
Rivers or segments in parks or monuments	10	0
Rivers or segments in other conservation units (preserves, refuges, NRA's)	15	18
Rivers or segments outsider of larger units	6	10
Study rivers	10	15

*Acreage is in millions and federal lands only.

BACKGROUND AND LEGISLATIVE HISTORY

Mr. JACKSON. My colleagues will recall that this legislative proposal arises from certain provisions of the Alaska Native Claims Settlement Act (ANCSA), signed into law on December 18, 1971. As its primary purpose the ANCSA extinguishes all the aboriginal claims of the Alaska Natives and provides them with land (44 million acres) and money ($926 million).

In addition, the act recognizes that the settlement of Native claims must be accompanied by careful planning and management of the remaining public lands in Alaska. Of particular importance is section 17(d)(2) which establishes a process to preserve the so-called national interest lands in Alaska—lands which possess unique wildlife, wilderness, scenic, scientific, cultural, and historical values of national significance. This provision authorized the Secretary of the Interior to withdraw up to 80 million acres of land to be studied for possible addition to the four national conservation systems. It also required all legislative proposals arising from such studies to be submitted to the Congress within 2 years, by December 18, 1973, and provided a 5-year period continuation of the Secretarial withdrawals which considered the legislation. During this period, land withdrawn under section 17(d)(2) would not be subject to transfer out of Federal ownership under the public land laws.

During the 95th Congress, the Committee on Energy and Natural Resources considered several proposals for "d–2" legislation. Hearings were held in Washington and workshops were held in Alaska on the national interest lands and related issues. Finally, the committee conducted extensive markup sessions from July through September in an attempt to meet the December 18, 1978 deadline for expiration of the withdrawals. In an attempt to expedite enactment, House and Senate leaders, the Alaska delegation and the administration reached agreement on compromise legislation during the last week of the 95th Congress. Unfortunately, the full Senate was not able to consider either the committee's bill or the proposed compromise because of a threatened filibuster by one Senator.

Because Congress did not enact legislation before the statutory deadline, the President and the Secretaries of the Interior and Agriculture took several actions to protect the key Federal lands in Alaska, until Congress acts.

I ask unanimous consent that the White House factsheet on those actions be printed in the RECORD at the end of my statement.

Mr. President, consideration of Alaska lands legislation will be a top priority of the Committee on Energy and Natural Resources. Further delay in reaching a comprehensive settlement of land use designations in the State of Alaska can only be detrimental to the citizens of that State and to the national interest. I believe the approach adopted by the Committee on Energy and Natural Resources last year strikes a reasonable balance between protection of nationally significant and fragile land, wildlife, fish and other resource values and the national and State of Alaska's needs to permit careful, planned development of other federally owned oil, gas, hardrock minerals, and timber resources.

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

FACTSHEET

Today the President took several actions to protect proposed National Parks, Wildlife Refuges and Wilderness Areas in Alaska. He urged Congress to act promptly next year to pass Alaska lands legislation and announced administrative actions designed to protect these areas and to preserve the Congress' options for action next year.

The President's actions include the designation of 17 National Monuments covering approximately 56 million acres and additional protections on the remaining proposed National Wildlife Refuges and proposed National Forest Wilderness areas.

BACKGROUND

Under the Alaska Native Claims Settlement Act of 1971, Section 17(d)2 authorized the Secretary of the Interior to withdraw from development 80 million acres for consideration by the Congress as additions to the National Park, Wildlife Refuge, Wild and Scenic River and National Forest systems. Such "d–2" withdrawals were made on December 17, 1973, leaving the Congress until December 17, 1978, to act, under the five-year limitation on the "d–2" withdrawal authority.

The Carter Administration came forward with detailed legislative proposals in early 1977. These proposals included 13 National Parks, 14 National Wildlife Refuges, and 7 National Forest Wilderness Areas. The 95th Congress made a great deal of progress toward passing a comprehensive Alaska lands bill. The House passed the Alaska legislation on May 19, 1978, by a vote of 277–31. The Senate Energy and Natural Resources Committee reported out a bill, but lack of time and a threatened filibuster prevented final passage.

Since adjournment of the Congress, 146 members of the House and Senate have asked the President to take action to protect the lands so that mineral entry, State land selections and other threats do not jeopardize the integrity of these important areas.

AREAS AFFECTED

The President has signed proclamations designating 17 National Monuments under the 1906 Antiquities Act. These areas include parts of all 13 of the proposed National Parks, 2 of the 14 proposed National Wildlife Refuges, and 2 of the 7 proposed National Forest Wilderness areas. They include approximately 56 million acres of land. These areas are designated in order to preserve their extraordinary scientific, historic and cultural values. They also contain some of the world's most beautiful scenery and plentiful wildlife. These designations will be permanent until modified or superseded by Congressional action.

National monuments proclaimed by the President

	Acres
1. Aniakchak	350,000
2. Bering Land Bridge	2,600,000
3. Cape Krusenstern	560,000
4. Denali	3,890,000
5. Gates of Arctic	8,220,000
6. Glacier Bay	550,000
7. Katmai	1,370,000
8. Kenai Fjords	570,000
9. Kobuk Valley	1,710,000
10. Lake Clark	2,500,000
11. Noatak	5,800,000
12. Wrangell-St. Elias	10,950,000
13. Yukon-Charley	1,720,000
Subtotal	40,790,000
14. Yukon Flats	10,600,000
15. Becharof	1,200,000
Subtotal	11,800,000
16. Admiralty Island	1,100,000
17. Misty Fiords	2,285,000
Subtotal	3,335,000
Total acreage	55,975,000

(Note: Areas Nos. 1–13 are proposed National Park areas, Nos. 14–15 are proposed Wildlife Refuge areas, and Nos. 16–17 are proposed National Forest Wilderness Areas.)

The President also directed the Secretary of the Interior to take the necessary procedural steps under the Federal Land Policy and Management Act to designate as National Wildlife Refuges the remaining 12 proposed refuge areas. These areas cover ap-

proximately 40 million acres. The 12 areas included in this directive are:

	Acres
1. Arctic Range	9,900,000
2. Copper River	690,000
3. Innoko	3,720,000
4. Kanuti	1,480,000
5. Kenai Moose Range	160,000
6. Koyukuk	2,080,000
7. Nowitna	1,560,000
8. Selawik	3,220,000
9. Tetlin	770,000
10. Togiak	1,180,000
11. Yukon Delta	13,710,000
12. Alaska Marine Resources	460,000
Total acreage	38,930,000

The President also noted that Secretaries Andrus and Bergland have already taken temporary steps to protect all of the areas in Congressional and Administration proposed conservation units. Under Section 204(e) of the Federal Land Policy and Management Act, Secretary Andrus issued emergency withdrawals on November 16 on all of the Interior Department lands covered by Congressional or Administration proposals to protect them from mineral entry and State selection. These three-year withdrawals cover approximately 105 million acres and will remain in force with the President's actions under the Antiquities Act. Secretary Bergland has also taken steps under Section 204 (b) of the Federal Land Policy and Management Act to segregate the 11 million acres covered by Administration and Congressional proposals for National Forest Wilderness areas to protect these lands from mineral entry and State selection. These two-year segregations also remain in force with the President's actions.

By Mr. BAYH (for himself, Mr. HATCH, Mr. BAUCUS, Mr. BENTSEN, Mr. CHAFEE, Mr. CRANSTON, Mr. DOLE, Mr. GRAVEL, Mr. HATFIELD, Mr. INOUYE, Mr. KENNEDY, Mr. LUGAR, Mr. MATHIAS, Mr. MATSUNAGA, Mr. MCGOVERN, Mr. METZENBAUM, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. STONE, and Mr. WILLIAMS):

S. 10. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States; to the Committee on the Judiciary.

RIGHTS OF INSTITUTIONALIZED PERSONS

Mr. BAYH. Mr. President, today I am introducing legislation designed to give statutory authority to the Justice Department to initiate suit to enforce constitutional and other federally guaranteed rights of institutionalized persons. I am joined in this effort by Senator HATCH and 19 of our colleagues. This legislation codifies the authority exercised by the Department in the past to intervene in and to initiate civil actions on behalf of persons confined to mental hospitals, prisons, mental retardation facilities, reformatories for juvenile delinquents, facilities for emotionally disturbed children and long-term care facilities.

Similar legislation was introduced and reported by the Senate Committee on the Judiciary, but not considered by the full Senate in the 95th Congress. A companion bill, H.R. 9400, was passed by the House.

Our Nation's institutionalized citizens are uniquely unable to assert and protect their own rights. Because of mental or physical handicap or the sheer weight of despair brought on by living in dehumanizing conditions this class of people we seek to help protect through this legislation frequently lacks the ability to gain access to the legal and financial resources necessary to obtain access to justice and fair treatment.

Recognizing this, the Justice Department has, during the past decade, brought a number of actions against State institutions, successfully documenting widespread deprivations of residents' constitutional and Federal rights, and compelling State officials to upgrade conditions of confinement and treatment.

These abuses we seek to reduce are not insignificant nor are they merely technical. A brief look at the cases brought on behalf of the institutionalized highlight the need for continued participation by the Justice Department. In the landmark case of Wyatt against Stickney, the Justice Department's ability to engage in long-term discovery was instrumental in developing a record of institutionwide abuses to which inmates of mental hospitals were being subjected. Retarded persons were tied to their beds at night and confined to straitjacket for years. One woman was confined in a straitjacket for 9 years losing the use of both of her arms. At one institution, inadequate staff, insufficient supervision and uncontrolled brutality of other inmates resulted in the deaths of four residents.

In the course of litigation brought to correct abuses in a State's juvenile reformatories, a Federal court found the State juvenile system rampant with officially sanctioned brutality, including beatings, tear gassings, and placement in homosexual dormitories as a form of punishment (Morales against Turman).

Following Wyatt and other cases in which the Department participated, a number of States adopted statutes providing a right to treatment for mentally ill institutionalized persons, and a series of Federal court cases further substantiated right to such treatment. The Department of Health, Education, and Welfare followed suit by adopting many of the standards first enunciated in Wyatt and conditions for participation in federally funded programs of care for the mentally handicapped. Judge Johnson, who initially ordered the Department to appear as amicus curiae in Wyatt, was sufficiently impressed to commend Government lawyers for having "performed exemplary service for which this court is indeed grateful."

The first serious setback to these efforts came in 1976 when a Federal district court in Maryland dismissed a suit brought by the Justice Department concerning the conditions at the Rosewood State Hospital for the mentally retarded. In United States against Solomon, the court held that the Justice Department lacked inherent or commonlaw authority to sue to enforce constitutional and Federal rights of hospital inmates. Following the Solomon decision, a Federal district court in Montana dismissed another suit initiated by the Department challenging conditions in a State mental retardation hospital, again declaring that, absent express statutory authority, the Department lacked standing to sue.

This bill creates no new substantive rights, nor does it open the doors of the Federal courthouse to a new class of litigants. Under the standards we have proposed, the authority of the Department to bring suit on behalf of the institutionalized is limited to cases alleging widespread deprivations of constitutional and Federal rights and then only in the presence of "egregious or flagrant conditions." Clearly, the intent of this legislation is not to provide the Justice Department with standing to bring suit to redress minor or unimportant technical regulations. S. 10 is designed to redress the most horrendous of conditions, conditions which sometimes deprive institutionalized persons in this country of the very right to life itself.

JAILS AND CORRECTIONAL FACILITIES

This bill includes protection of the rights of persons in jails and correctional facilities. During Judiciary Committee consideration of S. 1393 in 1978 an amendment was offered and accepted that limited coverage of inmates in correctional facilities to constitutional abuses. Another amendment was offered to eliminate totally inmates of jails and correctional facilities from coverage in this bill, and I feel it appropriate to respond at this time to those who would suggest that inmates of correctional facilities do not belong in this legislation.

I agree with many of my colleagues who know that the American people do not wish to send those convicted of crimes to a country club environment. I want to emphasize that the effect of the Justice Department suits in the case of jails and correctional facilities would not be to create such an environment. In 1976, a Federal district court found in one State facility "as many as six inmates packed in 4-foot by 8-foot cells with no beds, no lights, no running water, and a hole in the floor for a toilet which could only be flushed from the outside (Pugh against Locke)."

Obviously we are not saying that prisoners should be fed steak but, rather that they should be fed meals nutritious enough to sustain life and health. We are not asking that each prisoner have a private bath but rather that there be adequate sanitary facilities to sustain minimum standards of health.

Ours is a society dedicated to human rights and humane principals. It is not now, nor has it ever been the intention of the American people to torture or abuse those we have placed in our correctional institutions. In most State penal institutions there is no reason for concern. Yet, in some of our correctional facilities, especially our jails, such abuse is precisely what is being done either through neglect or deliberate actions which establish what can only be descrbied as subhuman living conditions.

STATES' RIGHTS

There have been a few who have said that any legislation in this area would be an unwarranted intrusion on the part of

the Federal Government into the business of the States.

Mr. President, if a retardec child is fed from a common bowl of gruel at such speed that the child chokes to death, if 100 percent of the inmates of an institution contract hepatitis within 6 months of institutionalization, if inmates of mental institutions are murdered by fellow inmates because of lack of supervision; and if the State puts forth no effort to right such unconscionable wrongs; then, Mr. President, I believe and apparently many of my colleagues in both the Senate and the House believe, it is not only the business of the Federal Government, but the duty of the Federal Government to intervene to protect the rights of its citizens under our Federal Constitution.

A glance at the list of cosponsors of S. 10, as well as the bill itself, makes clear that legitimate concerns for States' rights were fully protected in this bill. We have spent many hours refining and changing the original bill to insure that every reasonable effort will be made to allow States to correct unconstitutional conditions first and that even then litigation will take place only in the presence of a pattern or practice of the most egregious violations of rights of those in our Nation's institutions.

Before a suit can be brought the Attorney General must certify to the court that he has pursued with the State informal methods of changing conditions, that he has advised the State of technical and financial assistance available from the Federal Government and that he is satisfied that the State has had a reasonable period of time to make a reasonable effort to provide relief and has not done so.

There are children who have been institutionalized from infancy in institutions where they are physically abused, malnourished, and neglected, where every day of their lives they know nothing but fear and indifference. To grow to adulthood in such an environment, your spirit long since dead, and finally to die physically as well as spiritually, perhaps long before your time, is a horror I cannot personally even begin to comprehend. Yet we condemn too many of our citizens to just such an existence.

Mr. President, I am hopeful that S. 10 will be considered by the Senate early in this Congress and that we will enable the Justice Department to continue its distinguished work in helping our most helpless of citizens live free from fear and with the dignity due them by virtue of their humanity.

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

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

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Whenever the Attorney General has reasonable cause to believe that any State or political subdivision, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in an institution, as defined in section 6, to egregious or flagrant conditions (conditions which are willful or wanton or conditions of gross neglect) which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States may institute a civil action in any appropriate United States, district court against such party for such equitable relief as may be appropriate to insure the full enjoyment of such rights, privileges, or immunities, except that such equitable relief shall be available under this act to persons residing in an institution as defined in section 6(a)(3) only insofar as such persons are subjected to conditions which deprive them of rights, privileges, or immunities secured or protected by the Constitution of the United States. The Attorney General shall sign the complaint in such action.

SEC. 2. (a) At the time of the commencement of an action under section 1, the Attorney General shall certify to the court—

(1) that at least 30 days previously he has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of—

(A) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States;

(B) the supporting facts giving rise to the alleged conditions, including the dates or time period during which such conditions are alleged to have existed;

(C) the measures which he believes may remedy the alleged conditions;

(2) that he or his designee has made a reasonable effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding financial, technical or other assistance which may be available from the United States to assist in the correction of such conditions;

(3) that he has endeavored to eliminate the alleged conditions and pattern or practice of resistance by informal methods;

(4) that he is satisfied that the appropriate officials have had a reasonable time to take appropriate action to correct such conditions, taking into consideration the time required to remodel or make necessary changes in physical facilities or relocate residents, reasonable legal or procedural requirements, and any other extenuating circumstances involved in correcting such conditions; and

(5) that he believes that such an action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) Any certification made by the Attorney General pursuant to this section shall be signed by him.

SEC. 3. (a) Whenever an action has been commenced in any court of the United States seeking relief from conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may intervene in such action upon motion by the Attorney General in accordance with the Federal Rules of Civil Procedures.

(b) Any motion to intervene made by the Attorney General pursuant to this section shall be signed by him.

SEC. 4. No person reporting conditions which may constitute a violation under this Act shall be subjected to retaliation in any manner for so reporting.

SEC. 5. The Attorney General shall include in his report to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, United States Code, a statement of the number, variety, and outcome of all actions instituted or in which the Attorney General has intervened pursuant to this Act.

SEC. 6. As used in this Act—

(a) "institution" means—

(1) any facility for mentally ill, disabled, or retarded persons;

(2) any facility for chronically ill or handicapped persons, including any State-supported intermediate or long-term care or custodial care facility;

(3) any jail, prison, or other correctional facility, or any pretrial detention facility; or

(4) any facility in which juveniles are placed awaiting trial or in which juveniles reside for purposes of receiving care or treatment, or for any other State purpose.

(b) Privately owned and operated facilities shall not be deemed "institutions" under this Act unless persons reside in such facilities as a result of State action.

(c) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

SEC. 7. Provisions of this Act shall not authorize promulgation of regulations defining standards of care.

Mr. BENTSEN. Mr. President, I am pleased to join today in introducing S. 10. This legislation will give the Attorney General express statutory authority to initiate legal actions to protect the civil rights of institutionalized persons.

It creates no new substantive rights. It allows the Justice Department to bring action to enforce existing rights where a pattern and practice of violation has been established.

It allows action only where the violations have been flagrant and systematic, where great harm has been inflicted on numerous people. It will allow prison actions only where a constitutional right has been denied. It will allow actions involving institutions housing the retarded, the mentally ill, neglected children and others where Federal statutory rights have been denied.

Mr. President, the quality of a civilization can be judged by the way it treats its most helpless members. In recent years we have seen examples of abuse in institutions that shock the conscience and violate our respect for the rule of law.

I stand second to none in my desire to see hardened criminals receive the punishment they deserve. The most vicious and violent should receive long and certain punishment. We must enact sentencing reforms to insure that punishment is both certain and fair. I will shortly reintroduce legislation to move us towards these goals.

Yet our prisons must meet constitutional standards. Our Bill of Rights is a bill of obligations. There can be no re-

treat from the rule of law. When constitutional rights have been denied, it should be the responsibility of the Justice Department to act.

The case is even more compelling when the abuses harm those who have done no wrong, when suffering afflicts those who are dependent on society for care.

There has been too much suffering among the neglected children, the retarded, the mentally ill, and other institutionalized persons.

Most State officials work long and hard and deserve to be commended. We owe a great debt to those countless people who labor to provide care for those who need it.

Yet adequate care is not always provided. Funds are spent on other priorities. Attention is given to other concerns. Scores of cases reveal helpless people enclosed in walls of alienation and fear.

They come for healing yet find pain. They come for hope yet find despair. They come for attention, yet find eyes that do not see and ears that do not hear.

Today we must increase our efforts to improve these conditions. S. 10, which we introduce today, will help by allowing the Attorney General to see that our laws are enforced, that the most intolerable conditions are eliminated.

To my friends who share my concern with the rights of our States, I repeat that action can only be taken when a pattern and practice of abuse has been disclosed. The Federal Government must make every effort to provide technical and financial assistance to States, to attempt to solve these problems without litigation. Notice must be given before actions are initiated, providing and I hope encouraging good faith cooperative efforts to improve conditions. The American idea of States rights is consistent with the American notion of human rights.

Mr. President, let me briefly describe the kind of widespread violations that S. 10 is addressed to.

Consider the Wyatt case, involving a mental institution. Here the court found a shortage of personnel, and inadequate care for the residents.

Retarded persons were chained to their beds at night, when employees could not be found to care for them. Toilet paper was locked up to avoid cleaning work. One patient was in a straitjacket for 9 years and lost the use of both arms.

Consider the Willowbrook case, involving a home for the mentally retarded. Evidence demonstrated the massive overdrugging of children. Some of the weaker were beaten by the stronger. Children suffered the loss of eyes, bitten off ears, broken teeth. One cerebral palsy victim spent 16 years at Willowbrook, mistakenly diagnosed as mentally retarded.

These cases demonstrate widespread abuses against great numbers of people. They are the extreme kind of case, the rare instance of great damage, that S. 10 seeks to remedy.

It is important that the great resources of our Justice Department be used to insure that our laws are enforced. The Justice Department has investigative resources, technical competence, and legal expertise unavailable to private parties. S. 10 will put those resources to use in those relatively few cases where they are urgently needed.

It will foster judicial economy and sound management when litigation is necessary. The Attorney General will be free to select cases that merit close attention, where legal action would yield the most positive results.

Mr. President, let me conclude with a thought about simple justice. Winston Churchill, speaking to a dangerous enemy of a different era, said: "What kind of a country do they think we are?".

We spend so much time criticizing ourselves here in America that we forget what a good and great country we are. We believe in justice. We believe in human rights. We believe in opportunity for each of our citizens.

It is impossible to example the cases that have come to light and not feel a sense of compassion, and responsibility.

The mentally ill must not be chained to their beds at night, or forced to consume inadequate meals in minutes

Retarded children must not burn to death in fires, because conditions were bad, because attention was not given.

We must not allow some of the most dependent people in America to be among the most forgotten, or the most abused.

In the case of criminals, they should know that they will be punished, and that the punishment will be fair. In the case of the retarded, the ill, the neglected, they should know that they will receive our compassion because they compel our concern.

This is the great strength of the American Nation.

We share a minimum standard of decency that knows no ideology, no party label, no partisanship, no bias. Today, the institutionalized persons reach out for help.

Together, let us reach back.

Mr. CRANSTON. Mr. President, I am pleased to join the Senator from Indiana (Mr. BAYH) and my other colleagues as a cosponsor of this bill to authorize, in certain instances, an action or intervention by the Attorney General where certain institutionalized individuals whose rights under the Constitution or laws of the United States are being deprived.

Mr. President, I believe strongly that S. 1393 could be of immense benefit to institutionalized children, and elderly, and handicapped—particularly mentally ill and mentally retarded—individuals, as well as incarcerated individuals.

Since 1971, the Justice Department has successfully brought suit on several occasions on behalf of such individuals. For example, in 1976, Justice successfully challenged Louisiana with respect to State policies concerning dependent children Gary W. against Stewart. Justice's discovery revealed that children were physically abused, handcuffed, chained, tied-up, kept in cages, and overdruged with psychotropic medication.

In 1974, the Justice Department appeared in a Texas suit, United States against Solomon, with respect to the State's juvenile detention facilities. The court determined that the staff of such facilities was engaged in a widespread practice of beating, slapping, kicking, and otherwise physically abusing juvenile inmates, in the absence of any exigent circumstances. Brutality was found to be a regular occurrence encouraged by those in authority.

Unfortunately, when the Justice Department's authority to initiate an action on behalf of institutionalized individuals was first challenged in a district court in Maryland that court ruled that absent express statutory authority the Attorney General lacked standing to initiate such an action, United States against Solomon. Since then, the Maryland district court decision has been upheld on appeal, and a district court in Montana has ruled likewise, United States against Mattson. Thus, in both instances in which the Attorney General's standing to bring an action for other than incarcerated persons has been challenged, the Attorney General has lost.

Mr. President, as chairman of the Subcommittee on Child and Human Development of the Human Resources Committee, I chaired hearings on January 4, 1979, in San Francisco on the abuse and neglect of children. Despite repeated stories of incidents of serious and brutal maltreatment of children residing in institutional settings, there does not appear to have been any systematic examination of the nationwide scope of this problem. This is all the more troublesome because many institutionalized children are supported by Federal funds, such as those provided under title IV–A and title XX of the Social Security Act.

Testimony at that hearing revealed that children are being confined in iron cages, held in solitary confinement in leg irons and handcuffs, tear gassed and placed—as punishment—in dormitories with older inmates who sexually abuse them. Testimony also indicated that children are often confined in institutions which rely on physical punishment and food deprivation as well as solitary confinement under the guise of treatment techniques.

Mr. President, enactment of this bill could offer a new and highly valuable avenue to provide protection for these children. I strongly support the bill and look forward to working with my colleague from Indiana (Mr. BAYH) on behalf of its favorable consideration in the Senate.

Mr. METZENBAUM. Mr. President, I am pleased to join my good friend and chairman of the Senate Judiciary Subcommittee on the Constitution in introducing S. 10. Senator BAYH has shown great leadership in this vitally important area. Since this measure was debated extensively during the last session, I hope the Senate will act quickly on it this year.

By authorizing the Attorney General of the United States to initiate civil actions on behalf of institutionalized persons, S. 10 provides for the redress of important constitutionally guaranteed rights. The courts have ruled that these rights include: The right of mentally ill patients to receive individualized treatment; the right of prison inmates to be protected from cruel and unusual conditions of confinement; and, in general, the right to be granted every priv-

ilege or immunity guaranteed by Federal law. Further, this legislation clearly states that the Attorney General will be authorized to act only in the most severe cases, where the violation is a documented pattern or practice.

The law regarding institutionalized persons has evolved largely as a result of the Department of Justice's litigation program—a program which has been emasculated by court decisions holding that the Attorney General has no authority to sue, unless such authority is granted by legislation. S. 10 would correct this situation.

This bill would redress institutionalized persons' most fundamental rights. For example, the landmark case of Wyatt against Stickney grew out of nightmarish conditions where patients in a mental hospital were tied to their beds at night for no other reason than the lack of sufficient staff to care for them. Patients were denied the use of toilet paper and were instead required to walk naked—like vehicles in carwash—through streams of water or were hosed down by fellow inmates. Other cases provide still more gruesome examples of cruelty and exploitation. I refer my colleagues to the hearing record on S. 1393, Last year's version of this bill, for numerous examples of mistreatment and the subsequent suffering of innocent patients and inmates.

When legislation of this kind is proposed, there can be no disagreement regarding its ultimate goal. However, some may question whether it is proper for the Federal Government to challenge the States in a court suit involving State-run institutions, while I believe that questions of federalism and comity must be considered, countervailing reasons suggest that the Federal Government is the appropriate entity to protect constitutional rights.

First, it is clear that the Congress is authorized to enforce other constitutional guarantees under section 5 of the 14th amendment. The rights at issue here are fundamental. Second, the Attorney General, acting through the Civil Rights Division of the Justice Department, has a record of effectiveness in this area. In almost every case in which the Department participated, the plaintiffs have prevailed on the merits and the courts have ordered relief. In addition, the Department—working with other Federal agencies—possesses the resources, expertise, and staying power to prepare and litigate these cases properly. Finally, in most instances, the Department was asked to participate in these cases as a friend of the court. This indicates the importance of the Department's counsel to the courts.

It is vital that the Congress pass this bill to insure that the rights of the institutionalized are not violated nor neglected. The protection of the basic human rights of these individuals may well depend on our willingness to enact effective legislation.

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to be an original cosponsor of S. 10, a bill to protect the civil rights of institutionalized persons. In brief, the bill gives to the U.S. dress. I believe this bill, S. 10, offers that Attorney General the authority to institute civil action in an appropriate U.S. district court in instances where the constitutional and Federal statutory rights of institutionalized persons have been violated. I would like to thank the primary sponsors of this bill, the Senator from Indiana (Mr. BAYH) and the Senator from Utah (Mr. HATCH) for the work that they have done on this bill.

This legislation has the support of the National Association for Retarded Citizens, the Mental Health Association, the American Bar Association and other legal organizations. The problems addressed with this legislation have nagged our society for years. I am hopeful this bill will extend the basic rights most of us take for granted to those who are now denied them.

In the past, the Attorney General has occasionally intervened to litigate on behalf of the mentally ill, the mentally retarded, juvenile delinquents, and the incarcerated in instances where abuse has occurred. Sometimes the Federal district courts have requested the help of the Attorney General. Recent court rulings have questioned the Attorney General's authority to become involved when civil rights of institutionalized persons have been violated. This bill would provide him with explicit authority, if all possible alternatives have been used.

I wish to make clear, however, that the Attorney General is not free to intervene until all State measures have been exhausted to resolve the problems. The Attorney General may not become involved until State grievance procedures have been used, and he must inform the State of the resources available to correct the substandard conditions.

The bill makes it very clear that the Attorney General may become involved only as a last resort, when State and local authorities have proven unable or unwilling to correct the injustices. Ideally, the Attorney General should never need to intervene.

However, experience has shown that many States have a poor record of protecting the institutionalized person. Oftentimes, it is a forgotten constituency, a neglected group of citizens which society finds easy to overlook. In addition, some States' attorneys general are bound by law to defend the agencies responsible for the unconstitutional conditions. It is simple to understand how conflicts of interest can occur.

Mr. President, this legislation is not radical, but it seeks to protect persons in our society who traditionally have been the most helpless, the most dependent, and therefore the most vulnerable. The institutionalized oftentimes do not know their rights, have no access to legal aid, and may be punished if they attempt to complain of their treatment.

After careful review of this legislation, I feel that appropriate measures have been taken to insure that the Attorney General may not intervene until every attempt has been made to correct the problem at the State level. Certainly, I have no wish to increase Federal participation in State matters, but where there is evidence that constitutional rights have been violated under the current system, then there needs to be correction, and I urge my colleagues to join in support of this legislation.●

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 11. A bill to amend the Alaska Native Claims Settlement Act to provide clarifications and improvements in the provisions thereof: to the Committee on Energy and Natural Resources.

ALASKA NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1979

Mr. STEVENS. Mr. President, May I introduce a set of omnibus amendments to the Alaska Native Claims Settlement Act. These amendments, provide for a series of changes in landmark legislation originally passed in 1971 which settled the land claims of Alaska's Eskimos, Aleuts, and Indian communities. Seven years of implementation of this act have provided the background for these amendments which have been agreed upon by an Alaska Native Claims Settlement Act working group consisting of representatives of the Department of Interior, the State of Alaska, Alaska Federation of Natives, and the Joint Federal-State Land Use Planning Commission for Alaska. The amendments which I introduce today were all the products of this working group and were included as part of title 14 of the Senate Energy Committee's Alaska d-2 lands legislation last year. Other amendments are also under consideration by the Settlement Act working group and may be added to this legislation during the hearing and markup process.

I am pleased to introduce these amendments which provide refinements of the Alaska Native lands claims legislation. Since its passage, the Settlement Act, a bold and new congressional approach to American Indian legislation, has proven to be a workable and worthwhile experiment. The interested parties have worked closely on these amendments and have produced a good series of recommendations to improve the implementation of the Settlement Act in the future. It is my hope that this legislation can move rapidly through the Senate and be enacted into legislation in the near future. Mr. President, I ask unanimous consent that the amendments that I submit today be printed in the RECORD.

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

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1979".

STOCK ALIENATION

SEC. 2. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions—

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary—

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions specified in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

(b) Section 8(c) of such Act is amended to read as follows: "(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

(c) At the end of section 1696(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by a stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

VESTING DATE FOR RECONVEYANCES

SEC. 3. (a) Section 14(c)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in the tract occupied".

(b) Section 14(e)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such Act is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

BASIS IN THE LAND AND RESERVES FROM LAND

SEC. 4. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(c)(1) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall, at the option of the recipient, be—

"(A) the fair market value of such land or interest in land at the time of receipt; or

"(B) the amount realized on the sale or other disposition of such land or interest in land adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of such land or interest in land adjusted as provided in section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis).

"(2) All rents, royalties, profits, and other revenues or proceeds derived from real property interests received pursuant to this Act shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation: *Provided*, That with respect to any such revenues or proceeds received by a Native individual, Native group, or Village or Regional Corporation with respect to which deduction for depletion would otherwise be allowable under section 611 of the Internal Revenue Code of 1954 (relating to allowance of deduction for depletion) or any corresponding provision of State and local law, the amount of such deduction shall be the greater of—

"(A) an amount equal to the deduction as determined by such section 611, using as the basis on which the depletion is to be allowed with respect to any property that basis provided in section 21(c) of this Act for purposes of computing the gain or loss on subsequent sale or other disposition of such property; or

"(B) an amount equal to the amount of such revenue adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of the property interest from which the revenue is derived; or

"(C) an amount equal to the deduction computed pursuant to section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion).".

FISCAL YEAR ADJUSTMENT ACT

SEC. 5. (a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year commencing on October 1, 1978, and, thereafter, shall, for the purposes of section 5 of Public Law 94-204 only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1605(c)) notwithstanding any other provision of law: *Provided*, That the money appropriated for fiscal year 1979 shall be deposited into the Alaska Native Fund on the first day of the 1979 fiscal year or shall be deposited into the Fund within ten days after the enactment of this Act if such enactment occurs after October 1, 1978, but shall not be distributed, in any event, until the end of the second quarter of the 1979 fiscal year notwithstanding any other provision of law.

(b) Notwithstanding section 38 of the Fiscal Year Adjustment Act or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051), and deposited in the Alaska Native Fund within thirty days after enactment of this Act and shall be distributed as requested by section 6(c) of the Alaska Native Claims Settlement Act (45 U.S.C. 1605 (c)).

UNDERSELECTIONS

SEC. 6. Section 22(j) of the Alaska Native Claims Settlement Act is amended by identifying the existing paragraph as paragraph (1) and adding a paragraph (2) to read as follows:

"(2) Where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), 11(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.".

RETAINED MINERAL ESTATE

SEC. 7. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public lands included in its selection and considered by the Secretary to be withdrawn and properly selected.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for the purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

"(D) No mineral estate of in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or

within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

CONVEYANCES OF PARTIAL ESTATES

SEC. 8. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres."

(b) Section 14(h)(2) and 14(h)5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(H)(2) and (h)(5)) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge."

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616 (h)(6)) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971 through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended.".

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) is amended by adding at the end thereof the following new paragraphs:

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section (d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

"(11) For purposes set forth in subsections (h)(1), (2), (3), (5), and (6), the term Wildlife refuges refers to Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act.

ESCROW ACCOUNT

SEC. 9. (a) Subsection (a) of section 2 of Public Law 94–204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a) (1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act, shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That interest shall be paid on the basis of semi-annual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.".

(b) Section 2 of Public Law 94–204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

SELECTION REQUIREMENTS

SEC. 10. Subsection (a)(2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(2)), is amended by adding to the end of that subsection the following: "Provided that the Secretary, in his discretion, and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(b) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.

FIRE PROTECTION

SEC. 11. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h)(3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland."

SHAREHOLDER HOMESITES

SEC. 12. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows:

"(1) A real property interest distributed prior to December 18, 1991, by Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate; *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

SEC. 13. Section 14(c)(3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided, however*, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust,

nor shall it include the issuance of free use permits or other authorization for such purposes;".

SUPPLEMENTAL APPROPRIATION FOR NATIVE GROUPS

SEC. 14. The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act and finally certified as a Native Group, an amount not more than $100,000 or less than $50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning development, and other purposes for which the Native Group Corporations are organized under the Settlement Act.

RELINQUISHMENT OF SELECTIONS PARTLY WITHIN CONSERVATION UNITS

SEC. 15. Whenever a valid State or Native selection is partly in and partly out of the boundary of a conservation system unit, notwithstanding any other provisions of law to the contrary, the State or any Native Corporation may relinquish its rights in any portion of any validly selected Federal land, including land underneath waters, which lies within the boundary of the conservation system unit. Upon relinquishment, the Federal land (including land underneath waters) so relinquished within the boundary of the conservation system unit shall become, and be administered as, a part of the conservation system unit. The total land entitlement of the State or Native Corporation shall not be affected by such relinquishment. In lieu of the lands and waters relinquished by the State, the State may select pursuant to the Alaska Statehood Act as amended by this Act, an equal acreage of other lands available for such purpose. The Native Corporation may retain an equal acreage from overselected lands on which selection applications were otherwise properly and timely filed. A relinquishment pursuant to this section shall not invalidate an otherwise valid State or Native Corporation land selection outside the boundaries of the conservation system unit, on the grounds that, after such relinquishment, the remaining portion of the land selection no longer meets applicable requirements of size, compactness, or contiguity, or that the portion of the selection retained immediately outside the conservation system unit does not follow section lines along the boundary of the conservation system unit. The validity of the selection outside such boundary shall not be adversely affected by the relinquishment.

ALASKA TOWNSITES

SEC. 16. (a) Effective on and after the date of enactment of this Act, all lands which are located in patented townsites or which are the subject of an application for patent under the Acts of March 3, 1891 (43 U.S.C. 732), or May 25, 1926 (43 U.S.C. 733–736), are withdrawn from further entry.

(b) The townsite trustee shall convey all unoccupied lands in the townsite for which he still retains title, without charge, to the home rule or first- or second-class city, if any, incorporated under the laws of the State of Alaska for the community in which the townsite was originally entered. Any remaining unobligated trust funds shall also be transferred by the trustee to the city.

(c) Where a community has not incorporated a city under the laws of the State of Alaska, or a city does not wish to receive conveyance of the unoccupied lands in the townsite pursuant to subsection (b) of this section, the townsite trustee shall convey all unoccupied lands in the townsite for which he still retains title, without charge, to the State of Alaska for the community in which the townsite was originally entered, to be administered in the same manner as provided by Alaska law for administration of lands conveyed to the State of Alaska pursuant to section 14(c)(3) of the Settlement Act. Any remaining unobligated trust funds shall also be transferred by the trustee to the State. If, subsequent to conveyance of the unoccupied lands in the townsite to the State of Alaska, the community in which the townsite was originally entered incorporates a city under the laws of the State of Alaska, the State will convey to the city all unoccupied lands in the townsite for which it still retains title, without charge, together with any unobligated trust funds. This procedure will also apply in the event a city previously declining conveyance of unoccupied lands in the townsite indicates to the State its desire to receive conveyance.

(d) The Secretary shall proceed to process any pending townsite entry which has been filed by the townsite trustee and issue patent, if appropriate, to the townsite trustee. After the issue of patent to the townsite trustee, the provisions of this section shall apply. In order to protect valid existing rights, the townsite trustee shall administer and discharge his trust on all tracts lawfully occupied on the date of this Act in accordance with the rules and regulations which governed such administration prior to the repeal of the Townsite Act.

LIMITATIONS

SEC. 17. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

Mr. GRAVEL. Mr. President, since the passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971, there have arisen many problems in interpreting and implementing the complex provisions of the act. Last year I introduced similar legislation designed to clarify and correct these problems, which have resulted in numerous court suits and overall delay in conveying the land due Native corporations under the terms of ANCSA. Some of the provisions of this bill were passed in the tax bill last Congress, but most were caught up in the Alaska lands legislation dealing with new conservation system areas which failed in the final moments of the last Congress.

However, this legislation in most respects is outside the domain of the better known "d–2" or Alaska lands legislation. Passage of ANCSA amendments is vitally needed and should be considered with or without passage of an Alaskan lands bill.

The conveyance of some 44 million acres of land in Alaska promised Alaskan Natives is long overdue and swift passage of this legislation will go far in achieving the goals set forth in the 1971 act. I am pleased to join my colleague from Alaska in sponsoring this legislation and urge the Senate to act positively on the bill early this session.

By Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. HUMPHREY, Mr. LUGAR, Mr. MCCLURE, Mr. SCHMITT, Mr. TOWER, Mr. HELMS, Mr. GOLDWATER, and Mr. JEPSEN):

S. 12. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the individual tax rates and in the amount of personal exemptions; to the Committee on Finance.

TAX EQUALIZATION ACT

Mr. DOLE. Mr. President, despite all the political rhetoric about tax cuts during the 95th Congress, more than 80 percent of the American taxpayers can expect a tax increase this year. The increase, which will approach $10 billion, comes after Congress passed a major tax reduction in hopes that it would pacify taxpayers crying out for lower taxes.

TAXFLATION

Mr. President, inflation is our number one tax problem. As inflation increases, a taxpayer's income must also increase to enable the family to buy the same amount of goods and services. But, as nominal income rises, the taxpayer is pushed into higher and higher tax brackets—thus, paying a larger tax bill—despite the fact that no gain in purchasing power has been realized. Because of our progressive tax system, the taxpayer is required to pay a higher percentage of his earnings in taxes. Although the taxpayer is earning more money to keep up with inflation, his real standard of living may actually decline.

INDEXING

Mr. President, the legislation I introduced today is designed to insulate taxpayers from the tax impact of inflation by automatically adjusting tax liabilities each year to reflect increases in the cost of living. The tax equalization act would adjust the personal income tax rates, the personal exemption and the zero bracket amount to reflect increases in the cost of living as measured by the consumer price index during the previous year. The Tax Equalization Act is effective beginning with tax years after 1980, and will remain in effect for 4 years, at which point Congress will have an opportunity to review and determine whether to continue the indexing adjustments.

Mr. President, the effects of taxflation are dramatic. Consider the dilemma of a family of four who earns $15,000 in 1979. Assuming an inflation rate of 8 percent in 1979, the family has to earn $1,200 more in 1980, or $16,200, just to stay even with inflation. But, the family does not really stay even. While their income increases by 8 percent, their income taxes actually increase by $258, or more than 12 percent.

The impact of tax inflation becomes more dramatic as the taxpayer climbs the economic scale. A family with a $30,000 a year income in 1979 will have to earn $2,400 more in 1980 to keep pace with an 8 percent inflation rate. But, at an income of $32,400, the family tax bill will rise $888.

TAX EQUALIZATION

Mr. President, the way to stop these unlegislated increases is to index the tax system. Indexing is a simple concept. As inflation increases, the tax system is adjusted to prevent individuals from being pushed into higher tax brackets. For example, under the Tax Equalization Act, if the inflation rate for 1979 were 8 percent, the personal exemption would increase from $1,000 to $1,080.

VESTED INTEREST

The Government has a vested interest in inflation. For each percentage increase in the inflation rate, the Federal Government can expect an additional $1.5 billion in new tax revenues. According to the Joint Committee on Taxation, taxflation will increase taxes by nearly $10 billion in 1979 and an additional $11.9 billion in 1980. This yearly wind-

fall bonus allows Congress to continually expand the role of Government without having explicitly to increase taxes to finance the programs it generates. The Tax Equalization Act, by depriving Congress of inflation-induced revenues, will encourage fiscal restraint and decrease the size of Government.

Many of the opponents of tax indexing have stated that such adjustments would be conceding defeat in our battle against inflation. This, of course, is nonsense. Indexing, by itself, will neither cause nor cure inflation. In fact, it may help to reduce the major impediment in our ability to control inflation—excessive Federal spending.

WAGE DEMANDS

Indexing may have a positive effect. It may help to keep wage increases down. Without indexing, a worker realizes that a wage increase that just keeps pace with inflation will push him into a higher tax bracket. In order for him to achieve a real gain, his wages must rise faster than the cost of living. The inflation penalty inherent in the present tax structure is one of the basic reasons for inflationary wage demands, since workers must receive inflationary wage increases in excess of the cost-of-living increase simply to maintain the actual value of their take-home pay.

PUBLIC SUPPORT

Mr. President, Congress, from time to time, has reduced taxes in order to compensate for inflation. However, these reductions are often no more than a redistribution of the tax burden. A study released to the Senate Finance Committee indicates that the American people agree that indexing is a better way to reduce taxes than the current ad hoc decreases. A study released to the Senate Finance Committee last summer indicated that 57 percent of the American public preferred indexing to the periodic tax cuts the Government has made from time to time to keep taxes in line with inflation.

Mr. President, there are a number of other countries that have already adopted some form of tax indexing. These countries include Canada, France, Luxembourg, Denmark, Israel, Brazil, The Netherlands and, recently, Australia. In the United States, Colorado and California have already initiated indexed tax systems for the collection of their State income tax.

Mr. President, the Tax Equalization Act is designed to establish a simple and modest approach which will offer both the Congress and the American people an opportunity to evaluate indexing on its merits. The bill which I introduce today does not address the issues of indexing for capital gains and making allowances for the inadequacy of depreciation. These issues are more complex but I intend to address them in subsequent legislation.

INCREASED REALITY

Mr. President, the Senator from Kansas believes that tax indexing will soon become a reality. Last year, the House of Representatives passed a bill to prevent the Federal Government from taxing inflation on capital gains. Although this was not enacted into law, it was a significant step for indexing and an indication of things to come. Last year, during the consideration of the Revenue Act of 1978, an amendment which I introduced with a number of my distinguished colleagues received wide bipartisan support. Although my proposal did not pass, it did garner more votes than the widely publicized 33 percent across-the-board tax cut.

Mr. President, the administration and congressional free-spenders cannot ignore the compelling arguments for indexing much longer. The American taxpayer understands the reasons that his taxes are increasing and that the Federal Government is the prime beneficiary. The American public will not stand for the congressional ritual of cutting taxes in election years.

Indexing is the logical and responsible way to end the see-saw syndrome of automatic and unlegislated tax increases caused by inflation. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 12

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act shall be known as the Tax Equalization Act.

SEC. 2. ADJUSTMENT TO INDIVIDUAL TAX RATES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.

(a) GENERAL RULE.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

(1) IN GENERAL—

"(A) TAXABLE YEARS BEFORE 1984.—Not later than December 15 of each calendar year before 1983, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(B) TAXABLE YEARS AFTER 1983.—The tables prescribed under subparagraph (A) for taxable years beginning in 1983 shall also apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning after 1983.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1)(A) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table,

by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1978.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

(b) DEFINITION OF ZERO BRACKET AMOUNT.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) ZERO BRACKET AMOUNT.—For purposes of this subtitle, the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), (c), or (d) of section 1 applies, the minimum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case."

SEC. 3. COST-OF-LIVING ADJUSTMENTS IN AMOUNT OF PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(b) EXEMPTION AMOUNT.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION AMOUNT.—For purposes of this section, the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3))—

"(1) for the calendar year in which the taxable year begins, or

"(2) in the case of a taxable year beginning after December 31, 1982, for calendar year 1983.

If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10)."

SEC. 4. ADJUSTMENTS IN WITHHOLDING.

(a) IN GENERAL.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the third sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calendar year. The tables prescribed under the preceding sentence for 1983 shall also apply with respect to wages paid after 1983."

(b) PERCENTAGE METHOD OF WITHHOLDING.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall, not later than December 15 of each calendar year before 1983, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f)) which applies to taxable years beginning in the succeeding calendar year. The table prescribed under the preceding sentence for 1983 shall also apply to wages paid after 1983."

(c) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for taxable years beginning in the calendar year)"; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1(b) in the case of an individual who is not married, within the meaning of section 143, and who is not a surviving spouse, as defined in section 2(a))."

SEC. 5. RETURN REQUIREMENTS.

(a) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount and the zero bracket amount applicable to such an individual".

(b) Clause (ii) of section 6012(a)(1)(A) of such Code is amended by striking out "$4,400" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(c) Clause (iii) of section 6012(a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(d) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(e) Paragraph (1) of section 6012(a) of such Code is amended by adding at the end thereof the following new subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151(f)."

(f) Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(1) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(2) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(3) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f)."

SEC. 6. EFFECTIVE DATES.

(a) The amendments made by sections 1, 2, and 4 of this Act shall apply to taxable years beginning after December 31, 1979.

(b) The amendments made by section 3 of this Act shall apply to remuneration paid after December 31, 1979.

By Mr. DOLE:

S. 13. A bill to amend the Congressional Budget Act of 1974 to impose limits on the amounts of total budget outlays and Federal revenues set forth in concurrent resolutions on the budget, to require a two-thirds vote for agreeing to concurrent resolutions on the budget which set forth a deficit, and for other purposes; to the Committee on Governmental Affairs.

SPENDING LIMITATION ACT

Mr. DOLE. Mr. President, the most pressing and serious problem facing the Congress as we reconvene for the start of the 96th Congress is the expanding role of Government. The American people are tired of seemingly limitless Government spending, ever increasing taxing and a rapidly growing national deficit.

EXCESSIVE FEDERAL SPENDING

Mr. President, the public wants more efficient and smaller Government. The overwhelming approval in California last year of the proposition 13 ballot initiative signaled a beginning. In the November elections, voters in 12 out of 16 States approved proposals to limit Government spending or taxes.

The Federal Government has so far not heeded these warnings. Congress continues to increase spending, maintain unwarranted deficits and legislate higher tax rates. The bill which I introduce today is designed to restore fiscal sanity and sound economic planning.

GOVERNMENTAL EXPENDITURES

Mr. President, the range of governmental activities has been increasingly expanding. In 1929, governmental expenditures—the combined Federal, State, and local spending—was 11 percent of our gross national product. Government spending as a percentage of gross national product rose to 20 percent in 1940, 23 percent in 1950, 30 percent in 1960, 35 percent in 1970 and nearly 38 percent last year.

Mr. President, the growth in Federal spending has been incredible. In fiscal years 1962, Federal outlays were slightly over $100 billion. In less than decades from that time, the President of the United States will submit a budget almost 5½ times that number. To demonstrate how outrageous Federal spending has become, the Government has increased new Government outlays by $130 billion in the last 3 years.

NATIONAL DEBT

This tremendous increase in spending has brought about a dramatic growth in our national debt. In fiscal year 1975, the Federal debt stood at $544 billion. However, in only a short period of time, it is likely that the national debt will soon approach $900 billion. Federal spending in the current fiscal year is up dramatically. However, if off-budget agencies are included, the figures appear even more dramatic. It is apparent that Federal spending, which has by all sane standards become out of control, needs to be cut back.

The expanding role of Government has led to a proliferation of Government agencies, regulations and bureaucratic morass. At least 90 Federal agencies are involved in issuing Government regulations. Funds allocated for regulation in this year's Federal budget amount to $4.5 billion—more than twice the expenditure in 1974. Some economists have said that Government regulation increases the price of goods and services in the United States by as much as $100 billion a year.

BALANCED BUDGET

Mr. President, since 1950, the Federal budget has been balanced in only 5 years and the Government has not balanced the budget at all in this decade. These budget deficits indicate a lack of a coherent fiscal policy. In fact, we seem to run a deficit no matter what the state of our economic affairs. Mr. President, I am introducing several proposals today. They include: Limits on Federal spending, taxes, and a mandate for a Federal balanced budget. I believe that my approach is a sensible one to a chronic problem.

SPENDING AS PERCENTAGE OF GNP

Mr. President, under the projected fiscal year, Federal spending will be approximately 22 percent of gross national product, the sum of all goods and services produced in the United States. The Senator from Kansas believes that that level, over the long run, is too high. My proposal calls for a limit on Federal spending as a percent of gross national product. The Senator from Kansas believes that it is time to return the percentage of Federal expenditures, as it relates to gross national product, to its historical level of 18 percent. The spending limitation act requires the Government to decrease spending as a percent of gross national product until it reaches the 18 percent level in 3 years. In order to maintain some flexibility, spending may rise if the increase is approved by two-thirds of both Houses of Congress.

Mr. President, to complement the spending limitation, I am introducing a counterpart initiative to limit taxes. Under my proposal, the Congress' ability to raise revenue is similarly limited to 18 percent of gross national product. This limit will act to curb Federal spending and insure potential tax relief to the overburdened taxpayer.

TAXING LIMITATION

Mr. President, the American people have had enough. They have had enough of big Government—inflation—and high taxes. The taxpayers' revolt that started in California and spread across the country is only the beginning. The taxpayers across the country are sending a message. Unless we in Washington listen, we will be faced with the same consequences.

Mr. President, the Senator from Kansas is also submitting initiatives to balance the Federal budget. It has been shown time and time again that the public overwhelmingly supports a federally balanced budget. According to a recent survey, more than 80 percent of Americans favor requiring the Congress to balance expenditures with revenue each year.

FEDERAL DEFICIT

The persistence of substantial deficits has been largely responsible for our serious inflation problem. When a government sustains a budget deficit, it is putting more money into the economy than it is extracting. It is no surprise, that when the deficit is as large as it is now at a time of economic expansion, that inflation would be accelerating. The reduction of the deficit would help suppress inflation. However, a balanced budget by itself may not result in smaller Government or lower taxes. For this reason, it is necessary not only to balance the budget, but also to reduce expenditures and taxes.

As a third prong of the Spending Limitation Act, I am calling for a federally balanced budget. In order to provide some flexibility because of economic circumstances, the budget may be unbalanced in every 2 of 5 years. However, if

the budget is unbalanced, the deficit must be made up within 2 years.

CONSTITUTIONAL AMENDMENT

Mr. President, the Spending Limitation Act amends the 1974 Congressional Budget Act. However, I am also introducing a constitutional amendment for a balanced budget. This proposal is similar to the bill being introduced. It requires fiscal responsibility but allows sufficient flexibility for the Congress to respond to economic and other contingencies.

Mr. President, in order to reduce the role of government and control inflation, we must take bold action. My plan would bring about the goals which the American people support while permitting needed flexibility.

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

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

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title III of the Congressional Budget Act of 1974 (31 U.S.C. 1321–1332) is amended by inserting after section 301 the following new sections:

"LIMITATIONS ON TOTAL BUDGET OUTLAYS AND FEDERAL REVENUES

"SEC. 301A. (a) PERCENTAGE OF GROSS NATIONAL PRODUCT.—Beginning with the fiscal year ending on September 30, 1980, the appropriate level of total budget outlays and the appropriate level of Federal revenues set forth in any concurrent resolution on the budget for a fiscal year shall not exceed the following percentages of the Gross National Product at the close of such fiscal year as projected by the Director of the Congressional Budget Office and reported by him, from time to time, to the Committees on the Budget of the House of Representatives and the Senate:

"(1) 21 percent, for the fiscal year ending on September 30, 1980,

"(2) 19½ percent, for the fiscal year ending on September 30, 1981, and

"(3) 18 percent, for the fiscal year ending on September 30, 1982, and for each fiscal year thereafter.

"(b) NATIONAL EMERGENCIES.—The provisions of subsection (a) shall not apply to a concurrent resolution on the budget for a fiscal year if such concurrent resolution contains a section stating the existence of a national emergency necessitating the waiver of such provisions, but on the question of agreeing, in either the House of Representatives or the Senate, to any such concurrent resolution, or to the report of a conference committee on any such concurrent resolution, the affirmative vote of two-thirds of the Members present and voting, by rollcall vote, shall be required.

"BUDGET DEFICITS

"SEC. 301A. (a) TWO-THIRDS VOTE REQUIRED.—Beginning with the fiscal year ending on September 30, 1980, if the concurrent resolution on the budget for a fiscal year required by section 301, and any succeeding concurrent resolution on the budget for the same fiscal year, sets forth a deficit in the budget as appropriate, or the report of a conference committee on any such concurrent resolution recommends a deficit in the budget as appropriate, on the question of agreeing, in either the House of Representatives or the Senate, to such concurrent resolution or such conference report the affirmative vote of two-thirds of the Members present and voting, by rollcall vote, shall be required.

"(b) NOT MORE THAN TWO DEFICITS IN FIVE YEARS.—Beginning with the fiscal year ending on September 30, 1980, it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year which sets forth a deficit as appropriate, or the report of a conference committee on any concurrent resolution on the budget which recommends a deficit as appropriate, if, for more than one fiscal year out of the preceding four fiscal years, total budget outlays exceeded total Federal revenues. In the case of a concurrent resolution on the budget for a fiscal year which is being considered before the close of the preceding fiscal year, the amount of total budget outlays and Federal revenues for such preceding fiscal year shall be based on estimates made by the Director of the Congressional Budget Office and furnished by him, from time to time, to the committees on the Budget of the House of Representatives and the Senate.

"(c) DEFICITS MUST BE MADE UP IN TWO YEARS.—If for any fiscal year, beginning with the fiscal year ending on September 30, 1980, total budget outlays exceed total Federal revenues—

"(1) the concurrent resolution on the budget for the succeeding fiscal year (or, if necessary, the succeeding two fiscal years) shall set forth an amount of appropriate surplus equal to the amount of such excess; and

"(2) it shall not be in order, in either the House of Representatives or the Senate, to consider any concurrent resolution on the budget for the second succeeding fiscal year unless such concurrent resolution sets forth an amount of appropriate surplus equal to the amount of such excess, reduced by the amount by which total Federal revenues exceeded total budget outlays for the first succeeding fiscal year.

For purposes of paragraph (2), in the case of a concurrent resolution on the budget for the second succeeding fiscal year which is being considered before the close of the first succeeding fiscal year, the amount of total budget outlays and Federal revenues for the first succeeding fiscal year shall be based on estimates made by the Director of the Congressional Budget Office and furnished by him, from time to time, to the Committees on the Budget of the Senate and the House of Representatives.".

Sec. 2. Section 904(b) of the Congressional Budget Act of 1974 is amended by striking out "title III or IV" and inserting in lieu thereof "title III (except sections 301A and 301B) or title IV".

By Mr. CHURCH:

S. 14. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION REFORM ACT OF 1979

Mr. CHURCH. Mr. President, I am pleased to reintroduce the Reclamation Reform Act, a bill which was subjected to hearings last year and must be acted on by the Congress this year.

This bill is the product of a bipartisan effort to address the problems which have developed in our Federal reclamation laws—problems which Congress has the duty to correct.

The subject of controversy is the Reclamation Act of 1902 which established two basic requirements for an individual to get water delivered to his land on a Federal reclamation project. First, he had to live on or near the land. This requirement was later interpreted to require residency within 50 miles of the land. Second, he could not receive water on more than 160 acres held in fee. The law did not address any limitation on leased land.

These requirements were sound and meaningful in 1902. At that time, 160 acres was about all a family could handle efficiently with a mule and plow. The residency requirement was equally effective in stimulating the population of the vast reaches of western land and in excluding land speculators from the Federal projects.

But 77 years have elapsed since adoption of the 1902 act. Tremendous changes in the economics of agriculture have taken place. Since circumstances have changed, the law must change to conform to the realities of present-day farming. Unless the Congress acts before the end of this year, thousands of reclamation project family farms will be thrown into chaos by court ordered rules strictly enforcing the outdated 1902 law.

The problems in the existing law are numerous:

Ambiguities in the 1902 Act have permitted benefits of the program to go to speculators and profiteers instead of farmers.

The residency requirements of the law have not been enforced and many farmers now live well over 50 miles from their farms. Some farmers have retired and live hundreds of miles from their farms while others have conveyed title to the land to their children living in other parts of the country.

Existing law does not deal directly with leasing on reclamation projects although the Secretary of the Interior has proposed certain restrictions.

160 acres is no longer an economic farm unit for most farmers. As a result, they have been forced to acquire title to additional land in the name of their spouses or children or they have leased additional acreage in order to operate an economic farm unit.

Individuals receiving even minimal amounts or supplemental Federal water deliveries may be subjected to the acreage limitations and requirements of Federal reclamation law.

Other ambiguities abound. As a result of the current state of the law and recent court decisions which led the Secretary of the Interior to promulgate proposed regulations to force the sale of "excess" lands, farmers on reclamation projects are confused and dismayed. No one knows what to expect. Many farmers find they are unable to secure financing for the coming year's crops due to the uncertainty.

An updating of the law is essential if farmers are to return to the business of farming with assurance that their water will not be shut off.

ACREAGE LIMITATIONS

An acreage limitation should be established for farm operations which will replace the current outmoded 160-acre restriction on individual ownership. Such a limitation would insure that the benefits of the reclamation program will be spread among as many farmers as feasible, while permitting them to operate a viable farm unit without having to play a shell game with title to the land. Moreover, an absolute limit on size, whether the land is leased or owned, will be much easier to understand and enforce than present law.

Accordingly, my bill would replace the existing acreage restriction of 160 acres per individual with an absolute maxi-

mum farm size of 1,280 acres, owned or leased in any combination.

Under existing law, as interpreted by the Secretary of the Interior, it should be observed that a family of four could control 1,280 acres, by leasing 640 and holding an additional 640 in fee. Today, in other words, the size of the family determines the size of the farm.

QUALIFIED RECIPIENTS

In order to allow for family partnerships and family corporations, without opening the door to large corporate businesses, my bill would restrict such combinations to no more than 25 persons.

If the operators desired to set up a family corporation, as many farmers do, they would not face the disadvantage present law inflicts on them. Under the Secretary's proposed regulations, a corporation could only own 160 acres, while a family of four could own 640. Thus, by incorporating, the family would have to divest 480 acres or be in violation of the law. This is manifestly unfair.

In addition, my bill would not require individual members of a farm family to own portions of the farm. To illustrate: A farm family (father, mother and dependents) would be treated as an individual for purposes of the acreage limitations. Thus, the family could obtain federally delivered water on a reclamation project for up to a maximum of 1,280 acres, no matter who in the family actually held title to the land.

Moreover, whatever legal entity is formed to hold the land, its benefits may not flow to more than 25 persons, nor could that entity obtain project water for a farm of more than 1,280 acres. The holdings of the entity would be deemed those of each beneficiary for purposes of determining compliance with the acreage limitations. For example, if a corporation had 10 shareholders and controlled 1,280 acres, each shareholder would be deemed the holder of 1,280 acres for purposes of the acreage limitations.

In addition, the Secretary would be given authority to limit the number of landholders that any person, firm, or business could manage for the benefit of another on reclamation projects. This will further limit access by large corporations, and help preserve a pattern of family-operated farms.

RESIDENCY

The residency requirement of existing law does little to assure that the benefits of the project will go to those who intend to actually farm the land; it merely requires that an owner live within a certain distance from the owned reclamation lands. As a result, a person living within 50 miles of reclamation land may purchase that land without ever intending to farm it. This permits speculators to invest in Federal reclamation projects and reap windfall profits from land benefited by project water without ever intending to farm the land. This is contrary to the goals of the program.

The legislation I am introducing today would abolish the residency requirement, since it is no longer effective in assuring that the benefits of the program go to people involved in agricultural production. Those who acquire land on reclamation projects in the future would be required to derive income from the agricultural production of their land rather than from renting it out at a fixed fee. This proprietorship test would apply for a period of 10 years, after which an operator could sell or lease the land to another qualified recipient, if he so desired.

This proprietorship test will discourage speculators seeking quick profits from the appreciation of reclamation land while insuring that those who actually depend upon farming for their livelihood will enjoy the benefits of the program.

EQUIVALENCY

Not all land on Federal reclamation projects is of equivalent productive capacity. As a result, some allowance should be made for lands of lesser productive capacity in applying the acreage limitations.

It would be wrong to treat all reclamation land alike. In fact, as reclamation projects have been built in the past, land tracts have been classified according to various criteria, such as the fertility of the soil, elevation, slope, growing season, and other physical characteristics. This was done to determine the ability of farmers on less productive land to meet repayment charges.

My bill would direct the Secretary to make appropriate increases in the acreage limitation, beyond 1,280 acres, for lands of lesser productivity than class 1 land, by utilizing these same criteria.

REPAYMENT OF CONSTRUCTION CHARGES

This bill also provides that, upon the scheduled repayment of the irrigators' portion of a projects' construction charges, the acreage limitation will no longer apply. The provision reaches two contractual situations.

The first consists of those contracts with the Government which contain a clause detailing the manner in which the irrigators, by speeding up payment of construction charges or by some other means, may exempt themselves from the acreage limitations. A number of these contracts have been approved by Congress and thus have the force of law. However, a number of others have not been so approved, and, as a result, may be ineffectual in exempting districts which have paid out in advance. My bill would give these districts the benefit of their bargain, and put them on an equal basis with those that have already secured the approval of Congress.

The second category of contracts covered by this provision contains no language terminating acreage limitations upon payout. Under my bill, once the irrigators have repaid their debt to the Government, the acreage limitations would no longer apply.

Another feature of the bill is its requirement that, upon payout, the Secretary is to issue a recordable document to be placed in the records of the county in which the land is located stating that the acreage limitations no longer are applicable to that land. This will remove the cloud from the title to lands in projects where the irrigators' obligation to the Federal Government has been fully repaid.

COMMINGLING

One problem not addressed by this legislation is commingling, where federally delivered water is mixed with water from non-Federal sources. I believe this problem should be dealt with and intend to work with concerned irrigators in an effort to devise a workable solution. I will be looking to them for guidance as this bill progresses.

FRAMEWORK UPON WHICH TO BUILD

I realize that this legislation does not contain all the answers to the complicated problems inherent in an outdated reclamation program, which has been unevenly administered through the years. I view this bill as a framework upon which to build, as Congress strives to resolve some very complicated issues.

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

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

S. 14

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be a supplement to the Act of June 7, 1902, and Acts supplementary thereof and amendatory thereto (43 U.S.C. 371), hereinafter referred to as the Federal reclamation laws, and this Act may be cited as the "Reclamation Reform Act of 1979".

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "Secretary" means the Secretary of the Interior.

(b) The term "qualified recipient" means an individual, including his or her spouse, or dependents thereof, within the meaning of the Internal Revenue Code (26 U.S.C. 152), or any legal entity directly benefiting twenty-five persons or less, that is a citizen of the United States and that owns or leases a landholding.

(c) The term "individual" means any person, including his or her spouse, or dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(d) The term "landholding" means one or more tracts of land owned or leased by any person which are served with a water supply pursuant to a contract with the Secretary.

ACREAGE LIMITATION

SEC. 3. (a) Any provision of the Federal reclamation laws which establishes a limitation on acreage to be served with a water supply to the contrary notwithstanding, a landholding of any qualified recipient which consists of one thousand two hundred and eighty acres or less shall be considered to be within the acreage limitation of the Federal reclamation laws.

(b) No individual shall benefit directly from the delivery of water to landholdings in excess of the acreage limitations of the Federal reclamation laws.

(c) Each individual who would benefit directly from the delivery of water to a landholding of a legal entity must qualify as a qualified recipient in order for such lands to be eligible to be served with a water supply.

(d) The Secretary may, in his discretion, by rule, impose a limitation on the number of landholdings that may be managed on behalf of a qualified recipient by another person.

(e) Except to the extent that they are inconsistent with the provisions of this Act, the other Federal reclamation laws, including those provisions relating to the implementation of the acreage limitations, shall remain in full force and effect.

(f) Nothing in this Act shall repeal or amend other statutory exemptions from any acreage limitations of the Federal reclamation laws.

EQUIVALENCY

SEC. 4. Wherever an average limitation is imposed by Federal reclamation law, the Secretary shall (upon request of a qualified recipient or other contracting entity representing one or more qualified recipients) designate by rule the acreage of a landholding which may receive water at one thousand two hundred and eighty acres of class 1 land or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production and length of growing season: *Provided*, That this section shall not apply to any project, unit or division of a project or repayment contracting entity if the average frost-free growing season, as conclusively determined from published Department of Commerce records, exceeds one hundred and eighty days and that a landholding on such project, unit or division of a project may not exceed one thousand two hundred and eighty acres.

RESIDENCY NOT REQUIRED

SEC. 5. Notwithstanding any other provision of law, a qualified recipient shall not be required to be a resident on or near a landholding in order for such landholding to be eligible to receive water pursuant to a contract with the Secretary.

REPAYMENT OF CONSTRUCTION CHARGES

SEC. 6. (a) The acreage limitation provisions of the Federal reclamation laws shall cease to apply to any landholding upon completion of the repayment required by the terms of any contracts with the Secretary relating to the delivery of water supplies to such landholding for agricultural use.

(b) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the acreage limitations of the Federal reclamation laws. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located.

LEASING RESTRICTIONS

SEC. 7. (a) Lands which are leased by any party and operated for agricultural production utilizing water supplied pursuant to a contract with the Secretary shall be considered to be a part of such party's ownership or landholding for purposes of applying the acreage limitation of the Federal reclamation laws.

(b) No qualified recipient acquiring a landholding after January 1, 1978, may lease such landholding unless he or she has derived income as a qualified recipient from such landholding for agricultural production rather than a fixed rental for a period of not less than ten years: *Provided, however*, That the Secretary may permit such leasing after a shorter period of time upon application of a lessor if the Secretary determines that hardship or other mitigating circumstances warrant such permission.

(c) Lands which were leased by any party and operated for agricultural production utilizing water supplied pursuant to a contract with the Secretary on January 1, 1978, in excess of the acreage limitation of the Federal reclamation law may continue to receive a water supply until the expiration of the lease or ten years, whichever is shorter.

DELIVERIES OF WATER

SEC. 8. (a) One year after the date of enactment of this Act, no lands may receive water pursuant to a contract with the Secretary, except as otherwise provided in the Federal reclamation laws, unless such lands comprise a landholding which is within the acreage limitation of the Federal reclamation laws.

(b) Lands held by a charitable or religious not-for-profit organization and receiving water supplies pursuant to a contract with the Secretary as of January 1, 1978, may continue to receive such water supplies.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) The Secretary is hereby authorized and directed to amend any provision of any contract between the Secretary and another party existing upon the date of enactment of this Act which is inconsistent with the provisions of this Act, upon the request of said other party.

(b) Determinations made by the Secretary pursuant to the authority granted in this Act shall be in accordance with the provisions of the Administrative Procedure Act, chapter 5 of title 5, United States Code.

By Mr. LEVIN:

S. 15. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of geography in the issuance and use of credit cards; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, today I am introducing a bill to prohibit the blatantly unfair practice of credit card redlining. Companies engaged in this practice give lower point ratings for the purpose of issuing credit cards to applicants if they reside within certain regions of this country or within specific zip codes within these regions. In other words, geography, rather than individual credit history now help determine an individual's acceptability for credit.

The result of using such a scoring system is to deny credit to persons, who are otherwise acceptable, on the basis of where in America they reside.

Such a state of affairs does not do justice to the ideals or the unity of our country.

Mr. President, I ask unanimous consent that the text of the bill and the three newspaper articles describing the practice be printed in the RECORD.

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

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 701 of the Consumer Credit Protection Act is amended by adding at the end thereof the following:

"(e) It shall be unlawful for a card issuer, as defined in section 103, to discriminate against any person with respect to any aspect of the issuance or use of a credit card, as defined in section 103, on the basis of the place of residence of that person.".

[From the Washington Post, July 20, 1977]

"REDLINING" WITH CREDIT CARDS

We were intrigued by a story we read the other day about a husband and wife in Detroit with a combined yearly income of $50,000 who have been unable to get a credit card from the Mobil Oil Corporation. The reason is that Mobil, like a lot of other credit corporations, uses geographic location as one measure of "credit worthiness," and the couple in question lives in an older relatively poor section of Detroit. Mobil says that it divides the country into regions and can determine statistically in which regions people are more likely to default on credit. It says that its tri-state Midwest region, which includes Michigan, has a history of poor "credit experience." Other corporations acknowledge that they make similar judgments by using zip codes as an important test of a person's credit acceptability.

Now, it is true that the country has done much in the past few years to clean up unfair and arbitrary credit-rating practices. Through the Equal Credit Opportunity Act, a lot of flagrant credit discrimination has been identified and is on the way out. But the test of residential location apparently is still with us—and widely used. One reason is that the law does not prohibit discrimination on that basis. That's why the various federal agencies that regulate the credit corporations argue that they have no way to stop the practice—so long as it doesn't clearly take the form of discrimination against any one race or sex.

There is a particularly disturbing aspect to this problem—apart from the effects of this form of discrimination on individuals—and that is the area-wide effect, especially on inner-city neighborhoods. In practical terms, the determination of a person's entitlement to credit based on a region, a state or the location within a city is a form of "redlining"—a term more often associated with discriminatory mortage lending, but applicable in this instance. At a time when local and federal officials are developing programs to get more people to live in cities—and in older neighborhoods in particular—a denial of credit to otherwise credit worthy residents of the areas concerned is, to say the least, unhelpful.

Serious consideration ought to be given to amending the Equal Credit Opportunity Act so that geographic location does not remain a basis for discrimination. Credit worthiness should be determined uniformly and on the individual merits, not by the arbitrary application of tests having only to do with where the credit-seeker happens to live.

[From the New York Times, June 16, 1977]

"REDLINING" CHARGED IN CREDIT DENIAL TO DETROIT COUPLE

(By Reginald Stuart)

DETROIT, June 15.—In what has been criticized as a flagrant case of credit card "redlining," a Detroit couple with an annual income of $50,000 has been denied a Mobil Oil Company credit card because the couple lives in Detroit and because the husband's occupation was not considered a good credit risk.

Isaac Selick, a retired Detroit police officer who is now a security guard and private detective, and his wife, Aileen, a member of the staff of the Detroit superintendent of public schools, received their rejection notice recently in the form of a computer printout. Part of the letter read as follows:

"Mobil uses a scoring system which was developed by analyzing the credit history of thousands of accounts, so that we could identify and assign values to those characteristics which best indicate credit performance. The values assigned to these characteristics are then applied to the responses given on each application, thereby producing an overall score.

"Each applicant's composite score is then compared to what our past experience has found to be the minimal acceptable total. Unfortunately, your composite score was below the minimum required for approval. The major areas where you scored the lowest were:

"Credit experience in your general geographical area.

"Credit experience in your occupational category."

"REDLINING OF THE WORST ORDER"

Carl Levin, who is president of the Detroit City Council and an outspoken opponent of redlining, said the letter and refusal to grant the Selicks a credit card "is nothing short of incredible and constitutes redlining of the worst order."

The term "redlining" grew out of the practice on the part of some banking or insurance officials of lining off poor or rundown sections of a city, making it difficult if not impossible for persons living in those sections—often members of minority groups—to obtain insurance or a loan for home improvements. Banking and insurance officials maintain that the practice is based on sound business principles and not on neighborhood or racial discrimination, but many people living in such neighborhoods dispute this.

W. B. Blackwell, manager of credit for the Mobil Oil Credit Corporation based in Kansas City, Mo., said the system used in evaluating the Selicks' application "is accurate, fair and objective."

SCORING SYSTEM NOT UNUSUAL

Mr. Blackwell, who said the system had been in use for at least four years, added that the geographical area referred to in the printout was Michigan. However, Mrs. Selick said that when she called Mobil several days ago inquring about the system, she was told by an account representative that ZIP codes were used in evaluating applications.

The Selicks' experience of being rejected based on a computerized scoring system is not rare. In trying to answer criticism of using a single person to evaluate and judge the credit merits of applicants, large retail credit operations have turned to scoring systems such as the one used by Mobil. The system is also being studied by commercial consumer lending operations as a replacement for the use of an individual.

An official of the Federal Reserve Board in Washington, which designs regulations regarding consumer credit standards, said today that the system used in rejecting the Selicks was perfectly legal.

"The law prohibits discrimination based on race, color, sex, religion and national origin," the official said, "but does not prohibit decision based on economic factors. Creditors are under no legal obligation to extend credit to anybody."

[From the Wall Street Journal, Aug. 8, 1977]

FTC INVESTIGATES BIG CREDIT CARD ISSUERS FOR POSSIBLE BIAS AGAINST APPLICANTS

WASHINGTON.—Major credit-card issures are being investigated by the Federal Trade Commission for possible discrimination against card applicants because of their race, sex or other factors.

The investigation disclosed over the weekend by FTC Commissioner Elizabeth Hanford Dole, will cover among other areas, the practices of "oil companies, retailers and certain travel and entertainment card companies," the commission said.

Speaking to the National Association of Women Lawyers in Chicago, Mrs. Dole said the FTC believes "racial discrimination in retail credit may be more widespread than was previously suspected."

One technique that the commission staff plans to examine is the practice of using a credit card applicant's postal zip code in determining whether to issue a card. By comparing zip codes with census tract information, "we may find that the use of zip codes as a credit scoring system results in a disproportionately larger number of rejections for blacks than for white applicants," Commissioner Dole said.

Another possible violation of the Equal Credit Opportunity Act cited by Mrs. Dole involves differentiating between applicants on the basis of sex. She indicated that the FTC staff would look for instances where waiters get more favorable treatment as applicants than waitresses, say, or where companies use different standards in writing credit histories for men than for women.

Also to be explored by the commission, Mrs. Dole added, is possible discrimination against the elderly and those on public assistance. In addition, it will investigate "indirect, unintentional" discrimination such as the use of telephone listings to determine credit worthiness—a criterion that discriminates against married women whose telephones are listed in their husbands' names, she told the women lawyers.

An FTC staff lawyer said that the investigation should begin to produce results by next spring that could be the basis for complaints against specific companies, if the commission deems such charges justified.

Separately, the FTC said it has authorized a staff investigation into whether door-to-door salesmen are complying with the commission's "cooling-off" rule.

The three-year-old rule requires door-to-door salesmen and others who make sales outside their places of business to give consumers a three-day cooling-off period during which buyers may cancel sales without penalty or fee. The rule applies to goods or services costing $25 or more.

The investigation also will determine whether the commission should attempt to obtain redress for consumers in such cases. The study doesn't imply violations of the law have occurred, commission spokesman said.

By Mr. WEICKER:

S. 16. A bill to provide for a nationwide Presidential primary for the nomination of candidates for election to the Office of President and to limit Federal campaign contributions and expenditures to the year in which a Federal election is held; to the Committee on Rules and Administration.

PRESIDENTIAL PRIMARY ACT

Mr. WEICKER. Mr. President, I am reintroducing today legislation to rationalize the Presidential nominating process. This legislation, entitled the "Presidential Primary Act," originally introduced in the 95th Congress, would establish a nationwide Presidential primary to be held in August of each Presidential election year and restrict contributions to campaigns for Federal office to the year in which the election is held.

By adopting this legislation we will achieve two essential reforms in our election process. First, we will drastically reduce the length of Presidential campaigns and thereby reduce their cost. Second, we will increase voter participation in the selection of Presidential candidates.

Mr. President, the basic problem of Presidential campaigns has always been this: Presidential campaigns are too long. A campaign of inordinate length requires money in inordinate amounts. Long campaigns translate into big money.

The Presidential Primary Act would attack the problem at its source—time. In order to be placed on the national primary ballot, Presidential candidates would be required to file, by June 30, a petition signed by qualified voters of their party plus unaffiliated voters, totaling one percent of the total vote in the last Presidential election. The national Presidential primary for each party would be held on the first Tuesday in August. If no candidate received 50 percent of the vote, a runoff election between the top two finishers of each party would be held on the third Tuesday in August. Vice Presidential candidates selection would continue in the manner each party desired. Thus, within a 2-month period, the Presidential ticket for major political parties would be established. By contrast, in 1976, for example, there were 30 primaries, held on 13 different dates beginning on February 24 (New Hampshire) and ending on June 8 (California, New Jersey and Ohio—a period of 15 weeks).

A major aspect of the bill is the end of the partial disenfranchisement of unaffiliated voters. Under this proposal they will be allowed to vote in the party primary of their choice. State laws governing elections limit the participation of unaffiliated voters to an "end of the road" choice between two alternatives presented by the major parties. Preferential treatment is given the party affiliated at the expense of unaffiliates, who comprise more than a third of all registered voters. Under color of State law a major segment of our citizenry has been effectively disenfranchised from a vital and integral part of their right to participate in the political process. The time has come to bring democracy to presidential primaries by giving everyone—independents as well as Republicans and Democrats—the chance to participate from the beginning.

Mr. President, America has always been a nation of dreamers and doers. Not content with "what might have been," we have attempted throughout our history to wed promise to practice, to forge from our ideals the courage to try. What I have proposed today is beyond the pale of politics as usual. What it will cost in stability in the short-term, I believe it will repay in the long-term by greater enfranchisement, participation, and electoral sanity.

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

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

S. 16

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 "Presidential Primary Act."

FINDINGS

SEC. 2. The Congress finds that—

(1) the procedure by which candidates are nominated for election to the Office of President is an essential and inseparable part of the process by which the people of the United States choose their President, and

(2) it is necessary and proper for the Congress to provide by legislation for the regulation of that procedure in order to protect the integrity of the Presidential election process.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State" means the District of Columbia and each of the several States of the United States; and

(2) "political party" means a political party whose candidates for election as President and Vice President in the next preceding Presidential election received at least 5 per centum of the total number of votes cast in that election for all candidates for election to such offices. For purposes of this paragraph, a vote cast for an individual seeking election as an elector of the President and Vice President who is affiliated with a political party or who is pledged to cast his electoral vote for the candidates of a political party for election to such offices shall be considered to be a vote cast for the candidates of that party for election as President and Vice President.

NATIONAL PRIMARY

SEC. 4. (a) An election for the nomination of candidates of political parties for election to the Office of President shall be held in each State on the first Tuesday in August of each year in which a Presidential election is to be held.

(b) The election shall be conducted in each State by officials of that State charged with conducting public elections. Any voter who is eligible to vote for the election of electors of the President and Vice President shall be eligible to vote in the Presidential primary election. No voter shall be eligible to vote for the nomination of a candidate of a party if that voter is registered as member of a different political party. Any voter, not registered as a member of a political party, may vote for the nomination of any one candidate of any political party.

(c) If the law of any State makes no provision for the registration of voters by party affiliation, voters in that State shall register their party affiliation for purposes of this primary in accordance with procedures prescribed by the Attorney General.

(d) Within five days after the Presidential primary election, the chief executive of each State shall certify to the President of the Senate the name and party affiliation of each individual for whom votes were cast in the election and the number of votes received by that individual. The certification shall be transmitted under seal to the President of the Senate, who, in the presence of the Speaker of the House of Representatives and the majority and minority leaders of both Houses of the Congress and within five days after all certificates have been received, shall open all the certificates and cause to have published in the Congressional Record the aggregate number of votes cast for each individual.

QUALIFYING

SEC. 5. (a) No individual shall be a candidate for nomination for President except in the primary of the party of his registered affiliation. An individual's name, together with this party affiliation, shall appear on the Presidential primary ballot in each State if he qualifies under subsection (b), but shall not appear on such ballot in any State if he fails to qualify under subsection (b).

(b) In order to qualify to have his name appear on the Presidential primary ballot in each State, an individual must file, not later than the thirtieth day of June of the year in which the Presidential primary election is to be held, a petition with the President of the Senate which meets the requirements of subsection (c).

(c) A petition filed under subsection (b) meets the requirements of this subsection if it has been signed, after the last day of the calendar year preceding election year by qualified voters, as certified by the chief executive officer of the State, equaling to at least 1 per centum of the total vote cast in the previous Presidential election: *Provided*, That signatures of persons, who are members of a political party other than the political party whose nomination the candidate seeks, shall be invalid.

NOMINATION BY PRIMARY

SEC. 6. If any individual receives 50 per centum or more of the total number of votes cast for all candidates for nomination by his party in the Presidential primary election conducted under section 4, he shall be the candidate of that party for election as President in the Presidential election to be held that year. If no individual receives more than half the total number of votes cast by members of his party in such election, a second primary shall be held in accordance with the provisions of section 7.

SEC. 7. (a) If a second primary must be held, it shall be held on the third Tuesday following the first primary. The second primary shall be conducted in the same manner as the primary described in section 4, except that the candidates for the nomination of a political party for election to the Office of President whose names appear on the ballot in the second primary shall be those two candidates for the nomination of that party who received the greatest and next greatest number of votes cast in the first primary for all candidates for the nomination of that party.

(b) The candidate who receives the greatest number of votes cast in the second primary shall be the candidate of the political party for election to the Office of President in the Presidential election to be held that year.

DEATH OR RESIGNATION OF NOMINEE

SEC. 8. (a) (1) If the candidate of a political party for election as President dies or resigns the nomination before the nomination by that party of a candidate for election as Vice President, his successor shall be nominated by the convention of that party as if no individual has been nominated by the members of that party in the Presidential primary election.

(2) If the candidate of a political party for election as President dies or resigns the nomination after the nomination by that party of a candidate for election as Vice President, the individual nominated as a candidate for election as Vice President shall resign the vice-presidential nomination and become the candidate of that party for election as President.

(b) If the candidate of a political party for election as Vice President dies or resigns, or if the candidates of that party for election as President and Vice President both die or resign, a national committee of that party composed of a delegation of each State shall choose the candidate for Vice President, or both candidates (as the case may be), by vote. In taking that vote, the delegation from each State shall have one vote. A quorum for the purposes of voting under this subsection consists of a delegate or delegates from two-thirds of the States, and a majority of all States shall be necessary to a choice.

REGULATIONS

SEC. 9. The Attorney General shall prescribe such regulations as may be necessary to carry out the provisions of sections 3 through 8 of this Act.

LIMITATION ON CAMPAIGN FUND-RAISING AND CAMPAIGN EXPENDITURES TO CALENDAR YEAR OF ELECTION

SEC. 10. Title III of the Federal Election Campaign Act of 1971 is amended by inserting after section 320 (2 U.S.C. 441a) the following new section:

"LIMITATION ON CONTRIBUTIONS AND EXPENDITURES PRIOR TO ELECTION YEAR

"SEC. 320A. (a) Neither a candidate nor any of his authorized political committees—

"(1) may accept a contribution for use in connection with the campaign of that candidate for nomination for election, or for election, to Federal office before the first day of January of the calendar year in which the election is held to which that campaign relates, or

"(2) may make an expenditure for or on behalf of the candidate in connection with such campaign—

"(A) before the first day of January of the calendar year in which the election is held to which a campaign relates, or

"(B) out of funds derived directly or indirectly from contributions accepted in violation of the provisions of paragraph (1).

"(b) For purposes of this section, amounts received by or for the benefit of a candidate for nomination for election, or election, to Federal office which remain unexpended after the payment of debts incurred in connection with a campaign shall, if used to make expenditures in connection with a later campaign, be treated as having been received after the first day of January of the year in which the election is held to which the later campaign relates.

"(c) No person shall make a contribution to or for the benefit of an individual who is a candidate for nomination for election, or for election, to Federal office before the first day of January of the year in which the election is held in which that individual is a candidate.".

By Mr. McCLURE:

S. 17. A bill to provide for and maintain the continued existence of a viable U.S. sugar industry; to the Committee on Finance.

SUGAR ACT OF 1979

Mr. McCLURE. Mr. President, unless the Congress and President of the United States take immediate, meaningful action, the U.S. domestic sugar industry is doomed to virtual extinction. This statement is more than prophecy, it is fact—fact which has already seen a most painful beginning.

On Monday, November 20, 1978, U and I Inc., a pioneer sugar processor in the Intermountain West, announced it is getting out of the sugar business and has put its four processing plants up for sale. Located at Idaho Falls, Idaho; Garland, Utah; and Toppenish and Moses Lake, Wash., the four plants employ some 2,290 individuals on a full and part-time basis. Over 4,500 farmers and farm workers contract their sugar beets with the four plants, and in 1978, U and I pumped nearly $134.2 million into the economies of the three States.

U and I is going out of business because of "low sugar prices and the failure of Congress to enact helpful legislation." And it won't be long before other sugar processors follow U and I's lead, as virtually all of the domestic sugar industry in the United States has been selling its product below the cost of production since late summer of 1976.

As the processors go under, the sugar farmers of this country will be faced with some tough decisions. Will they plant other crops or go out of business altogether? The former choice would seem better than the latter, yet there are many dangers of switching to other crops. First, the expense of switching can be more than many farmers can bear, especially in these times of low farm prices and high machinery costs and interest rates. Second, and perhaps most important, many crops that sugar farmers may wish to switch to are currently themselves over produced.

In my own State of Idaho, for example, the majority of growers near the Idaho Falls plant will be able to switch from sugar beets to potatoes, wheat or barley—all of which are now greatly overproduced and receiving below cost of production prices. The fact is, many banks will not finance growers into other losing operations; thus, the latter choice of going out of business will, in many cases, be prevalent. One thing this country does not need is the loss of more family farming operations.

Another thing this country neither needs nor can afford is the loss of our domestic sugar industry. There is little doubt that if our domestic industry loses control of the U.S. sugar market, foreign

nations will step in to fill the gap and grab the control. This is basic economic sense and a lesson we should have learned only too well from our friends in OPEC. Though perhaps not as important as petroleum, sugar is nevertheless one of this country's basic commodities, and we will continue to buy it, regardless of its source. Again, commonsense dictates that once someone controls the market, they can—and usually will—control the price.

If any of my colleagues or the President is concerned about the current price of sugar, or its future price under new meaningful legislation, then they better begin thinking about the sugar price dictated by a group of foreign sugar importers. I can guarantee it will be high, and I can also guarantee the American people will be screaming at each and every one of us why we did not save our domestic sugar industry while we still had a chance.

We still do have a chance, Mr. President, and what I am proposing today as I introduce The Sugar Act of 1979—Senate bill 17—will not only assure a viable industry for our sugar growers and processors, but will also assure a constant supply of sugar at extremely reasonable prices for the consumers of this country. Oftentimes as I have traveled through Idaho and the West these past 2 years, growers and processors alike asked why the Congress did not reinstate the old Sugar Act. Although there were minor problems with this legislation, the fact is it served both the industry and the consumer very well for over 25 years.

S. 17 is thus an up-dated version of the Sugar Act of 1948. Rather than rely on price supports—or tax dollars—the Sugar Act relies on a system of import quotas and fees. Domestic consumption and production are determined by USDA, and foreign nations are allocated the remaining demand. Supply is kept at a level only barely below demand, thus assuring a fair price to the grower, the processor and the consumer. The mechanism to control and operate this legislation still exists at USDA, so the passing of S. 17 would in no way create another governmental bureaucracy.

Mr. President, let me reiterate that if the Congress does not act swiftly, our sugar industry is doomed. If the Congress does not force the President to act swiftly and in a positive manner, our sugar industry is doomed. Jobs are at stake. An entire American industry is at stake. Indeed, a way of life for thousands is at stake. We must act now.

Mr. President, I ask unanimous consent that the text of S. 17 be printed in the RECORD.

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

S. 17

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Sugar Act of 1979."

SUBCHAPTER I. DEFINITIONS

SEC. 101. DEFINITIONS. For the purposes of this chapter—

(a) The term "person" means an individual, partnership, corporation, or association.

(b) The term "sugars" means any grade or type of saccharine product derived from sugarcane or sugar beets, which contains sucrose, dextrose, or levulose.

(c) The term "sugar" means raw sugar or direct-consumption sugar.

(d) The term "raw sugar" means any sugars (exclusive of liquid sugar from foreign countries having liquid sugar quotas), whether or not principally of crystalline structure, which are to be further refined or improved in quality to produce any sugars principally of crystalline structure or liquid sugar.

(e) The term "direct-consumption sugar" means any sugars principally of crystalline structure and any liquid sugar (exclusive of liquid sugar from foreign countries having liquid sugar quotas), which are not to be further refined or improved in quality.

(f) The term "liquid sugar" means any sugars (exclusive of syrup of cane juice produced from sugarcane grown in continental United States) which are principally not of crystalline structure and which contain, or which are to be used for the production of any sugars principally not of crystalline structure which contain, soluble non-sugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 per centum or less of the total soluble solids.

(g) Sugars in dry amorphous form shall be considered to be principally of crystalline structure.

(h) the "raw value" of any quantity of sugars means its equivalent in terms of ordinary commercial raw sugar testing ninety-six sugar degrees by the polariscope, determined in accordance with regulations to be issued by the Secretary. The principal grades and types of sugar and liquid sugar shall be translated into terms of raw value in the following manner:

(1) For direct-consumption sugar, derived from sugar beets and testing ninety-two or more sugar degrees by the polariscope, by multiplying the number of pounds thereof by 1.07;

(2) For sugar, derived from sugarcane and testing ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by 0.93;

(3) For sugar, derived from sugarcane and testing more than ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by the figure obtained by adding to 0.93 the result of multiplying 0.0175 by the number of degrees and fractions of a degree of polarization above ninety-two degrees;

(4) For sugar and liquid sugar, testing less than ninety-two sugar degrees by the polariscope, by dividing the number of pounds of the "total sugar content" thereof by 0.972;

(5) The Secretary may establish rates for translating sugar and liquid sugar into terms of raw value for (a) any grade or type of sugar or liquid sugar not provided for in the foregoing and (b) any special grade or type of sugar or liquid sugar for which he determines that the raw value cannot be measured adequately under the provisions of paragraphs (1) to (4), inclusive, of the subsection.

(i) The term "total sugar content" means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugar or liquid sugar.

(j) The term "quota", depending upon the context, means (1) that quantity of sugar or liquid sugar which may be brought or imported into the continental United States, for consumption therein, during any calendar year, from Hawaii, Puerto Rico, or a foreign country or group of foreign countries; (2) that quantity of sugar or liquid sugar produced from sugar beets or sugar cane grown in the continental United States which, during any calendar year, may be shipped, transported, or marketed in interstate or foreign commerce; or (3) that quantity of sugar or liquid sugar which may be marketed in Hawaii or in Puerto Rico, for consumption therein, during any calendar year.

(k) The term "producer" means a person who is the legal owner, at the time of the harvest or abandonment, of a portion or all of a crop of sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar.

(l) The terms "including" and "include" shall not be deemed to exclude anything not mentioned but otherwise within the meaning of the term defined.

(m) The term "Secretary" means the Secretary of Agriculture.

(n) The term "to be further refined or improved in quality" means to be subjected substantially to the processes of (1) affination or defecation, (2) clarification, and (3) further purification by adsorption or crystallization. The Secretary is authorized, after such hearing and upon such notice as he may by regulations prescribe, to determine whether specific processes to which sugars are subjected are sufficient to meet the requirements of this subsection and whether sugars of specific qualities are raw sugar within the meaning of subsection (d) of this section, or direct-consumption sugar within the meaning of subsection (e) of this section.

(o) The term "continental United States" means the States (except Hawaii) and the District of Columbia.

(p) The term "mainland cane sugar area" means the States of Florida and Louisiana.

SUBCHAPTER II. QUOTA PROVISIONS

SEC. 201. Annual estimate of consumption in continental United States; price objective; "parity index" and "wholesale price index" defined—

(a) The secretary shall determine for each calendar year, beginning with 1979, the amount of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective set forth in subsection (b) of this section. Such determination shall be made during October of the year preceding the calendar year for which the determination is being made and at such other times thereafter as may be required to attain such price objective.

(b) The price objective referred to in subsection (a) of this section is a price for raw sugar which would maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971, and (2) the simple average of such two indexes for the same period.

(c) For purposes of subsection (b) of this section—

(1) The term "parity index (1967=100)" means the Index of Prices Paid by Farmers for Commodities and Services, including Interest, Taxes, and Farm Wage Rates, as published monthly by the Department of Agriculture.

(2) The term "wholesale price index" means such index as determined monthly by the Department of Labor.

SEC. 202. Establishment of revision of quotas—

Whenever a determination is made, pursuant to section 201 of this title, of the amount of sugar needed to meet the requirements of consumers, the Secretary shall establish quotas, or revise existing quotas—

Domestic Sugar-Producing Areas

(a)(1) For domestic sugar-producing areas, by apportioning among such areas 6,820,000 short tons, raw value, as follows:

[In percent]

Area:	Short tons, raw value
Domestic beet sugar	49.3
Mainland cane sugar	22.3
Hawaii	16.1
Puerto Rico	12.3

(2) To or from the sum of 4,883,120 short tons, raw value, of the quotas for the domestic beet sugar and mainland cane sugar areas there shall be added or deducted, as the case may be, an amount equal to 65 per centum of the amount by which the Secretary's determination of requirements of consumers in the continental United States pursuant to section 201 of this title for the calendar year is greater than or less than 11,000,000 short tons, raw value. Such amount shall be apportioned between the domestic beet sugar area and the mainland cane sugar area on the basis of the quotas for such areas established under paragraph (1) of this subsection.

(3) Notwithstanding the foregoing provisions of this subsection, whenever the production of sugar in Hawaii or Puerto Rico in any year results in there being available for marketing in the continental United States in any year sugar in excess of the quota for such areas for such year established under paragraph (1) of this subsection, the quota for the immediately following year established for such area under such paragraph shall be increased to the extent of such excess production, except that in no event shall the quota for Hawaii or Puerto Rico, as so increased, exceed the quota which would have been established for such area at the same level needed to meet the requirements of consumers under the provisions of this subsection. Whenever sugar produced in Hawaii or Puerto Rico in any year is prevented from being marketed or brought into the continental United States in that year for reasons beyond the control of the producer shipper of such sugar, the quota for the immediately following year established for such area under paragraph (1) of this subsection and the preceding sentence shall, within the limitations of the preceding sentence and section 207 of this title, be increased by an amount equal to (A) the amount of sugar so prevented from being marketed or brought into the continental United States, reduced by (B) the amount of such sugar which has been sold to any other nation instead of being held for marketing in the continental United States.

(4) Beginning with 1979 or as soon thereafter as the quota or quotas can be used, there shall be established for any new continental cane sugar producing area or areas a quota or quotas of not to exceed a total for all such areas of 100,000 short tons, raw value, subject to the requirements of section 302 of this title.

Republic of the Philippines

(b) For the Republic of the Philippines, in the amount of 1,210,000 short tons, raw value.

Foreign Countries

(c)(1) For foreign countries other than the Republic of Philippines, an amount of sugar, raw value, equal to the amount determined pursuant to section 201 of this title less the sum of the quotas established pursuant to subsection (a) and (b) of this section.

(2) For Ireland, in the amount of 5,500 short tons, raw value, of sugar. The quota provided by this paragraph shall apply for any calendar year only if the Secretary obtains such assurances from such country as he may deem appropriate prior to September 15 preceding such calendar year that the quota for such year will be filled with sugar produced in such country.

(3) For individual foreign countries other than the Republic of the Philippines and Ireland, by prorating the amount of sugar determined under paragraph (1) of this subsection, less the amounts required to establish a quota as provided in paragraph (2) of this subsection for Ireland, among foreign countries on the following basis:

(A) For countries in the Western Hemisphere:

Country:	Per centum
Dominican Republic	17.76
Mexico	15.70
Brazil	15.31
Peru	10.92
West Indies	5.73
Ecuador	2.26
Argentina	2.12
Costa Rica	1.92
Colombia	1.89
Panama	1.79
Nicaragua	1.79
Venezuela	1.72
Guatemala	1.65
El Salvador	1.20
Belize	0.95
Haita	0.86
Bahamas	0.75
Honduras	0.33
Bolivia	0.18
Paraguay	0.18

(B) For countries outside the Western Hemisphere:

Country:	Per centum
Australia	5.27
Republic of China	2.20
India	2.12
South Africa	1.50
Fiji	1.16
Mauritius	.78
Mozambique	.78
Thailand	.39
Malawi	.39
Malagasy Republic	.31

Suspension of Diplomatic Relations; Additional Imports; Reduction of Quotas; Proration; Assurances of Filling Quotas

(d) Notwithstanding any other provision of this chapter—

(1)(A) Whenever and to the extent that the President finds that the establishment or continuation of a quota or any part thereof for any foreign country would be contrary to the national interest of the United States, such quota or part thereof shall be withheld or suspended, and such importation shall not be permitted. A quantity of sugar equal to the amount of any quota so withheld or suspended, and such importation shall not be permitted. A quantity of sugar equal to the amount of any quota so withheld or suspended shall be prorated to the other countries listed in subsection (c)(3)(A) of this section (other than any country whose quota is withheld or suspended) on the basis of the percentages stated therein.

(B) The quantities of sugar prorated pursuant to the foregoing provisions of this subsection shall be designated as temporary quotas and the term "quota" as defined in this chapter shall include a temporary quota established under this subsection.

(2)(A) Whenever the Secretary finds that it is not practicable to obtain the quantity of sugar needed from foreign countries to meet any increase during the year in the requirements pursuant to subsections (b) and (c) of this section and the foregoing provisions of this subsection, such quantity of sugar may be imported on a first-come, first-served basis from any foreign country, except that no sugar shall be authorized for importation from Cuba until the United States resumes diplomatic relations with that country and no sugar shall be authorized for importation hereunder from any foreign country with respect to which a finding by the President is in effect under paragraph (1)(A) of this subsection: *Provided*, That such finding shall not be made in the first nine months of the year unless the Secretary also finds that limited sugar supplies and increases in prices have created or may create an emergency situation significantly interfering with the orderly movement of foreign raw sugar to the United States in authorizing the importation of such sugar the Secretary shall give special consideration to countries which agree to purchase for dollars additional quantities of United States agriculture products. In the event that the requirements of consumers under section 201 of this title are thereafter reduced in the same calendar year, an amount not exceeding such increase in requirements shall be deducted pro rata from the quotas established pursuant to subsection (c) of this section and this subsection.

(B) Sugar imported under the authority of this paragraph (2) shall be raw sugar, except that if the Secretary determines that the total quantity is not reasonably available as raw sugar, he may authorize the importation for direct consumption of so much of such quantity as he determines may be required to meet the requirements of consumers in the United States.

(3) No quota shall be established for any country, other than Ireland, for the year following a period of twenty-four months, ending June 20 prior to the establishment of quotas for such year, in which its aggregate imports of sugar equaled or exceeded its aggregate exports of sugar from such country to countries other than the United States.

(4) Whenever in any calendar year any foreign country fails, subject to such reasonable tolerance as the Secretary may determine, to fill the quota as established for it pursuant to this chapter, the quota for such country for subsequent calendar years shall be reduced by the smaller of (i) the amount by which such country failed to fill such quota or (ii) the amount by which its exports of sugar to the United States in the year such quota was not filled was less than 115 per centum of such quota for the preceding calendar year: *Provided*, That (i) no such reduction shall be made if the country has notified the Secretary before June 1 of such year (or, with respect to events occurring thereafter, as soon as practicable after such event), of the likelihood of such failure and the Secretary finds that such failure was due to crop disaster or other force majeure, unless such country exported sugar in such year to a country other than the United States, in which case the reduction in quota for the subsequent years shall be limited to the amount of such exports, as determined by the Secretary, and (ii) in no event shall the quota for the Republic of the Philippines is reduced to an amount less than nine hundred and eighty thousand short tons, raw value, of sugar.

(5) Any reduction in a quota because of the requirements of paragraphs (3) and (4) of this subsection shall be prorated to other foreign countries in the same manner as deficits are prorated under section 204 of this title. For purposes of determining unfilled portions of quotas, entries of sugar from a foreign country shall be prorated between the temporary quota established pursuant to paragraph (1) of this subsection and quota established pursuant to subsection (c) of this section.

(6) If any foreign country fails to give assurance to the Secretary, on or before December 31, 1978, that such country will fill the quota as established for it under subsection (c)(3) of this section and paragraph (1) of this subsection for years after 1978, the quota for such country for such years shall be reduced to the amount which the country gives assurance that it will fill for such years. The portion of the quota for such country for which such assurance is not given shall be withdrawn for such years and a quantity of sugar to such portion shall be prorated to other foreign countries in the same manner as deficits are prorated under

section 204 of this title. For purposes of applying paragraph (4) of this subsection, any reduction in the quota of a foreign country under this paragraph shall be disregarded.

Reestablishment of Suspended Quotas

(e) Whenever the President finds that it is no longer contrary to the national interest of the United States to reestablish a quota or part thereof withheld or suspended under subsection (d)(1) of this section or under section 408(c) of this title such quota shall be restored in the manner the President finds appropriate: *Provided*, That the entire amount of such quota shall be restored for the third full calendar year following such finding by the President. The temporary quotas established pursuant to subsection (d)(1) of this section shall, notwithstanding any other provision of this section, be reduced prorata to the extent necessary to restore the quota in accordance with the provisions of this subsection.

Charge to Quotas Upon Reestablishment of Diplomatic Relations or Reduced Consumer Requirements

(f) Whenever any quota is required to be reduced pursuant to subsection (e) of this section or because of a reduction in the requirements of consumers under section 201 of this title, and the amount of sugar imported from any country or marketed from any area at the time of such reduction exceeds the reduced quota, the amount of such excess shall, notwithstanding any other provision of this section, be charged to the quota established for such country or domestic area for the next succeeding calendar year. Sugar from any country which at the time of reduction in quota has not been imported but is covered by authorizations for importation issued by the Secretary not more than five days prior to the scheduled date of departure shown on the authorization shall be permitted to be entered and charged to the quota established for such country for the next succeeding calendar year.

Authority to Limit Quarterly Quotas; Adjustment of Consumer Requirements

(g)(1) The Secretary is authorized to limit, on a quarterly basis only, the importation of sugar within the quota for any foreign country during the first quarter of 1980 if he determines that such limitation is necessary to achieve the objectives of the chapter.

(2) The Secretary is not authorized during the last three quarters of 1980 and in any full year thereafter except as provided herein, to limit the importation of sugar within the quota for any foreign country through the use of limitations applied on other than a calendar year basis.

(3) In order to attain on an annual average basis the price objective determined pursuant to the formula specified in section 201 of this title, the Secretary shall make adjustments in the determination of requirements of consumers in accordance with the following provisions: (A) the determination of requirements of consumers shall not be adjusted whenever the simple average of the prices of raw sugar for seven consecutive market days is less than 4 per centum (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of the following year, 3 per centum) above or below the average price objective so determined for the preceding two calendar months; (B) the determination of requirements of consumers shall be adjusted to the extent necessary to attain such price objective whenever the simple average of prices of raw sugar for seven consecutive market days is 4 per centum or more (or, in the case of any seven consecutive market day period ending after October 31 of any year and before March 1 of the following year, 3 per centum or more) above or below the average price objective so determined for the preceding two calendar months; and (C) the determination of requirements of consumers for the current year shall not be reduced after November 30 of such year, but any required reduction shall instead be made in such determination for the following year. If in the twelve-month period ending October 31 of any year after 1972 the average price of raw sugar is less than 99 per centum of the price objective determined pursuant to the formula set forth in sction 201 of this title then, with respect to each subsequent calendar year, the Secretary is authorized after November 30 of the preceding year to limit, on a quarterly basis only, the importation of sugar within the quota of any foreign country during the first or second quarter, or both, of such subsequent year if he determines that such limitation is necessary to achieve the objectives of the chapter.

(4) The Secretary is not authorized to issue any regulation under this chapter restricting the importation, shipment, or storage of sugar to one or more particular geographical areas.

(5) The imposition of limitations on a quarterly basis under this subsection shall not operate to reduce the quantity of sugar permitted to be imported for any calendar year from any country below its quota for that year.

Native Growth Requirement for Sugarbeets and Sugarcane

(h) The quota established for any foreign country and the quantity authorized to be imported from any country under subsection (d)(2) of this section may be filled only with sugar produced from sugarbeets or sugarcane grown in such country.

Sec. 203. Estimates for consumption in Hawaii and Puerto Rico; quotas—

In accordance with such provisions of section 201 of this title as he deems applicable, the Secretary shall also determine the amount of sugar needed to meet the requirements of consumers in Hawaii, and in Puerto Rico, and shall establish quotas for the amounts of sugar which may be marketed for local consumption in such areas equal to the amounts determined to be needed to meet the requirements of consumers therein.

Sec. 204. Revision of proration upon productive deficiency of quota area—

(a) The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each 90 days after the beginning of each calendar year, determine whether, in view of the current inventories of sugar, the estimated production from the acreage of sugarcane or sugar beets planted, the normal marketings within a calendar year of new-crop sugar, and other pertinent factors, any area or country will not market the quota for such area or country. Whenever the Secretary determines that any domestic area or foreign country listed in section 202(c)(3)(A) of this title will not market its quota, he shall revise the quota for the Republic of the Philippines by allocating to it an amount of sugar equal to 30.08 per centum of the deficit, and shall allocate an amount of sugar equal to the remainder of the deficit to the countries listed in section 202(c)(3)(A) of this title on the basis of the quotas determined pursuant to section 202 of this title for such countries: *Provided*, That any deficit resulting from the inability of a country which is a member of the Central American Common Market to fill its quota or its share of any deficit determined under the foregoing provisions of this subsection shall first be allocated to the other member countries on the basis of the quotas determined pursuant to section 202 of this title for such countries: And *provided further*, That if the Secretary determines the Republic of the Philippines will not fill its share of any deficit determined under the foregoing provisions of this subsection, he shall allocate such unfilled amount to the countries listed in section 202(c)(3)(A) of this title on the basis of the quotas determined pursuant to section 202 of this title for such countries. If the Secretary determines that neither the Republic of the Philippines nor the countries listed in section 202(c)(3)(A) of this title can fill all of any such deficit, he shall apportion such unfilled amount on such basis and to such foreign countries as he determines is required to fill such deficit. If the Secretary determines that any foreign country with a quota established pursuant to section 202(c)(3)(B) or section 202(c)(4) of this title will not market the quota for such area or country, he shall revise the quota for the Republic of the Philippines by allocating to it an amount of sugar equal to 30.08 per centum of the deficit, and shall allocate an amount of sugar equal to the remainder of the deficit to the countries listed in section 202(c)(3)(B) of this title on the basis of the quotas determined pursuant to section 202 of this title for such countries: *Provided*, That if the Secretary determines the Republic of the Philippines will not fill its share of any deficit determined for any country listed in section 202(c)(3)(B) of this title, he shall allocate such unfilled amount to the countries so listed on the basis of the quotas determined pursuant to section 202 of this title for such countries. If the Secretary determines that neither the Republic of the Philippines nor the countries listed in section 202(c)(3)(B) of this title can fill all of any such deficit, he shall apportion such unfilled amount on such basis and to such foreign countries as he determines is required to fill such deficit. If the Secretary determines that the Republic of the Philippines will not market its quota, he shall allocate an amount of sugar equal to the deficit to the countries listed in section 202(c)(3) of this title on the basis of the quotas determined pursuant to section 202 of this title for such countries. Deficits shall not be allocated to any country whose quota has been suspended or withheld pursuant to subsection (d)(1) of section 202 of this title. In determining and allocating deficits the Secretary shall act to provide at all times throughout the calendar year the full distribution of the amount of sugar which he has determined to be needed under section 201 of this title to meet the requirements of consumers. In making allocations for foreign countries within the Western Hemisphere under this subsection, special consideration shall be given to those countries purchasing United States agricultural commodities. Notwithstanding the foregoing provisions of this subsection, if the President determines that such action would be in the national interest, any part of a deficit which would otherwise be allocated to countries listed in section 202(c) of this title may be allocated to one or more of such countries with a quota in effect on such basis as the President finds appropriate.

(b) The quota established for any domestic area or any foreign country under section 202 of this title shall not be reduced by reason of any determination of a deficit existing in any calendar year under subsection (a) of this section: *Provided*, That the quota for any foreign country shall be reduced to the extent that it has notified the Secretary that it cannot fill its quota and the Secretary has found under section 202(d)(4) of this title that such failure was due to crop disaster or other force majeure.

(c) Nothwithstanding the foregoing provisions of this section and section 211(c) of this title if the Secretary determines that Hawaii or Puerto Rico will be unable to fill its quota established under section 203 of this title for marketing for local consumption on a day-to-day basis he shall allocate

a total amount of sugar not in excess of such deficit to the domestic beet sugar area or the mainland cane sugar area or both to be filled by direct consumption or raw sugar as he determines to be required for local consumption.

SEC. 205. Allotments of quotas or prorations—Authorization; method; modification—

(a) Whenever the Secretary finds that the allotment of any quota, or proration thereof, established for any area pursuant to the provisions of this chapter, is necessary to assure an orderly and adequate flow of sugar or liquid sugar, or to maintain a continuous and stable supply of sugar or liquid sugar, or to afford all interested persons an equitable opportunity to market sugar or liquid sugar within any area's quota, after such hearing and upon such notice as he may by regulations prescribe, he shall make allotments of such quota or proration thereof by alloting to persons as he may designate, the quantities of sugar or liquid sugar which each such person may market in continental United States, Hawaii, or Puerto Rico or may import or bring into continental United States for consumption therein. Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302 of this title, pertained; the past marketings or importations of each such person: and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary is authorized in making such allotments, whenever there is involved any allotment that pertains to a new or substantially enlarged existing sugar beet processing facility serving a locality or localities which have received an acreage allotment under section 302(b)(3) of this title or that pertains to a sugar beet processing facility described in section 302(b)(9) of this title, to take into consideration in lieu of or in addition to the foregoing factors of processing, past marketings and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for reasonably efficient operation of any such sugar beet processing facility during each of the first three years of its operation. The Secretary is also authorized in making such allotments of a quota for any calendar year to take into consideration, in lieu of or in addition to the foregoing factors of processing, past marketings, and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for the reasonably efficient operation of any nonaffiliated single plant processor of sugarbeets or any processor of sugarcane and as may be necessary to avoid unreasonable carryover of sugar in relation to other processors in the area: *Provided*, That the marketing allotment of any such processor of sugarbeets shall not be increased under this provision above an allotment of twenty-five thousand short tons, raw value, and the marketing allotment of a processor of sugarcane shall not be increased under this provision above an allotment equal to the effective inventory of sugar of such processor on January 1 of the calendar year for which such allotment is made: *Provided further*, That the total increases in marketing allotments made pursuant to this sentence to processors in the domestic beet sugar area shall be limited to twenty-five thousand short tons of sugar, raw value, for each calendar year and to processors in the mainland cane sugar area shall be limited to sixteen thousand short tons of sugar, raw value, for each calendar year. In making such allotments, the Secretary may also take into consideration and make due allowance for the adverse effect of drought, storm, flood, freeze, disease, insects, or other similar abnormal and uncontrollable conditions seriously and broadly affecting any general area served by the factory or factories of such person. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made. If allotments are in effect at the time of a reduction in a domestic area quota for any year, the amount marketed by a person in excess of the amount of his allotment in the next succeeding year for such person, and any allotment established for such person for the next succeeding year shall be reduced by such excess amount.

Appeal to Courts; Grounds

(b) An appeal may be taken, in the manner hereinafter provided from any decision making such allotments, or revisions thereof, to the United States Court of Appeals for the Circuit in which the appellant resides in any of the following cases:

(1) By any applicant for an allotment whose application shall have been denied.

(2) By any person aggrieved by reason of any decision of the Secretary granting or revision any allotment made to him.

Same; Initial Procedure

(c) Such appeal shall be taken by filing with said court, within 30 days after the decision complained of is effective, notice in writing of said appeal and a statement of the reasons therefor, together with proof of service of a true copy of said notice and statement upon the Secretary. Unless a later date is specified by the Secretary as part of his decision, the decision complained of shall be considered to be effective as of the date on which public announcement of the decision is made at the office of the Secretary in the city of Washington. The Secretary shall thereupon, and in any event not later than ten days from the date of such service upon him, mail or otherwise deliver a copy of said notice of appeal to each person shown by the records of the Secretary to be interested in such appeal and to have a right to intervene therein under the provisions of this section, and shall at all times thereafter permit any such person to inspect and make copies of appellants' reasons for said appeal at the office of the Secretary in the city of Washington. Within thirty days after the filing of said appeal the Secretary shall file with the court the record upon which the decision complained of was entered, as provided in section 2112 of Title 28, and a list of all interested persons to whom he has mailed or otherwise delivered a copy of said notice of appeal.

Same; Intervention

(d) Within thirty days after the filing of said appeal any interested person may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement showing the nature of the interest of such party together with proof of service of true copies of said notice and statement, both upon the appellant and upon the Secretary. Any person who would be aggrieved or whose interests would be adversely affected by reversal or modification of the decision of the Secretary complained of shall be considered an interested party.

Same; Hearing; Review

(e) At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision, and if it enters an order reversing the decision of the Secretary it shall remand the case to the Secretary to carry out the judgment of the court: *Provided, however*, That the review by the court shall be limited to questions of law and that findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings of the Secretary are arbitrary or capricious. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States, upon writ of certiorari on petition therefor, under section 347 of Title 28, by appellant, by the Secretary, or by any interested party intervening in the appeal.

Same; Costs

(f) The court may, in its discretion, enter judgment for costs in favor of or against an appellant, and other interested parties intervening in said appeal, but not against the Secretary, depending upon the nature of the issues involved in such appeal and the outcome thereof.

SEC. 206. Sugar-containing products or mixtures and beet sugar molasses—Authority of Secretary to reduce importation; determination that importation substantially interferes with objects of chapter—

(a) If the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this chapter, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in from any country or area to a quantity which he determines will not so interfere: *Provided*, That the quantity to be imported or brought in from any country or area in any calendar year shall not be reduced below the average of the quantities of such product, mixture, or beet sugar molasses annually imported or brought in during such three-year period as he may select for which reliable data of the importation or bringing in of such product, mixture, or beet sugar molasses are available.

Reduction of Importation in Absence of Reliable Data

(b) In the event the Secretary determines that the prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico, of any sugar-containing product or mixture or beet sugar molasses will substantially interfere with the attainment of the objectives of this chapter and there are no reliable data available of such importation or bringing in of such product, mixture, or beet sugar molasses for three consecutive years, he may limit the quantity of such product, mixture, or beet sugar molasses to be imported or brought in annually from any country or area to a quantity which the Secretary determines will not substantially interfere with the attainment of the objectives of this chapter. In the case of a sugar-containing product or mixture, such quantity from any one country or area shall not be less than a quantity containing one hundred short tons, raw value, of sugar or liquid sugar.

Factors To Be Considered in Making Determinations of Substantial Interference; Rulemaking Requirements

(c) In determining whether the actual or prospective importation or bringing into the continental United States, Hawaii, or Puerto Rico will not substantially interfere with the attainment of the objectives of this chapter, the Secretary shall take into consideration the total sugar content of the product or mixture in relation to other ingredients or to the sugar content of other products or mixtures for similar use, the costs of the mixture in relation to the cost of its ingredients for use in the continental United States, Hawaii, or Puerto Rico, the present or prospective volume of importations relative to past importations, the type of packaging, whether it

will be marketed to the ultimate consumer in the identical form in which it is imported or the extent to which it is to be further subjected to processing or mixing with similar or other ingredients, and other pertinent information which will assist him in making such determination. In making determinations pursuant to this section, the Secretary shall conform to the rulemaking requirements of section 1003 of Title 5.

SEC. 207. Amount of quota to be filled by direct-consumption sugar—

Hawaii

(a) The quota for Hawaii established under section 202 of this title for any calendar year may be filled by direct-consumption sugar not to exceed an amount equal to 0.342 per centum of the Secretary's determination for the preceding year issued pursuant to section 201 of this title.

Puerto Rico

(b) The quota for Puerto Rico established under section 202 of this title for any calendar year may be filled by direct-consumption sugar not to exceed an amount equal to 1.5 per centum of the first eleven million short tons, raw value, of the Secretary's determination for the preceding year issued pursuant to section 201 of this title, plus 0.5 per centum of any amount of such determination above eleven million short tons, raw value, except that 126,033 short tons, raw value, of such direct-consumption sugar shall be principally of crystalline structure.

Philippine Islands

(c) Not more than fifty-nine thousand nine hundred and twenty short tons, raw value, of the quota for the Republic of the Philippines may be filled by direct-consumption sugar.

Ireland; Panama; Allocations and Prorations

(d) None of the quota established for any foreign country other than the Republic of the Philippines and none of the deficit prorations and apportionments for any foreign country established under or in accordance with section 204(a) of this title may be filled by direct-consumption sugar: *Provided*, That the quotas for Ireland, and Panama may be filled by direct-consumption sugar to the extent of five thousand three hundred and fifty-one short tons, raw value, for Ireland and three thousand eight hundred and seventeen short tons, raw value, for Panama.

Hawaiian and Puerto Rican Local Consumption

(e) This section shall not apply with respect to the quotas established under section 203 of this title for marketing for local consumption in Hawaii and Puerto Rico.

Suspension

(f) The direct-consumption portions of the quotas established pursuant to this section, and the enforcement provisions of this subchapter applicable thereto, shall continue in effect and shall not be subject to suspension pursuant to the provisions of section 408 of this title unless the President acting thereunder specifically finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar which requires the suspension of direct-consumption portions of the quotas.

SEC. 208. Liquid sugar foreign quotas—

A quota for liquid sugar for foreign countries for each calendar year is established as follows: two million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) of more than 5 per centum of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation, except that the President is authorized to prohibit the importation of liquid sugar from any foreign country which he shall designate whenever he finds and proclaims that such action is required by the national interest.

SEC. 209. Prohibited acts—All persons are prohibited—

Importation in Excess of Foreign Quotas

(a) From bringing or importing into the continental United States from any foreign country or any other area outside the continental United States (1) any sugar or liquid sugar after the applicable quota, or the proration of any such quota, has been filled, or (2) any direct-consumption sugar after the direct-consumption portion of any such quota or proration has been filled:

Transportation in Excess of Domestic Quota

(b) From shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic-beet-sugar area or the mainland cane-sugar area after the quota for such area has been filled;

Marketing in Hawaii and Puerto Rico in Excess of Quota Therefor

(c) From marketing in either Hawaii or Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota therefor has been filled;

Exceeding Allotments or Prorations

(d) From exceeding allotments of any quota, direct-consumption portion of any quota, or proration or allocation of any quota, made to them pursuant to the provisions of this chapter;

Importation of Sugar or Liquid Sugar into Virgin Islands

(e) From bringing or importing into the Virgin Islands for consumption therein, any sugar or liquid sugar in excess of one hundred pounds in any calendar year produced from sugarcane or sugar beets grown in any area other than Puerto Rico, Hawaii, or the continental United States.

SEC. 210 Terminology of determinations—Raw value to govern—

(a) The determinations provided for in sections 201 and 203 of this title, and all quotas, prorations, and allotments, except quotas established pursuant to the provisions of section 208 of this title, shall be made or established in terms of raw value.

Sugar to Include Liquid Sugar

(b) For the purposes of this subchapter, liquid sugar, except that imported from foreign countries, shall be included with sugar in making the determinations provided for in sections 201 and 203 of this title and in the establishment or revision of quotas, prorations, and allotments.

SEC. 211. Credit against quota—Credit upon exportation of imported sugar—

(a) Sugar or liquid sugar entered into the United States, including Puerto Rico, under an applicable bond established pursuant to orders or regulations issued by the Secretary, for the express purpose of subsequently exporting the equivalent quantity of sugar or liquid sugar as such, or in manufactured articles, shall not be charged against the applicable quota or proration for the country of origin.

Exportation Defined

(b) Exportation within the meaning of sections 1309 and 1313 of Title 19 shall be considered to be exportation within the meaning of this section.

Domestic Quota To Be Filled With Products of Local Beets and Cane

(c) The quota established for any domestic sugar-producing area may be filled only with sugar or liquid sugar produced from sugar beets or sugarcane grown in such area.

SEC. 212. Exception to quota provisions—

The provisions of this subchapter shall not apply to the first ten short tons, raw value, of direct consumption sugar or liquid sugar imported from any foreign country, other than the Republic of the Philippines, in any calendar year for religious, sacramental, educational, or experimental purposes.

SUBCHAPTER III—CONDITIONAL PAYMENT PROVISIONS

SEC. 301. Conditions of production—

The Secretary is authorized to make payments on the following conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar:

Proportionate Share Production

(a) That there shall not have been marketed (or processed), except for livestock feed, or for the production of livestock feed, as determined by the Secretary, an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate share for the farm, if farm proportionate shares are determined by the Secretary pursuant to the provisions of section 302 of this title of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carryover inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) That the producer on the farm who is also, directly or indirectly a processor of sugar beets or sugarcane, as may be determined by the Secretary shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

SEC. 302. Quantity of sugar; time for payments—Amount as determined by Secretary—

(a) The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, if farm proportionate shares are determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carryover inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

Determination of Proportionate Share of Farm; Sugar Beet Production History, Disposition; New Sugar Beet Areas, Acreage Allocation, Publication in Federal Register; Transfer of Sugarcane Production Record for Land in Puerto Rico

(b)(1) The Secretary shall determine for each crop year whether the production of sugar from any crop of sugarbeets or sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination shall be made

only with respect to the succeeding crop year and, beginning with the 1979 crop year, only after due notice and opportunity for an informal public hearing. If the Secretary determines that the production of sugar from any crop of sugarbeets or sugarcane will be in excess of the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, he shall establish proportionate shares for farms in such areas areas as provided in this subsection. In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of the sugarbeets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar (within proportionate shares when in effect) and the ability to produce such sugarbeets and sugarcane. In establishing proportionate shares for farms in the mainland cane sugar areas, the Secretary may establish separate State acreage allocations, may determine and administer the proportionate shares for farms in one State by a method different from that used in another State, may include in such State allocation an acreage reserve to compensate for anticipated unused proportionate shares, may make conditional allocations to farms from such reserve and establish conditions which must be met in order for such allocations to be final, may make an adjustment in a State's allocation in any years to compensate for a deficit or surplus in a prior year if the actual amount of unused proportionate shares in such State for such prior year was larger or smaller than such anticipated amount of unused proportionate shares, and, in establishing State allocations and farm proportionate shares, may use whatever prior crop year or years he considers equitable in his consideration of past production.

(2) The Secretary may also, in lieu of or in addition to the foregoing factors, take into consideration with respect to the domestic beet sugar area the sugarbeet production history of the person who was a farm operator in the base period, in establishing farm proportionate shares in any State or substantial portion thereof in which the Secretary determines that sugarbeet production is organized generally around persons rather than units of land, other than a State or substantial portion thereof wherein personal sugarbeet production history of farm operators was not used generally prior to 1962 in establishing farm proportionate shares. In establishing proportionate shares for farms in the domestic beet sugar area, the Secretary may first allocate to State (except acreage reserved) the total acreage required to enable the area to meet its quota and provide a normal carryover inventory (hereinafter referred to as the "national sugarbeet acreage requirement") on the basis of the acreage history of sugarbeet production and the ability to produce sugarbeets for extraction of sugar in each State. The personal sugarbeet production history of a farm operator who does, or becomes incapacitated, shall accrue to the legal representative of his estate or to a member of his immediate family if such legal representative or family member continues within three years of such death or incapacity the customary sugarbeet operations of the deceased or incapacitated operator. If in any year during this period sugarbeets were not planted by such legal representative or member of the family, production history shall be credited to such year equal to the acreage last planted by the deceased or incapacitated farm operator.

(3) The allocation of the national sugar beet acreage requirement to States for sugar beet production, as well as the acreage allocation for new or substantially enlarged existing sugar beet processing facilities, shall be determined by the Secretary after investigation and notice and opportunity for an informal public hearing.

(4) Whether farm proportionate shares are or are not determined, the Secretary shall, insofar as practicable, protect the interests of new producers who are cash tenants, share tenants, adherent planters, or sharecroppers and of the producers whose past production has been adversely, seriously, and generally affected by drought, storm, flood, freeze, disease, insects, or other similar abnormal and uncontrollable conditions.

(5) Whenever the Secretary determines it necessary for the effective administration of this subsection in an area where farm proportionate shares are established in terms of sugarcane acreage, he may consider acreage of sugarcane harvested for seed on the farm in addition to past production of sugarcane for the extraction of sugar in determining proportionate shares as heretofore provided in this subsection; and whenever acreage of sugarcane harvested for seed is considered in determining farm proportionate shares, acreage of sugarcane harvested for seed shall be included in determining compliance with the provisions of section 301(b) of this title, notwithstanding any other provisions of such section.

(6) For the purposes of establishing proportionate shares hereunder and in order to encourage wise use of land resources, foster greater diversification of agricultural production, and promote the conservation of soil and water resources in Puerto Rico, the Secretary, on application of any owner of a farm in Puerto Rico, is authorized, whenever he determines it to be in the public interest and to facilitate the sale or rental of land for other productive purposes, to transfer the sugarcane production record for any parcel or parcels of land in Puerto Rico owned by the applicant to any other parcel or parcels of land owned by such applicant in Puerto Rico.

(7) In order to protect the sugarbeet production history for farm operators (or farms) who in any crop year, because of a crop-rotation program or for reasons beyond their control, are unable to utilize all or a portion of the farm proportionate share acreage established pursuant to this section, the Secretary may reserve for a period of not more than three crop years the production history for any such farm operators (or farms) to the extent of the farm proportionate share acreage released. The proportionate share acreage so released may be reallotted to other farm operators (or farms), but no production history shall accrue to such other farm operators (or farms) by virtue of such reallocation of the proportionate share acreage so released.

(8) The Secretary is authorized to reserve from the national sugar beet acreage requirements the acreage required to yield 25,000 short tons of sugar, raw value, for any sugar beet processing facility which closed during 1978, if he is satisfied that such facility will resume operations and will be operated successfully and that the area which will serve such facility is suitable for growing sugar beets. The Secretary shall allocate the acreage provided for in this paragraph to farms on such basis as he determines necessary to accomplish the purposes for which such acreage is provided under this paragraph.

(9) The Secretary shall credit to the farm of any producer (or to the producer in a personal history State) who has lost a market for sugar beets as a result of (A) the closing of a sugar beet factory in any year after 1976; (B) the complete discontinuance of contracting by a processor after 1976 in a State; or (C) the discontinuance of contracting by a processor after 1976 in a substantial portion of a State in which the processor contracted a total of at least 2,000 acres of the 1976 crop of sugar beets, an acreage history (or production history) for each of the next three years equal to the average acreage planted on the farm (or by the producers) in the last three years of such factory's operation or processor's contracting, and any unused proportionate share shall not be transferred to other farms (or producers).

New Cane Sugar Areas; Publication in Federal Register

(c) In order to enable any new cane sugar producing area to fill the quota to be established for such area under section 202(a)(4) of this title, the Secretary shall allocate an acreage which he determines is necessary to enable the area to meet its quota and provide a normal carryover inventory. Such acreage shall be fairly and equitably distributed to farms on the basis of land, labor, and equipment available for the production of sugarcane. The acreage allocation for any year shall be made as far in advance of such year as practicable, and the commitment of such acreage to the area shall be irrevocable upon issuance of such determination by publication thereof in the Federal Register, except that, if the Secretary finds in any case that construction of sugarcane facilities and the contracting for processing of sugarcane has not proceeded in substantial accordance with the representation made to him as a basis for his determination in accordance with and upon publication in the Federal Register of such findings. In making his determination for the establishment of a quota, the Secretary shall base such determination upon the firmness of capital commitment and the suitability of the area for growing sugarcane and, where two or more areas are involved, the relative qualifications of such areas under such criteria. If proportionate shares are in effect in such area in the two years immediately following the year for which the sugarcane acreage allocation is committed for any area, the total acreage of proportionate shares established for farms in such area in each such two years, shall not be less than the larger of the acreage committed to such area or the acreage which the Secretary determines to be required to enable the area to fill its quota and provide for a normal carryover inventory.

SEC. 303. Acreage abandonment and crop deficiency—

In addition to the amount of sugar or liquid sugar with respect to which payments are authorized under subsection (a) of section 302 of this title, the Secretary is also authorized to make payments, on the conditions provided in section 301 of this title with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage, resulting from drought, flood, storm, freeze, disease, or insects, as determined in accordance with regulations issued by the Secretary, on the following quantities of sugar or liquid sugar: (1) With respects to such bona fide abandonment of each planted acre of sugar beets or sugarcane, one-third of the normal yield of commercially recoverable sugar or liquid sugar per acre for the farm, as determined by the Secretary; and (2) with respect to such crop deficiencies of harvested acreage of sugar beets or sugarcane, the excess of 80 per centum of the normal yield of commercially recoverable sugar or liquid sugar for such acreage for the farm, as determined by the Secretary, over the actual yield.

SEC. 304. Computation of payments; recipients thereof—Base rate—

(a) The amount of the base rate of payment shall be 80 cents per hundred pounds of sugar or liquid sugar, raw value.

Farm Unit as Basis of Calculation

(b) All payments shall be calculated with respect to a farm which, for the purposes of this chapter, shall be a farming unit as determined in accordance with regulations issued by the Secretary, and in making such determinations, the Secretary shall take into consideration the use of common work stock, equipment, labor, management and other pertinent factors.

Total Payment

(c) The total payment with respect to a farm shall be the product of the base rate specified in subsection (a) of this section multiplied by the amount of sugar and

liquid sugar, raw value, with respect to which payment is to be made, except that reduction shall be made from such total payment in accordance with the following scale of reductions:

That portion of the quantity of sugar and liquid sugar which is included within the following intervals of short tons, raw value and the reduction in the base rate of payment per hundredweight of such portion:

350 to 700	$0.05
700 to 1,000	0.10
1,000 to 1,500	0.20
1,500 to 3,000	0.25
3,000 to 6,000	0.275
6,000 to 12,000	0.30
12,000 to 30,000	0.325
More than 30,000	0.50

Persons Entitled to Payments

(d) Application for payment shall be made by, and payments shall be made to, the producer or, in the event of his death, disappearance, or incompetency, his legal representative, or heirs: *Provided, however,* That all producers on the farm shall signify in the application for payment the percentage of the total payment with respect to the farm to be made to each producer: *And provided further,* That payments may be made, (1) in the event of the death, disappearance, or incompetency of a producer, to such beneficiary as the producer may designate in the application for payment; (2) to one producer of a group of two or more producers, provided all producers on the farm designate such producer in the application for payment as sole recipient for their benefit of the payment with respect to the farm; or (3) to a person who is not a producer, provided such person controls the land included within the farm with respect to which the application for payment is made and is designated by the sole producer (or all producers) on the farm, as sole recipient for his or their benefit, of the payment with respect to the farm.

SEC. 305. Cooperation with Secretary by certain agencies—

In carrying out the provisions of subchapter II of this chapter and this subchapter, the Secretary is authorized to utilize local committees of sugar beet or sugarcane producers, State and county agricultural conservation committees, or the Agricultural Extension Service and other agencies, and the Secretary may prescribe that all or a part of the expenses of such committees may be deducted from the payments herein authorized.

SEC. 306. Finality of Secretary's determinations—

The facts constituting the basis for any payment, or the amount thereof authorized to be made under this subchapter, officially determined in conformity with rules or regulations prescribed by the Secretary, shall be reviewable only by the Secretary, and his determinations with respect thereto shall be final and conclusive.

SEC. 307. Territorial application—

This subchapter shall apply to the continental United States, Hawaii and Puerto Rico.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

SEC. 401. Expenditures by Secretary—

For the purposes of this chapter, the Secretary may make such expenditures as he deems necessary to carry out the provisions of this chapter, including personal services and rents in the District of Columbia and elsewhere.

SEC. 402. Appropriations; availability of funds—

(a) There is authorized to be appropriated for each fiscal year for the purposes and administration of this chapter the funds necessary to make the payments provided for in subchapter III of this chapter and other amounts as the Congress determines to be necessary for such fiscal year to carry out the other provisions of this chapter.

(b) All funds available for carrying out this chapter shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal Government as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter. The Secretary is authorized to use the services, facilities, and authorities of Commodity Credit Corporation for the purpose of making disbursements to persons eligible to receive payments under subchapter III of this chapter: *Provided,* That no such disbursements shall be made by Commodity Credit Corporation unless it has received funds to cover the amounts thereof from appropriations available for the purpose of carrying out such program.

SEC. 403. Rules and regulations; violations; publication of Secretary's determinations; independent weighmasters—

(a) The Secretary is authorized to make such orders or regulations, which shall have the force and effect of law, as may be necessary to carry out the powers vested in him by this chapter. Any person knowingly violating any order or regulation of the Secretary issued pursuant to this chapter shall, upon conviction, be punished by a fine of not more than $100 for each such violation.

(c) Whenever the Secretary determines that such action is necessary to protect the interests of the United States, consumers of sugar, or the exporters of sugar, he is authorized to require, in accordance with such rules and regulations as he may prescribe, any or all shipments of imported sugar to be weighed by persons not controlled, directly or indirectly, by any person having a direct financial interest in such sugar.

SEC. 404. Jurisdiction of courts—

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this chapter or of any order or regulation made or issued pursuant to this chapter and, except as provided in sections 205 and 306 of this title, to review any regulation issued pursuant to this chapter in accordance with chapter 7 of Title 5. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties, fees and forfeitures provided for in this chapter. The remdies provided for in this chapter shall be in addition to, and not exclusive of any of the remedies or penalties existing at law or in equity.

SEC. 405. Forfeitures—

(a) Any person who knowingly violates, or attempts to violate, or who knowingly participates or aids in the violation of, any of the provisions of section 209 of this title, or any person who brings or imports into the continental United States direct-consumption sugar after the quantities specified in section 207 of this title have been filled, shall forfeit to the United States the sum equal to three times the market value, at the time of the commission of any such act, (1) of that quantity of sugar or liquid sugar by which any quota, proration, or allotment is exceeded, or (2) of that quantity brought or imported into the continental United States after the quantities specified in section 207 of this title have been filled, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(b) Any person whose sugar processing operations otherwise meet the requirements of section 101 (n) of this title and who subjects to such processes sugar imported or brought into the continental United States under a declaration that it is raw sugar but which sugar subsequently is determined to be of direct-consumption quality, shall forfeit to the United States a sum equal to 1 cent per pound for each pound, raw value, of such sugar in excess of that part of the direct-consumption portion of the applicable quota or proration or allotment thereof remaining unfilled at the time of such determination, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

Seizure of Property of United States citizens; Discrimination in Taxation and Other Exactions; Restrictive maintenance or operational conditions; remedial measures; duration of suspension; allocation of suspended quantities

(c) In any case in which a nation or a political subdivision thereof has, on or after January 1, 1961, (1) nationalized, expropriated, or otherwise seized the ownership or control of the property or business enterprise owned or controlled by United States citizens or any corporation, partnership, or association not less than 50 per centum beneficially owned by United States citizens, or (2) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter) not imposed or enforced with respect to the property or business enterprise of a like nature owned or operated by its own nationals or the nationals of any government other than the Government of the United States, or (3) imposed upon or enforced against such property or business enterprise so owned or controlled, discriminatory taxes or other exactions, or restrictive maintenance or operational conditions (including limiting or reducing participation in production, export, or sale of sugar to the United States under quota allocation pursuant to this chapter), or has taken other actions, which have the effect of nationalizing, expropriating or otherwise seizing ownership or control of such property or business enterprise, or (4) violated the provisions of any bilateral or multilateral international agreement to which the United States is a party, designed to protect such property or business enterprise so owned or controlled, and has failed within six months following the taking of action in any of the above categories to take appropriate and adequate steps to remedy such situation and to discharge its obligations under intertional law toward such citizen or entity, including the prompt payment to the owner or owners of such property or business enterprise so nationalized, expropriated or otherwise seized or to provide relief from such taxes, exactions, conditions or breaches of such international agreements, as the case may be, or to arrange, with the agreement of the parties concerned, for submitting the question in dispute to arbitration or conciliation in accordance with procedures under which final and binding decision or settlement will be reached and full payment or arrangements with the owners for such payment made within twelve months following such submission, the President may withhold or suspend all or any part of the quota under this chapter of such nation, and either in addition or as an alternative, the President may, under such terms and conditions as he may prescribe, cause to be levied and collected at the port of entry an impost on any or all sugar sought to be imported into the United States from such nation in an amount covered into the Treasury of the United States into a special trust fund, and he shall use such fund to make payment of claims arising on or before January 1, 1961, as a result of such nationalization, expropriation, or other type seizure or action set forth herein, except that if such nation participates in the quota for the West Indies, the President may suspend a portion of the quota for the West Indies which is not in the quota for the West Indies which is not in excess of the quantity imported from that nation during the preceding year, until he is satisfied that appropriate steps are being

taken, and either in addition or as an alternative he may cause to be levied and collected an impost in an amount not to exceed $50 per ton on any or all sugar sought to be imported into the United States from such nation for the payment of claims as provided herein. Any quantity so withheld or suspended shall be allocated under section 202(d)(1)(A) of this title. With respect to any action taken during 1961 in any of the categories set forth in this subsection, the provisions of this subsection relating to levying and collecting an impost shall apply only if the President so determines.

SEC. 409. Surveys and investigations by Secretary; producer-processor and producer-labor contracts—

Whenever the Secretary determines that such action is necessary to effectuate the purposes of this chapter, he is authorized, if first requested by persons constituting or representing a substantial proportion of the persons affected in any one of the five domestic sugar-producing areas, to make for such area surveys and investigations to the extent he deems necessary, including the holding of public hearings, and to make recommendations with respect to the terms and conditions of contracts between the producers and processors of sugar beets and sugarcane in such area. In carrying out the provisions of this section, information shall not be made public with respect to the individual operations of any processor or producer.

SEC. 410. Same; general conditions and factors; publication of information—

The Secretary is authorized to conduct surveys, investigations, and research relating to the conditions and factors affecting the methods of accomplishing most effectively the purposes of this chapter and for the benefit of agriculture generally in any area. Notwithstanding any provision of existing law, the Secretary is authorized to make public such information as he deems necessary to carry out the provisions of this chapter.

SEC. 411. Regulations to carry out international sugar agreements restricting importations of sugar from foreign countries—

The Secretary is authorized to issue such regulations as may be necessary to carry out any articles of an International Sugar Agreement (ratified by and with the advice and consent of the United States Senate), restricting importations of sugar into the United States from foreign countries not participating in such agreement, or to carry out the corresponding provisions of any such future agreements ratified by and with the advice and consent of the United States Senate.

SEC. 412. Authorization and Appropriations—

There is hereby authorized to be appropriated for each fiscal year for the administration of this Act such amounts as the Congress determines necessary.

SEC. 413. Termination—

The provisions of this Act shall terminate on December 31, 1984.

By Mr. McCLURE:

S. 18. 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 1979

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 1979. 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 would 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 by 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 saving 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 precondition 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 the material were ordered to be printed in the RECORD, as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting 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) SAVINGS 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) SAVING 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 balances 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.—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 amounts 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 of 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 lesser 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 preceding 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 subparagraph (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 calendar 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 purposes 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 credits 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 1979

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 Saving less Ineligible Debt.

Net Saving 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 Saving, as would savings bond purchases less redemptions;

(3) Saving in Certain Investments Assets—

Stock purchases 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

(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 savings, as a percentage of consumer disposable or after-tax income.

RATE OF SAVING

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 polices tend to encourage or discourage savings. 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 aboard than in America. "If people don't save, there can't be sufficient investments, 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 decrease 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%. Among the major countries, only Britain shows a smaller gain. The comparable increase in Japan is 97%. 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% 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% in Japan, 23% in France and Canada, 21% in West Germany and 19% 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 approximately 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. MATSUNAGA:

S. 20. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the office of Poet Laureate of the United States; to the Committee on Human Resources.

POET LAUREATE OF THE UNITED STATES

Mr. MATSUNAGA. Mr. President, I am introducing today a bill which would amend the National Foundation on the Arts and the Humanities Act of 1965 to establish the office of Poet Laureate of the United States.

The proposed Poet Laureate would be appointed by the President from among poets whose work reflects the qualities and attributes associated with the historical heritage, achievements and future potential of the United States. He or she would serve for a term of 5 years and would be compensated at a rate set by the President. I envision the office as being largely honorary with, perhaps, nominal compensation.

The United States is one of the few great nations in the world which has failed to give official recognition to its great poets. England, from which we inherited most of our cherished democratic traditions, officially created the position of poet laureate in the 17th century. However, the "unofficial" origin of the honorary position dates back to the reign of King Henry III in the 13th century. Japan and China also gave official recognition to their greatest poets long ago. In our own country, poets such as Carl Sandburg, Robert Frost, Walt Whitman, Henry Wadsworth Longfellow, Archibald MacLeish, Robert Penn Warren, Phyllis McGinley, and James Dickey have captured the American spirit in a unique and timeless way. Such contributions to our national heritage should be encouraged and stimulated. By creating the post of Poet Laureate, we would give the many young and relatively unknown American poets of today something to which they could aspire. We would be telling them that we value their contributions as much as those of the other builders of our Nation—engineers, scientists, explorers, statesmen, tradesmen, and others.

Mr. President, I hope that my bill will be given early, favorable consideration by Congress, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:

"POET LAUREATE OF THE UNITED STATES

"SEC. 15. (a) There is established the office of Poet Laureate of the United States. The Poet Laureate shall perform such duties as the President shall prescribe, but the duties so prescribed shall not impair the continuation of the creative work of the individual chosen to be Poet Laureate.

"(b) The Poet Laureate of the United States shall be appointed by the President after consideration of the recommendations of the National Council on the Arts from among poets whose works reflect the qualities and attributes associated with the historical heritage, present achievement, and future potential of the United States. The Poet Laureate shall be appointed for a term of five years, and shall receive compensation at a rate to be set by the President."

By Mr. WEICKER:

S. 21. A bill to terminate public financing of Presidential campaigns; to the Committee on Finance.

Mr. WEICKER. Mr. President, I am reintroducing today legislation that would repeal those sections of the law which created the tax check-off system and the public financing of Presidential campaigns.

From the start, I have believed that public financing was a mistake. This proposal reflects my long-held belief that public financing of Presidential campaigns, rather than being a reform, is a dangerous step toward control by the Federal Government of the elective process.

With the best of intentions, the Congress enacted campaign reform legislation calling for direct Federal subsidies to Presidential candidates. However, that accommodates rather than eliminates the problem. The problem is long time translating into big money. Public financing only pays the blackmail imposed by that sin.

Matching funds have kept floundering Presidential campaigns afloat beyond their time. They have allowed one issue candidates and those with only a marginal chance of success to overspend their budgets, knowing that Uncle Sam would pick up the tab. Mr. President, allowing the Federal Government to bankroll everybody who wants to be President is a subsidy that can only sap the vitality of a free society whose excellence depends on the survival of the fittest ideas.

One measure of a candidate is his or her ability to generate contributions for public office, Candidates should sell their ideas to win, not just be a warm body and rely on the Federal dole. Worse, public financing gives Congress control of the campaign war chests of Presidential challengers. The Campaign Reform Act was drafted in 1974, with the Congress and White House controlled by different parties. Under these circumstances, each candidate of a major political party would receive $20 million in a general election, plus compensation for inflation. When the Nation elects a President with a large majority of his own party in the Congress, who can say that the formula for allocating funds will always remain the same? And what about enforcement? Once we handed the Congress the political purse-strings, the people no longer have the final say. Instead, politicians are monitoring politicians. Not a healthy situation.

Mr. President, the dangers of public financing were recognized by the majority of the Watergate Committee when they opposed enactment of that decision. In a brief filed by the appellants in the Supreme Court in Buckley against Valeo these dangers were clearly described:

Grave dangers to the future of democratic government result from direct payments to parties and candidates. Democracy depends largely on free political competition and the freedom to form, join or leave political organizations. Once a party becomes officially sponsored by the government or government begins to determine the allocation of political resources, that freedom is endangered.

The experience to date with the tax check-off to finance Presidential campaign funds indicates little interest and enthusiasm among the people. Only 26 percent of the taxpayers chose to direct the $1 of their taxes owed for 1976 to the campaign fund. For the taxable year 1977, approximately 27.5 percent of the taxpayers exercised this option thus far, and remember Mr. President, the only deterrent to this clever program is the wasted effort by the stroke of a pen.

With almost three-fourths of the American people saying no to check-offs, it is time the Congress reexamined the policy of paying checks out to Presidential candidates.

I understand there are those who would want to extend the Federal financing principle to senatorial and congressional campaigns. How long will it be before nondesignated general funds are used?

I confess, with today's myriad of unresolved needs, I find financing political campaigns rather far down on my priority list. If we have become so devoid of initiative, ideas and courage that the American people are walking away from today's politicians, then it is time to get out rather than monetarily assure a continued presence.

Mr. President, it was a sad day indeed when this body decided to let the Government support the candidates rather than the people. It is now time to end public financing, and let the people, not the Government, carry the campaign.

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

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

S. 21

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subtitle H of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is repealed.

(b)(1) Part VIII of subchapter A of chapter 61 of such Code (relating to designation of income tax payments to Presidential Election Campaign Funds is repealed.

(2) The table of parts for such subchapter is amended by striking out the item relating to part VIII.

(c)(1) The repeal made by subsection (a) takes effect on January 1, 1979, except that such repeal shall not affect the authority of the Federal Election Commission or of the Secretary of the Treasury to require repayments from candidates under section 9007 (b) or 9038(b) of the Internal Revenue Code of 1954 (both relating to repayments).

(2) The repeal and amendment made by subsection (b) apply to taxable years beginning after December 31, 1978.

(d) Amounts remaining in the Presidential Election Campaign Fund established under section 9006(a) of the Internal Revenue Code of 1954 at the close of business on December 31, 1979, shall be covered into the general fund of the Treasury as receipts from the tax imposed by chapter 1 of such Code.

By Mr. CHURCH:

S. 23. A bill to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PLANT VARIETY PROTECTION ACT

Mr. CHURCH. Mr. President, I am introducing legislation to amend the Plant Variety Protection Act of 1970. These are important amendments which will strengthen the ability of our agricultural sector to develop new and unique varieties of edible plants.

The Plant Variety Protection Act authorized the establishment of a Plant Variety Protection Office in the Department of Agriculture. The purpose of this office was to issue certificates of plant variety protection to assure developers of novel plant varieties the exclusive rights to sell, reproduce, import or export such varieties or use them in the production of hybrids for a period of 17 years.

Based on experience with this act, the USDA submitted proposed legislation to the Congress on October 10, 1978. These amendments, 21 in all, would further clarify wording and adjust the act to better fit the experience gained. The major substantive change accomplished by these amendments is the deletion of section 144. Deletion of this section will allow protection to be given to breeders and developers of six vegetable crops. Okra, celery, peppers, tomatoes, carrots, and cucumbers were not given protection by the 1970 act. Adoption of these amendments will extend the act's protection to these vegetable varieties. Because these amendments were received from the USDA so late in the session, they were not introduced last year.

By refining the terminology of the act, these amendments will make the act more easily understood by its users and is not expected to have any significant regulatory impact.

These amendments are endorsed by the Department of Agriculture and are supported by the American Seed Trade Association and many plant seed research and development activities across the country. A companion bill is being introduced in the House by the Honorable E "KIKA" DE LA GARZA.

Enactment of these amendments will enable the Plant Variety Protection Act to more efficiently function and will extend its protection to vegetable crops deserving of similar protection.

Mr. President, a fine example of the beneficial effect of the Plant Variety Protection Act can be found in the development of the sugar snap pea. This pea is an entirely new vegetable developed by Dr. Calvin Lamborn of the Gallatin Valley Seed Co. in Twin Falls, Idaho. The incentive to proceed with the breeding of this unique new pea was provided by the 1970 act. Similar examples abound across our land.

Part of our heritage of a productive agricultural base has been our ability to develop new and better varieties of seeds. The Plant Variety Protection Act has been an important instrument in renewing efforts in that direction. The amendments I offer today will further strengthen and insure the development of many new varieties of edible plants for our expanding population.

Mr. President, I ask unanimous consent that the text of the Plant Variety Protection Act amendments be printed at this point in the RECORD.

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

S. 23

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 (7 U.S.C. 2321) of the Plant Variety Protection Act is amended by striking the words "a bureau" and inserting in lieu thereof the words "an office".

SEC. 2. Section 5 (7 U.S.C. 2325) of such Act is hereby repealed.

SEC. 3. Section 8 (7 U.S.C. 2328) of such Act is amended by striking the word "officers" and inserting in lieu thereof the word "examiners".

SEC. 4. Section 9 (7 U.S.C. 2329) of such Act is amended by striking the words "published specifications" and inserting in lieu thereof the word "descriptions" and by striking "and a file of such other scientific and technical information as may be necessary or practicable".

SEC. 5. Section 10(a)(1) (7 U.S.C. 2330(a)(1)) of such Act is amended by striking the words "specifications for plant variety protection" and inserting in lieu thereof the words "descriptions of plant varieties protected".

SEC. 6. Section 10(b) (7 U.S.C. 2330(b)) of such Act is hereby repealed.

SEC. 7. Section 10(c) (7 U.S.C. 2330(c)) of such Act is redesignated as 10(b) and is amended by striking the words "the useful arts" and inserting in lieu thereof the words "plant breeding".

SEC. 8. Section 10(d) (7 U.S.C. 2330(d)) of such Act is redesignated as 10(c) and is amended by striking from the second sentence each time it appears the word "specifications" and inserting in lieu thereof the word "descriptions".

SEC. 9. Section 11 (7 U.S.C. 2331) of such Act is amended by striking the word "specifications" and inserting in lieu thereof the word "descriptions".

SEC. 10. Section 31 (7 U.S.C. 2371) of such Act is amended by striking all after the first sentence and inserting the following:

"Such fees shall be deposited into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act."

SEC. 11. Section 52(3) (7 U.S.C. 2422(3)) of such Act is amended by striking the last sentence.

SEC. 12. Section 56 (7 U.S.C. 2426) of such Act is amended by changing the period at the end of the second sentence to a comma and adding the following:

"the name of the applicant, and whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed."

SEC. 13. Section 57 (7 U.S.C. 2427) of such Act is amended by inserting after the phrase "for the publication of" the words "information regarding".

SEC. 14. Section 83(b) (7 U.S.C. 2483) of such Act is amended by deleting the term "seventeen years" in the first sentence and inserting in lieu thereof "eighteen years".

SEC. 15. Section 84 (7 U.S.C. 2484) of such Act is amended to read as follows:

"SEC. 84. Correction of Plant Variety Protection Office Mistake.

"Whenever a mistake in a certification of plant variety protection incurred through the fault of the Plant Variety Protection Office is clearly disclosed by the records of the Office, the Secretary may issue a corrected certificate of plant variety protection, stating the fact and nature of such mistake, without charge. Such certificate of plant variety protection shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form."

SEC. 16. Section 85 (7 U.S.C. 2485) of such Act is amended by deleting "certificate of" from the heading, by inserting before the word "certificate" the second time it appears therein the word "corrected" and by striking the words "of correction in the manner and with attachment of copies as in section 84."

SEC. 17. Section 91(b) (7 U.S.C. 2501(b)) of such Act is amended by striking the word "specification" in the second sentence and inserting in lieu thereof the word "description".

SEC. 18. Section 93(a) (7 U.S.C. 2503(a)) of such Act is amended by striking the word "specification" and inserting in lieu thereof the word "description".

SEC. 19. Section 127 (7 U.S.C. 2567) of such Act is amended by striking the phrase "the words 'Propagation Prohibited' " and inserting in lieu thereof the phrase "either the words 'Unauthorized Seed Multiplication Prohibited' or the words 'Unauthorized Propagation Prohibited' ".

SEC. 20. Section 128(a)(3) (7 U.S.C. 2568(a)(3)) of such Act is amended by adding the word "either" followed the words "propagation prohibited" and inserting in lieu thereof the words " 'Unauthorized Seed Multiplication Prohibited' or 'Unauthorized Propagation Prohibited' " and by striking the words "a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed."

SEC. 21. Section 144 of such Act is deleted.

By Mr. CHURCH:

S. 24. A bill to amend the Internal Revenue Code of 1954 with respect to .22 caliber ammunition recordkeeping requirements; to the Committee on Finance.

Mr. CHURCH. Mr. President, today I have again introduced legislation to repeal restrictions on the sale of .22 caliber ammunition which are part of the 1968 Gun Control Act.

Over the years, the Treasury Department has consistenty supported my legislation. This position is especially notable given the Department's failed attempt at backdoor Federal gun control last year. At least in the instance of .22 caliber ammunition, the gun controllers at Treasury are taking a sensible stand.

A short review of the history of this matter explains the obvious appeal of my legislation. The unfortunate 1968 Gun Control Act—which I strongly opposed—contained certain recordkeeping requirements for firearms and ammunition. Almost immediately thereafter, in 1969, Congress enacted an amendment repealing these ill-advised requirements for sporting rifles and shotguns and ammunition for them.

In adopting that amendment, Congress sustained my belief that these reporting requirements created a useless and unnecessary burden on the Treasury Department itself, on firearms dealers,

and on the Nation's sportsmen. Unfortunately such requirements still remain for .22 ammunition as it may be used for sporting rifles. My legislation simply adds .22 caliber ammunition to the older repeal provision.

I have always felt that it is an important responsibility of the Congress to eliminate unnecessary provisions of the law. In this case—and in these times—it is the Senate's best effort to repeal restrictions which are regarded by all concerned as wasteful and intrusive Government nitpicking and burdensome and meaningless paperwork.

From another perspective, these recordkeeping requirements are worse than worthless because they actually detract from a legitimate Government objective—the fight against crime. Treasury Department officials have testified that they know of no instance "where any of the recordkeeping provisions relating to sporting-type ammunition—including .22 caliber rimfire ammunition—has been helpful in law enforcement." The Justice Department confirmed that:

> There is not a single known instance, as we have learned from our discussions with IRS, with the firearms people there, not a single known instance where any of this record keeping has led to a successful investigation and prosecution of a crime.

It is clear that the restrictions on .22 ammunition which have remained in the law are just as much ill-conceived hindrances to the fight against crime as the restrictions which were repealed in 1969. As the Treasury Department gun controllers have testified in their own self-interest:

> The record keeping requirements have become so burdensome that they tend to detract from the enforcement of the firearms laws.

Just what does this recordkeeping involve? Under the 1968 Gun Control Act, it is unlawful for a federally licensed dealer to sell or deliver ammunition without making a record showing the name, age, and residence of the purchaser. In addition, all dealers are required to maintain such records of importation, production, shipment, receipt, sale, or other disposition of ammunition as may be provided by regulations. These regulations have required licensees to record: The date of transaction; the name of the manufacturer; the caliber, gage or type of component; the quantity of ammunition transferred; the name, address, and date of birth of the purchaser; and finally, the method used by the licensee to establish the identity of the purchaser.

On their face, these restrictions on .22 ammunition are useless, and more, a deterrent to the fight against crime by the waste of effort their enforcement entails. With the outcry against needless statutes and bureaucracy, repeal of these restrictions would end a senseless harassment, involving the most popular type of sporting ammunition in the United States. I urge the Senate to support my legislation and ask that the text of the bill be printed in the RECORD.

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

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4182(c) of the Internal Revenue Code of 1954 (relating to records) is amended by inserting ".22 caliber rimfire ammunition," after "rifles generally available in commerce,".

By Mr. BAYH (for himself, Mr. KENNEDY, Mr. GLENN, Mr. DOLE, and Mr. PERCY):

S. 25. A bill to designate the birthday of Martin Luther King, Jr., a legal public holiday; to the Committee on the Judiciary.

Mr. BAYH. Mr. President, I rise on this most historic occasion to submit a bill to the Senate which will establish January 15, the birthday of Dr. Martin Luther King, Jr., as a national holiday.

It is only fitting that such legislation be introduced in the Senate and the House of Representatives on Dr. King's 50th birthday. And it is only proper that this distinguished body act expeditiously in adopting it. Making Dr. King's birthday a national holiday seems to me to be the very least we can do to show our great debt of gratitude for the lesson he taught all Americans willing to listen and learn.

He taught us that our democratic principles were seriously impaired if they did not apply to all Americans. He reminded us that the values of freedom, equality and liberty could not justly be denied to any group of Americans, lest we all lose a degree of the same values. He reminded us of our history; of George Washington, Thomas Jefferson Abraham Lincoln, Harriet Tubman, Sojourner Truth, Frederick Douglas, Franklin Roosevelt, Harry Truman, John F. Kennedy, Lyndon B. Johnson, and of the sacrifices they made to liberty and freedom.

From the darkness of a Birmingham jail, he taught us that laws and justice were sometimes at odds and did not always complement each other. Further, he always accepted, with pride, dignity, and courage, the consequences of his acts. It came as something of a revelation to many good intentioned Americans when Dr. King demonstrated that justice is a creation of God while laws are manmade, and the latter being subject to the errors of man are inferior to justice. As a result of his work many laws were drastically changed so that justice might prevail. One only need look in the lunch counters, neighborhoods, and schools in previously segregated sections of the country for evidence of this man's work.

Dr. King further taught us that the teachings of Christ were still the most effective methods by which to confront one's adversaries. He employed the Christian ethic of love thy neighbor and turn the other cheek as a means to attain his ends. Utilizing the Ghandian tactic of nonviolence, Dr. King boldly and bravely confronted his enemies and calmly convinced them of the errors in their ways. He taught us that violence and hatred appeal to the baser nature of man and that patience and understanding will ultimately triumph in the eternal struggle between good and evil.

He touched the conscience of all Americans in a way that was painful but not damaging. He demonstrated that in an era of hatred, violence, and bloodshed, love can prevail. He made us understand that if we contend to be a civilized society that we had better begin to treat our neighbors in a civilized manner. This is a lesson that can well be applied nationally as well as internationally. And for teaching us that nonviolence is the superior form of negotiation, he truly does deserve the title of prophet of nonviolence.

And finally he taught us that our dream of an ideal America can be a reality if only we work at making it so. As he stood at the Lincoln Memorial on August 28, 1963, and shared his vision with America, he touched this country in a way it had never been touched in its entire history. He shared with us his dream of black children, whites and all children, holding hands as they walked on the red clay of Georgia, oblivious to racial distinctions and prejudice. He prophesied that the day would come when all God's children would be free and equal. It is because of his vision and his work that we are much closer to a purely just and equal society. And it is because he shared his dreams with us and then went out and tried to make those dreams a reality that I introduce this legislation which would simply be our humble way of saying thank you to one of the great men in American history. "Greater love hath no man than that he lay down his life for that of another." And so it was with Martin Luther King, Jr.

Mr. KENNEDY. Mr. President, I join in support of the legislation introduced by my colleague, Senator BAYH, to designate January 15, Dr. Martin Luther King's birthday, as a national holiday, and I pledge to do all I can as chairman of the Senate Judiciary Committee to insure that this legislation is brought before the full Senate at the earliest possible opportunity.

Citizens of the United States and persons throughout the world are deeply indebted to Dr. King for his worldwide leadership in the struggle for freedom, justice, and dignity for all peoples everywhere. It is entirely fitting, therefore, that today on this 50th anniversary of his birth, we should pledge to honor his life and his great works by declaring his birthday a national holiday.

Dr. King was perhaps the greatest apostle of change of our time. Through his example, millions drew hope that their dreams of a better life could be fulfilled. Above all, by his deep commitment to nonviolence, he demonstrated that peaceful change was possible in society, and that effective leadership could bring an end to even the greatest obstacles of oppression and discrimination. In honoring Dr. King, therefore, we honor the highest tradition of our Nation and our history.

Mr. President, this past Friday, January 12, 1979, I had the honor to visit Atlanta and to participate in the weeklong celebration sponsored by the Martin Luther King Center for Social Change, commemorating the 50th anniversary of the birth of Dr. King. I ask unanimous consent that the text of my address at

the Ebenezer Baptist Church may be printed in the RECORD.

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

KEYNOTE ADDRESS OF SENATOR EDWARD M. KENNEDY

It is a special honor for me to be here with you on this historic occasion and to stand in the pulpit of Ebenezer Baptist Church on the 50th Anniversary of the birth of Dr. Martin Luther King, Jr.

I am proud to participate in this program that pays tribute to one of the most gifted and extraordinary Americans this country has ever produced in its long and magnificent history.

I thank Congressman Walter Fauntroy of the District of Columbia for his introduction. Walter began alongside Dr. King. In keeping with the tradition of the movement, Walter has "never let nobody turn him around." And never was that inspiring quality more evident than in Walter's leadership last year in Washington, guiding the successful effort to persuade the Senate and the House of Representatives to enact the D.C. Voting Rights Amendment.

The honor of being here in Atlanta on this symbolic day is also heightened by my affection and respect for Daddy King, whose friendship, leadership and counsel have meant so much to me and so many others who share his goals.

I also pay special tribute to Coretta King and her children. Her continuing leadership and example have become one of the brightest beacons in the civil rights movement of our time, guiding all of us toward the better nation and world that she and Dr. King have seen so clearly.

In addition, I am proud of my role as a trustee of the Martin Luther King Center for Social Change, which holds such great promise for all who seek non-violent answers to the complex barriers facing human rights. The conclusion of the first three phases of this fine complex is an auspicious beginning. I pledge my full support for the completion and endowment of the Center, and I urge all Americans to join in completing "Freedom Hall," the final phase of the building program.

The spirit of Dr. King is here with us this afternoon. We honor the greatness of his leadership in the struggle to secure equal rights for all Americans. We honor the courage by which, against great odds and opposition, he moved this country to a nobler path of conscience and morality. And we also honor the strength of his commitment to these goals.

Those qualities—leadership, courage and commitment—have rarely, if ever, been combined in such high degree in any American in our history. Through those qualities, America has achieved enormous progress in recent years in human rights and civil rights, both at home and overseas. And through those qualities as well, countless others have been inspired to take up the cause of Dr. King and work to achieve his dream.

In one of his last speeches in Atlanta in 1968, in words that are now inscribed on the walls of Morehouse College, he spoke of his role:

"Yes, if you want to say that I was a drum major, say that I was a drum major for justice, say that I was a drum major for peace, say that I was a drum major for righteousness."

As a nation, we can pay no greater tribute to Dr. King than to carry on his work, so that his dream of freedom and justice will be fulfilled for the benefit not only of citizens in our own land, but in all other lands as well.

But there is a separate honor we can bestow on Dr. King that is both deserved and overdue. And those of us who serve in Congress are in a position to achieve it. When the new session of Congress opens on Monday, I pledge to do all I can, as Chairman of the Judiciary Committee in the Senate, to insure that legislation is enacted in this anniversary year, declaring that the birthday of Martin Luther King is a national holiday in every city, town and village of these United States.

Dr. King's roots were here, in the soil of Georgia, in the Ebenezer Baptist Church and in the hearts of his people in this state. But in a larger sense, his roots knew no boundary of section, creed, or color. He reached out to Americans everywhere and to peoples of all nations with his message of freedom, justice and dignity, and he led them to a better world.

He was America's first ambassador for human rights to those in other lands. He understood that the struggle for freedom anywhere is the struggle for freedom everywhere. And for his work, at the age of 35, he became the youngest person ever to win the Nobel Peace Prize.

As Americans, we are proud of the early leadership he provided to the worldwide movement for human rights, even as we take pride today in the leadership and momentum that President Carter has given to this cause.

In this country, Dr. King took his message to many different regions. I recall the personal bonds he established with the people of Massachusetts. As a young man, Dr. King came from Morehouse College in Georgia to Boston University in Massachusetts to complete his education and religious training. It was there, at the Twelfth Baptist Church in Roxbury, that he met Coretta Scott, the great partner who shared his life and dream and who carries on his work today. Twelfth Baptist is renowned for another reason too, as the site of a final stop on the underground railway that delivered so many brothers and sisters into freedom from the chains of slavery in the nineteenth century.

And I recall how Dr. King came back again to Boston in 1965, with his message of twentieth century freedom for all of those still bound by the chains of economic, social and political deprivation. He spoke to the Massachusetts Legislature. He inspired the leaders and the people of our Commonwealth with the power and the eloquence of his message.

He warned against inaction and delay. "The time is always right to do right," he said.

His message was clear. It could not be ignored. "Now is the time," he said, for action on voting rights and housing rights and so many other basic rights that had been denied to so many for so long.

In 1965, as in 1979, there were many who said that now was not the time. Although the cause was just, they said, there were other needs and other goals. The dream must be deferred, they said—deferred to a future day when progress might more easily be resumed.

But Dr. King rejected those counsels of delay. "Now is the time," he said. In 1963, in his famous "Letter From a Birmingham Jail" to the white clergymen who had urged delay, he wrote with great eloquence that delay was not acceptable, that the dream could no longer be deferred, that the movement must go on, that justice would forever be denied unless people had the courage to insist that "Now is the time."

Frederick Douglas, born a slave, said it well during the struggles of another era:

"If there is no struggle, there is no progress. Those who profess to favor freedom and yet deprecate agitation are men who want crops without plowing up the ground. They want the rain without thunder and lightening. They want the ocean without the awful roar of her mighty waters. Power concedes nothing without demand. It never has and it never will."

Now, in 1979, nearly a century after the death of Frederick Douglas, a decade after Dr. King's triumphant leadership, the debate goes on in our own day and generation. The lives and well-being of millions of our citizens are waiting for our answers.

The question is where we stand. Do we defer the dream? Do we deny the call? Do we watch reluctantly from the sidelines while progress slows and hope grows dim again? Or do we stand with Frederick Douglas? Do we stand with Dr. King? Do we keep the flame alive? Do we raise up the fallen standard and hold it high again?

Let the workshops of this conference send their message to a waiting nation, the eloquent message of Dr. King, the message that now is the time.

Now is the time to redeem the promise of the Humphrey-Hawkins Act. Let us join wholeheartedly in the fight against inflation. But let us insure that the fight is fair. And let us join as well in achieving the goal of full employment for all our people.

Now is the time to adopt the Equal Rights Amendment, and end the age-old discrimination against women in our society.

Now is the time to extend the full rights of American democracy and representative government to the people of the nation's capital, by ratifying the District of Columbia Voting Rights Amendment as part of the Constitution of the United States.

Now is the time to reduce the monopoly power of massive selfish interest groups over our economy. We can end the excessive burden of government regulation that stifles competition. We can bring modern new vitality to one of our society's most important strengths, the free enterprise system that built this nation and made it great.

Now is the time to adopt a program of universal and comprehensive national health insurance, capable at last of controlling the soaring cost of health care and bringing decent quality health care within the reach of every man, woman and child in our society.

Now is the time to promote human rights and democracy in the world, and to struggle against racism, not just in the United States but in Southern Africa and wherever else it scars the human spirit.

Now is the time as well to move forward on the other great goals we share with Dr. King—goals in areas like education and housing, the cities, crime and drug control, energy and transportation, and all the other unfinished business of our society.

Now is the time, in ways like these, to honor the memory of Martin Luther King.

Near the end of Pilgrim's Progress there is a passage that tells of the death of Valiant:

Then, he said, "I am going to my Father's; and though with great difficulty I am got hither, yet now I do not regret me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimmage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me, that I have fought his battle who now will be my rewarder."

When the day that he must go hence was come, many accompanied him to the riverside, into which as he went he said, "Death, where is thy sting?" and as he went down deeper, he said "Grave, where is thy victory?" So he passed over, and all the trumpets sounded for him on the other side.

Black and white, north and south, on this fiftieth anniversary occasion, let us answer the call of Dr. King. Let us heed his example of leadership, courage and commitment. Let us work together, confident that we can fulfill the dream and be free at last.

By Mr. RANDOLPH:

S. 27. A bill to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, and to pro-

vide for the deposit of moneys received from the sale of such tin; to the Committee on Armed Services.

Mr. RANDOLPH. Mr. President, today I am introducing a bill which calls for the release of 35,000 long tons of tin from the U.S. stockpile. The strategic materials stockpile currently contains over 200,500 long tons of tin. Of that total, only 32,500 long tons are necessary to fulfill the stockpile goals pursuant to the Strategic and Critical Materials Stockpiling Act. Thus, there are 168,000 long tons of tin which could be made available for sale without jeopardizing our national defense goals.

I am concerned with our oversupply of tin in the stockpile, as this is economic waste. I am also concerned with the fate of the domestic tin-plated steel industry in West Virginia. This industry provides jobs for more than 5,000 workers in West Virginia. The jobs of these West Virginians, as well as other Americans, are threatened by the artificially high price of tin imported into this country. These high prices are the result of action by commodity speculators in the world tin markets.

In January 1976 the average price of tin was $3.01 per pound. Today, 2 years later, the price has risen to $6.36 per pound—an increase of over 100 percent. If this legislation is not passed, the price promises to go even higher.

Legislation authorizing the sale of tin passed both the House and the Senate in the 95th Congress. In the Senate, this was in the form of an amendment, which I cosponsored with Senator CHURCH, to the sugar bill and was lost in the rush to adjournment. As soon as this fact reached the trade press, speculators pushed the price of tin to $7.35 per pound. Failure to pass this legislation will, once again, push tin prices to higher levels. This will have an inflationary impact on food prices throughout the United States.

Total consumption of tin in the United States is approximately 61,000 tons per year. The tin plate canning industry uses approximately 18,500 tons of that total usage. West Virginia uses over 4,000 tons to produce tin-plated steel. During the past 2 years, the cost to purchase tin by this one industry in West Virginia has increased by $26,640,000. These increased costs are borne by U.S. consumers. The price of tin has increased due to two factors: A shortfall of tin supply in the world market, and fluctuation of tin prices by commodity speculators. Today the supply levels are near world demand for the first time in several years. Therefore, I believe that a release of tin would have a moderating effect on these escalating tin prices.

I urge the Senate to expedite the passage of this bill. In addition to authorizing disposal of 35,000 tons of tin, it provides that money received from this disposal will be held in a special account in the U.S. Treasury. The utilization of these funds will be determined upon passage of the Strategic and Critical Materials Stockpiling Act, which is expected to be acted on during the 96th Congress.

By Mr. HATCH:

S. 29. A bill to repeal the Davis-Bacon Act, and for other purposes; to the Committee on Human Resources.

Mr. HATCH. Mr. President, it has been well established that one of the ways to slow down the spiral of inflation is to reduce Federal spending, or at least to assure that the Federal Government obtains full value for the money it spends. Since all of us are concerned about inflation, I invite your support of a bill I am introducing today to repeal a Federal law that makes Government an accomplice in cost and price excesses in the construction industry. The subject is the Federal prevailing wage law, more commonly referred to as the Davis-Bacon Act.

In essence, the Davis-Bacon Act provides that contractors performing federally funded or assisted projects must agree to pay a specific rate of wages as established by the Secretary of Labor. This rate schedule is determined by the use of a formula which seeks to find a rate of wages that is comparable to actual wages of the local area. During the Great Depression, the intent of the act was to prevent contractors from low-wage areas from coming into higher wage areas with workers who would displace local people. Unfortunately, this law remained in effect after the depression and over the years has been responsible for billions of tax dollars being wasted. I believe construction employees and employers alike deserve a law for the 1980's and beyond and not an antiquated relic of the 1930's.

Although maladministration and excessive special influence have long characterized the act's history, I believe that the heart of the problem lies in the adverse economic consequences created by setting artificial wage rates for an area that does not reflect wages actually paid in that area. It is a fact that in many instances, wage rates paid to as few as 30 percent of construction workers in the area will determine the so-called prevailing rate for Davis-Bacon work. This is possible under the 30-percent rule which was not in the original act but, rather, was instituted by a former Secretary of Labor in 1935 through administrative fiat.

My bill seeks to restore the original intent of Congress, which is to preserve local working conditions and pay practices. Further, it will provide for greater opportunity for small business and minority contractors and their employees to participate in Federal work.

A recent General Accounting Office draft report states that the unnecessary cost to the taxpayer is some $715 million a year. In addition to the direct cost of Davis-Bacon, the GAO report estimated total public and private administrative costs at about $215 million a year. However, the most adverse effect of the Davis-Bacon Act is its "spillover" inflationary impact on local construction wages paid on private work. This private sector cost of Davis-Bacon is estimated by the Economic Policy Center of the U.S. Chamber of Commerce at $1.78 billion a year; on new home building alone, at $470 million annually.

This brings the Davis-Bacon inflationary annual price tag to $2.7 billion. Therefore, repeal of this outmoded and now unnecessary statute clearly should be one of the top priority matters before Congress.

For years, concerned legislators have been urging repeal or revision of this archaic law. Now the GAO, an independent branch of the Federal Government, has added their voice to the clamor for sensible change.

Here is what the GAO says:

Congress should repeal the Davis-Bacon because:

Significant changes in economic conditions and the economic character of the construction industry, since 1931, plus the passage of other wage laws make the act unnecessary.

After nearly 50 years, Labor has not developed an effective program to issue and maintain current and accurate wage determinations and it may be impractical to ever do so.

In summary, I urge my colleagues to join me in demonstrating to the American people our resolve to eliminate this kind of inflation by regulation. Throughout this new Congress, I will be investigating the countless areas in which the Federal regulatory bureaucracy adds to the overwhelming cost of living burdens now borne by our productive citizens. Let this bill be our first genuine step toward elimination of inflation by regulation.

Mr. President, for the information of my colleagues I ask unanimous consent that a recent editorial from the New York Times dated December 29, 1978, criticizing the Davis-Bacon Act be printed in the RECORD.

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

MAKING FEDERAL CONSTRUCTION EXPENSIVE

Even as Alfred Kahn, the White House inflation fighter, pleads for wage moderation from unions, Labor Department officials are policing the earnings of workers on Federal construction projects, lest unskilled laborers willing to accept $4.50 an hour get less than $9.50, or pipelayers happy to take home $8 are paid less than $10.

The source of this bizarre contradiction is the Davis-Bacon Act, which requires Federal construction wages to match local "prevailing" rates. According to a new report by the General Accounting Office, the law costs the taxpayers about $715 million annually and serves no useful purpose.

The Davis-Bacon Act was passed at the nadir of the Depression to protect local construction workers from outside competitors willing to slave for peanuts. Whatever the merits of the act at the time, there is no justification for such interference with private markets today. In 1977, the Labor Department made "prevailing wage" determinations for more than 15,000 federally funded projects. According to the G.A.O.'s reckoning, the department guessed high on about 40 percent of the projects, increasing wages by $500 million and adding another $215 million in administrative costs to the Federal Government's expenditures for construction.

The inflationary impact of the regulations may in fact have been much greater. By forcing contractors to pay premium wages on Federal jobs, the Government made it difficult for those same contractors to pay their crews less on private construction. Industry leaders guess that the law may raise costs in the $170-billion construction industry by more than 10 percent.

Since the only effect of the Davis-Bacon

Act is to provide a bonus for some construction workers at the public's expense, the best possible reform would be to erase it from the books. That, unfortunately, would be extraordinarily difficult; not surprisingly, organized labor bitterly opposes repeal since the law reduces the incentive of contractors to hire nonunion workers.

An alternative is to amend the act and require the Labor Department to justify its estimates and provide a speedly appeals process. As the courts now interpret the statute, department decisions, however arbitrary, cannot be challenged. If all legislative initiatives fail, one remedy remains: the President can demand that Federal administrators bend over backward to reduce the inflationary impact of this harmful measure.

By Mr. HELMS:

S. 30. A bill to repeal section 11(n) of the Federal Reserve Act (12 U.S.C. 248 (n)); to the Committee on Banking, Housing, and Urban Affairs.

STANDBY CREDIT CONTROLS SHOULD BE REPEALED

Mr. HELMS. Mr. President, at the end of the 95th Congress, I introduced legislation which would repeal the Credit Control Act of 1969.

I did so with the hope that the Treasury Department would have an opportunity to consider the bill in the 3 months between Congress adjournment and beginning of the new Congress. Unfortunately, Treasury has not done so.

I also asked the chairman of the Federal Reserve Board, the Honorable William E. Miller for his views and he agreed that the dislocations caused by credit controls would be disruptive and costly to the economy. He felt, however, that standby controls should stay on the books, stating:

The distortion which such wide-ranging credit controls would produce, both during and after the period when they were in effect, makes them unacceptable except under the most exigent circumstances. You have questioned whether the present authority should even be on the books.

In my view, the shortcomings of mandatory credit controls are so well known as to assure that they would be used only in an emergency situation. If such a situation arose, and selective credit controls appeared to be necessary, it would be helpful to have the authority for such controls already in place. Moreover, the fact that mandatory controls could be imposed may well contribute to the success of voluntary guidelines, which of course are a much better means for generating desired flows of credit. For these reasons, the standby authority contained in the Credit Control Act probably serves a useful purpose.

I am glad that Chairman Miller agrees with the assessment that the controls would impose massive costs on the economy. But, his arguments in favor of standby credit controls could easily be used in support of standby controls over wages and prices. I do not believe that the Chairman of the Fed has advocated such controls, but there may be some inconsistency in not advocating standby controls for wages and prices if we are to have standby controls for credit. I frankly view such controls as mere treatments of the symptom of inflation—not treatment of its cause.

One sure way for the Federal Government to cause more trouble than it eliminates is to attack a problem by treating the outward manifestations and not the root causes.

Today we hear more and more people saying that wage-and-price controls can be effective to stop inflation. It is as if we say allowing no thermometer to register above 98.6° is going to stop fevers. As President Carter himself has said:

Wage and price controls, mandatory wage and price controls, would be ill-advised and also counterproductive. I don't think they would work.

We know that there is now on the books no emergency authority allowing the President to impose wage-and-price controls. I hope there will never be such controls. They could only serve to further mask the real culprit: The U.S. Government. Specifically, the culprit is inordinate Federal spending, causing Federal deficits and expansion of the money supply brought on by the Federal Reserve System's monetization of those growing Federal deficits. Without Federal deficits, we could expect more responsibility from our monetary authorities. We could expect rational, noninflationary monetary policies.

I find, however, that there remains on the books in the Federal Code an onerous piece of legislation which purports to be a means of "combating inflation." In fact, it is little more than a means of providing total Federal control of the financial system of this country. I speak of Public Law 91–151, the Credit Control Act of 1969.

In 1969, the Nation was beginning to suffer from the inflation caused by the "guns and butter" Federal deficits of the late 1960's. In S. 2577—Public Law 91–151, the Congress approved a bill initially aimed at expanding earlier legislation relating to "disintermediation" of funds from savings and loan associations to banking institutions. The main controversy evidently centered around housing credit, and the bill provided for increased authorization for the Federal Home Loan Bank lending. Of interest is that there is almost no record of debate on one portion of the bill, title II, which provides for massive controls over all issuance of credit. Portions of 12 U.S.C. 1904 and 1905 read as follows:

§ 1904. Credit controls.

(a) Whenever the President determines that such action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, the President may authorize the Board to regulate and control any or all extensions of credit.

§ 1905. Extent of control.

The Board, upon being authorized by the President under section 1904 of this title and for such period of time as he may determine, may by regulation

(1) require transactions or persons or classes of either to be registered or licensed.

(2) prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents.

(5) prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase, or other extension of credit.

(7) prescribe the maximum rate of interest, maximum maturity, minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(10) prescribe maximum ratios, applicable to any class of either creditors or borrowers or both, of loans of one or more types or of all types.

(A) to deposits of one or more types or of all types.

(B) to assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

In other words, if the President declares that "such action is necessary * * * for * * * controlling inflation," he might set all kinds and varieties of restrictions on the normal utilization of credit.

It is nothing more than price controls on money. The interest rate charged on money is no more than the price charged for "renting" money.

That this bill was passed so swiftly, and evidently with such little controversy, indicates that often Congress does not give serious enough consideration to the problems it addresses.

During consideration by the Senate of this proposal, I hope we can call on the expertise of our colleagues who worked to effect the passage of the "National Emergencies Act," Public Law 94–412, a proper and important piece of legislation which repealed numerous laws which gave the President vast powers under various "states of emergency" declarations. I hope that the good work that was done to limit the arbitrary authority of the executive branch might be used as a foundation to further trim this power now held by the President. In my mind it could be used for little, if any, good.

In developing the case for this bill, there is the entire question of academic opinion. I have a feeling that there would be precious few scholars and experts in the fields of finance and economics who could support such exercise of power except under the most dire of circumstances.

I would like very much to find out what the administration thinks of this bill. I would hope, of course, that the President would advocate elimination of this authority so as to be consistent with his opposition to wage-and-price controls.

I hope that early consideration will be given to this legislation. I am committed to an outright repeal of this law unless it can be shown that there is some great national interest served by continuation of this authority.

Mr. President, I ask unanimous consent that the following documents be printed in the RECORD. First, a Library of Congress summary of the Credit Control

Act of 1969, dated September 27, 1974; second, the full text of 20 U.S.C. 1901–09 including notes, from the United States Code annotated excerpts; and third, the text of my bill.

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

LEGISLATIVE AUTHORITIES ENACTED BY THE CONGRESS WHICH GIVE THE EXECUTIVE BRANCH POWERS TO STABILIZE THE ECONOMY AND COMBAT INFLATION

CREDIT CONTROL ACT OF 1969

Purpose. To grant *permanent* authority to the President to control the extension of credit, when necessary, to (1) lower interest rates and fight inflation; (2) help housing, small business and employment; and (3) increase the availability of mortgage credit.

Major provisions

Whenever the President determines that action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, he may authorize the Board of Governors of the Federal Reserve System to regulate and control any or all extensions of credit.

The Board, upon being authorized by the President and for such period of time as he may determine, may by regulation:

(1) Require transactions or persons or classes of either to be registered or licensed.

(2) Prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) Provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) Prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens or any relevant documents.

(5) Prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) Prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase or other extension of credit.

(7) Prescribe the maximum rate of interest, maximum maturity minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) Prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) Prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits and other adjustments or special situations.

(10) Prescribe maximum ratios applicable to any class or either creditors or borrowers or both, of loans of one or more types or of all types:

(A) To deposits of one or more types or of all types.

(B) To assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

The Act has no expiration date.

Implementation of authority

This standby authority for selective credit controls was enacted in response to concern that the unrestricted extension of particular forms of credit in excessive volume, based only on the highest interest rate creditors can obtain, not only raises the level of interest rates generally but results in a serious distortion of the whole credit picture. It was contended that short of direct lending by government itself, there was no mechanism available for channeling credit into those activities which national policy requires, such as low- and moderate-income housing, small business firms and other areas of the economy which operate at a distinct disadvantage during periods of tight money and sharply rising interest rates. To date this standby authority has not been invoked by the President. However, in this connection it should be noted that in October 1971 President Nixon, pursuant to the authority of the Economic Stabilization Act of 1970, established the Committee on Interest and Dividends (CID). The function of this committee, which was chaired by the Chairman of the Federal Reserve Board, was to administer voluntary programs for restraint of interest rates and dividends. Aside from these voluntary efforts, the President has refrained from invoking his authority to apply mandatory controls on interest rates and corporate dividends. The activities of the CID were terminated with the expiration of the Economic Stabilization Act on April 30, 1974.

In addition, it should be noted that on September 16 of this year, the Board endorsed a set of guidelines proposed by the Federal Advisory Council (an advisory body composed of leading bankers, one from each Federal Reserve district) that would encourage banks to allocate more funds to housing and other high-priority needs of the economy. The main objective would be to divert funds from highly speculative ventures and other business purposes deemed less essential to the economy at this time. In endorsing this proposal the Board made it clear that it had not adopted a formal system of credit allocation. Nonetheless, banks do take such guidance seriously, realizing that if such voluntary measures should fail to accomplish a more appropriate distribution of loanable funds, the Board might be compelled to take formal action. As noted above the authority for such action rests in the Credit Control Act of 1969.

CHAPTER 20.—CREDIT CONTROL [NEW]

Sec.
1901. Definitions.
1902. Rules and regulations by the Board of Governors of the Federal Reserve System.
1903. Interest.
1904. Credit controls.
1905. Extent of control.
1906. Reports; production of records.
1907. Injunctions for compliance.
1908. Civil penalties.
1909. Criminal penalty.

§ 1901. Definitions.

(a) The definitions and rules of construction set forth in this section apply to the provisions of this chapter.

(b) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(c) The term "organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(d) The term "person" means a natural person or an organization.

(e) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(f) The term "creditor" refers to any person who extends, or arranges for the extension of, credit, whether in connection with a loan, a sale of property or services, or otherwise.

(g) The term "credit sale" refers to any sale with respect to which credit is extended or arranged by the seller. The term includes any rental-purchase contract and any contract or arrangement for the bailing or leasing of property when used as a financing device.

(h) The terms "extension of credit" and "credit transaction" include loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise partcipating in the offering, distribution, or acquisition of securities.

(i) The term "borrower" includes any person to whom credit is extended.

(j) The term "loan" includes any type of credit, including credit extended in connection with a credit sale.

(k) The term "State" refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(l) Any reference to any requirement imposed under this title of any provision thereof includes reference to the regulations of the Board under this chapter or the provision thereof in question.

Pub. L. 91–151, Title II, § 202, Dec. 23, 1969, 83 Stat. 376.

Short Title. Section 201 of Pub. L. 91–151 provided that: "This title [enacting this chapter] may be cited as the 'Credit Control Act'."

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1902. Rules and regulations by the Board of Governors of the Federal Reserve System

The Board shall prescribe regulations to carry out the purposes of this chapter. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. Pub. L. 91–151, Title II, § 203, Dec. 23, 1969, 88 Stat. 376.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1903. Interest

Except as otherwise provided by the Board, the amount of the interest charge in connection with any credit transaction shall be determined under the regulations of the Board as the sum of all charges payable directly or indirectly to the person by whom the credit is extended in consideration of the extension of credit. Pub. L. 91–151, Title II, § 204, Dec. 23, 1969, 88 Stat. 377.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1904. Credit controls.

(a) Whenever the President determines that such action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, the President may authorize the Board to regulate and control any or all extensions of credit.

(b) The Board may, in administering this Act, utilize the services of the Federal Reserve banks and any other agencies, Federal or State, which are available and appropriate. Pub. L. 91–151, Title II, § 205, Dec. 23, 1969, 83 Stat. 377.

References in Text. This Act, referred to in subsec. (b), is Pub. L. 91–151, which, in addition to enacting this chapter, amended sections 461, 461 note, 1425b, 1431, 1724, 1727, 1728, 1813, 1817, 1821, 1823 of this title and section 2158 of Title 50 App. and enacted provisions set out as notes under sections 1724, 1727, and 1813 of this title and section 633 of Title 15, Commerce and Trade.

Delegation of Functions. Functions of the President under section 203(a)(3) of the Economic Stabilization Act of 1970, as amended [set out as a note under this sec-

tion], and functions of the Chairman of the Cost of Living Council under said Act, respecting energy matters, delegated to the Administrator of the Federal Energy Office, see section 4 of Ex. Ord. No. 11748, Dec. 4, 1973, 38 F.R. 33575, set out as a note under section 754 of Title 15, Commerce and Trade Council on Wage and Price Stability. Pub. L. 93–387, Aug. 24, 1974, 88 Stat. 750, as amended by Pub. L. 93–449, § 4(e), Oct. 18, Aug. 9, 1975, 89 Stat. 411; Pub. L. 95–121, Oct. 1974, 88 Stat. 1367; Pub. L. 94—78, § § 2 (a), 3–7, 6, 1977, 91 Stat. 1091, provided:

"[Section 1.] That this Act may be cited as the 'Council on Wage and Price Stability Act.'

NOTE.—Annotations relating to the Council on Wage and Price Stability Act and the Economic Stabilization Act has been deleted.

§ 1905. Extent of control

The Board, upon being authorized by the President under section 1904 of this title for such period of time as he may determine, may by regulation.

(1) require transactions or persons or classes of either to be registered or licensed.

(2) prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens or any relevant documents.

(5) prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase, or other extension of credit.

(7) prescribe the maximum rate of interest, maximum maturity, minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(10) prescribe maximum ratios, applicable to any class of either creditors or borrowers or both, of loans of one or more types or of all types.

(A) to deposits of one or more types or of all types.

(B) to assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

Pub. L. 91–151, Title II, § 206, Dec. 23, 1969, 68 Stat. 377.

References in Text: This Act, referred to in pars. (3) and (5), is Pub. L. 91–151, which, in addition to enacting this chapter, amended sections 461, 461 note, 1425b, 1431, 1724, 1727, 1728, 1813, 1817, 1821, 1828 of this title and sections 2158 of Title 50 App. and enacted provisions set out as notes under sections 1724, 1727, and 1813 of this title and section 633 of Title 15, Commerce and Trade.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§1906. Reports; production of records

Reports concerning the kinds, amounts, and characteristics of any extensions of credit subject to this chapter, or concerning circumstances related to such extensions of credits, shall be filed on such forms, under oath or otherwise, at such times and from time to time, and by such persons, as the Board may prescribe by regulation or order as necessary or appropriate for enabling the Board to perform its functions under this chapter. The Board may require any person to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this chapter including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

Pub. L. 91–151, Title II, § 207, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1907. Injunctions for compliance

Whenever it appears to the Board that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Board, any such court may also issue mandatory injunctions commanding any person to comply with a regulation of the Board under this chapter.

Pub. L. 91–151, Title II, § 208, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

INDEX TO NOTES

Irreparable injury, 2.
Remedies, 3.
Scope of remedy, 1.

1. Scope of remedy:

Executive order creating the construction industry stabilization committee deals only with instance in which illegal wage increase is about to be implemented; and this section providing for injunctive relief is limited to those situations in which an agency of the United States seeks such relief; and, accordingly, neither this section nor executive order authorized contractor's action to compel union to submit proposals to contractor within framework of executive order, to compel union to exhaust its available administrative remedies and to enjoin union from engaging in any work stoppage or strike. Heavy Contractors Ass'n Inc. v. International Union of Operating Engineers, AFL–CIO, Local 571, D.C. Neb. 1971, 328 F. Supp. 897.

2. Irreparable injury:

In order to issue injunction against wage increase in excess of 5.5% without prior approval of the Pay Board, there was no need that irreparable injury be shown, and it was enough if the statutory conditions were satisfied. U.S. v. Great Atlantic & Pacific Tea Co., D.C. Md. 1972. 342 F. Supp. 272.

In view of Price Commission's order which maintained status quo and protected plaintiffs from irreparable injury by its refund and rollback provisions until final agency action, plaintiffs could not show irreparable injury required for injunctive relief against telephone company's increases in rates. Grassroots Action, Inc. v. New York Tel. Co., D.C. N.Y. 1972, 339 F. Supp. 198, affirmed 468 F. 2d 1401.

3. Remedies:

Administrative remedies provided by 1971 amendments to Economic Stabilization Act, this chapter were full and adequate to preclude injunctive relief until such administrative remedies had been exhausted. Grassroots Action, Inc. v. New York Tel. Co., D.C. N.Y. 1972, 339 F. Supp. 198, affirmed 468 F. 2d 1401.

§ 1908. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Board may assess upon any person to which the regulation applies, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Board, be brought in the name of the United States.

Pub. L. 91–151, Title II, § 209, Dec. 23, 1969, 33 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

INDEX TO NOTES

Amendments, 1.
Defenses, 3.
Retroactive effect, 2.

1. Amendments:

Amendment of section of Economic Stabilization Act of 1970, set out as a note under section 1904 of this title, to authorize imposition of two sanctions upon violator provides both a purely penal measure intended to obtain compliance with Act and a civil penalty denominated as such with element of scienter obviated from proof of offense, and entire section as amended allows alternative means of enforcement, one with a less exacting standard of proof. U.S. 1. Futura, Inc., D.C.Fla., 1972, 339 F.Supp. 162.

2. Retroactive effect:

Defendants, who violated this chapter by negotiating and paying wage increase in excess of 5.5% without prior approval of the Pay Board, were subject to civil penalties, even though amendment to this chapter providing for such penalties was added after the contract had been negotiated, where the penalty was civil in nature, and the defendants continued to be in violation of the law after the amendment became effective. U.S. v. Great Atlantic & Pac. Tea Co., D.C.Md., 1972, 342 F.Supp. 272.

3. Defenses:

Contention of employer that, although it knew it was violating the law when it negotiated and paid wage increase in excess of 5.5% without prior approval of the Pay Board, it made the payments because there appeared to be no viable alternative to achieve a settlement of a strike did not entitle the employer to escape civil penalties where, upon measuring the culpability of the parties, it appeared that the course of conduct of each party was determined by economic considerations which best served that party's interest. U.S. v. Great Atlantic & Pac. Tea Co., D.C.Md., 1972, 343 F.Supp. 272.

§ 1909. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Pub. L. 91–151, Title II, § 210, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

By Mr. HART:

S. 31. A bill to provide for a reduction in individual tax rates in calendar years 1980 through 1982 and thereafter, provided that targets limiting the growth of Federal spending and limiting the Federal deficit are achieved; to the Committee on Finance.

TAX REDUCTION AND SPENDING LIMITATION ACT OF 1979

Mr. HART. Mr. President, today I am reintroducing a proposal for yearly tax cuts in 1980, 1981, and 1982. These cuts will go into effect only if the growth of Federal spending is held to preestablished levels.

SENATE PASSED LAST YEAR

Today, the first day of the 96th Congress, I am reintroducing my proposal for tax cuts tied to restraints on Federal spending. I first introduced this proposal on October 5 of last year during consideration of the tax bill. The Senate passed a very similar proposal offered by several Senators on October 10, but it was dropped in conference with the House. This year I hope we can work together, so that a proposal of this type is signed into law.

The overriding economic challenge facing the United States today is inflation, and although tax bills always have a special significance, the legislation which Congress considered last year was particularly important. Our highest priority in enacting the Revenue Act of 1978 was to adopt tax cuts of a responsible size—large enough to protect taxpayers against both the payroll tax increase scheduled for this year and the tax increase caused by inflation, yet small enough to prevent further fueling of our already unacceptable rate of inflation.

As you know, we did not succeed in these goals. The negative effects of inflation and of the new social security taxes will take away the benefits of last year's tax cuts. As a result, in 1979, a majority of all taxpayers will pay more in taxes than they did in 1978.

Clearly, we need more tax relief. If we are to provide such relief responsibly without accelerating inflation, however, we must also cut Federal spending.

Last year the Congress did a good job of paring down the fiscal year 1979 Federal budget. It cut $12 billion off the President's original request. This year the President intends to exert more leadership in paring the budget even further, and the Congress should be a full partner.

PHILOSOPHY OF BALANCE

The philosophy of my proposal is very simple. Targets would be established for the level of Federal spending in 1980, 1981, and 1982. If spending is held to these targets, precisely measured tax cuts will occur automatically. To ensure that inflation is not fueled, further conditions on the Federal deficit, and the ratio of Federal spending to GNP would have to be met.

The targets would limit the growth of Federal spending approximately to the rate of inflation from 1980 through 1982. Over this period, taxes could be cut 29 percent from the 1978 levels. Because of the spending reductions, taxes can be reduced without causing more inflation. The Federal deficit should nearly be eliminated in 1982, and will be in slight surplus in 1983. The ratio of Federal spending to GNP will decline from 21.2 percent in 1980 to 18.6 percent in 1983.

The proposal is very specifically derived from economic projections of future growth, especially as propelled by tax cuts themselves. However, I am well aware that we just cannot project precisely several years in advance. Therefore, this proposal, or any other, will have to be modified as we go along. The important thing is that we decide as a Nation to climb the hill. Along the way, we can decide to choose another path, if economic conditions warrant it.

If the Nation's economic growth path continues as projected by economic models last fall, we can cut taxes in annual steps amounting to a 29 percent cut by 1982, and balance the budget at the same time. This is possible only if Federal spending is limited approximately to the rate of inflation.

BACKGROUND—INFLATION AND HIGH TAXES

During the past 7 years, many Americans have lost what was once an indomitable faith in the future of the U.S. economy and their own place in that future. Seven years ago, people assumed that if their income had doubled by today, they would be able to achieve most of their hopes and dreams with that increased spending power. The economy over the past 7 years has dealt a cruel blow to the hopes of most Americans.

Although average household income has almost doubled in 7 years, the sad truth is that actual purchasing power has not. In fact, it has barely increased at all. Three-fourths of the increase in average income has been swallowed by inflation. The remainder has been nearly wiped out by increased Federal, State, and local taxes.

Understandably, people are frustrated and are lashing out at most public and private institutions. They want an end to this seemingly endless cycle of inflation, high taxes, and diminishing purchasing power.

The current mix of high inflation and high taxes aggravates another problem facing our economy — low productivity. Over the past decade, business investment and expansion has stagnated, holding the level of output—or productivity—which was the basis for this Nation's high standard of living. Lower productivity, in turn, fuels inflation further. Solving these problems will be extremely difficult. Although people desire Federal tax cuts and sharply reduced inflation, they also want the continued benefits of most Federal programs. It would be easy to say that massive tax cuts are possible without simultaneously exercising discipline on Federal pending, but is political demagoguery—and economic nonsense. Tax cuts which double the Federal deficit will not help the taxpayer. Doubling the deficit will stampede inflation to such a degree that inflation will cause more injury than the tax cuts can heal.

During debate on the tax bill last year, I proposed that the way to stimulate our economy without fueling inflation is to control the growth of Federal spending at the same time taxes are cut. This approach requires difficult decisions by Congress and the American people. Those constituents who want lower taxes must be willing to help their elected officials pare Federal spending. Tougher priorities must be established to determine which Federal programs can be curtailed in order to construct a leaner budget. And even more importantly, we must find ways to keep the cost of existing high-priority programs from mushrooming beyond reasonable and responsible levels.

CONTROL FEDERAL SPENDING

Federal spending must be controlled if we are to cut taxes without increasing the Federal deficit to more inflationary levels. Currently, the Federal budget is projected to grow by about 8 percent per year into the mid-1980's. About 6 percent of this projected growth will be caused by inflation, which leaves 2 percent for expanding existing programs.

Contrary to much political rhetoric, Federal spending cannot be arbitrarily cut across the board. In fact, we must oppose such action. Arbitrary spending cuts are reckless, since they could require cuts in programs—such as research in preventative medicine, and development of new energy sources—where almost everyone would agree we need to spend more. Instead, we must establish clear priorities and weed out old program which have outlived their usefulness. I believe we do not need to expand Federal spending by 2 percent in the coming years.

But where should we hold the line? Although it is not part of this legislative proposal, I have some suggestions. First, we must note that Government spending is divided into two categories: Goods and services—for example, military hardware and troops, transportation, health research, education, Federal employes, and so forth—and transfer payments—direct payments to individuals or to third parties such as physicians and hospitals.

REDUCE PURCHASES OF GOODS AND SERVICES

Last year, spending for goods and services increased by 8 percent. The first element of my proposal to bring spending under control is to restrict the growth of purchases of goods and services to just 4 percent per year during 1980 and 1981. Because inflation is expected to be 6 percent during these years—according to administration and CBO projections, we must actually reduce goods purchased by 2 percent per year. After 1981, I propose that the growth of goods and services be limited to no more than the rate of inflation, so there will be no net change in the actual amount of goods purchased.

Less than half of the Federal budget goes to purchase goods and services for use by the Federal Government. Approximately half the Federal budget is money which is transferred directly to individuals to help pay for living expenses—payments such as medical care, housing, food stamps, retirement, and so forth.

Only 9 years ago, these transfer payments were only half as large as Federal spending on goods and services. Since then, the transfer payments budget has grown twice as fast as goods and services. Now, transfer payments budget are 15 percent greater than purchases of good and services.

Three transfer payment programs demonstrate this growth. In the last half decade, spending on medicare increased by 37 percent annually, medicaid increased by 25 percent annually, and social security increased by 20 percent annually. These three programs together now cost over $100 billion per year.

Transfer payments have mushroomed for three reasons. First, the portion of the population which is retired, unemployed, or disabled has grown. Second, the amount and scope of public assistance programs has grown. And, third, inflation has greatly increased the cost of all necessities, especially medical services, much of which are now paid by medicare or medicaid.

REDUCE GROWTH OF TRANSFER PAYMENTS

Currently, Federal transfer payments are projected to grow by more than 9 percent a year, and they are expected to increase from 43 percent of the current Federal budget to 47 percent by 1983. To avoid a large Federal deficit, this growth rate must be trimmed. But it must be trimmed without impairing the well-being of those people needing and deserving the assistance.

The challenge is how. As with the goods and services budget, this restraint cannot be imposed by arbitrary percentage cuts, which necessarily would create human suffering. Instead, those programs which do not target aid to those most in need and are inefficient can and must be made to work. The administration of public assistance programs can and must be reformed and restructured, so that the needy are helped and abuses are eliminated. We must deliver more aid and less bureaucracy for our public assistance dollars.

Total spending on transfer payments must be controlled to allow growth of 8 percent, not 9 percent, per year, as projected. Reducing expenditures by 1 percent per year is possible without reducing benefits to any needy persons.

Anyone who suggests that Federal spending be controlled has the responsibility to suggest categories where these controls will be most effective. I am preparing a preliminary list of areas where reform can reduce the cost of needed programs without harming those that deserve assistance.

TIE TAX CUTS TO SPENDING RESTRAINT

Spending restraint and tax cuts must be tied together legislatively because the issues are tied together economically. If tax cuts are not matched by spending controls, then they will be matched by rampant inflation. Tax cuts plus more inflation would be worse than no tax cuts at all. In fact, the legislation which I propose contains a provision that would allow tax cuts only if Federal spending is held within the limits established for each calendar year.

In summary, this is a new proposal to further an old idea: You do not get something for nothing. You do not get tax cuts without inflation unless you are willing to control Federal spending. The American taxpayer wants frugal budgets effectively managed. The American taxpayer also wants lower taxes to reduce the burden of Government during this period of inflation-eroded purchasing power.

No single plan will solve all of our economic problems. But this proposal would directly address the most critical and complex economic difficulties. Most of all, a plan of this type can go a long way toward reestablishing public confidence in an efficient Government.

FURTHER REFINEMENT

The specific proposal I am introducing today is for your discussion and your suggestions. Over the next couple of weeks, I plan to integrate the President's budget for 1980 and his trim budget deficit into this proposal. In February I plan to introduce an updated version, taking into account the latest economic data for the projected growth of the economy.

During the next few weeks I strongly ask for your suggestions to improve this proposal.

By Mr. ROTH (for himself, Mr. MCCLURE, Mr. TOWER, Mr. GARN, Mr. HATCH, Mr. COCHRAN, Mr. SCHMITT, Mr. SIMPSON, Mr. GOLDWATER, Mr. HAYAKAWA, Mr. HUMPHREY, Mr. ARMSTRONG, and Mr. HELMS):

S. 33. A bill to provide for permanent tax rate reductions for individuals; to the Committee on Finance.

S. 34. A bill entitled the "Spending Limitation Act of 1979"; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

ROTH-KEMP II

Mr. ROTH. Mr. President, I am today introducing a legislative package to provide across-the-board tax cuts for all Americans and to limit the growth rate of Federal spending.

The Tax Reduction and Spending Limitation Acts, which are also being introduced today in the House of Representatives by Congressman JACK KEMP, are cosponsored in the Senate by Senators MCCLURE, TOWER, GARN, HATCH, COCHRAN, SCHMITT, SIMPSON, GOLDWATER, HUMPHREY, ARMSTRONG, and HELMS.

This legislative package, which we call Roth-Kemp II, combines limits on Federal spending as a percent of GNP with across-the-board tax rate reductions of 10 percent a year for 3 years and tax indexing to avoid future tax increases.

Unless taxes and spending are reduced, the economy faces continued inflation and the prospects of a deep recession. Real growth in GNP is projected to fall in 1979, and inflation is expected to increase at near double-digit levels. Consumer spending and business investment are expected to decline as interest rates climb. The increasing tax burden, from higher social security taxes and inflation pushing workers into higher tax brackets, will retard economic growth and push the economy into a recession during the second half of 1979.

The President's budget for the upcoming fiscal year is expected to call for spending of $533 billion, tax revenues of $504 billion and a budget deficit of approximately $30 billion. This budget represents a spending increase of about 7.5 percent and an increase in Government tax revenues of nearly 13 percent.

By refusing to endorse tax cuts, the President is trying to reduce the budget deficit by increasing taxes on the American people. This policy drains money out of the private economy and contributes to the prospects of a recession.

The administration is attempting to curb inflation by slowing economic growth, a policy which will result in a recession and increased unemployment.

I reject this policy. I believe inflation can be reduced and economic growth can be stimulated by removing the tax drag on the economy and slowing the growth rate of Federal spending, as we are proposing to accomplish in Roth-Kemp II.

TAX REDUCTION ACT

Part I of Roth-Kemp II would reduce individual tax rates across-the-board by 10 percent a year for 3 years. Once tax rates are reduced a tax indexing system would go into effect to keep tax rates down and avoid future automatic tax increases caused by inflation.

The tax rate reductions would provide substantial tax relief to all taxpayers. When fully effective, individual tax rates would be reduced from the present rates ranging between 14 and 70 percent to rates ranging between 10 and 50 percent. These rate reductions are designed to reduce the high rates of taxation now strangling economic growth, choking off private initiative, pushing up prices, and retarding savings, investments and the creation of new jobs.

By increasing the incentive to work, save, and invest, the tax rate reductions will expand the production of goods and services, ease inflationary pressures, and create millions of jobs in the private economy.

When fully effective, Roth-Kemp II would reduce the tax burden of all taxpayers by approximately 30 percent. According to the Joint Committee on Taxation 66 million tax returns will receive a tax reduction averaging $724.

IMPACT OF ROTH-KEMP II ON FAMILY OF 4

Income	Present tax	Proposed tax	Tax cut
$10,000	$374	$265	$109
$12,500	792	558	234
$15,000	1,233	877	357
$17,500	1,609	1,146	463
$20,000	2,013	1,435	578
$25,000	2,901	2,092	809
$30,000	3,917	2,854	1,063
$35,000	5,065	3,698	1,368
$40,000	6,312	4,595	1,717
$50,000	9,323	6,809	2,514

IMPACT OF ROTH-KEMP II ON SINGLE PERSONS

Income	Present tax	Proposed tax	Tax cut
$5,000	$250	$177	$74
$6,000	422	293	130
$8,000	787	542	246
$10,000	1,177	830	348
$12,000	1,585	1,140	445
$15,000	2,047	1,467	580
$17,500	2,547	1,832	715
$20,000	3,115	2,232	883
$25,000	4,364	3,150	1,215
$30,000	5,718	4,139	1,579
$35,000	7,220	5,217	2,003
$40,000	8,886	6,370	2,516
$50,000	12,559	8,911	3,648

Source: Joint Committee on Taxation.

Substantial tax cuts are needed to offset the substantial social security and inflation-induced tax increases facing

the American people. The following chart shows the Joint Committee on Taxation's static revenue impact of the tax rate reductions between 1980 and 1983.

TAX CUTS

[In billions of dollars]

	1980	1981	1982	1983
Calendar year	26.8	55.1	99.0	118.8
Fiscal year	16.6	44.3	82.3	111.3

These static revenue estimates assume that economic growth and inflation will continue to push taxpayers into higher tax brackets, increasing the size of the revenue loss. Based on 1978 income levels, the actual revenue losses are estimated to be $18.6 billion in 1980, $31.9 billion in 1981, and $47.7 billion in 1982.

The following chart shows the net tax cuts after offsetting social security and inflation tax increases from the static tax cuts over the next 4 fiscal years.

TAX CUTS VS. TAX INCREASES

[In billions of dollars]

	Fiscal year—			
	1980	1981	1982	1983
Tax cuts	16.6	44.3	82.3	111.3
Tax increases	13.8	33.4	52.9	69.0
Net tax cuts	−2.8	−10 9	−29.4	−42.3

Rather than redistributing income, these tax rate reductions will provide substantial tax relief to all taxpayers. In fact, the Roth-Kemp II rate reductions will actually increase the progressivity of the tax system. The following chart shows the percentage of Federal income taxes paid by various income groups under present law and the percentage of the tax cut received by each income group under Roth-Kemp II.

Income groups	Percent of taxes paid	Percent of tax cut
0 to $10,000	4.9	5.5
$10,000 to $15,000	9.4	9.9
$15,000 to $20,000	13.2	13.8
$20,000 to $30,000	24.4	24.8
$30,000 to $50,000	21.3	21.5
$50,000 to $100,000	13.0	13.0
$100,000 and over	13.9	11.4

As this chart shows, the Roth-Kemp II tax cuts provide tax relief based on the amount of taxes paid. For example, approximately 73 percent of all Federal income taxes are paid by those earning less than $50,000 a year, and approximately 75 percent of the tax relief under Roth-Kemp II would go to those earning less than $50,000.

Mr. President, I believe these tax cuts are urgently needed. The recently-passed tax bill was not a tax cut at all. Because it failed to offset the 1979 social security and inflation tax increases, virtually every family of four earning more than $8,000 a year will pay higher taxes this year.

Although President Carter does not believe we need a tax cut this year, the Federal tax burden will increase significantly to near record levels under our present tax laws. Unless taxes are reduced, Federal taxes as a percent of the gross national product will exceed 20 percent for the first time in 10 years. In fact, only twice in the last 25 years—during the 1969–70 tax surcharge—was the tax burden as high as it will be during the upcoming fiscal year.

The following table compares the projected tax burdens under present law if taxes are not reduced with that under Roth-Kemp II.

Fiscal year	Projected GNP	Current law		Roth-Kemp II	
		Revenues	Percentage	Revenues	Percentage
1980	2,515	505	20.1	492	19.6
1981	2,804	571	20.4	540	19.3
1982	3,131	643	20.5	585	18.7
1983	3,488	720	20.6	641	18.3

The following chart shows the levels of Federal taxes and the percent of GNP over the last 25 years:

TAXES AS PERCENT OF GNP

Fiscal year	GNP	Tax revenues	Percent
1979	2,292.0	448.0	19.6
1978	2,043.0	401.0	19.6
1977	1,835.0	356.9	19.5
1976	1,624.3	299.2	18.4
1975	1,454.6	281.0	19.3
1974	1,359.2	264.9	19.5
1973	1,237.5	232.2	18.8
1972	1,110.5	208.6	18.8
1971	1,019.3	188.4	18.5
1970	959.0	193.7	20.2
1969	903.7	187.8	20.8
1968	829.9	153.7	18.5
1967	774.4	149.6	19.3
1966	721.1	130.9	18.1
1965	657.1	116.8	17.8
1964	616.2	112.7	18.3
1963	576.3	106.6	18.5
1962	546.9	99.7	18.2
1961	508.3	94.4	18.6
1960	497.3	92.5	18.6
1959	473.3	79.2	16.7
1958	442.1	79.6	18.0
1957	432.7	79.9	18.5
1956	411.0	74.5	18.1

As these figures show, the substantial tax cuts under Roth-Kemp II are needed to reduce the Federal tax burden to the levels in effect during most of the last 25 years.

TAX INDEXING

Title II of the Tax Reduction Act would institute a tax indexing system to avoid future tax increases by reducing personal income taxes by the rate of inflation. Under this provision, the income tax brackets and personal exemptions would be adjusted, or indexed, to reflect the increase in the rate of inflation, as measured by the Consumer Price Index.

Once tax rates are reduced, tax indexing is needed to insure that taxpayers will no longer be forced to pay higher taxes simply because inflation pushes them into higher tax brackets.

Under our progressive tax system, an individual whose wage increases merely keep up with inflation will actually lose purchasing power. This is because the wage increase will push the worker into a higher tax bracket.

For example, a family of four now earning $20,000 pays $2,013 in Federal income taxes. If inflation increases 7 percent this year, the family will receive a cost-of-living raise to $21,400. Yet, even though the family's wages have just kept pace with inflation, the wage increase will push the family into a higher tax bracket and increase its tax bill to $2,200. So, even though this family had no increases in real earnings, the hidden tax of inflation reduces the family purchasing power by $187.

This hidden tax of inflation increases the tax burden of all taxpayers. And the main beneficiary of these nonlegislated tax increases is the Federal Government.

For years, the Federal Government has relied on inflation to supply the Government with a continually growing supply of tax revenues.

The hidden inflation tax has allowed the Government to create more and more spending programs, and enabled Congress to enact politically popular tax cuts every election year.

But these tax cut charades, such as the one enacted last October, do not provide real relief to the working taxpayers of this country. It is the pickpocket theory of taxation. The Government proposes tax cuts with one hand while the other hand reaches into the taxpayers' pockets and removes their wallets.

Tax indexing will put an end to this taxation without representation.

SPENDING LIMITATION ACT

Part II of Roth-Kemp II would restrain the growth rate of Federal spending to specified percentages of the gross national product. Under the Spending Limitation Act, Federal spending as a percent of GNP would be limited to 21 percent in fiscal 1980, 20 percent in fiscal 1981, 19 percent in fiscal 1982, and 18 percent in fiscal 1983. These spending limitations would restrain the growth of Federal spending to less than 7 percent a year. For fiscal year 1980, this bill calls for a "no-growth budget" and cuts of some $10 billion below the administration's expected budget levels.

When I entered Government service in 1967, the Federal outlays were $158.2 billion. This year's outlays are expected to reach $533 billion. This is an increase of 237 percent since 1967.

Last October, the President told the American people something they have known for a long time. The Government is a major cause of inflation. The President promised that the Government would "take the lead in fiscal restraint."

Now it is time for the President to practice what he preaches. It is time for the President to enforce his anti-inflationary measures on the Federal Government. If the President can tell the American people how much money they can earn, then the American people can tell the President how much of their hard-earned money the Government can spend.

The budget approved last year was the highest in our Nation's history—$496 billion. This year, there is every indication that the President's budget will set a new record—it will call for an increase to $533 billion. This is an increase of almost 7.5 percent.

The President was correct in saying that Government spending sets an example. I think a 7.5 percent increase

in 1 year is the worst example we could have. It is an insult to the American people to demand in one breath that wages increase by less than 7 percent, and in another breath announce that the budget will increase by 7.5 percent.

This is why I am proposing a budget significantly lower than the President's. I believe Government must begin to clean up its own house before it has any right to look the American people in the eye and demand that they cut back.

That is why I am proposing the budget be reduced by an additional $10 billion. In so doing, the budget would be $523 billion, an increase of only 5.4 percent. If the President is serious about the Government setting an example, and I hope he is, then the best example I know of would be for the President's budget to be significantly below the 7 percent limit on wages the President has demanded of the American people.

There is no question that hard choices are necessary to reduce the Federal budget. Political pressure will be great to increase spending in particular programs. I am disappointed that this pressure has affected the President's budget in the area of CETA. One billion dollars which the President originally intended to cut from CETA's budget, has now been restored by the President. This unfortunate action must be reversed.

The President has set an ultimate goal that Federal outlays will not exceed 21 percent of the GNP. However, the President's budget would exceed this goal (21.2 percent). My proposed budget would be below the 21 percent goal.

For those who would criticize my cuts as being overly excessive, I would like to point out that it represents a 2 percent reduction from the President's proposed budget. I find it hard to believe that we cannot cut the President's budget by at least 2 percent. I am afraid to think of the consequences if we do not cut the President's budget.

[In billions of dollars]

	Fiscal year—			
	1980	1981	1982	1983
Present spending levels	533	575	623	669
Roth-Kemp II	523	560	595	628
Spending cuts	−10	−15	−28	−41

While the spending limitations under this bill would curb the growth of Federal spending, they would not require Draconian slashes in Government programs. These limitations would merely restrain the growth rate of Federal spending to less than 7 percent a year.

In addition, the spending limitations will restore Federal spending levels as a percent of GNP to the levels in effect prior to the spending excesses of the last 5 years.

For example, excluding the last 5 years, the only year in the last 25 years that spending exceeded 21 percent of GNP was in 1968 during the Vietnam war buildup.

Prior to 1975, spending as a percent of GNP was below 20 percent in 12 out of the preceding 19 years. And in 1965, the year of the Kennedy tax cuts, spending was 18 percent of GNP. The following chart shows the levels of Federal spending and GNP over the past 25 years:

SPENDING AS PERCENT OF GNP

Fiscal year	GNP	Spending	Percent
1979	2,292.0	496.6	21.7
1978	2,043.0	452.3	22.1
1977	1,835.0	402.8	22.0
1976	1,624.3	365.6	22.5
1975	1,454.6	326.1	22.4
1974	1,359.2	269.6	19.8
1973	1,237.5	247.1	20.0
1972	1,110.5	232.0	20.9
1971	1,019.3	211.4	20.7
1970	959.0	196.6	20.5
1969	903.7	184.5	20.4
1968	829.9	178.8	21.5
1967	774.4	158.3	20.4
1966	721.1	134.7	18.7
1965	657.1	118.4	18.0
1964	616.2	118.6	19.2
1963	576.3	111.3	19.3
1962	546.9	106.8	19.5
1961	508.3	97.8	19.2
1960	497.3	92.2	18.5
1959	473.3	92.1	19.5
1958	442.1	82.5	18.7
1957	432.7	76.7	17.7
1956	411.0	70.4	17.1

Mr. President, the enactment of these two bills would signal an end to the high taxes and big Government spending policies of the past few years. If Roth-Kemp II is enacted taxes will be substantially reduced, the growth of Federal spending will be curbed, and the Federal budget will be balanced by fiscal 1983. The following chart shows the estimated spending and revenue levels under Roth-Kemp II. The revenue levels assume a feedback of only 20 percent in the first year and 30 percent in the following years.

BUDGET UNDER ROTH-KEMP II

[Billions of dollars]

	Fiscal year—			
	1980	1981	1982	1983
Spending	523	560	595	628
Revenues	492	540	585	641
Deficit (−) or surplus (+)	−31	−20	−10	+13

Mr. President, Roth-Kemp II would allow us to fight inflation and recession at the same time. According to a study by Chase Econometrics Associates, real economic growth would average 3.6 percent between 1980 and 1983 if Roth-Kemp II was adopted, compared to real growth of only 1.5 percent this year.

The Chase study also found that the tax and spending cuts would reduce the inflation rate from close to 9 percent to 5.9 percent, reduce the unemployment rate by 1.6 percent, and create 8.3 million jobs between 1980 and 1983.

Mr. President, Roth-Kemp II would combine the tax cuts needed to stimulate real economic growth with the spending restraints needed to curb inflation, and I urge my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the texts of these two bills be printed in the RECORD.

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

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Tax Reduction Act of 1979."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—INDIVIDUAL TAX RATES

SEC. 101. Reduction in rates.

(a) In General.—Section 1 (relating to tax imposed) is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) General Rule.—There is hereby imposed on the taxable income, for the taxable years beginning in the calendar years specified in subsection (b)(2) of every—

"(1) married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined under the applicable schedule for the taxable year,

"(2) head of a household (as defined in section 2(b)), a tax determined under the applicable schedule for the taxable year,

"(3) every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined under the applicable schedule for the taxable year, and

"(4) a married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax equal to one-half the tax which would be determined for an individual described in paragraph (1) with the same taxable income.

"(b) Applicable Schedules.—For purposes of subsection (a) the applicable schedule for—

"(A) individuals described in subsection (a)(1) is schedule 2,

"(B) individuals described in subsection (a)(2) is schedule 3, and

"(C) individuals described in subsection (a)(3) is schedule 1.

"(2) Application of schedules to taxable years.—

"(A) Calendar year 1980.—The schedules in effect for taxable years beginning in 1980 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:		The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0	$2,300	$0 + .0%	$0
$2,300	$3,350	$0 + 12.0%	$2,300
$3,350	$4,400	$126 + 14.0%	$3,350
$4,400	$6,550	$273 + 16.0%	$4,400
$6,550	$8,600	$617 + 17.0%	$6,550
$8,600	$10,700	$965 + 20.0%	$8,600
$10,700	$12,900	$1,385 + 22.0%	$10,700
$12,900	$15,550	$1,869 + 24.0%	$12,900
$15,550	$18,200	$2,505 + 26.0%	$15,550
$18,200	$23,500	$3,194 + 30.0%	$18,200
$23,500	$30,600	$4,784 + 36.0%	$23,500
$30,600	$43,400	$7,198 + 39.0%	$30,600
$43,400	$55,300	$12,190 + 44.0%	$43,400
$55,300	$81,800	$17,426 + 49.0%	$55,300
$81,800	$108,300	$30,411 + 54.0%	$81,800
$108,300		$44,721 + 59.0%	$108,300

"Schedule 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $3,400	$0+ .0%	$0
$3,400– $5,500	$0+12.0%	$3,400
$5,500– $7,600	$252+14.0%	$5,500
$7,600– $11,900	$546+16.0%	$7,600
$11,900– $16,000	$1,234+19.0%	$11,900
$16,000– $20,200	$2,013+22.0%	$16,000
$20,200– $24,600	$2,937+25.0%	$20,200
$24,600– $29,900	$4,037+28.0%	$24,600
$29,900– $35,200	$5,521+33.0%	$29,900
$35,200– $45,800	$7,270+39.0%	$35,200
$45,800– $60,000	$11,404+44.0%	$45,800
$60,000– $85,600	$17,652+49.0%	$60,000
$85,600–$109,400	$30,196+53.0%	$85,600
$109,400–$162,400	$42,810+58.0%	$109,400
$162,400–$215,400	$73,550+61.0%	$162,400
$215,400	$105,880+63.0%	$215,400

"Schedule 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $2,300	$0+ .0%	$0
$2,300– $3,350	$0+12.0%	$2,300
$3,350– $4,400	$126+13.0%	$3,350
$4,400– $6,500	$262+15.0%	$4,400
$6,500– $6,550	$577+16.0%	$6,500
$6,550– $8,600	$585+16.0%	$6,550
$8,600– $10,700	$924+18.0%	$8,600
$10,700– $10,800	$1,302+19.0%	$10,700
$10,800– $12,900	$1,321+20.0%	$10,800
$12,900– $14,900	$1,751+21.0%	$12,900
$14,900– $15,550	$2,181+23.0%	$14,900
$15,550– $18,200	$2,331+24.0%	$15,550
$18,200– $19,100	$2,967+26.0%	$18,200
$19,100– $23,500	$3,201+27.0%	$19,100
$23,500– $28,800	$4,411+31.0%	$23,500
$28,800– $30,600	$6,054+33.0%	$28,800
$30,600– $34,100	$6,657+36.0%	$30,600
$34,100– $43,400	$7,917+39.0%	$34,100
$43,400– $44,700	$11,544+41.0%	$43,400
$44,700– $55,300	$12,083+44.0%	$44,700
$55,300– $58,900	$16,747+46.0%	$55,300
$58,900– $81,800	$18,421+49.0%	$58,900
$81,800– $84,500	$29,642+51.0%	$81,800
$84,500–$108,300	$31,033+53.0%	$84,500
$108,300–$161,300	$43,766+58.0%	$108,300
$161,300–$214,300	$74,771+60.0%	$161,300
$214,300	$106,571+61.0%	$214,300

"(B) Calendar year 1981.—The schedules in effect for taxable years beginning in 1981 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $2,300	$0+ .0%	$0
$2,300– $3,350	$0+11.0%	$2,300
$3,350– $4,400	$115+13.0%	$3,350
$4,400– $6,550	$252+15.0%	$4,400
$6,550– $8,600	$574+16.0%	$6,550
$8,600– $10,700	$902+18.0%	$8,600
$10,700– $12,900	$1,280+20.0%	$10,700
$12,900– $15,550	$1,720+21.0%	$12,900
$15,550– $18,200	$2,277+24.0%	$15,550
$18,200– $23,500	$2,913+28.0%	$18,200
$23,500– $30,600	$4,397+30.0%	$23,500
$30,600– $43,400	$6,527+35.0%	$30,600
$43,400– $55,300	$11,007+40.0%	$43,400
$55,300– $81,800	$15,767+45.0%	$55,300
$81,800–$108,300	$27,692+50.0%	$81,800
$108,300	$40,942+55.0%	$108,300

"Schedule 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $3,400	$0+ .0%	$0
$3,400– $5,500	$0+11.0%	$3,400
$5,500– $7,600	$231+13.0%	$5,500
$7,600– $11,900	$504+15.0%	$7,600
$11,900– $16,000	$1,149+17.0%	$11,900
$16,000– $20,200	$1,846+20.0%	$16,000
$20,200– $24,600	$2,686+23.0%	$20,200
$24,600– $29,900	$3,698+25.0%	$24,600
$29,900– $35,200	$5,023+30.0%	$29,900
$35,200– $45,800	$6,613+35.0%	$35,200
$45,800– $60,000	$10,323+40.0%	$45,800
$60,000– $85,600	$16,003+44.0%	$60,000
$85,600–$109,400	$27,267+48.0%	$85,600
$109,400–$162,400	$38,691+52.0%	$109,400
$162,400–$215,400	$66,251+55.0%	$162,400
$215,400	$95,401+56.0%	$215,400

"Schedule 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $2,300	$0+ .0%	$0
$2,300– $3,350	$0+11.0%	$2,300
$3,350– $4,400	$115+12.0%	$3,350
$4,400– $6,500	$241+14.0%	$4,400
$6,500– $6,550	$535+15.0%	$6,500
$6,550– $8,600	$543+15.0%	$6,550
$8,600– $10,700	$861+16.0%	$8,600
$10,700– $10,800	$1,207+17.0%	$10,700
$10,800– $12,900	$1,225+18.0%	$10,800
$12,900– $14,900	$1,613+19.0%	$12,900
$14,900– $15,550	$1,993+20.0%	$14,900
$15,550– $18,200	$2,126+22.0%	$15,550
$18,200– $19,100	$2,709+24.0%	$18,200
$19,100– $23,500	$2,925+25.0%	$19,100
$23,500– $28,800	$4,047+27.0%	$23,500
$28,800– $30,600	$5,505+30.0%	$28,800
$30,600– $34,100	$6,045+32.0%	$30,600
$34,100– $43,400	$7,182+35.0%	$34,100
$43,400– $44,700	$10,437+38.0%	$43,400
$44,700– $55,300	$10,925+40.0%	$44,700
$55,300– $58,900	$15,165+42.0%	$55,300
$58,900– $81,800	$16,695+44.0%	$58,900
$81,800– $84,500	$26,885+47.0%	$81,800
$84,500–$108,300	$28,154+49.0%	$84,500
$108,300–$161,300	$39,816+53.0%	$108,300
$161,300–$214,300	$68,171+55.0%	$161,300
$214,300	$97,321+55.0%	$214,300

"(C) Calendar year 1982.—The schedules in effect for taxable years beginning in 1982 are as follows:

"Schedule 1

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $2,300	$0+ .0%	$0
$2,300– $3,350	$0+10.0%	$2,300
$3,350– $4,400	$105+11.0%	$3,350
$4,400– $6,550	$220+12.0%	$4,400
$6,550– $8,600	$478+14.0%	$6,550
$8,600– $10,700	$765+16.0%	$8,600
$10,700– $12,900	$1,101+17.0%	$10,700
$12,900– $15,550	$1,475+19.0%	$12,900
$15,550– $18,200	$1,979+22.0%	$15,550
$18,200– $23,500	$2,562+25.0%	$18,200
$23,500– $30,600	$3,887+28.0%	$23,500
$30,600– $43,400	$5,875+33.0%	$30,600
$43,400– $55,300	$10,099+38.0%	$43,400
$55,300– $81,800	$14,621+43.0%	$55,300
$81,800–$108,300	$26,016+48.0%	$81,800
$108,300	$38,736+50.0%	$108,300

"Schedule 2

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $3,400	$0+ .0%	$0
$3,400– $5,500	$0+10.0%	$3,400
$5,500– $7,600	$210+11.0%	$5,500
$7,600– $11,900	$441+13.0%	$7,600
$11,900– $16,000	$1,000+15.0%	$11,900
$16,000– $20,200	$1,615+18.0%	$16,000
$20,200– $24,600	$2,371+21.0%	$20,200
$24,600– $29,900	$3,295+23.0%	$24,600
$29,900– $35,200	$4,514+27.0%	$29,900
$35,200– $45,800	$5,945+32.0%	$35,200
$45,800– $60,000	$9,337+36.0%	$45,800
$60,000– $85,600	$14,449+40.0%	$60,000
$85,600–$109,400	$24,689+43.0%	$85,600
$109,400–$162,400	$34,923+47.0%	$109,400
$162,400–$215,400	$59,833+49.0%	$162,400
$215,400	$85,803 +50.0%	$215,400

"Schedule 3

"If the taxable income is over the amount in the left-hand column but not over the amount in the right-hand column:	The tax is the amount in the left-hand column plus a percentage (as shown) over the amount of the taxable income shown in the right-hand column:	
$0– $2,300	$0+ .0%	$0
$2,300– $3,350	$0+10.0%	$2,300
$3,350– $4,400	$105+10.0%	$3,350
$4,400– $6,500	$215+11.0%	$4,400
$6,500– $6,550	$457+12.0%	$6,500
$6,550– $8,600	$463+13.0%	$6,550
$8,600– $10,700	$740+14.0%	$8,600
$10,700– $10,800	$1,044+15.0%	$10,700
$10,800– $12,900	$1,059+16.0%	$10,800
$12,900– $14,900	$1,395+17.0%	$12,900
$14,900– $15,550	$1,735+18.0%	$14,900
$15,550– $18,200	$1,855+20.0%	$15,550
$18,200– $19,100	$2,385+21.0%	$18,200
$19,100– $23,500	$2,579+23.0%	$19,100
$23,500– $28,800	$3,591+25.0%	$23,500
$28,800– $30,600	$4,942+27.0%	$28,800
$30,600– $34,100	$5,437+30.0%	$30,600
$34,100– $43,400	$6,487+32.0%	$34,100
$43,400– $44,700	$9,510+35.0%	$43,400
$44,700– $55,300	$9,965+37.0%	$44,700
$55,300– $58,900	$13,887+39.0%	$55,300
$58,900– $81,800	$15,309+41.0%	$58,900
$81,800– $84,500	$24,812+44.0%	$81,800
$84,500–$108,300	$26,000+45.0%	$84,500
$108,300–$161,300	$36,829+48.0%	$108,300
$161,300–$214,300	$62,534+49.0%	$161,300
$214,300	$88,769+50.0%	$214,300

TITLE II—INFLATION ADJUSTMENT

SEC. 201. Inflation Adjustments to Individual Tax Rates.

(a) General Rule.—Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end thereof the following new subsection:

"(f) Adjustments in Tax Tables so that Inflation will not Result in Tax Increases.—

"(1) In General.—FOR TAXABLE YEARS AFTER 1982—Not later than December 15 of each calendar year beginning in 1982, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) Method of Prescribing Tables.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing—

"(i) the maximum dollar amount on which no tax is imposed under such table, and

"(ii) the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table, by the cost-

of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A)(ii), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

If any increase determined under subparagraph (A) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the nearest multiple of $10).

"(3) Cost-of-Living Adjustment.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for calendar year 1981.

"(4) CPI for any Calendar Year.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index for the months ending in the 12-month period ending on September 30 of such calendar year.

"(5) Consumer Price Index.—For purposes of paragraph (4), the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor."

(b) Definition of Zero Bracket Amount.—Subsection (d) of section 63 of such Code (defining zero bracket amount) is amended to read as follows:

"(d) Zero Bracket Amount.—For purposes of this subtitle, the term 'zero bracket amount' means—

"(1) in the case of an individual to whom subsection (a), (b), or (d) of section 1 applies, the maximum amount of taxable income on which no tax is imposed by the applicable subsection of section 1, or

"(2) zero in any other case."

SEC. 202. Cost-of-Living Adjustments in Amount of Personal Exemptions.

(a) General Rule.—Section 151 of the Internal Revenue Code of 1954 (relating to allowance of deductions for personal exemptions) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(b) Exemption Amount.—Section 151 of such Code is amended by adding at the end thereof the following new subsection:

"* * * the term 'exemption amount' means, with respect to any taxable year, $1,000 increased by an amount equal to $1,000 multiplied by the cost-of-living adjustment (as defined in section 1(f)(3))—for the calendar year in which the taxable year begins.

If the amount determined under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or if such amount is a multiple of $5, such amount shall be increased to the nearest multiple of $10)."

SEC. 203. Adjustments in Withholding.

(a) In General.—Subsection (a) of section 3402 of the Internal Revenue Code of 1954 (relating to requirement of withholding) is amended by inserting after the third sentence the following new sentence: "The Secretary shall, not later than December 15 of each calendar year prescribe tables which shall apply in lieu of the tables prescribed above to wages paid during the succeeding calendar year and which shall be based on the tables prescribed under section 1(f) which apply with respect to taxable years beginning in such succeeding calendar year."

(b) Percentage Method of Withholding.—Paragraph (1) of section 3402(b) of such Code (relating to the percentage method of withholding) is amended by adding at the end thereof the following new sentence: "The Secretary shall not later than December 15 of each calendar year, prescribe a table which shall apply in lieu of the above table to wages paid during the succeeding calendar year and which shall be based on the exemption amount (as defined in section 151(f)) which applies to taxable years beginning in the succeeding calendar year."

(c) Withholding Allowances Based on Itemized Deductions.—Paragraph (1) of section 3402(m) of such Code (relating to withholding allowances based on itemized deductions) is amended—

(1) by striking out "$1,000" and inserting in lieu thereof "the exemption amount (as determined under section 151(f) for taxable years beginning in the calendar year)"; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) an amount equal to the maximum amount of taxable income for taxable years beginning in the calendar year on which no tax is imposed by section 1(a) (or section 1(b) in the case of an individual who is not married, within the meaning of section 143, and who is not a surviving spouse, as defined in section 2(a))."

SEC. 204. Return Requirements.

(a) Clause (i) of section 6012(a)(1)(A) of the Internal Revenue Code of 1954 is amended by striking out "$3,300" and inserting in lieu thereof "the sum of the exemption amount and the zero bracket amount applicable to such an individual".

(b) Clause (ii) of section 6012(a)(1)(A) of such Code is amended by striking out "$4,400" and inserting in lieu thereof "the sum of the exemption amount plus the zero bracket amount applicable to such an individual".

(c) Clause (iii) of section 6012(a)(1)(A) of such Code is amended by striking out "$5,400" and inserting in lieu thereof "the sum of twice the exemption amount plus the zero bracket amount applicable to a joint return".

(d) Paragraph (1) of section 6012(a) of such Code is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount".

(e) Paragraph (1) of section 6012(a) of such Code is subparagraph:

"(D) For purposes of this paragraph—

"(i) The term 'zero bracket amount' has the meaning given to such term by section 63(d).

"(ii) The term 'exemption amount' has the meaning given to such term by section 151(f)."

(f) Subparagraph (A) of section 6013(b)(3) of such Code is amended—

(1) by striking out "$1,000" each place it appears and inserting in lieu thereof "the exemption amount",

(2) by striking out "$2,000" each place it appears and inserting in lieu thereof "twice the exemption amount", and

(3) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'exemption amount' has the meaning given to such term by section 151(f)."

SEC. 205. Effective dates.

(a) The amendments made by sections 201, 202, and 204 of this Title shall apply to taxable years beginning after December 31, 1982.

(b) The amendments made by section 203 of this Act shall apply to remuneration paid after December 31, 1982.

S. 34

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 "Spending Limitation Act."

SEC. 2. Add to the Congressional Budget and Impoundment Control Act of 1974 the following new section:

"SEC. 312. Notwithstanding any other provision of this Act, in calendar years 1979 through 1982, the total amount of Federal outlays agreed to in the second concurrent resolution on the Budget or any further concurrent resolution on the Budget adopted by Congress under section 310 of the Congressional Budget and Impoundment Control Act of 1974 (referred to elsewhere in this section as the 'budget resolution') for the fiscal year which ends within such next calendar year shall not exceed, unless waived by a two-thirds vote in each House of Congress, the following percent of the projected gross national product projected by the Congressional Budget Office for that fiscal year on the basis of the budget resolution for that fiscal year:

"21.0% in FY 1980.
"20.0% in FY 1981.
"19.0% in FY 1982.
"18.0% in FY 1983.

By Mr. HELMS:

S. 35. A bill to repeal the Credit Control Act (12 U.S.C. 1901 et seq.); to the Committee on Banking, Housing, and Urban Affairs.

REPEAL THE POWER TO SEIZE GOLD

Mr. HELMS. Mr. President, in the depth of the depression, Congress made a number of changes in the law which were subsequently repealed or revised.

In 1973, Congress acted to restore the freedom of Americans to own gold. At that time, Congress did not address the subject of a little-known provision of the Federal Reserve Act, 12 U.S.C. 248(n). This subsection is as follows:

(n) Exchange of gold coin, bullion, and certificates for other currency on order of Secretary of Treasury; costs; penalties.

Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise.

I believe this subsection should have been repealed when the freedom to own gold was restored.

I asked the Chairman of the Federal Reserve Board, William E. Miller for his thoughts on this bill and he responded saying:

DEAR JESSE: Thank you for your letter of December 14 requesting views on the proposed repeal of 12 U.S.C. 248(n), which grants the Secretary of Treasury authority to call in gold from private holders. I have no objection to the proposal.

Sincerely,

BILL.

The Treasury Department has, as we know, adopted a policy of reducing the

monetary role of gold. Therefore, it seems anachronistic to keep the arbitrary authority over gold which supposedly has no monetary role. But even if we were on a gold coin standard, this extraordinary power would be unjustifiable.

Finally, some with whom I have discussed this bill feel that the Congress can again vote to confiscate gold. That is true. However it would require an overt act of Congress before that authority could be exercised. Today all that is needed is "adjustment" undefined except as to somehow protect the "currency system."

I introduce this bill today, at the beginning of the 96th Congress so that opinions can be requested from appropriate agencies, businessmen, academicians, and interested citizens, so that early in the 96th Congress action can be taken on this archaic piece of law.

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

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

S. 35

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Credit Control Act (12 U.S.C. 1901 et seq.) is repealed.

By Mr. McCLURE:

S. 38. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, I am today introducing two bills designed to bring about a fair and effective answer to the problem of criminal misuse of firearms. By any standard the Gun Control Act of 1968 has failed to halt the increase in violent crimes which plagues our country. The reason for that failure, I suggest, is that the Gun Control Act of 1968 is fundamentally misdirected. It burdens the law-abiding citizen who obtains firearms through legal channels while affecting not at all the criminal who long before 1968 was barred from legally possessing guns.

It is easy to erect obstacles to those who want to buy firearms for hunting or target practice or defense of their home and family. These people want to obey the law. But these people have nothing whatever to do with the crime problem. Yet, they, not the professional criminal, are the victim of gun control laws. So I propose that we redirect Federal gun laws to deter this criminal behavior without infringing on the tranditional right of law-abiding Americans to keep and bear arms. To do this I offer two bills. The first simply repeals a law that has failed, the Gun Control Act of 1968. The second bill imposes a mandatory 5- to 10-year prison sentence on anyone who uses a gun to commit a crime of violence.

The bill is carefully drafted to avoid Federal intrusion into areas of criminal law best handled by the States. I would like to see similar mandatory sentence provisions enacted at the State level. It can be a first step toward the rebuilding of our criminal justice system into an effective deterrent to crime. I introduced similar bills during the 95th Congress, and was pleased to see that the principles behind these bills made significant gains. During consideration of the criminal code reform legislation, the Senate adopted several amendments I offered to refine the mandatory sentencing provisions and strengthen the rights of law-abiding gun owners. Congress also cut the budget of the Bureau of Alcohol, Tobacco, and Firearms and blocked their plan to impose national registration of firearms transactions. We voted to continue the civilian marksmanship program and forced the withdrawal of a nominee with extreme antigun views to head the LEAA.

These victories were made possible by the vigilance of millions of Americans who were willing to make their voices heard in defense of traditional American values.

By Mr. PROXMIRE:

S. 39. A bill to amend the Bank Holding Company Act and the Bank Merger Act to restrict the activities in which registered bank holding companies may engage and to control the acquisition of banks by bank holding companies and other banks; to the Committee on Banking, Housing, and Urban Affairs.

Mr. PROXMIRE. Mr. President, this legislation which I introduce today for reference to the Committee on Banking, Housing, and Urban Affairs, will effectively bring under control the concentration of banking resources into fewer hands and the expansion of bank holding companies beyond banking and into commerce and industry.

This Nation is best served by markets that are competitive and a financial system that fairly dispenses credit into all sectors of the economy. Competitive markets are usually characterized by a maximum number of competitors, no one or group of which has a dominant share of the market which enables them to set monopolistic prices. A financial system that is to be depended upon to fairly dispense credit into the economy must not itself compete in commerce and industry lest its credit judgments be affected by the equity stake that it has in those industries.

Bank holding companies have been the subject of major congressional legislation passed in 1956 and 1970 to insure these goals. Unfortunately, there is significant evidence that further refinements to these laws are necessary again if we are to assure competitive financial and nonfinancial markets.

Bank holding companies dominate our banking system. They now control over 70 percent of all banking deposits. The largest of these have experienced explosive growth. During the 25-year period from 1950 to 1975, the 10 largest of these institutions increased their control of all bank deposits in the Nation from under 20 percent to about 30 percent. Moreover, many State and local banking markets are highly concentrated with a few bank holding companies dominating banking activities.

This state of affairs is bad enough, but it has been compounded by bank holding company expansion into businesses outside of banking. Witness after witness from the insurance, data processing, auto leasing, securities, mutual fund, armored car and courier, travel agency and real estate industries, appearing in support of this legislation in the past testified as to the unfair competition posed to their industries by bank holding companies whose subsidiary banks are engaged in making loans. Unfair competition arises because many customers will prefer to give their commercial business to a bank which also dispenses credit, even at a higher price, rather than to purchase their services from a nonbank competitor. Tie-in sales, whether coerced or voluntary, distort our economy and free market. This distortion means that trade is no longer carried out on the basis of price, quality, and service but on the basis of hoped-for favoritism.

This legislation will cure the deficiencies in the current situation. First, this legislation will prohibit bank holding companies from acquiring any banks if they already have 20 percent of the banking assets in any State. This will require the dominant holding companies in State markets to grow internally, not by taking over competitors. Consumers will benefit by more competitive banking markets.

Second, this legislation will require that holding companies restrict their nonbank activities to those that are directly related to banking. This represents a significant tightening of current law under which banks are permitted to engage in activities that are merely closely related to banking. Moreover, this legislation will require that bank holding companies prove that entry into nonbank fields will produce substantial public benefits to the public, which clearly and significantly outweigh possible adverse effects.

There is substantial evidence that bank holding company expansion has had adverse effects on competition in both bank and nonbank markets. Bank holding company banks, while experiencing similar growth rates to independent banks, have riskier portfolios and lower capital ratios. The evidence also is that bank holding company mortgage banking and consumer finance subsidiaries operate with lower capital ratios than their competitors in these nonbank fields. This legislation will put the burden of proof on bank holding companies to show that the public will benefit before they are allowed to expand into nonbank fields.

Mr. President, this legislation has been the subject of numerous hearings in the Banking Committee in the last two Congresses. In the last Congress, the Banking Committee was responsible for the passage of two pieces of landmark banking legislation: the International Banking Act and the Financial Institutions Regulatory and Interest Rate Control Act. In the closing days of the last Congress, legislation to control some specific aspects of bank holding company expansion passed both the House and the Senate in the same form but in different pieces of legislation. Because of the complexity of the end of session, bank holding company reform could not be achieved.

House members have stated that control of bank holding companies will be a

priority item in that body. This legislation will provide the focus for the Banking Committee. Mr. President, this legislation enjoys substantial support. The Independent Bankers Association and the mutual savings banks testified in favor of control of expansion of bank holding companies. Strong support for this legislation comes from the various nonbank industries I have previously referred to which are the victims of unfair competition by bank holding companies.

Mr. President, I commend this important legislation to my colleagues for their support and I ask unanimous consent that the statement I have previously made introducing this legislation in previous Congresses be printed in the RECORD following my remarks because those remarks are as fully applicable to the need for this legislation today as when I made them.

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

COMPETITION IN BANKING ACT OF 1977

Mr. PROXMIRE. Mr. President, I am today introducing a bill for reference to the Committee on Banking, Housing and Urban Affairs to control the concentration of the banking resources of the Nation into fewer hands and to put brakes on the unbridled growth of bank holding companies into nonbanking fields.

The legislation titled the "Competition in Banking Act of 1977" is identical to legislation which I sponsored in the 94th Congress (S. 2721).

My statement in support of the bill on the floor of the Senate on December 1, 1975, is fully applicable today. The Senate Banking Committee held 2 days of hearings on this bill last year. Strong statements in support of the provisions of the bill were made by spokesmen for the various commercial industries into which bank holding companies have expanded and competed unfairly. Such industries included insurance, and insurance agency, data processing, securities, automobile leasing, travel agencies, courier and armored cars, and realtors.

Chairman Burns has been quoted in the public press as having said that if he had to do it all over again, he would fight for a tougher bank holding company bill than the Bank Holding Company Act Amendments of 1970. Chairman Burns expressed the desire for a much more restrictive legislative scope to the kinds of nonbank businesses that bank holding companies should be permitted to engage. I could not agree more with the distinguished Chairman of the Federal Reserve in this regard. This bill will do the job.

Bank holding companies will continue to be permitted to engage in nonbanking activities outside the geographic areas applying to their subsidiary banks. But, under the bill, such activities must be shown to be directly related to banking and shown to have significant public benefits that clearly outweigh possible adverse effects such as unfair competition or concentration of resources. In making determinations as to which activities are permissible for bank holding companies the Federal Reserve will be required to do so on the record. Ex parte communications are forbidden.

The testimony before the committee on this bill last year was that a cozy relationship exists between the bank regulators and the banks which results in unfair treatment to bank competitors in the marketplace. The marriage between the banks and the bank regulators must be broken. This bill will accomplish this purpose with respect to bank holding companies. On a broader level, however, I believe that the bank regulatory agencies should be consolidated into a single agency which has the will to protect the public interest.

Bank holding companies have come to dominate the business of banking. The largest institutions acquired an increasing share of the Nation's banking resources over the past several years and State markets are highly concentrated. Yet banking institutions operate in a protected market where entry is restricted and capital is highly leveraged by the use of depositors' funds. In these circumstances great care needs to be taken so that banks do not unfairly compete in industries outside of banking. Many customers will naturally prefer to purchase their commercial services from banks which also dispense credit rather than to purchase such services from nonbank enterprises. This is not competition based on quality and price but rather smacks of an involuntary tie-in. We cannot allow our commercial markets to be distorted in this fashion. This bill provides the needed public protections.

To deal with concentration of banking resources, this bill amends the bank merger laws to prohibit any further bank acquisitions by a banking organization already holding 20 percent of the banking deposits in any State.

Mr. President, the Senate Banking Committee did not have the time to complete the record on this legislation in the last Congress. My intent is to complete the record in this Congress and to see this bill become law.

COMPETITION IN BANKING ACT OF 1975

Mr. PROXMIRE. Mr. President, I am today introducing for reference to the Committee on Banking, Housing and Urban Affairs, a bill to amend the Bank Holding Company Act of 1956 and 1970 and to amend the provisions of the Bank Merger Act of 1966. This bill will accomplish basic reforms in the law governing the structure of banking in this Nation. The bill arises out of a need to restrict the further acquisition of banks by bank holding companies and other banks, and to restrict further the scope of activities that may be engaged in by bank holding companies to insure a safe and sound banking system, responsiveness to consumer needs, and a healthy line of demarcation between banking and commerce.

Mr. President, this bill amends the antitrust laws applying to the acquisition of banks by bank holding companies and to the merger of banks in order to control the concentration of banking resources in the Nation and to bring a measure of increased competition in the public interest to the banking industry. The bill will also amend the laws applicable to bank holding company expansion into what has unfortunately been regarded as permissible "nonbank" activities to restrict permissible activities to those that are "directly" related to banking.

The need to control the concentration of banking resources and increased competition in the banking industry is both undeniable and urgent.

Bank holding companies increasingly dominate the business of banking in this Nation. During the period 1968 to 1974 total bank deposits increased from $434 billion to $698 billion. Over this period the portion of holding company control of bank deposits went from $166 billion—38 percent—to $492 billion—71 percent. One bank holding company expansion, brought within the purview of control under Federal law in 1970, makes up a substantial portion of this growth. I wish to point out for your special note, Mr. President, that multibank holding company control of total bank deposits increased over this period from $58 billion to $280 billion. Bank holding company acquisitions of existing banks accounted for 73 percent of all acquisitions of banks at the end of 1973. These statistics underscore the inexorable movement toward control of our banking system by bank holding companies.

An analysis of the growth of large banking institutions reveals that over the course of the past 25 years, the 10 and 25 largest banking institutions have increased their share of the Nation's bank deposits from 20 percent and 30 percent, respectively, to 29 percent and 39 percent. The 10 largest institutions were responsible for the major portion of this increase in concentration of resources. Moreover, many statewide, local, and major markets have remained highly concentrated.

Make no mistake about it, Mr. President, the concentration of banking resources is not a matter of esoteric academic concern.

Where resources become concentrated, competition is reduced. The consumer, the builder, the small businessman, the homeowner, the municipal borrower, all bear the brunt of decreased competition in the form of higher costs on the money they borrow or in the form of reduced services. In its drive for growth, the focus of the banking system has all too frequently shifted to a high-profit oriented philosophy. We have gone through an unfortunate and debilitating era of "go-go" banking in which sensible rules of prudence have been cast aside in favor of speculation to earn high rates of return.

In the process of funding speculative areas of the economy, banking institutions have all too often misallocated the credit resources of the Nation which they hold in trust in the public interest. The public trust aspects in banking have been much forgotten principles. The fair operation of the banking system is basic to the needs of the economy. The operation of the antitrust laws as presently constituted have not been adequate to the task of increasing competition in the banking industry in the public interest. The antitrust laws relating to banking must, therefore, be revised if we are to cope with the problem of increased concentration, a problem which holds no promise of abating without legislative action.

Bank mergers or holding company acquisitions of a bank would be prohibited under this bill if the resultant company would control more than 20 percent of the banking assets held by banks or holding companies within States in which the company is located. An exception is provided for mergers or acquisitions which have been found to be necessary in order to prevent the failure of a bank and if less anticompetitive alternatives are not available. The Justice Department is given an independent right to seek injunctions in court for mergers or acquisitions which violate the 20 percent standard. Mr. President, this provision is necessary if we are to prevent the Nation's banking resources from coming under the control of oligopolies in individual States. The bill further gives to the bank regulatory agencies the discretion to deny anticompetitive mergers or acquisitions not violating the Sherman Act, the Clayton Act, or the 20 percent standard if the public benefits of such anticompetitive transactions are not clearly outweighed in meeting community convenience and needs. Mr. President, 33 banking institutions holding bank assets of about $107 billion, representing 12 percent of the Nation's deposits, would be covered by the 20 percent prohibitory standard.

Arthur Burns, the distinguished chairman of the Federal Reserve Board has reportedly stated that if he had to do it all over again, he would fight for a tougher bank holding company bill than the Bank Holding Company Act of 1970. Chairman Burns was stated to have expressed a desire for a much more limited legislative scope to the kinds of business a bank holding company could enter.

I agree with these statements which have been attributed to Chairman Burns. There is need to restrict the kinds of business in which bank holding companies may engage. In my view, bank holding companies should only engage in the business of offering banking services. This bill will serve to limit bank

holding companies to those activities "directly" related to banking and will preserve the line between banking and commerce.

Bank holding companies are permitted to engage in a number of activities which are not "directly" related to banking. They underwrite certain types of insurance, act as insurance agents, act as investment advisors to real estate investment trusts and lease-and-market automobiles. Such activities are primarily commercial in nature and are not "directly" related to the business of accepting deposits or making loans. Instead of financing business and commerce, banks have themselves engaged in the business and commerce of the Nation.

To some extent, our fragmented regulatory structure has contributed to this situation. We have the example of the Federal Reserve denying a bank holding company permission to engage in a particular activity on the ground that the activity was not closely related to banking and the Comptroller permitting a subsidiary national bank of the holding company to engage in the same activity under the incidental powers clause of the national banking laws. This practice would be specifically outlawed by this bill. The Federal Reserve would be the final authority in such matters. Of course, on a broader level, my proposal for the establishment of a Federal Bank Commission would put such practices to rest once and for all by eliminating this competition-in-laxity among our Federal regulators.

When bank holding companies go beyond banking and engage in commerce, credit is misallocated and the potential for unsafe or unsound banking practices arises. The holding company no longer acts as a source of strength to the banks in the holding company. As a matter of fact, the bank subsidiaries in such situations are often called upon to rescue these nonbank operations from the consequences of their speculations and mismanagement. One need only examine the real estate investment trust experience to see first hand just how badly the public interest has been served by these speculations.

This bill will require the bank holding company and all of its subsidiaries to be adequately capitalized. Bank holding companies will be required to disclose their intra-corporate dealings to protect competition and the public interest.

Many of the industries into which bank holding companies have expanded recently are industries characterized by smaller producing units. In these circumstances, competitors should be given the opportunity to develop a record upon which the Federal Reserve Board will be bound before allowing bank holding companies to expand their services. This bill will require the Federal Reserve to apply the provisions of the Administrative Procedure Act to issuance of regulations and orders in its administration of the Bank Holding Company Act. Before the Board could approve any activity by a bank holding company, it would have to make two findings: first, that the proposed activity is directly related to banking; and second, that the proposed transaction is likely to produce significant benefits to the public which clearly and significantly outweigh possible adverse effects.

Existing bank holding company laws have allowed banking organizations to expand the geographic distribution of their services from coast to coast by establishing subsidiary offices across State lines. Bank holding company entry into nonbank activities under existing law has proliferated in recent years. Entry by acquisition has gone from 6 in 1970 to 806 in 1974. De novo entry into such activities has gone from 71 in 1971 to 524 in 1974. Care needs to be taken that the public interest will be served by such expansion and that existing business relationships will not be altered contrary to the public interest by methods of unfair competition or credit misallocation. This bill will accomplish these public purposes.

By making the Administrative Procedure Act applicable to Federal Reserve Board proceedings, parties in interest, including consumer groups, will be enabled to build a record to determine if the public interest will in fact be served in particular instances. These provisions will require the Board to tailor its orders precisely to the needs of the public. This bill gives the Federal Reserve continuing enforcement authority over its orders. Should the public interest fail to be served at any point, the Federal Reserve could require corrective action. Where the Federal Reserve fails to act, unreasonably, an appeal may be taken to a Federal Reserve to maintain continuous surveillance over bank holding companies and their subsidiaries to insure that their public interest functions will be served.

By Mr. FORD (for himself, Mr. HUDDLESTON, and Mr. DECONCINI):

S. 40. A bill to extend the period for SBA disaster low-interest loans from October 1, 1978, to October 1, 1979; to the Select Committee on Small Business.

INTEREST RATE ON DISASTER LOANS

Mr. FORD. Mr. President, this legislation which Senator HUDDLESTON, Senator DECONCINI, and I are proposing relates to the interest rate on certain disaster loans granted by the Small Business Administration. Public Law 95–89, had provisions respecting the interest rates on loans to repair or replace residences and to repair damage on personal property. That change permitted low-interest loans for disasters occurring on or after July 1, 1976, and prior to October 1, 1978. This change would extend the termination date on these low-interest loans to October 1, 1979.

In December of 1978, devastating floods hit a major portion of central Kentucky. Record floods were experienced in the capital city of Frankfort. The major damage in the 37 counties affected was to primary residences. For those families with outstanding loans, even with low-interest rates, the loss is tragic. Many of these families were aware that the 1977 amendment was enacted to grant relief after the April 1977 floods that hit southeastern Kentucky and West Virginia. Special relief had been granted for the low-interest rates, but this legislation had terminated October 1, 1978, only 2 months before the December floods.

This legislation will simply extend the low-interest rates to cover this flood and any of the others that might occur in the remainder of the current fiscal year.

It is important to recognize that these funds are not grants, but low-interest loans. Many of the individuals suffering losses will not only be required to repay this loan, but other outstanding loans that existed when the tragedy occurred.

It retains the same interest rates that were authorized for disasters occurring between July 1, 1976, and October 1, 1978.

Mr. HUDDLESTON. Mr. President, it is one of the most longstanding and proudest traditions of our Government to readily respond to the needs of those who fall victim to disaster in a compassionate manner. Unfortunately, these efforts are being undermined by a return to the old procedure of granting Small Business Administration disaster loans at interest rates very near the prevailing rate for private loans.

During the 95th Congress I, along with several other Senators, introduced legislation which reduced the interest rate for most SBA disaster loans to 3 percent or less. Although this change was a part of Public Law 95–89, It was only applicable to those loans for disasters occurring on or after July 1, 1976, and prior to October 1, 1978. This termination date now returns us to the old process of ignoring the fact that disaster victims are people with special needs brought about by circumstances beyond their control.

The devastating floods which hit over 30 counties in the State of Kentucky in 1978 have emphasized the need to continue low-interest disaster loans for the victims. The reduction in interest rates was intended to provide greater equity for disaster victims by insuring that the interest rates and the terms of the loans remain low enough for relief to be accessible to those who need it most. Those individuals who lose property and income, because of a disaster need this additional helping hand in order to restore their lives to a semblance of that which existed prior to a disaster in as short a time as possible.

The legislation which Senator FORD and I are introducing today would merely extend the termination date for low interest SBA disaster loans until October 1, 1979. In other words, we would continue for a limited time to grant disaster loans to victims under the same terms and conditions that existed for similar disaster victims prior to October 1, 1978.

Spiraling inflation rates have pushed interest rates for private loans into the double-digit range, and interest rates for disaster loans have been pulled upward along with them. These inflated interest rates have in effect added an additional burden to these recent disaster victims which did not exist for previous victims. I do not believe that it is fair or compassionate for these people to be forced by uncontrollable circumstances to take out loans with inflated interest rates. In order to maintain an effective disaster program, it is essential that the interest rates and the terms of the loan remain low enough for relief to be accessible to those in greatest need.

By Mr. FORD (for himself and Mr. HUDDLESTON):

S. 41. A bill to authorize the Secretary of Agriculture to convey any interest held by the United States in certain lands located in Bell County, Ky., to the Board of Education, Bell County, Ky.; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FORD. Mr. President, Senator HUDDLESTON and I are today introducing legislation to transfer 47.04 acres of Forest Service land to the Bell County Board of Education. Currently, Bell County has two high schools located in a flood plain. These schools have sustained significant

damage from flood waters. If this bill is passed, the Bell County Board of Education will be able to replace both schools with a new, more secure, facility.

Mr. President, this matter cannot be solved administratively. The Department of Agriculture has determined that legislation is necessary to achieve the transfer of this land.

The Bell County Board of Education has sought this property for over a year. They are hoping to begin construction on the new high school in the spring of 1979. I urge expeditious and favorable consideration on this legislation.

Mr. HUDDLESTON. Mr. President, I take great pleasure in joining my colleague, Senator FORD, in sponsoring legislation which would remove a reversion feature from certain lands in Bell County, Ky., conveyed earlier by the Secretary of Agriculture under the authority of the Bankhead-Jones Farm Tenant Act of 1937. In particular, this legislation stipulates that these lands will be used exclusively for educational purposes by the Bell County Board of Education and permits the board to replace two flood-prone school buildings.

Bell County has two high schools which are located in the flood plain on the banks of the Cumberland River. Every time the river floods or there is high water school officials are faced with removing mud and debris, replacing expensive teaching supplies, and repairing structural damage, all of which make returning to a flooded school building unpleasant. The damages to these school buildings and the county administration building from the April 1977 flood were assessed at more than $1.1 million by the Department of Health, Education, and Welfare. This school system can ill afford to finance such expenses and is looking forward to consolidating the two existing high schools into a single facility that would provide the educational program students deserve.

Through considerable correspondence with Department of Agriculture officials I learned the Department has no authority to release the title for this land and that special legislation would be required to accomplish this action. A year and a half has passed since this land was originally conveyed to the Bell County School Board and school officials remain helpless in their efforts to finance the construction of a new school building without the enactment of this legislation. Therefore, I cannot emphasize too strongly the urgency of this situation and urge my colleagues to join with me in supporting this legislation.

By Mr. HATCH (for himself, Mr. WALLOP, Mr. DURKIN, Mr. HUMPHREY, Mr. LAXALT, Mr. LEAHY, Mr. MELCHER, and Mr. SIMPSON):

S. 43. A bill to promote safety and health in skiing and other outdoor winter recreational activities; to the Committee on the Judiciary.

NATIONAL SKI PATROL SYSTEM RECOGNITION ACT

Mr. HATCH. Mr. President, I am pleased to introduce for the consideration of the 96th Congress a bill extending full recognition and gratitude to the National Ski Patrol System. As a nonprofit, volunteer organization of over 23,000 individuals, the Ski Patrol has been credited with saving the lives of skiers and winter sports enthusiasts with their expert rendering of emergency medical aid, research and rescue techniques, and avalanche control efforts.

In following up previous research to support this measure, I have discovered many other reasons to act upon this bill. Among them is the fact that during World War II the "Tenth Mountain Division" was established at the behest of the National Ski Patrol by Gen. George C. Marshall to patrol the slopes of Germany and assist in the rescue of American military personnel. Today, the National Ski Patrol System's International Division includes 200 members in 9 patrols, 6 in West Germany, and 1 each in Spain, Italy, and Israel. These patrols concentrate on insuring the safety and enjoyment of skiing and winter outdoor activity for U.S. Government employees and American military personnel and their families.

The National Ski Patrol System is also unique in that it has helped to foster friendly relations with foreign countries. Exchanges of ideas, training aids and sometimes patrollers themselves, have taken place with Australia, Chile, Canada, and New Zealand.

The National Ski Patrol has maintained a written understanding of cooperation with the American Red Cross and has worked hand in hand with such Federal agencies as the U.S. Forest Service and National Highway Traffic Safety Administration. It should be noted that the NSPS has assumed near total responsibility for avalanche control on lands under the jurisdiction of the U.S. Forest Service and the U.S. Park Service. To illustrate the importance of this cooperation, I ask unanimous consent that letters from the U.S. Forest Service, the U.S. National Highway Traffic Safety Administration, and the statement of understanding with the American Red Cross be printed in the CONGRESSIONAL RECORD at this point.

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

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., June 14, 1978.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: We have been requested by telephone to furnish information concerning the National Ski Patrol System and how they relate to National Forest lands.

The National Ski Patrol System (NSPS) has a longstanding record of assistance to the Forest Service, ski area operators, law enforcement officials, medical personnel, and the general public at National Forest ski areas. NSPS volunteers provide rescue and first aid services, snow safety training, avalanche control, and other assistance at many areas. Their activities give long-term stability to winter safety programs at ski areas where many employees change seasonally. We understand the NSPS provides similar services at ski areas administered by the Department of the Interior and at U.S. Armed Forces recreation areas overseas.

The NSPS has provided invaluable assistance in developing avalanche forecasting and control methods, and in-training for avalanche control and rescue. They sponsor a basic and advanced avalanche course annually. The basic course provides training in the recognition of avalanche hazards and basic rescue techniques. The recipients of this training are better able to more safely participate in winter sports such as cross-country skiing. They can also offer their services in organized rescue of persons missing or caught in avalanches. The advanced avalanche course, on the other hand, trains NSPS members in methods of forecasting and control of avalanches and trains them to be team leaders in rescue operations.

Ski area operators are responsible for controlling avalanches and other snow safety work at the individual ski areas. The Forest Service inspects these activities under the terms of the special use permit. The NSPS volunteers assist the ski area operator in performing these activities, thereby, reducing operating expenses and public costs.

Whether it be downhill skiing, cross-country skiing, or general winter mountaineering activities, the NSPS continues to promote user safety and enjoyment of National Forest and other lands suited to winter activities.

Sincerely,

OWEN I. JAMISON
(For JOHN R. MCGUIRE, *Chief*).

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C., May 24, 1978.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATCH: It has been brought to our attention that the National Ski Patrol has submitted a request to become nationally chartered.

The Department of Transportation's Emergency Medical Services program was authorized under the Highway Safety Act of 1966 to develop standards and guidelines and provide funding assistance to upgrade the prehospital emergency medical services system. There are numerous organizations involved in a State's emergency medical services system including hospitals, ambulance and rescue services, American National Red Cross, American Heart Association and, in many areas, the National Ski Patrol.

The National Ski Patrol has had over the years a very unique role to play. Their members cooperate with the local ambulance services in providing lifesaving emergency medical care to injured individuals, stabilizing these individuals and transporting them to a location where the victim could safely be transported by ambulance to the hospital emergency department.

A large number of National Ski Patrol members are also members of volunteer ambulance and rescue squads. The high level of patient care required in the ambulance services obviously benefits the winter wilderness.

We support the request of the National Ski Patrol for a charter.

Sincerely,

CHARLES F. LIVINGSTON,
Acting Associate Administrator,
Traffic Safety Programs.

STATEMENT OF UNDERSTANDING BETWEEN NATIONAL SKI PATROL SYSTEM AND THE AMERICAN NATIONAL RED CROSS WITH RESPECT TO FIRST AID AND SAFETY TRAINING

PURPOSE

The purpose of this statement of understanding is to strengthen and maintain the cooperative working relationships between the National Ski Patrol System (hereafter referred to as NSPS) and its divisions, regions, and patrols and The American National Red Cross (hereafter referred to as ANRC) and its areas, divisions, and chapters in providing first aid training and cooperative assistance in time of emergencies. It suggests

a pattern by which they may coordinate their personnel and service facilities, and it provides a broad framework for cooperation between the organizations.

AUTHORITY

This statement of understanding is established by mutual agreement of the NSPS and the ANRC, and shall be considered as a commitment of cooperative assistance until such time as either party may desire to dissolve the relationship.

RECOGNITION

The ANRC recognizes the NSPS for its commitment to ski safety and to rescue of persons injured in the winter environment and the valuable assistance it can provide in the promotion of injury prevention and public education in first aid.

The NSPS recognizes the ANRC as an agency through which the American people voluntarily extend assistance to individuals and organizations in need of first aid and safety training.

Both organizations in their voluntary capacity recognize that first aid and safety training is a continuing need of the community at large. Both organizations accept a responsibility to meet this need.

ORGANIZATION OF THE AMERICAN NATIONAL RED CROSS

The national headquarters of the ANRC is located in Washintgon, D.C. For administrative purposes, the ANRC divides the continental United States into four administrative areas. Area offices of the national organization are located as follows: Eastern Area, Alexandria, Virginia; Southeastern Area, Atlanta, Georgia; Midwestern Area, St. Louis, Missouri; and Western Area, San Francisco, California. Each area office has an administrative staff.

Area jurisdictions are sub-grouped into divisions, which report administratively to the area office. Divisions are made up of groups of chapters, which report administratively to a division headquarters chapter. The chapter is the local unit of the ANRC and is responsible for all local activities of the ANRC within its territory, subject to the policies and regulations of the national organization. There are approximately 3,200 chapters across the United States.

ORGANIZATION OF NATIONAL SKI PATROL SYSTEM

The national headquarters of the NSPS is located in Denver, Colorado. For administrative purposes, there are 10 divisions throughout the United States and the world, with each having jurisdiction covering a specific geographical territory. Division offices are located in the following areas: Alaska, Central-US, Eastern-US, Far Western-US, Intermountain-US, International, Northern-US, Pacific Northwest-US, Southern-US, and Rocky Mountain-US. Each Division office has an administrative staff and some have field staff members. Each Division office reports to the national office.

The patrol is the local unit of the NSPS and is responsible for all local activities of the NSPS within its territory, subject to the policies and regulations of the national office. There are approximately 870 local patrols throughout the United States and the world. Division jurisdictions are sub-grouped into Regions, which report to the Division office. Regions are made up of groups of patrols who report to a Regional headquarters office.

METHOD OF COOPERATION

In order that the ANRC and the NSPS may work in harmony in providing quality training and promotion of safety, the organizations have agreed as follows:

1. Continuing liaison will be maintained between the ANRC and the NSPS at all levels.

2. The NSPS recognizes the ANRC Advanced First Aid and Emergency Care course completion certificate as being the desired minimum level training for initial membership into a patrol (effective 1978). (The NSPS recognizes the ANRC Standard First Aid and Personal Safety completion certificate as an interim minimum entrance requirement.)

3. Each organization will encourage their local units to work toward mutual service to the community.

4. If previously agreed upon at the local level, NSPS physical facilities and equipment may be utilized by the ANRC during training and vice versa.

5. The NSPS and the ANRC will work together closely on a national level in the development of materials and programs in those subject areas which fall within the realm of the respective organizations.

6. The ANRC may utilize the feedback from volunteer and professional NSPS staff to assist in the development of first aid and safety materials and other related projects which fall within the subject areas of joint concern to both organizations when applicable and mutually agreed upon.

7. The NSPS may utilize the expertise of volunteer and professional staff of the local ANRC to assist in first aid and other assignments where their expertise is applicable and mutually agreed upon.

8. The NSPS recognizes that the ANRC is dependent primarily upon voluntary public financial support to carry out its program. Therefore, the NSPS will encourage its members to support ANRC fund appeals.

9. The ANRC recognizes that the NSPS is dependent primarily upon voluntary public financial support to carry out its program. Therefore, ANRC will encourage its members to support NSPS fund appeals.

10. The NSPS and the ANRC are cognizant of the need for continuing interpretation necessary to good public understanding of first aid and safety training. To this end, the NSPS will appraise its membership of the capabilities of the ANRC and of the necessity of local planning for cooperative action. The ANRC will advise its chapters of this statement of understanding, urging contact and continued liaison with the NSPS.

11. Recognizing the need for advising the public of the work of both organizations, the ANRC will attempt to inform the public of the cooperative effort between the NSPS and the ANRC. The NSPS will likewise utilize its public resources to inform the public of the cooperative effort.

12. The NSPS agrees to cooperate with ANRC by sharing available specialized capabilities in the event of regional, local, or national disasters wherever these resources may be needed.

This statement of understanding is in force as of the date indicated below and shall remain in effect until terminated by written notification from either party to the other.

Approved: October 16, 1975.

HARRY G. POLLARD, Jr.,
National Director, National Ski Patrol System.

GEORGE M. ELSEY,
President, American National Red Cross.

Mr. HATCH. As further evidence of the Ski Patrol's effectiveness in promoting safety and providing necessary, life-saving first aid, 25 members of the NSPS Nordic Ski Patrol have been selected to patrol the Nordic ski events for the 1980 Winter Olympic Games at Lake Placid, N.Y. The world's best sportsmen and women require the world's best protection from possible injury during competition. Mr. Ronald MacKenzie, President of the 1980 Winter Olympics, wrote to me last year endorsing our efforts to secure passage of a similar bill. His comments are based on his professional involvement with outdoor recreation and competitive sport as well as his firsthand association with the National Ski Patrol. I ask unanimous consent that Mr. MacKenzie's letter be printed in the RECORD.

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

XIII OLYMPIC WINTER GAMES, 1980,
Lake Placid, N.Y., May 26, 1978.

Hon. ORRIN G. HATCH,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HATCH: I am writing to request your support of S1571.

The National Ski Patrol System has been a way of life and of service in many areas outside its initial purpose. In these forty years it has proved itself.

There are now many thousands of these dedicated, trained and available men and women across the country.

I was an early leader in the N.S.P.S. and member of the group which convinced the armed services to create the 10th Mountain Division in World War II. I recruited many to serve in Winter Warfare Infantry Units. I hold National Ski Patrol #201 and served 25 years as Section Chief in the Adirondack Mountain Section of New York State.

In my opinion a federal charter to such a deserving body is certainly well deserved.

Sincerely,

RONALD M. MACKENZIE,
President.

Mr. HATCH. But the National Ski Patrol System's best accomplishment is its on-going concern for the safety and pleasure of those millions of Americans who enjoy skiing, mountaineering, and other winter sports. With patrol units in 42 of the 50 States, and an ever-increasing number of people who are found on the ski slopes every year, the broad impact of their work is obvious. I am certain that other Senators have letters and statements bearing testimony to the fine job the Ski Patrol has been doing for us, and many Senators may have had personal experiences with the NSPS. I invite my colleagues to join Senators WALLOP, DURKIN, HUMPHREY, LAXALT, LEAHY, MELCHER, SIMPSON, and me in support for this legislation. In closing, I ask unanimous consent that a letter from Mayor Ted Wilson of Salt Lake City be inserted in the RECORD, as well as articles from the Salt Lake Tribune and Deseret News and the text of the bill itself. I wish to point out that this measure provides only for recognition and a congressional charter, and does not authorize any expenditure of Federal funds.

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

SALT LAKE CITY,
January 4, 1977.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, D.C.

DEAR ORRIN: I was particularly pleased to learn that you have joined as a sponsor of S. 1571, which would provide a federal charter for the National Ski Patrol System. I have been acquainted with the National Ski Patrol System for some years since I was a junior racing coach, and called upon their services several times. They are a very fine group of dedicated volunteers and professional people, and they provide to our ski system a critical and vital service.

Again, congratulations for helping out in every way you can on this bill.

Best personal regards and happy New Year.

Sincerely,

TED L. WILSON,
Mayor.

[From the Salt Lake Tribune, April 10, 1978]

AN OVERDUE "THANK YOU"

Another ski season has come and gone and the National Ski Patrol System is still lacking something it urgently needs—A national charter.

For several past sessions ski patrollers affiliated with the National Ski Patrol System have patiently asked Congress to grant their organization a charter, similar to those held by the American Red Cross, the Boy Scouts of America, the Girl Scouts of America and other voluntary, non-profit charitable and philanthrophic organizations.

A federal charter would substantially reduce the amount of red tape the 24,000 to 25,000 members of the National Ski Patrol System now endure in complying with increasingly complex state incorporation and tax laws. Presently, to establish its non-profit, and thus tax exempt, status in states where it maintains affiliated ski patrols, the NSPS must file separate articles of incorporation and other documents.

This diverts time and funds, both voluntary, from the local patrols' primary work—promoting skiing safety, rescuing injured skiers, maintaining avalanche control work, plus winter and, yes, summer mountain search and rescue work.

Languishing at the moment in the Senate Judiciary Committee is a straight forward, 10-page bill, S. 1571, that would grant the NSPS the national charter it has deservedly earned in some 40 years of dedicated service to the injured, lost skiers and other outdoor recreationists of this country.

Granting a national charter would under provisions of S. 1571, federally incorporate the National Ski Patrol System enabling it to join in civil suits, make and carry out contracts, acquire and lease property and borrow money for its corporate purposes.

More important, perhaps, is what S. 1571 would not do. It would not provide NSPA with any federal tax subsidies or permit profit-making or partisan political activities.

And, it would relieve ski patrollers of the onerous tax task of complying with a multiplicity of state laws dealing with incorporation of non-profit organizations. This would be a real time and money saver for a group of people who have given up countless hours, days and weeks of skiing for fun in order to make the ski slopes considerably less hazardous for millions of other Americans.

Prompt and favorable reporting by the Judiciary Committee of S. 1571, equally swift enactment by the House and Senate would be a belated, but sincere "thank you" to the 25,000 or so ski patrollers, along with their predecessors who have given dedicated and selfless service to a sizeable part of the American public. That "thank you" is, in reality, about 40 years overdue.

[From the Salt Lake Tribune, Oct. 3, 1978]

HERE'S A SWITCH: SKI PATROL YELLS FOR HELP

(By Craig Hansell)

On November 5, 1977, Snow Basin ski patroller Ray E. Storey saved the life of a 14-year-old heart attack victim while attending a football game in Ogden.

The story is not unusual. In fact, it is but one of eight lifesaving feats performed by ski patrollers in the Intermountain Area last year.

What if there were no National Ski Patrol? Well, there probably would be some accident victims who wouldn't be alive today. And we are not just talking about skiers and people who use the mountains.

Of the eight known incidents where ski patrollers are credited with saving lives last year in the Intermountain area, five of the life-saving services were rendered off the ski slopes and nationally 28 patrollers were credited with using their expertise to save lives.

EXTRA MEASURE OF SAFETY

Even people who have never seen snow or heard of the National Ski Patrol have gained an extra measure of safety because of the nation's 23,151 well-trained ski patrollers.

But now the NSPS needs help. The organization that has amassed an impressive fount of safety knowledge and has served America for two generations is finding it harder and harder to make ends meet. The pinch of inflation and rising insurance costs are threatening the NSPS.

And for the third time the NSPS is seeking aid in the form of a national charter similar to those granted to the American Red Cross and the Boy Scouts of America.

But for the third time the bill is in danger and it may never have a fair chance to be exposed to the congressional process.

It seems the bill, sponsored by Senator Thomas J. McIntyre (D-N.H.) and co-sponsored by a bi-partisan group of 24 other Senators, is stuck in the Senate Judiciary Committee.

The bill, with a quarter of the senators as its sponsors is bogged down in Senator James O. Eastland's (D-Miss.) committee, and if it doesn't surface before Saturday, the NSPS will have to wait for Senator Edward Kennedy to take the helm of the Senate Judiciary before it gets its day in the sun.

With Utah Senator Orrin Hatch as one of the bill's strongest supporters, the bill has made definite headway, only to be stalled in committee.

While there is no skiing in Eastland's home state, the merits of the NSPS are not restricted to the ski slopes alone.

Three similar measures are also meeting with some difficulty in the House Judiciary Committee.

Meanwhile, inflated costs are creeping into the NSPS coffers. In 1977 the insurance costs amounted to $46,534 while the same coverage in 1978 came to $86, 640.

Senate Bill 1571 will not be a total cure all for the NSPS finances, but it will open the door to greater service to Americans and a continuation of the 40-year tradition of safety provided by the group.

[From the Deseret News (Salt Lake City, Utah) June 22, 1978]

PASS THE SKI PATROL CHARTER

You see them during the skiing season at the resorts—pulling an injured skier off the mountain in a toboggan, marking dangerous places, checking for avalanche dangers, making sure at the end of the day that all the skiers are off the mountain.

They're ski patrol members. And while June may seem a strange season to talk about skiing, the topic is timely because the National Ski Patrol is trying to obtain a charter from Congress.

A charter would help eliminate much of the red tape the patrol now has to go through to establish its non-profit status whenever it wants to organize a local affiliate. The present situation makes it increasingly tough to keep interest in the volunteer organization.

But the charter proposal has been languishing in Congress for three years now. Perhaps the best explanation of the long wait is then-President Lyndon Johnson's 1966 veto of a charter for another group. He thought the group in question was not deserving of such national recognition.

Since then, Congress has been loath to grant any other federal charters. Some Congressmen have pointed out that tax exemptions are now granted under the Internal Revenue Code, and that charters are sometimes abused as well as of little purpose.

That idea seems to be changing. Utah Senator Orrin Hatch, a member of the Senate Judiciary Committee considering the charter, says he is "convinced that we will be able to secure action on S. 1571 (the charter application) very soon. Momentum has been picking up here in the Senate."

A charter most certainly would help the Ski Patrol in prestige and fund-raising to promote its volunteer work. And without the patrol's services, the ski slopes could be much more dangerous than they are now.

By Mr. HATCH:

S. 44. A bill entitled the "Fair Treatment for Skilled Trades Act of 1979"; to the Committee on Human Resources.

FAIR TREATMENT FOR SKILLED TRADES ACT OF 1979

Mr. HATCH. Mr. President, I am pleased to reintroduce on the first day of this Congress the Fair Treatment for Skilled Trades Act of 1979. This is legislation I introduced in the prior Congress. the premise of which is simple and straightforward—to unshackle the thousands of skilled tradesmen in our society who find themselves trapped in unwanted industrial unions for the purpose of collective bargaining by virtue of the NLRB's Mallinckrodt decision, 162 NLRB 387. This bill is one of several bills I will introduce in the labor field during this Congress which is an integral part of a more comprehensive program to guarantee greater individual freedom in the workplace.

Because of Mallinckrodt, the Board has seldom found craft severance for these skilled tradesman proper, because of the unnecessarily restrictive criteria developed by their 1966 case. As a result, these unique employees are deprived by decisional law of the opportunity to join together as an appropriate bargaining unit. They are in essence discriminated against in the selection of a bargain representative when compared to the treatment afforded other kinds of employees under the National Labor Relations Act.

There is need for the legislation I propose. The impact of this entire and lengthy charade foisted on American industry by the Board has been devastating. Our skilled work force has lost its mobility. Apprentice programs are a farce or nonexistent, productivity among the trades of major industry is at an all time low, the trades are used as a pay-off to those who do favors for the industrial unions and work is farmed out to outside contractors and jobbing shops, because it is far cheaper. Our skilled work force continues to decrease in number while the demand grows, and employers surround the workplace with partially trained people, adding to the inflationary spiral, increasing the cost to consumers and limiting our industrial ability to compete with foreign competition. While unemployment is a major question, the demand for highly skilled labor is at an alltime high. Since the numbers of skilled men continue to shrink, soon the ability of even the jobbing shops to meet the demands from American industry will no longer be possible. If a national emergency were to take place now, America's skilled work force would be hard-pressed to meet the challenge, because there is simply not enough of them.

Research into the intent of the Congress when it passed the Taft-Hartley Act shows that the NLRB has succeeded in completely circumventing the law. What we have is a decisional misinter-

pretation of the law. The intent of section 9(b)(2) was to attain stability by allowing employees the right of choice. The so-called stability that has been attained by virtue of Mallinckrodt is caused by denying employees that right. The two methods are diametrically opposed.

Accordingly my bill seeks to return these employees to the original intent of section 9(b)(2) of the NLRA to provide for their unrestricted right to associate with similar employees for collective bargaining by overruling the restrictive criteria of the Mallinckrodt case. It is truly an amendment which protects the rights of employees by guaranteeing them via secret ballot the chance to exercise a free choice as to which unions and units are best suited from their viewpoint for bargaining without being "lumped" into an overall bargaining group.

The data obtained from the NLRB since the issuance of the Mallinckrodt decision in December of 1966 demonstrates that the severence question has been before the Board on 71 occasions. The Board has denied severance in 63 of these cases while granting the request for severance for only 8. It is interesting to see the results of the eight cases in that employees voted to sever from the overall bargaining unit on six occasions while voting against severance on two other occasions. The data seems to evidence the desire of skilled tradesmen to separate from an overall unit whenever the opportunity presents itself.

In those few places where craft severance has been attained in industry the history is worth examining. Few strikes have taken place. Serious consideration is given to the welfare of the employer. Class distinction between employer and employee is not a problem, nor is it promoted. It also shows that attained bargaining rights for the trades, creates the kind of long-range stability, based on the right to choose which is so desirable. Craft severance on a multicraft basis or severance on an individual craft basis can be factually projected as being far better for everyone concerned, except perhaps the leadership of the industrial unions, who have fought so long to prevent it.

Without a genuine right to choose a union and a bargaining unit for the trades, part of whose primary responsibility would have to be the welfare, mobility, ability, and replacement of our skilled work force, the situation will continue.

The reasons supporting the changes in the law are serious and deserve attention, but the moral aspects of this question are equally as important. The situation wherein our Government has sanctioned the captivity of our Nation's skilled work force should be abhorrent to every American, regardless of political persuasion. It is a policy which should not be tolerated in a free labor society and must be abolished. Equal and fair treatment for skilled tradesmen is a concept which must prevail.

By Mr. STONE:

S. 46. A bill extending diplomatic privileges and immunities to all offices representing the Republic of China in the United States; to the Committee on Foreign Relations.

Mr. STONE. Mr. President, I am today introducing legislation which would extend to the representatives of the Republic of China full diplomatic privileges and immunities as are enjoyed by the representatives of other nations with whom the United States has diplomatic relations.

It appears, Mr. President, that in seeking to normalize relations with the People's Republic of China, the administration wants to avoid granting any legal or official standing of any kind to the representatives of the Republic of China who will continue to conduct their nation's business in the United States.

In view of the long history of friendship our Nation has with the Republic of China and its citizens, this is improper and unfair. Normalization of our relations with the People's Republic of China should not require the United States to ignore any future governmental relationship with the Republic of China.

This bill would insure that the United States would accord the Republic of China something more than simply a vague "unofficial" relation with the United States. In addition, it is only fair that the same rules which applied to the Liaison Office for the People's Republic of China before diplomatic recognition, now apply to the Republic of China. The authorized representatives of that nation working in the United States are entitled to full diplomatic privileges and immunities. This is exactly what my bill, if enacted, would accomplish.

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

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

S. 46

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested, under such terms and conditions as he determines, to extend to the members of all offices representing the Republic of China in the United States the same privileges and immunities, subject to corresponding conditions and obligations, as enjoyed by diplomatic missions accredited to the United States and by members thereof.

By Mr. HATFIELD:

S. 47. A bill to reform and simplify the Federal individual income tax; to the Committee on Finance.

SIMPLIFORM TAX ACT

Mr. HATFIELD. Mr. President, you will recall that on August 1, 1977, I introduced the Simpliform Tax Act (S. 1969). This bill is similar to a proposal I presented to the Platform Committee of the 1972 Republican National Convention. I have also offered it as legislation in prior Congresses. Today I am introducing a modified version of the bill.

Without engaging in a section-by-section analysis of the bill, let me point out that its intent is best summarized by its title—to radically reform and simplify that portion of the Internal Revenue Code relating to individual income taxes, as well as the forms used to file annual tax returns. The premise of "Simpliform" is that heretofore piecemeal "reform" efforts have failed—that special interests have inhibited the Congress from taking the radical steps necessary to untangle the maze we refer to as the Internal Revenue Code.

Basically, the bill repeals many of the complex provisions now contained in the Tax Code, such as tax deduction provisions which are often no more than tax shelters inequitably administered; restructures personal income tax rates; and substitutes a simple five-line calculation for the computation of individual income taxes. Under the "Simpliform" system virtually every taxpayer would be able to figure his or her own taxes without having to incur the expense and inconvenience of retaining a tax consultant.

Furthermore, passage of "Simpliform" would restore progressivity to the tax system, and affirm Adam Smith's basic criteria for a good tax: That it be "certain, convenient, cost little to collect * * *" I would submit that the Internal Revenue Code in its present form falls far short of those goals—that its complexity has long since overcome its effectiveness.

Today I am reintroducing the Simpliform Tax Act with one significant change. There has been a great deal of discussion in Congress concerning the role of the Tax Code in stimulating private philanthropy. Charitable contributions are the life blood of many institutions. Under current law, donors are rewarded for certain kinds of contributions with an opportunity to use the donations to offset a portion of their taxable income. While "Simpliform" suggests that many special provisions add to the complexity and inequity of our current tax laws and return forms, it is difficult to justify the prohibition of all tax incentives for behavior as worthwhile as charity.

The question is how to continue tax incentives for charity within the philosophical framework of "Simpliform." Many of the present tax deductions provide incentives for behavior which is beneficial to the individual in the long-run anyway. And often these tax breaks are unavailable to lower-income taxpayers, since only those who qualify to itemize their deductions may avail themselves of the deductions.

A tax incentive for charitable contributions, however, involves an entirely voluntary expenditure usually for a public purpose. Nonprofit organizations often offer services that would otherwise be left to Government to provide. While they may share the same social goals, charities can often be more effective than Government due to their proximity to those served and their moral commitment. To the extent that the Tax Code encourages private-sector involvement in social problem-solving, the Government's responsibility will be reduced. That, in itself, is strong justification for this tax proposal.

According to the National Council on Philanthropy, Americans donated about $32 billion in 1977. This figure may have topped $35 billion in 1978. While it is impossible to know all the various motives for these gifts, certainly a significant factor must be the tax deductions

that are presently available. While I firmly believe that contributions to religious institutions should be based on personal faith and not on financial reward, nonsectarian organizations should not be penalized by changes in the Tax Code.

Therefore, I have revised "Simpliform" to add a fifth line computation. This would consist of a tax credit equal to 20 percent of charitable donations, not to exceed 10 percent of total adjusted gross income. The Internal Revenue Service would continue to certify the kinds of contributions that would qualify under this provision.

Not only does this proposal meet the standards of simplicity and equity contained in "Simpliform," but it will actually broaden the scope of tax incentives for gift giving. As a credit rather than a deduction, all taxpayers will be able to participate. As my colleagues are aware, one of the greatest problems facing charities today is the diminishing base of contributors caused by increases in the zero bracket amount of income. While these increases simplify the filing of tax returns and reduce the number of taxpayers who itemize their deductions, they negate the tax incentive for charitable contributions.

According to reports I have received from both the Library of Congress and the Treasury Department, the revenue impact of the new tax credit within the context of "Simpliform" should not exceed the revenue loss incurred as a result of itemized deductions. Treasury estimates the revenue impact of a 20-percent credit to be about $4.7 billion annually, and the Library of Congress projects an even smaller loss of about $3 billion. It is important to point out here that the determination of exact figures is difficult due to the large number of variables present. The change in the tax structure itself provided for in "Simpliform" would undoubtedly affect contribution behavior. It is also impossible to determine how many new taxpayers would participate as a result of the expanded availability of the tax credit vis-a-vis the tax deduction. Nevertheless, it seems safe to assume that the revenue loss caused by the creation of this tax credit will almost certainly be less than the $5.8 billion that we will lose in the current fiscal year as a result of itemized deductions.

Believing in the worthwhile function of private sector charities in our society, and recognizing the need for the proper use of incentives in stimulating charitable behavior, I am proposing today this revised version of the Simpliform Tax Act. While for purposes of simplification I would rather not have added this fifth-line computation, I recognize the dependency of many institutions on the gifts of a supporting public. This new proposal recognizes and accommodates that need.

Mr. President, the need for tax reform has not been changed by recent tax law changes. The enormous cost to society of compliance with the present Tax Code is unacceptable. The special treatment of many forms of income encourages noneconomic behavior by taxpayers simply to receive tax benefits. And the progressiveness of the tax, accepted by most Americans as fundamental to tax justice, is greatly reduced by the special treatment of many forms of income. In short, "Simpliform" is needed today more than ever before.

Mr. President, I ask unanimous consent that the text of the bill and the remarks I made prior to my introduction of the Simpliform Tax Act on August 1, 1977, be printed in the RECORD.

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

S. 47

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Simplification Tax Act".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act a reference is made (by way of amendment, repeal, or otherwise) to a section, chapter, or other provision, the reference shall be considered to be made to a section, chapter, or other provision of the Internal Revenue Code of 1954.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

EFFECTIVE DATE

SEC. 2. Except as otherwise provided the amendments and repeals made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

REPEALS

SEC. 3. (a) The following provisions in chapter 1 (relating to normal taxes and surtaxes) are repealed:

(1) Section 37 (relating to credit for the elderly).

(2) Section 41 (relating to contributions to candidates for public office).

(3) Part VI of subchapter A (relating to minimum tax for tax preferences).

(4) All sections in part III of subchapter B (relating to items specifically excluded from gross income), except—

(A) section 101 (relating to certain death benefits),

(B) section 102 (relating to gifts and inheritances),

(C) section 104 (relating to compensation for injuries or sickness),

(D) section 105 (relating to amounts received under accident and health plans),

(E) section 106 (relating to contributions by employer to accident and health plans),

(F) section 109 (relating to improvements by lessee on lessor's property),

(G) section 110 (relating to income taxes paid by lessee corporation),

(H) section 115 (relating to income of States, municipalities, etc.),

(I) section 118 (relating to contributions to the capital of a corporation),

(J) section 122 (relating to certain reduced uniformed services retirement pay), and

(K) section 124 (relating to cross references to other Acts).

(5) Part V of subchapter B (relating to deductions for personal exemptions).

(6) Section 163 (relating to interest).

(7) Section 164 (relating to taxes).

(8) Section 170 (relating to charitable, etc., contributions and gifts).

(9) All sections in part VII of subchapter B (relating to additional itemized deductions for individuals) except—

(A) section 211 (relating to allowance of deductions),

(B) section 212 (relating to expenses for production of income), and

(C) section 215 (relating to alimony, etc., payments).

(10) Subchapter D (relating to deferred compensation, etc.).

(11) Section 911 (relating to earned income from sources without the United States).

(12) Section 6013 (relating to joint returns of income tax by husband and wife).

(b) All provisions of law (other than the provisions of subtitle A of the Internal Revenue Code of 1954, as amended by this Act), and all administrative regulations or rulings which exempt or exclude items of income of individuals from the tax imposed by such subtitle A shall have no force or effect for taxable years beginning after the date of the enactment of this Act.

RATE OF TAX ON INDIVIDUALS

SEC. 4. Part I of subchapter A of chapter 1 (relating to tax on individuals) is amended to read as follows:

"PART I—TAX ON INDIVIDUALS

"Sec. 1. Tax imposed.
"Sec. 2. Community property laws not to apply.
"Sec. 3. Cross references relating to tax on individuals.

"SECTION 1. TAX IMPOSED.

"(a) BASIC TAX.—There is imposed on the taxable income of every individual a tax of 10 percent.

"(b) SURTAX.—There is imposed on the taxable income of every individual a surtax in accordance with the following table:

"If the taxable income is:	The surtax is:
Over 10,000 but not over $15,000.	5% of the excess over $10,000.
Over $15,000 but not over $20,000.	$250, plus 10% of the excess over $15,000.
Over $20,000 but not over $25,000.	$750, plus 10% of the excess over $20,000.
Over $25,000 but not over $50,000.	$1,500, plus 20% of the excess over $25,000.
Over $50,000 but not over $100,000.	$6,500, plus 25% of the excess over $50,000.
Over $100,000 but not over $500,000.	$19,000, plus 30% of the excess over $100,000.
Over $500,000 but not over $1,000,000.	$169,000, plus 35% of the excess over $500,000.
Over $1,000,000	$344,000, plus 10% of the excess over $1,000,000.

"(c) NONRESIDENT ALIENS.—In the case of a non-resident alien individual, the tax imposed by subsection (a) and (b) shall apply only as provided by section 871 or 877.

"SEC. 2. COMMUNITY PROPERTY LAWS NOT TO APPLY.

"For purposes of this subtitle, the income of a married taxpayer shall be determined without regard to the property laws of any State under which any part of the income of a married individual is treated as the income of his spouse.

"SEC. 3. CROSS REFERENCES RELATING TO TAX ON INDIVIDUALS.

"(1) For rates of tax on nonresident aliens, see section 871.

"(2) For computation of tax where taxpayer restores substantial amount held under amount held under claim of right, see section 1311.".

PERSONAL EXEMPTION CREDIT

SEC. 5. (a) Subpart A of part IV of subchapter A of chapter 1 is amended by adding before section 45 the following new section:

"SEC. 44C. PERSONAL EXEMPTION.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed to an individual as a credit against the tax imposed by this subtitle for the taxable year an amount equal to—

"(1) $250 for the taxpayer,

"(2) $250 for the spouse of the taxpayer (unless such spouse files a separate return), and

"(3) $250 for each dependent of the taxpayer who is 18 years of age or older.

"(b) DEFINITION OF DEPENDENT.—For purposes of this section, the term 'dependent' means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) or (e) as received from the taxpayer):

"(1) A son or daughter of the taxpayer, or a descendant of either,

"(2) A stepson or stepdaughter of the taxpayer,

"(3) A brother, sister, stepbrother, or stepsister of the taxpayer,

"(4) The father or mother of the taxpayer or an ancestor of either,

"(5) A stepfather or stepmother of the taxpayer,

"(6) A son or daughter of a brother or sister of the taxpayer,

"(7) A brother or sister of the father or mother of the taxpayer,

"(8) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer,

"(9) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to subsection (c), of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode of the home of the taxpayer and is a member of the taxpayer's household, or

"(10) An individual who—

"(A) is a descendant of a brother or sister of the father or mother of the taxpayer,

"(B) for the taxable year of the taxpayer receives institutional care required by reason of a physical or mental disability, and

"(C) before receiving such institutional care, was a member of the same household as the taxpayer.

"(c) RULES RELATING TO DEFINITION OF DEPENDENT.—For purposes of this section—

"(1) The terms 'brother' and 'sister' include a brother or sister by the halfblood.

"(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child satisfies the requirements of subsection (b)(9) with respect to such individual), shall be treated as a child of such individual by blood.

"(3) The term 'dependent' does not include any individual who is not a citizen or national of the United States unless such individual is a resident of the United States, of a country contiguous to the United States, of the Canal Zone, or of the Republic of Panama. The preceding sentence shall not exclude from the definition of 'dependent' any child of the taxpayer—

"(A) born to him, or legally adopted by him, in the Philippine Islands before January 1, 1956, if the child is a resident of the Republic of the Philippines, and if the taxpayer was a member of the Armed Forces of the United States at the time the child was born to him or legally adopted by him, or

"(B) legally adopted by him, if, for the taxable year of the taxpayer, the child has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household, and if the taxpayer is a citizen or national of the United States.

"(4) A payment to a wife which is includable in the gross income of the wife under section 71 or 682 shall not be treated as a payment by her husband for the support of any dependent.

"(5) An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law.

"(d) MULTIPLE SUPPORT AGREEMENTS.—For purposes of subsection (b), over half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

"(1) no one person contributed over half of such support;

"(2) over half of such support was received from persons each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

"(3) the taxpayer contributed over 10 percent of such support; and

"(4) each person described in paragraph (2) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.

"(e) DETERMINATION OF MARITAL STATUS.—For purposes of this section—

"(1) the determination of whether an individual is married shall be made as of the close of his taxable year; except that if his spouse dies during his taxable year such determination shall be made as of the time of such death; and

"(2) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(f) CROSS REFERENCES.—

"(1) For definitions of 'husband' and 'wife', as used in subsection (c)(4), see section 7701(a)(17).

"(2) For deductions of estates and trusts, in lieu of credit under this section, see section 612(b).".

(b) The table of sections for such part is amended by inserting before the item relating to section 45 the following:

"Sec. 44C. Personal exemption.".

(c) Section 143(b)(1) is amended by striking out "deduction" and inserting "credit", and by striking out "section 152" and "section 151" and inserting in each place "section 44C".

(d) Section 46(a)(4)(B) (relating to the investment credit) is amended to read as follows:

"(B) section 44C (relating to personal exemptions), and".

(e)(1) Section 172(d)(3) (relating to net operating loss deduction) is amended to read as follows:

"(3) ESTATES AND TRUSTS.—No deduction shall be allowed for the personal exemption allowed an estate or trust under section 642(b).".

(2) Section 172(d) is amended by striking out paragraph (8).

(f) Section 443(c) (relating to return for short period) is amended by striking out "a deduction under section 151 (and any deduction in lieu thereof)" and inserting in lieu thereof "as a credit under section 44C a deduction under section 642(b)" and by inserting "CREDIT FOR" before "PERSONAL" in the heading thereof.

(g) The last sentence of section 642(b) (relating to estates and trusts) is amended to read as follows: "The deductions allowed by this subsection shall be in lieu of the credits allowed under section 44C (relating to credit for personal exemptions).".

(h) Section 703(a)(2) (relating to partnership computations) is amended by striking out subparagraph (B).

(i) Paragraph (3) of section 873(b) (relating to nonresident aliens) is amended to read as follows:

"(3) CREDIT FOR PERSONAL EXEMPTION.—Except in the case of a nonresident alien individual who is a resident of a contiguous country, only one credit shall be allowed for exemptions under section 44C.".

(j) Section 891 (relating to citizens of foreign countries) is amended by striking out "under section 151 and".

(k) Section 933(1) (relating to residents of Puerto Rico) is amended by striking out "(other than the deductions under section 151, relating to personal exemptions)".

(l) Section 1211(b)(3) (relating to deduction of capital losses) is amended by striking out "the deductions provided in section 151 (relating to personal exemptions) or any deduction in lieu thereof" and inserting in lieu thereof "any deduction allowed by section 642(b)".

(m) Section 1402(a) (relating to self-employment income) is amended by striking out paragraph (7).

(n) Section 63 (relating to definition of taxable income) is amended to read as follows:

"SEC. 63. TAXABLE INCOME DEFINED.

"For purposes of this subtitle, the term 'taxable income' means gross income minus the deductions allowed by this chapter.

(o) Section 441(f)(2)(B)(iii) (relating to change in accounting period) is amended—

(1) by striking out "deductions" the second place it appears and inserting in lieu thereof "credits";

(2) by striking out "and" after "365,"; and

(3) by striking out "and by adding the zero bracket amount,".

(p) Section 443(b)(1) (relating to computation of tax on change of annual accounting period) is amended—

(1) by striking out "deductions" the second place it appears and inserting in lieu thereof "credits";

(2) by striking out "12," and inserting in lieu thereof "12 and"; and

(3) by striking out ", and adding the zero bracket amount".

(q) Section 613(A)(d)(1) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(r) Section 667(b)(2) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) Treatment of loss years.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed not to be less than zero.".

(s) Sections 862(b) and 904(a) are each amended by striking out the last sentence.

(t) Section 1211(b)(1)(A) (relating to limitation on capital losses) is amended by striking out "reduced (but not below zero) by the zero bracket amount".

GAINS AND LOSSES ON PROPERTY HELD AT DEATH OR TRANSFERRED BY GIFT

SEC. 6. (a) Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new sections:

"SEC. 85. GAINS AND LOSSES ON PROPERTY AT TIME OF DEATH.

"(a) IN GENERAL.—Upon the death of an individual, there shall be taken into account in computing taxable income for the taxable period in which falls the date of his death, a

percentage (determined under subsection (c)) of the gains and losses which would have been realized and taken into account in computing taxable income (of the decedent or some other person) if all the property (other than property described in subsection (b)) required to be included in determining the value of the decedent's gross estate under chapter 11 had been sold immediately before his death at the estate tax fair market value. This subsection shall not apply unless the aggregate amount of such fair market value exceeds $60,000.

"(b) EXCLUDED PROPERTY.—Subsection (a) shall not apply to—

"(1) property which passes or has passed from the decedent to his surviving spouse and which qualifies for the deduction provided by section 2056;

"(2) property which passes or has passed to a corporation, organization, or other entity described in section 2055 and which qualifies for the deduction provided by such section;

"(3) items of gross income in respect of a decedent described in section 691; or

"(4) any other property includable in the gross estate of the decedent under chapter 11 for which basis is not provided for in section 1014(a).

"(c) RULES FOR APPLICATION OF SUBSECTION (a).—For purposes of subsection (a)—

"(1) The estate tax fair market value of property is the fair market value of the property at the date of the decedent's death, or, in the case of an election under section 2032 or 2032A, its value at the application valuation date prescribed by that section.

"(2) If the aggregate adjusted basis of all property subject to the provisions of subsection (a) is less than $60,000, and the gains under subsection (a) (without the application of this paragraph) exceed the losses, then the aggregate adjusted basis of such property shall be increased to $60,000.

"(3) Losses shall be taken into account without regard to the provisions of section 1091.

"(4) The percentage of gains and losses taken into account shall be determined in accordance with the following table:

"For taxable years beginning:	The percentage is:
Less than 1 year after the date of enactment of the Simpliform Tax Act	0 percent.
1 year or more but less than 2 years after such date	20 percent.
2 years or more but less than 3 years after such date	40 percent.
3 years or more but less than 4 years after such date	60 percent.
4 years or more but less than 5 years after such date	80 percent.
5 years or more after such date	100 percent.

"(d) TIME FOR FILING RETURN.—If subsection (a) applies to the taxable year, the time for filing the return for such year shall be the date 9 months after the date of the decedent's death if such date is later than the time prescribed in section 6072 for filing such return.

"(e) LIABILITY WITH RESPECT TO PROPERTY TRANSFERRED BEFORE DEATH.—If gain is taken into account under subsection (a) with respect to property transferred by the decedent during his lifetime, the executor shall be entitled, unless the decedent directs otherwise in his will, to recover from the transferee of such property the amount of income tax imposed with respect to such gain.

"SEC. 86. GAINS AND LOSSES ON INTER VIVOS GIFTS.

"(a) IN GENERAL.—In the case of the transfer of property by an individual by inter vivos gift, there shall be taken into account in computing taxable income for the taxable period in which the transfer was made, the gain or loss which would have been realized and taken into account in computing taxable income if the taxpayer had sold the property at its fair market value at the time of the transfer.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to a transfer of property, to the extent that, at the time of the transfer, the aggregate fair market value of—

"(A) property (including the transferred property) held by the taxpayer, and

"(B) property previously transferred by the taxpayer after the date of the enactment of the Simpliform Tax Act.

does not exceed $60,000.

"(2) GIFTS TO SPOUSE.—Subsection (a) shall not apply to a transfer of property to the taxpayer's spouse.".

(b)(1) Section 1014(b) (relating to basis of property acquired from a decedent) is amended by striking out paragraphs (5) and (6).

(2) Paragraph (9) of section 1014(b) is amended by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(3) Section 1015 (relating to basis of property acquired by gifts and transfers in trust) is amended by adding at the end thereof the following new subsection:

"(c) PROPERTY SUBJECT TO TAX UPON TRANSFER.—If the property was acquired by a gift in a transfer to which section 85(a) (relating to gains and losses on inter vivos gifts) applied, the basis shall be the fair market value of the property at the time of the transfer.".

(4) Section 6161(a) (relating to extension of time for paying tax) is amended—

(A) by inserting "or income tax for a decedent's final taxable period" after "estate tax" in paragraph (1),

(B) by inserting "AND INCOME TAX ON GAINS AT DEATH" after "ESTATE TAX" in the heading of paragraph (2), and

(C) by inserting after "chapter 11," in paragraph (2)(A) "or of any part of the tax imposed by chapter 1 attributable to the application of section 84,".

(5) Section 6166A (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended—

(A) by inserting "AND INCOME TAX ON GAINS AT DEATH" after "ESTATE TAX" in the heading, and

(B) by redesignating subsections (j) and (k) as (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

"(j) TAX ON GAINS AT DEATH.—Under regulations prescribed by the Secretary, the provisions of this section shall apply with respect to so much of the tax imposed by chapter 1 as is attributable to the application of section 85 (relating to gains and losses on property at time of death) in the same manner as it applies to the tax imposed by section 2001.".

(c) Section 85 of the Internal Revenue Code of 1954 (as added by subsection (a)) and the amendments made by paragraphs (1), (2), (4), and (5) of subsection (b) shall apply with respect to decedents dying after the date of the enactment of this Act. Section 86 of such Code (as added by subsection (a)) and the amendments made by paragraphs (3) of subsection (b) shall apply with respect to transfers of property by inter vivos gift after such date.

TREATMENT OF CAPITAL GAINS

SEC. 7. (a) Section 1201(b) (relating to other taxpayers) is amended by inserting "or an individual" after "other than a corporation".

(b) Section 1202 (relating to deduction for capital gains) is amended by inserting "or an individual" after "other than a corporation".

(c) Section 1211 (relating to limitation on capital losses) is amended by—

(1) inserting "or INDIVIDUAL" after "CORPORATIONS" in the heading of subsection (a) and inserting "or an individual" after "a corporation" in the text of subsection (a),

(2) inserting "or an individual" after "other than a corporation" in paragraph (1) of subsection (b), striking out subparagraph (B) of such paragraph, and redsignating subparagraph (B) as (C), and

(3) striking out paragraph (2) and redesignating paragraph (3) as (2).

SPECIFIC INCLUSION IN GROSS INCOME

SEC. 8. (a) Part II of subchapter B of chapter 1, as amended by section 6, is amended by adding at the end thereof the following new section:

"SEC. 87. SOCIAL SECURITY AND WELFARE PAYMENTS.

"There shall be included in gross income monthly insurance benefits paid under title II of the Social Security Act to the taxpayer and any other cash benefits paid (other than a lump sum payable on account of death) to the taxpayer under such Act or any other Act of the United States or of any State providing for the payment of money to individuals in order to enable them to purchase food, clothing, and shelter and otherwise provide for their general welfare.".

(b) The table of sections of such part is amended by adding at the end thereof the following new item:

"SEC. 87. Social security and welfare payments.".

(c) Section 74 (relating to prizes and awards) is amended to read as follows:

"SEC. 74. PRIZES AND AWARDS.

"Gross income includes amounts received as prizes and awards, including amounts received as scholarships and fellowship grants.".

(d)(1) Section 274(a) (relating to entertainment, amusement, or recreation expenses) is amended to read as follows:

"(a) ENTERTAINMENT, AMUSEMENT, OR RECREATION.—No deduction otherwise allowable under this chapter shall be allowed for any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity. For purposes of this subsection—

"(1) dues or fees to any social athletic, or sporting club or organization shall be treated as items with respect to facilities, and

"(2) an activity described in section 212 shall be treated as a trade or business.".

(2) Section 274(e) (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) (relating to business meals).

CREDIT FOR CHARITABLE CONTRIBUTIONS

SEC. 9. (a) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 5 of this Act, is amended by adding before section 45 the following new section:

"SEC. 44D. CREDIT FOR CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount of the deduction which would be allowable to the taxpayer under section 170 (as in effect on the day before the date of the enactment of the Simpliform Tax Act).

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for the taxable year shall not exceed the amount of the tax imposed by this chapter 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) The table of sections for such subpart is amended by inserting before the item relating to section 45 the following new item:

"SEC. 44D. CREDIT FOR CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.".

MISCELLANEOUS AMENDMENTS

SEC. 10. (a) Section 62 (relating to adjusted gross income defined) is amended by striking out paragraphs (3) and (8) and redesignating paragraphs (4), (5), (6), (7), and (9) as (3), (4), (5), (6), and (7), respectively.

(b) The text of section 63 (relating to taxable income defined) is amended to read as follows: "For purposes of this subtitle the term 'taxable income' means gross income minus the deductions allowed by this chapter.".

WITHHOLDING

SEC. 11. (a) Section 3402 (relating to income tax collected at source) is amended by—

(1) striking "GENERAL RULE." in paragraph and (m), and

(2) amending subsection (a) to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Every employer making payment of wages shall deduct and withhold upon such wages (except as otherwise provided in this section) a tax determined in accordance with tables prescribed by the Secretary.".

(b) Subsection (o) to extension of withholding to certain payments other than wages) is amended by—

(1) striking "GENERAL RULE." in paragraph (1) and inserting in lieu thereof "SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS AND ANNUITIES.",

(2) redesignating paragraphs (1) through (3) as (2) through (4), respectively,

(3) striking "paragraph (1)" in paragraph (3)(A) (as redesignated by this Act) and inserting in lieu thereof "paragraph (2)", and

(4) inserting before paragraph (2) (as redesignated by this Act) the following new paragraph:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, any person making a payment of interest, a dividend, or any other payment subject to tax under chapter 1, shall deduct and withhold upon such payment a tax of 10 percent. For purposes of this chapter (and so much of subtitle F as relates to this chapter) any such payment shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.".

SIMPLIFORM TAX OF 1977

Mr. President, perhaps the most enduring issue before the U.S. Congress has been the need for tax reform and simplification. Most of my colleagues agree that tax reform and simplification is necessary, but when we set out to do it, conflicting interests result in a tax code even more incomprehensible than before.

During the last year the Congress has taken action on two major tax "reform" or "simplification" bills. The Tax Reform Act of 1976 and the Tax Reduction and simplification Act were discussed by my colleagues with every good intention of carrying out what their titles imply. These bills left us, however, with a tax code still seemingly ready to crumble under its own weight. Now we are awaiting the Carter administration's own views on tax reform, with a new push for tax legislation expected later this year or early next year. What will be the result of this new debate? If past history is any indication, Congress will once again fail to significantly reduce the burden of a complex and often inequitable tax code on the citizens of this country.

For this reason, Mr. President, I am sending to the desk today a bill which would totally restructure the individual income tax system. The Simpliform Tax Act, which I am introducing is similar to the bill I proposed in the last Congress, and to the concept originally offered to the Republican Platform Committee in 1972.

Few would deny that the Federal income tax system is an indispensible tool for gathering revenue and redistributing income. Since it was first authorized by the 16th amendment to the Constitution in 1913, it has played a leading role in our Federal revenue system. Individual and corporate income taxes are expected to provide 52 percent of the revenue for the fiscal year 1978 Federal budget. State and local governments have also employed income taxes to supplement other forms of revenue.

Nearly 200 years ago Adam Smith offered a helpful set of criteria for a "good tax." He said:

It should be certain, convenient, cost little to collect, and be based on the capacity of the taxpayer.

There is little question that our income tax system is currently falling well short of those goals.

In the first place, income taxes are not certain in the sense of being clear and indisputable to the ordinary taxpayer. The layman who itemizes his deductions must struggle through a very complex tax form or turn to a professional tax preparer or Internal Revenue Service employee for assistance. Even the experts, who work with the Tax Code every day, frequently disagree or make errors about the application of tax laws to an individual. The complexity of the forms required for filing a return with itemized deductions violates the principle of convenience. While some progress has been made toward simplying income tax forms, they remain far too inconvenient and complex. The person who can afford to employ a tax accountant to handle his personal taxes benefits more than those who cannot afford such services.

Of greatest concern to me, however, in offering the simpliform tax proposal, is the failure of the present system to genuinely reflect the capacity to pay. The Internal Revenue Code is still formally based upon the principle of the ability to pay. That is, the rates are scaled upwards along with income. There is nothing sinister or un-American about this committee to income redistribution. From the very adoption of income tax laws, it has been asumed that the funds to meet the social and economic needs of those with little or no income must come from the higher tax rates of the wealthy.

The failure of the individual income tax to be genuinely progressive in this country is best seen by considering the total tax bills, particularly including the regressive payroll tax. This combined analysis, however, is not necessary to demonstrate the failings of the individual income tax. The public exposure of the minimal income tax payments of public figures over the last several years has dramatized the failings of our tax code. Quite apart from the ethical and legal questions about the tax payments of particular individuals, the point is that the intent of the tax has been violated when a wealthy person pays little or no tax and a person of modest income surrenders $1 in $5 to the Federal Government.

It should not be thought that income tax underpayment is limited to a few highly publicized cases. In fact, studies by the Brookings Institution have indicated that the tax paid by those with income of six figures and above does not average more than 30 percent, in spite of a statutory rate up to 79 percent. Recent attempts to correct the problem by means of a minimum tax have not solved the fundamental problem. The result of this nonprogressive tax is a serious imbalance of income in a country that supposedly values equal opportunity. Studies conducted in 1970 indicate that the wealthiest 10 percent of the population receives 29 percent of the personal income and own 56 percent of the wealth. In contrast, the poorest 10 percent receive 1 percent of the income and owe more than they own.

The feature of the tax laws which allows most people, regardless of income, to keep their tax rate in the 20-percent range is, of course, the generous array of deductions, credits, and exemptions. Tax reform groups have been warning us about the violation of the progressive tax principle and now two significant studies from both the legislative and executive branches lend weight to their arguments.

The Subcommittee on Priorities and Economy in Government of the Joint Economic Committee of Congress completed a study in October 1974 of Federal subsidy programs. This excellent document prepared under the direction of the subcommittee chairman, the distinguished Senator from Wisconsin (Mr. PROXMIRE) covers the full range of direct cash payments, credit subsidies, and inkind distributions. Of greatest significance in reference to tax policy is the section on tax subsidies, that is, those provisions of the law which allow an individual or firm engaging in a specific market activity to make smaller tax payments to the Government than would otherwise be made. Having dealt with items which allow reduced tax payments for such things as capital gains, charitable contributions, and medical expenses, the committee estimated that nearly $60 billion was retained by individuals and corporations in fiscal year 1975 because of tax subsidies. Undoubtedly, the figure was even higher in fiscal year 1976.

Of even greater interest is the disclosure by the Office of Management and Budget of a similar listing of tax breaks called tax expenditures in the "special analysis" to the fiscal year 1978 budget. The disclosure of this information is required by the Congressional Budget Act of 1974. Tax expenditures are defined in this report as "revenue losses attributable to a special exclusion, exemption, or deduction from gross income or to a special credit, preferential rate of tax, or deferral of tax liability." It is correctly pointed out that tax expenditures are best seen as alternatives to budget outlays. They are used to encourage specific behavior by individuals and organizations by distributing to such individuals and organizations tax money which would normally be placed in the public coffers.

Of greatest interest in the context of individual income tax reform is the fact that almost 40 percent of the tax expenditures expected for fiscal year 1978 will go to individuals. Even allowing for a margin of error in these estimates—or this year, budget revisions by the new administration—the amount is enormous compared to the total expected receipts from individual income taxes in fiscal year 1978, which totals about 39 percent of total receipts, or an estimated $171.2 billion.

Tax expenditures and subsidies, then, are responsible for short-circuiting a supposedly progressive income tax. We agonize over finding the funds to appropriate a few million dollars for various worthy programs, but do not bother to regularly review the system of hidden appropriations in the form of tax expenditures or tax subsidies.

These new studies speak eloquently of the need for tax reform, as do the economic problems of our country and the world. President Carter has promised a tax reform package to the American people before the end of 1977. The Congress will probably begin considering tax legislation early in 1978. While I do not pretend that tax reform, whether achieved by my plan or any other, will cure all our economic ills, I do

insist that it be considered as a necessary component of current as well as long-range economic policy.

Despite the well-intentioned efforts of the Congress to achieve comprehensive tax reform last year and on a more limited basis earlier this year, we were hindered by the resistance to basic tax reform from many sectors. Item-by-item reform, in my opinion, is always doomed to failure. Beneficiaries of tax loopholes will continue to bring pressure to bear in order to protect laws that are advantageous to themselves.

For these reasons, Mr. President, I offer Simpliform as one solution to the failings of the individual income tax. I am leaving to others the needed reforms in the corporate income tax, the payroll tax, and the estate and gift taxes. My plan would complement efforts to reform these other taxes, as well as to overhaul our welfare and income maintenance programs.

For most people, Simpliform would substitute a four-line calculation for the present complex form 1040. It replaces 27 tax brackets with nine, and four tax tables with one. It provides one tax credit for adults in place of a series of exemptions under present law. No technical assistance would be needed in most cases to complete the tax forms, and the process of filing returns and receiving refunds would be quick and inexpensive.

The reform features of Simpliform are even more important than the simplification gains. The multitude of individual tax subsidies would be eliminated in favor of a lower, but progressive tax rate. While the personal tax credit would mean that a couple with income under $5,000 would pay no tax, the basic tax rate would be 10 percent for those with income above $5,000. As income moved above $10,000, the progressive feature would be implemented by means of a surtax, which would reach a total of 50 percent for incomes in excess of $1 million. While upper income people who have been benefiting from various deductions would be subject to more tax under Simpliform, their tax rate would not surpass 30 percent unless their income exceeded $50,000.

Simpliform would also achieve some profound gains in fairness and equity. Personal tax credits are much more equitable than exemptions, for they always carry the same dollar value. The present personal exemptions provide four times as much tax saving for the wealthy as for the lower-income person. Simpliform's restriction of credits to adults removes the tax disadvantage from the single and childless taxpayers. The advantages enjoyed by the homeowner over the renter are eliminated, at least from the tax law. While these and other tax advantages under present law may actually be consistent with American goals and values, the problem is that these deductions always benefit the wealthy more than the middle- and lower-income person. As in the case of personal exemptions, the person in the higher tax bracket gains more from deductions than the lower-income person.

There are those who are troubled at the thought of tampering with some tax subsidies, such as reduced rates for capital gains and deductions for charitable contributions. Actually, reduced rates for capital gains would no longer be necessary for most people, because their lower Simpliform rate would be comparable to the reduced capital gains rate.

The elimination of deductions for contributions to charitable organizations should not be seen as a threat to the many worthy causes benefiting from these deductions. In some cases, such as educational institutions and health agencies, support should be provided by means of the direct and responsible route, that of appropriations. This could be done without seriously increasing the tax burden of the average person. Those organizations which should not be directly subsidized, such as religious groups, would continue to rely on the voluntary contributions of their supporters. Those who deeply believe in the goals and values of such groups will not cease their support because of the loss of the tax deduction. Moreover, the typical taxpayer would have additional funds for such purposes, because of the tax savings under Simpliform.

A person can easily compare the effect of Simpliform on his own income tax obligation by a quick exercise in arithmetic and a comparison with his 1976 return. Simpliform is calculated by multiplying income by the appropriate tax rate and subtracting the number of $250 adult tax credits. While those now subtracting large deductions from an income over $20,000 will probably pay more tax, they can depend on the rate not exceeding a reasonable figure and are assured of fairness in the amount that they pay. The modest income family, the single person, and the typical senior citizen can count on paying less tax under Simpliform, and can also be assured of fairness in what they pay.

Mr. President, I submit Simpliform in the hope that it will be given thorough consideration. Other tax reform plans will be offered and I am happy to have them considered as well, hoping that they too will be thorough and simple. Let us not become so preoccupied with short-range economic solutions that we neglect the urgent goal of true comprehensive tax reform.

Mr. President, I ask unanimous consent that an article by Henry M. Wriston which appeared in the April 13, 1977, issue of the Christian Science Monitor entitled "The Scandalous Form 1040," as well as an article in the April 1977 issue of Harper's by Peter Meyer entitled "A Short History of Form 1040" appear in the RECORD at this time.

[From the Christian Science Monitor, Apr. 13, 1977]

THE SCANDALOUS FORM 1040

(By Henry M. Wriston)

Income tax time invites rage. To be constructive anger should spark a concerted demand for fundamental reform. No thousand-page "amendment" will do; it only makes the taxpayer more frustrated. No draftsman can write so large a volume without providing many "loopholes."

The demand should be for clarity. The bill should raise taxes and avoid attempts at social engineering, which belongs, if anywhere, in separate legislation. The present law has so many purposes, some incongruous with others, that it makes the constructs of the late Rube Goldberg seem models of simplicity and elegance of design. In its present form the income tax law shows Congress to be the enemy of thrift, generosity, common sense and even good morals. It is as though Congress had purposely incorporated into law some of the widely advertised bad habits of certain members.

There is no excuse for a statute so long and so complex that its purported authors cannot expound it. Millions watching TV heard the director of the Internal Revenue Service admit that some passages were obscure to him. And the chairman of one of the responsible committees conceded that he found a passage he could not recall approving.

Most citizens are ready to render unto Caesar that which bears his image and superscription. We have a right, indeed a duty, to denounce a quagmire of needlessly involved requirements which expose to us to penalties for perjury, for lateness and other entrapments. It is intolerable, moreover, to face a law which virtually requires a retired teacher to employ a lawyer, an accountant, a banker or a wizard—or a team of them, to guide him through a legal maze so complex that even experts get confused. I have paid penalties for "'errors" when I felt sure the IRS auditors were as likely to be wrong as my own experts were said to have been. The needless cost to the taxpayer arising from poor congressional draftsmanship is an unreasonable burden on the innocent. It is an added impost which arises from no fault of the citizen but from carelessness on the part of Congress.

The President of the United States told the senators and representatives in joint session assembled that, on the average, they each cost a million dollars a year for salary, staff, pension and other expenses. At that heavy price it is insufferable to have Congress enact a statute which confuses the taxpayer and endows an ever growing bureaucracy as well as a generation of lawyers, et al. who make a living out of penetrating obscurity.

Senators blather about the aged ad nauseum. "Senior citizens," they proclaim, must be treated with compassion. I am one of the aged who consider the scandalous stimulation of inflation by acts of Congress a heavy, needless burden upon those of us who are retired. Added to the weight of taxation it is unendurable. What we need is a law which we can read, understand, and obey at no extra cost occasioned by the inepitude of costly Job's counselors in Washington.

While imposing unnecessary punishment upon the hapless citizen, Congress wonders why it is not held in high esteem. How can the public have confidence in legislators who turn out volumes of sticky flypaper and call the mess law? Each member took an oath to "perform to the best of my ability." Then they enact a tax statute that make a mockery of their oath. If that law is the best they can do they should all resign forthwith. At an annual cost of a million dollars apiece we have a right to demand clarity of language, readable prose. No senator can stand in his place (among the six or eight colleagues who normally attend) and assert he has met that elementary test. No representative (between Tuesday and Thursday, his normal week) can say "under penalty of perjury" that he has even tried to meet that modest obligation. No one who voted for this convoluted abomination can pretend he tried to be clear. Whatever else he had in mind, conveniences of the taxpayer was not on the list.

The Congress voted a premium on immortality. President Carter, speaking in the Department of Agriculture, made the offhand comment that some in his audience were living in sin. That quaint expression clearly puzzled his hearers. When he clarified it by suggesting that those who were so living should get married, the response was laughter. Did not the President know that, by congressional ukase, marriage would result in a tax penalty? That was part of a "reform" bill. It was made the law of the land by a Congress which, in exchange for "30 pieces of silver" they were too craven to vote themselves, is now taking an exceedingly elementary course in "ethics," and making heavy weather of it.

Finally, consider the cost of this legislative monstrosity. It calls to mind a passage in the Declaration of Independence, he "has erected a multitude of New Offices and sent hither swarms of officers to harass our people and eat out their substance." The sheer bureaucratic cost of administering this atrocious caricature of "a government of laws, not of men" boggles the mind. When to this first cost is added the time and effort of the taxpayer, his aides, and then the auditors, the cost of obedience to law is staggering.

The President characterized this law as a scandal. Too long we have submitted to taxation without lucidity. It is time for Congress to write a statute an honest citizen can understand.

[From Harper's, April 1977]

A SHORT HISTORY OF FORM 1040

On October 11, 1913, Edward S. Beach dashed off an angry letter to the New York Times. He called President Wilson "the father of spies," and thanked the "whole brood of predatory politicians for the coming espionage." Beach was convinced that the new tax law would unleash upon the country a whole "army of Federal spies whose nose will be stuck into the affairs of every man suspected of having an income of $3,000 or more a year."

Unfortunately for Beach, the vast majority of Americans earned much less than $3,000 a year in 1913. In fact, they welcomed a law which promised to police the incomes of the rich, a measure which would redistribute the wealth and equalize the tax burden. The week before Beach's letter, Congress had attempted to do just that.

With its newly acquired Sixteenth Amendment powers, Congress wrote the first income-tax law of the century, an appendage to the Underwood-Simmons Tariff Act which reduced the tariff to its lowest level since the Civil War. Rep. Cordell Hull, chief draftsman of the income tax, had called the tariff an "infamous system of class legislation." The new tax, he argued, would rectify the inequities of a system which was "virtually exempting the Carnegies, the Vanderbilts, the Morgans and the Rockefellers with their aggregated billions of hoarded wealth." Congressman Hull also boasted that the new law was brief. In less than fifteen pages, Congress spelled out the income-tax requirements for both corporations and individuals. Only on net incomes above $3,000 (roughly equivalent to $17,550 today), said Congress, would the "normal tax" of 1 percent be leveled. An additional tax ranging from 1 to 6 percent was imposed on amounts in excess of $20,000 (about $117,000 today). In the first full year of enforcement of the new law, the tax burden fell to a scant 357,000 people—less than one-half of 1 percent of the population. Few could complain. At a time when the per capita annual income of the gainfully employed hovered near $900, the weight of the tax ballast fell clearly to those most able to pay.

On January 5, 1914, the Treasury Department unveiled the individual income-tax blank. Form 1040, together with its instructions—four pages in all—read like a Dick-and-Jane primer. It was short enough to be reproduced, instructions included, in four columns of a single page of the New York Times. (The next day two New Jersey gentlemen filed the Time's clippings, dutifully filled in, with their local revenue agent.) The original 1040 form is no less a relic of simpler times than the 1913 law itself. But the majority of the country, it seems, once granted a reprieve from taxation in 1913, sighed in relief and promptly fell asleep. From a perspective granted by six decades of tax increases and bureaucratic expansion, it appears that something has run amok.

Rep. Charles A. Vanik was born just a few months before the passage of the first income-tax law. He now sits on the House Ways and Means Committee, but believes that "there is an Alice-in-Wonderland quality in speaking of a voluntary tax system when nearly half of the nations' taxpayers feel that they must get or pay others to help them complete their own returns." The phenomenal proliferation of law, loophole, litigation, and juridicial exegesis has spawned a huge tax industry. It gathers its capital from legal conundrums. "The tax system and support for it," as Vanik points out, "is being smothered by the endless forms, instructions, and complexities of present tax law."

During 1975 the weekly Internal Revenue Bulletin notified its subscribers of 576 revenue rulings, 66 revenue procedures, 27 public laws relating to Internal Revenue matters, 31 committee reports, 3 executive orders, 42 Treasury decisions, and a host of other addenda. What does this catalogue of IRS statistics and tax-law twists and turns do for taxpayers? It insures that millions of them run to the doors of their preparers each year for guidance.

But even this recourse is not safe. A report reluctantly released by the IRS last year revealed that the experts, too, are confused. Three out of four tax returns filed by paid preparers—attorneys, public accountants, CPAs, commercial preparers—for those with incomes between $10,000 and $50,000 contain mistakes. Even the IRS errs on 79 out of each 100 returns it completes for the middle-income taxpayer.

Altogether the IRS audits a couple of million returns each year. And each year the American taxpayer comes up short—$5.3 billion in 1975. Countless millions more contain mathematical errors, most of which increase the taxpayer's liability when corrected. (The word countless is a slight exaggeration because there are very few things which the IRS doesn't count.) The mistakes, whether made innocently or fraudulently, speak less than optimistically either about our ability to comprehend our tax responsibilities or our desire to tolerate them.

So Congress bemoans the muddle in the IRS while the service pleads for simplification of the law. Commissioner Donald Alexander once told a Ways and Means subcommittee that taxpayers couldn't "find their way through the maze that Congress intended for them." Though the Tax Reform Act of 1976 was the most extensive overhaul of the system since the Internal Revenue Code of 1954, it did little to de-maze the law. As a result, the commissioner was forced back to the drawing board to relay the good news to 1977 taxpayers. "Completing your return this year," he writes, "could be more difficult."

The instructions for page one of this year's 1040 comprise nearly four pages. If the taxpayer perseveres that far he will have already encountered 15 "cautions" and "notes," as well as 206 "if" clauses and been referred to another 39 forms, schedules, and related IRS publications. If he had a question about estimated itemized deductions for alimony expenses, for example, and had a copy of the new law at hand he might turn to Code Section 3402(m)(2)(A) for explanation:

"The term 'estimated itemized deductions' means the aggregate amount which he reasonably expects will be allowable as deductions under chapter 1 (other than the deductions referred to in sections 141 and 151 and other than the deductions required to be taken into account in determining adjusted gross income under section 62 other than paragraph (13) thereof) for the estimation year."

As the figures show, most taxpayers will pay an expert to make their mistakes.

The code remains our basic tax document, a legal farrago that, as one IRS spokesman has said, "defies human understanding." Prior to last year's Reform Act it was barely compactible into a single bulky volume. The amending legislation is itself nearly 1,000 pages long. There are also volumes of Income Tax Regulations (the Treasury Department's interpretation of the code), volumes of revenue Rulings (the IRS's interpretation of specific situations), and more volumes of court decisions. It's no wonder that such an imposing tax industry has risen to interpret, administer, and exploit that document.

How many different livelihoods depend on the legal tax jargon? Nine percent of the 218,146-member American Bar Association are considered tax specialists. The IRS itself employs more than 800 attorneys; some 200 lawyers work in the Justice Departments' Tax Division. Hundreds of commercial tax preparers (in the Manhattan Yellow Pages alone, seventy-five entries crowd under the "Tax Preparation" heading) vie for the $600 million that Americans pay annually for their services. H. & R. Block, "the income tax people," last year prepared 10 percent of the more than 85.5 million individual income tax returns. Twenty research centers across the country find sustenance in tax specializing, as do 14 tax associations and some 300 journals and periodicals. And not to be forgotten in the enumeration is the IRS and its 82,000 employees, 4,050 different forms, and hundreds of publications.

The latest development in the tax imbroglio industry is the electronic law libraries. Their services are increasingly valuable as a means of sorting through what otherwise would be reams of paper. The Lexis Library of Meade Data Central, Inc., for example, has nearly 300 subscribers throughout the country. In a matter of seconds any one of them may requisition the latest tax regulation or court decision from an IBM 370/155 computer. Not surprisingly, Meade's most frequent patron is the Internal Revenue Service.

It has taken less than sixty-four years to slide into a system which warrants Mr. Beach's wrath. In the meantime we seem also to have slipped "through the looking-glass" and come upon a system bereft of manageability, not to mention comprehensibility. But Lewis Carroll said it best. " 'Curiouser and curiouser!' cried Alice. . . . 'Now I'm opening out like the largest telescope that ever was! Good-bye, feet!' "

THEN AND NOW

	1914	1975	Percentage change
U.S. population	97 million (est.)	214 million	120
U.S. labor force	34.8 million (est.)	94.8 million	172
Total Internal Revenue collections.	$415.6 million ($2.43 billion today).	$293.8 billion	172
Individual income tax collected.	$41.04 million ($24 billion today).	$156.4 billion	551
Number of individual returns.	357,515	85,518,719	23,800
Percent of population taxed	Less than 0.5 percent	40 percent	
Percent of labor taxed	1 percent	90 percent	
Tax per capita	$4.28 ($25.03 today)	$1,375	5,390
Tax per return	$114.80 ($671.58 today)	$1,840	173
IRS employees	4,000	82,000	1,950
IRS employees per capita	1:24,250	1:2609	829
IRS forms	45 (est.)	4,050	8,900
ABA members	8,033 (1913)	218,146	2,600
IRS lawyers	1	800	799
Tax-related court cases	4,731	43,687	820
IRS costs	$6.8 million ($39.7 million today).	$1.58 billion	3,900
Number of words of law	10,000 (good est.)	750,000 (good guess)	7,400

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

S. 48. A bill to authorize flood control and flood protection measures for the Tug Ford and Levisa Fork of the Big Sandy River, West Virginia and Kentucky and the Cumberland River, Kentucky; to the Committee on Environment and Public Works.

BIG SANDY RIVER FLOOD CONTROL ACT OF 1979

Mr. HUDDLESTON. Mr. President, I wish to state my strongest possible support for the emergency flood control authorization for the Tug and Levisa Forks of the Big Sandy River and the Cumberland River in Kentucky and West Virginia.

Nearly every human activity in the Big Sandy and Cumberland River Basins is affected by persistent repetition of flooding. In the past 5 years, five major floods have occurred taking 11 lives and resulting in $277 million in damages. The existing flood control system, mostly in the Levisa Fork Basin, prevented at least $175 million in damages. Nevertheless, the destruction that did occur caused severe economic disruptions and social distress, with thousands of families left homeless and hundreds of businesses totally destroyed. Relatively flood-free lands for rebuilding communities essentially are nonexistent, particularly in this area. The proposed projects would provide a high degree of protection at least sufficient to protect against the April 1977 flood. The projects also would provide protection to a substantial amount of developable land which otherwise would be subject to frequent flooding. Development of housing on these relatively flood-free acreages would ease the critical housing shortage—over 42 percent of all eastern Kentucky housing units are classified as substandard due primarily to withstanding continued flooding.

This legislation would authorize the Corps of Engineers to design and construct, at Federal expense, floodwalls, levees and other appurtenant facilities in those areas hit hardest by the repeated flooding on the Tug and Levisa Forks of the Big Sandy River and their tributaries and on the Cumberland River and its tributaries. It is my understanding that this authorization does not include any new flood control dams.

I wish to emphasize that this legislation is not limited in its application to the communities included in the legislative language. There are a number of unnamed Kentucky communities located along the Big Sandy River and the Cumberland River that have been severely damaged by repeated disastrous flooding. The welfare of the people who live in these communities is just as important as that of residents of those communities mentioned in the legislation. I would like to make clear that the authorization contained in the legislation allows the corps to dredge, deepen, clear, and snag the Big Sandy River, including both the Tug Fork and the Levisa Fork and their tributaries and the Cumberland River and its tributaries. So I want to again make this point for purposes of legislative history.

I believe it is imperative that no time be lost in alleviating the potentially critical flooding conditions in this area that has received numerous Presidential declarations in the past. In anticipation of this authorization, at my request the Senate Appropriations Committee included language in the 1978 Public Works Appropriations Act directing the corps to use available funds to proceed with this work as soon as Congress approves the authorization. I quote the language:

> The Committee understands the emergency situation existing in portions of Kentucky, West Virginia and Virginia which suffered one of the most disastrous floods experienced in the area on April 3-4 of this year. The committee believes it is imperative that no time be lost in alleviating the potentially critical flooding conditions in this area that has received numerous Presidential disaster declarations in the past. The committee is aware that section 119 of S. 1529 would authorize funds to deal with these disasters and this legislation is currently moving through the Congress toward enactment. The committee would expect the Secretary of the Army to be alerted to this legislation so that the Department of the Army would be in a position to initiate the appropriate budget request at the earliest possible date. For its part, the committee would be willing to entertain and consider reprogramming requests or budget requests in an early fiscal year supplemental request for relief of these disastrous conditions. In addition, the committee expects the Corps of Engineers to submit to appropriate committees of the Congress within six months its schedule and plan for flood protection measures to be undertaken.

This emergency flood control legislation is absolutely vital and should receive the very highest priority.

By Mr. HATFIELD:

S. 50. A bill to require a refund value for certain beverage containers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

BEVERAGE CONTAINER REUSE AND RECYCLING ACT OF 1979

Mr. HATFIELD. Mr. President, today I am introducing the "Beverage Container Reuse and Recycling Act of 1979." Since I introduced this bill in the 95th Congress, three more States, Delaware, Connecticut, and Iowa, have passed legislation to require refundable deposits on beverage containers. This brings the total number of States encouraging reuse and recycling of beverage cans and bottles to seven.

This is the third time I have introduced similar legislation to the U.S. Congress. Good sense should dictate that we pass national legislation to address a national problem. Manufacture, bottling, consumption, and disposal of beverages are done, by and large, on a geographic basis, not a political one. Yet, the problem created by the disposal of approximately 80 billion beverage containers each year is being addressed by a plethora of State, county, and local ordinances, each one slightly different from the other.

In the 96th Congress, the opportunity exists for us to face a nationwide problem, correct it with relatively little cost, and reap tangible benefits the first year.

Each year 360 trillion Btu's of energy is expended in the manufacturing of beverage containers in the United States. Under this legislation, 32 to 43 percent of that figure could be saved through the return of bottles and cans. By 1985, approximately 210 million tons of refuse will yearly fill our land. Under this bill, we will have the means to recycle approximately 10.5 million tons of refuse, through the simple device of a mandatory deposit on beverage containers.

Since I introduced this bill in the last Congress, the General Accounting Office has released its study, "Potential Effects of a National Mandatory Deposit on Beverage Containers." That study reconfirms reports by the Federal Energy Administration (in October of 1976) and the Environmental Protection Agency findings, prior to the EPA approval of guidelines establishing a system of refundable deposits on all beer and soft drink containers sold on Federal facilities. The GAO study notes that much of the pressure to switch from returnable to nonreturnable containers comes from intermediate customers, stores and distributors, rather than the ultimate consumer. It speculates that the consumer may have had little effect on the industry choice of container type.

Mr. President, this bill will not infringe on any citizen's convenience. He or she will still have the option of discarding beverage containers. It will only obligate each user who discards a bottle or can to pay something nearer to the true cost of that decision to discard. Conversely, it will provide incentive to those who choose to participate in the cleanup of our land, the recovery of resources and the saving of scarce energy.

For centuries, we have had the luxury of ignoring the indirect costs of our use of our planet. That is a luxury we can no longer afford. We must become stewards of the Earth. If our stewardship is to be wise rather than rapacious, we must give value for value. We must balance our consumption of the Earth's resources with renewal of those resources, wherever possible. Where resources are not renewable, we must use no more than a reasonable share, and reuse what we can.

This bill is both a symbolic and substantive step in that direction.

Mr. President, I ask unanimous consent that a general summary of the impacts of a returnable beverage container proposed by the Environmental Action Foundation, as well as a question and answer sheet prepared by the EPA be printed at this point in the RECORD.

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

BOTTLES & SENSE

(Researched and written by Patricia Taylor; edited and produced by Nancy Sachs, Carol Greenslit, Kathleen Painter, Davida Daemon; Production consultants: Philip Michael, Peg Averill; drawings by Michael Merchant)

The returnable bottle is a wonderful invention whose time has come—again. We

didn't fully appreciate the returnable 15 years ago when it was the only way to buy beer and soft drinks. So nobody raised a fuss when the container manufacturers and brewers shifted to throwaway bottles and cans.

Over the past five years, however the returnable bottle has looked better and better to Americans who are tired of seeing throwaways littering their landscape. And it's not only the possibility of reducing litter that makes the returnable look good: it's a great money saver for the consumer, as well as an energy and materials saver.

The consumer doesn't buy a deposit bottle—he *borrows* it. No wonder returnables are cheaper than throwaway cans and bottles! A returnable bottle can be refilled an average of 15 times. No wonder returnables are more energy saving and materials conservative than throwaways. (We could save 115,000 barrels of oil a day and 7 million tons of reusable materials each year if we returned to returnables nationwide.)

The refillable bottle is making a comeback across the country as more and more cities, counties and states pass laws which require a deposit on all beverage containers. It's only a matter of time before refillable cans and bottles will be as fully available and in use as they were before the throwaway ethic began. Returnables make sense for today: they're a simple way to save energy, money and materials at a time when all of these resources are scarce.

The proliferation of one-way, throwaway beverage containers places a heavy and unnecessary burden on our national energy resources. According to the U.S. Environmental Protection Agency (EPA), we *waste* 224 trillion BTU's of energy each year manufacturing throwaway beer and soft drink cans and bottles. (1) That's enough energy to furnish all the electrical energy needs of New York and Chicago residents for an entire year. And it would be enough energy to meet the combined yearly requirements of 185 million people living in Asia, Africa and Central America. (2)

The Citizen's Advisory Committee on Environmental quality recognized the need for federal leadership in effective energy conservation. Therefore, the Committee recommended to the President that national legislation be enacted to require a refundable deposit on all beverage containers. Citing the energy shortage as "a critical national problem," the Committee reported that "refillable" beverage containers provide an inexpensive, . . . and energy-saving alternative to . . . energy-wasting disposable beer and soft drink containers." (3)

John Sawhill, former Administrator of the Federal Energy Administration, has said, "there are few other instances . . . where energy savings of this magnitude could be achieved as easily in terms of required capital investment and employment dislocations . . ." (4) Despite findings by government and private researchers of the potential for dramatic energy savings from nationwide returnable can and bottle use, we continue to produce billions of throwaways each year. So many, in fact, that one percent of our total national energy consumption is used solely to package the "leisure beverages" we drink.

Although some industry officials promote volunteer recycling and municipal resource recovery facilities as effective ways to reduce energy loads in the beverage industry, their claims are not borne out in fact. While recycling containers in some cases does use less energy than manufacturing new ones, refilling returnable containers uses much less energy than recycling. One throwaway can or bottle requires three times more energy to deliver the same amount of beverage than a returnable glass bottle used 10 times, less than the national average number of returns.

Footnotes at end of article.

Energy Use of Different Containers

Environmental Impact:	*Energy (million BTUs)*
15 Trip Glass (Returnable)	15
All Steel	35
Bi-metallic Can	54
One-way Glass	63
Aluminum Can	89

Source: Midwest Research Institute under EPA contract.

Throwaway cans and bottles are an energy luxury we can no longer afford. With a nationwide all-returnable system, we could easily cut energy consumption in the beverage industry by 50 percent. Through a dramatic change in driving habits, Americans recently succeeded in saving 200,000 barrels of oil a day under the 55 mph speed limit conservation measure. By simply returning to returnables, we could save an additional 115,000 barrels of oil each day. (5)

MATERIALS

Manufacturing throwaways is a wasteful and expensive habit. One throwaway can or bottle uses four to six times more raw materials than one returnable bottle refilled 15 times, the current national average. Millions of tons of potentially useful materials end up discarded as garbage or litter.

In 1975, the U.S. beverage container industry used 7 million tons of glass, 2 million tons of steel and 500,000 tons of aluminum to make beer and soft drink containers, most of which were used once and thrown away. These materials represent a phenomenal 45 percent of all glass, six percent of all aluminum and two percent of all steel produced in the United States.(6) As William Coors, president of the nation's fourth largest brewery, recently testified, "We aren't going to have the materials in which to market our product if we don't start getting our containers back."(7)

Unless the "throwaway ethic" is reversed, the need for raw materials imports will continue to grow. Scientist Glenn T. Seaborg recently called for better planning of materials policy. "As economic growth and industrialization accelerate over much of the world, the competition for mineral supplies will increase and the developing countries will exert more control over . . . their mineral resources. This situation has the seeds for crisis. . ." (8)

Dependence on overseas suppliers for materials is especially critical in the aluminum industry. The U.S. currently imports 85 percent of its aluminum and bauxite, the raw material used to make aluminum. When bauxite prices rose recently, Alcoa cut back production of aluminum for housing, construction materials, airplanes and household foil. Aluminum was still available, however, for beer can manufacture, one of the top three categories of aluminum consumption in the United States. (9)

It is time to recognize the folly of using precious imported materials to make throwaway beverage containers. Returning to returnables would safeguard these limited materials and more sensibly allocate our nation's resources.

LITTER

In 1973, over 60 billion beer and soft drink containers were manufactured in the United States. That figure will climb to 80 billion in 1985. (10) One beverage container in four ends up as litter on our landscape. (11) The ugliness of littered beer cans and broken pop bottles along roadsides, in parks and on beaches prompted the passage of beverage container legislation in the states of Oregon, South Dakota and Vermont. In addition, Oberlin, Ohio; Bowie and Montgomery County, Maryland; Berkeley, California; Cayuga County, New York; Fairfax and Loudon Counties, Virginia have all passed legislation curbing throwaways.

Beverage containers make up between 60 and 80 percent of litter by volume and 20 and 40 percent by item count (when one beer can equals one gum wrapper). (12) The efforts of container manufacturers and the brewing and soft drink industries to educate the public against littering have had little impact. Anti-litter laws around the country have proven unenforceable.

Beverage container legislation has been in effect in Oregon and Oberlin, Ohio since 1972 and in Vermont since 1973. Litter surveys in both states have shown substantial reductions in total litter and in beverage container litter. Of the littered beverage containers found by the Vermont State Department of Highways, only 25 percent were sold in Vermont; the rest were brought in by out-of-state tourists. (13)

The economic incentive of a deposit has now been shown to effectively reduce beverage container litter. About $535 million is currently spent each year for litter pick-up around the county.(14) A deposit on beverage containers provides a financial incentive to clean up littered containers. People will once again collect beer and soft drink containers along the roadsides and return them for extra spending money.

Buying returnables is a vote against litter and a positive action for a more beautiful America.

SOLID WASTE

The growth rate of throwaways is astronomical. The manufacture of throwaway cans and bottles has grown eight times faster than actual consumption of beer and soft drinks. Between 1955 and 1973, the number of containers produced skyrocketed 488 percent, while consumption of beer and soft drinks increased only 58 percent. (15)

Cutting down on wastes is a critical problem for cities and counties responsible for solid waste collection and disposal. Beverage containers are the fastest growing category of municipal solid waste, increasing eight percent annually. Although some states and localities have enacted their own legislation to control throwaways, the growing solid waste burden must ultimately be dealt with by the nation as a whole. Endorsing this philosphy, the National League of Cities/U.S. Conference of Mayors resolved that, "Unless we reduce the total volume of solid waste generated nationally, local governments will continue to be overburdened with the flow and financing of the nation's solid waste."

As the flow of materials increases, we can expect contined expansion of the amount of waste requiring disposal, according to the National Commission on Materials Policy. The Commission recommends that "the amount of solid waste be increasingly reduced where possible by methods of recycling, reuse and recovery."(16)

Recycling centers have been set up in many communities around the country in an attempt to recover some of the aluminum, glass and steel wasted in throwaway beverages container production. Facilities to mechanically recover aluminum and glass from solid waste are now being developed. Voluntary centers have been particularly encouraged by those in the beverage container business. Rather than curtail their expanding production of throwaway cans and bottles, these industries are eager to promote the image of citizens as litter-collectors.

However only one in seven aluminum cans is actually recycled; 10 billion of them continue to find their way onto refuse piles and roadsides every year. In 1973, only three percent of the steel cans were recycled. (17) Most steel cans can't even go through the recycling process because their aluminum flip-tops contaminate the steel, making recovery uneconomical.

Mechanical systems for the separation of glass and aluminum have not yet been demonstrated on a commercial scale. Even if the technology is successfully developed,

most municipalities will not be able to afford these facilities and their construction will take many years. Therefore, resource recovery of a substantial portion of the country's throwaway cans and bottles in the near future is impossible.

It has been argued that a nationwide returnable system would reduce the aluminum can content and hence lower the market value of municipal waste available for recycling. Energy researcher Bruce Hannon of the University of Illinois has said that this logic is like having "each person swallow a little platinum to increase the value of sewage" so that the sewage treatment plant can operate efficiently. (18) In fact, there is no conflict between resource recovery systems and a nationwide returnable system. According to the EPA, "changing the composition of municipal waste through mandatory deposit legislation would not significantly affect the economics of most resource recovery plants." (19)

Our first priority should be to get rid of what we don't need; then when the technology is available, we should recover the rest. In the meantime, manual separation of recyclable materials by citizens is a viable alternative to expensive, energy-intensive resource recovery operations. With a nationwide deposit system, we could ensure that six to seven million tons of materials would be returned for reuse and recycling each year.

THE CONSUMER

Buying beer and soft drinks in returnable glass bottles instead of throwaways is a good way to save money. In New York state alone, consumers could save close to $40 million each year under mandatory deposit legislation.(20) That's how much extra they now spend for the "convenience" of throwaway containers. On the average, equivalent amounts of beverage sell for two or four cents more in a throwaway can or bottle than in returnables.

The reason for the higher prices is that the major expense in throwaway container production goes for packaging—not for labor, ingredients or transportation. According to a survey conducted by market analysts Sanford C. Bernstein & Co., "packaging is the major factor in the production of beer," accounting for as much as 56 percent of the costs while the ingredients account for only 12 percent.(21) But with returnable bottles, the consumer saves money by borrowing the expensivo packaging.

Currently it is difficult for consumers who want to save money to find returnables on store shelves. In Washington, D.C., for example, an Environmental Action survey found that less than 15 percent of the 361 liquor stores surveyed carried beer in returnables. And where beer was available in returnables, it was sold only in 24-bottle cases in one or two brands. The situation is similar—and often worse—in other communities around the country.

In January, 1975 the Falstaff Brewing Co. launched the first marketing of returnables in 12-bottle cases. According to Falstaff Vice-Chairman Joseph Griesedick, "Returnable bottles are the most economical for the consumers and the brewer." He noted that consumers would pay only $2.50 for a 12-bottle case of returnables as compared with $3.13 for the same amount of beer in cans—a 5-cent-per-bottle savings.(22)

Returnable savings hold true in the soft drink industry as well. The president of Coca-Cola, USA, testified before the Senate Judiciary Committee: "Coke sold in food stores in non-returnable packages is priced, on the average, 30 to 40 percent higher than Coca-Cola in returnable bottles. The difference lies essentially in the different costs of packaging. The cost of returnables is spread over many uses; the cost of the non-returnable package is absorbed in one use."(23)

Obviously many beverage-related industries prefer to continue this upwardly spiraling system of more throwaways and higher prices. Such industries no longer have to pay the costs of refilling and reusing beverage containers which are higher than the cost of the beverage ingredients. And as taxpayers, consumers must also foot the bill for collection and disposal of throwaways.

Attitude surveys and the experiences of Oregon and Vermont have shown that consumers are more than willing to forego "convenience" packaging for a return to returnables. The first nationwide poll on the issue of returnables was recently conducted by the Opinion Research Corporation for the Federal Energy Administration (FEA). An overwhelming 73 percent of those polled favored a law requiring that all soft drinks and beer be sold in returnable bottles and cans.

In Michigan, a private poll conducted for Governor William Milliken found that 73.3 percent of the people favored a state law banning the sale of non-returnable bottles and cans.(24) And, in the state of Oregon, an opinion poll taken one year after enactment of that state's law found 91 percent of the people approved, while only five percent voiced any disapproval at all.(25)

Consumers have found other reasons, in addition to saving money, for returning to returnables. The safety hazards of throwaway cans and bottles are a source of serious concern to consumers. In its spring, 1975 hearings, the Consumer Product Safety Commission verified that throwaway bottles break more easily than returnables. The Commission pointed out that splintering or exploding glass beverage bottles were responsible for 11,000 hospital emergency cases in one year. Detachable, "flip-top", "pull-top" tabs on metal cans are also a safety hazard to people who step on them or swallow them, according to the Journal of the American Medical Association.(26) The state of California recently passed legislation prohibiting the use of detachable openings on beverage cans, and detachable flip-tops would be outlawed under national beverage container legislation.

Nationwide use of returnables would shift the cost of litter collection and container disposal back to the manufacturers and consumers of beverages, relieving the growing burden being placed on the general public. Returning to returnables would also mean a healthy financial boost for the nation's consumers.

EMPLOYMENT IMPACT

Thousands of workers have lost their jobs in the brewery and soft drink industries because of throwaways, according to Anthony Sapienza, president of Brewery and Soft Drink Workers Union Local 1164. "It requires fewer workers to process these containers than returnable bottles," Sapienza said in announcing his union's support of beverage container legislation. He added that "steelworkers make the throwaway cans, glass workers make the bottles, but we lose the jobs."(27)

Twenty-six thousand three hundred workers lost their jobs in the brewing industry between 1958 and 1974.(28) Concentration and consolidation in the beverage industry, along with the shift to throwaway containers, have led to the shutdown of many brewing and soft drink bottling companies. In 1935, for example, there were 765 brewing plants in the U.S. but by 1974, only 99 plants remained. These are owned by 55 companies, six of which control 68 percent of the market.(29) This trend is also being followed in the soft drink industry. Seven thousand nine hundred workers lost their jobs in the soft drink industry between 1970 and 1974.(30) Coca Cola plans to phase out 900 franchised bottling plants across the country and replace them with 78 centralized plants by 1980.

A recent development in beverage containers will mean even greater job loss in the future. The plastic bottle is already being used by soft drink manufacturers and is expected to capture 10 percent of the throwaway container market by 1980. The rapid introduction of this container will mean job losses for workers in the glass and can industries, as manufacturers in the brewing and soft drink industries switch to plastics.

A report commissioned by the Environmental Protection Agency predicts that continued expansion of the throwaway beverage container system will lead to further loss of jobs. (31) The job losses which have already occurred in the beverage container industry were the result of "natural" free market forces. Clearly, if we allow these market forces to prevail, thousands more workers in the soft drink, brewing and container manufacturing industries are bound to suffer major job losses and dislocation.

Passing national mandatory deposits legislation will affect the jobs of workers now manufacturing throwaway cans and bottles. Although the proposed legislation does not ban the manufacture of throwaway bottles and cans, it is expected that there will be a shift to the use of refillable bottles and recyclable cans. Thus the production of throwaway bottles and cans would be reduced. The Research Triangle Institute has estimated that after a five-year implementation period for the proposed law, about 90 percent of the containers sold would be refillable and 10 percent would be cans. During this period, the Institute estimated that 39,000 jobs would be lost; (32) yet at the same time, using RTI's methodology, approximately 107,000 new jobs would be created for small bottlers, distributors, truckers and retail clerks.

In every study conducted on the employment impact of federal or state beverage container legislation, there has been a net increase in employment. However, many of the jobs generated by a returnable system can not be substituted for jobs under a throwaway system, although many are of equal pay rate. Therefore, provision should be made for retraining and relocating displaced workers, while those presently unemployed gain the thousands of new jobs created by a shift to returnables.

It's true that there will be some job dislocations with a shift to returnables as there were in the past with the shift to throwaways. But by going back to returnables, jobs will be created instead of lost.

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The Can Manufacturers Institute, 1625 Massachusetts Ave. NW, Washington, D.C. 20036.

Environmental Action, Inc., 1346 Connecticut Ave. NW, Room 731, Washington, D.C. 20036.

Glass Container Manufacturers Institute, 1800 K Street NW, Washington, D.C. 20006.

League of Women Voters of the U.S., 1730 M Street NW, Washington, D.C. 20036.

National Soft Drink Association, 1101 16th Street NW, Washington, D.C. 20009.

U.S. Brewers Association, 1750 K Street NW, Washington, D.C. 20009.

QUESTIONS AND ANSWERS ON RETURNABLE BEVERAGE CONTAINERS FOR BEER AND SOFT DRINKS

(Waste Reduction Branch, Resource Recovery Division, Office of Solid Waste Management Programs, U.S. Environmental Protection Agency, July 1975)

1. *What are returnable beverage containers?*

Returnable beverage containers are containers that are accepted for return after use. Usually a cash deposit is paid when the beverage is purchased and refunded when the container is returned. The purpose of the deposit is to provide an incentive for the return of the container either for refilling or for recycling of the container materials.

2. *What are the environmental and resource conservation benefits of returnable beverage containers?*

The return of beverage containers reduces the generation of beverage container waste and litter. Reuse and recycling of containers reduces air and water pollution resulting from the production of containers, and conserves energy and materials.

3. *What is mandatory beverage container deposit legislation?*

Mandatory deposit legislation is a law or ordinance which requires a deposit on all beverage containers sold in a particular jurisdiction.

4. *Is there mandatory deposit legislation in existence today?*

Three States have enacted mandatory deposit or returnable container laws for beer and carbonated soft drinks: Oregon, Vermont and South Dakota.

In Oregon, a refund value of 2 cents is carried by all "certified" containers, which can be reused by more than one manufacturer. All other containers carry a refund value of 5 cents. Metal containers with detachable tab tops are banned.

In Vermont, all beer and soft drink containers carry a refund value of at least 5 cents. The manufacturer or distributor is also required to pay the retailer a fee of 20 percent of the deposit (1 cent per 5 cent-deposit container) to cover the costs of han-

dling the returned containers. In January 1977 nonrefillable bottles will be banned in Vermont, as will metal containers with detachable tops and non-biodegradable container carriers.

South Dakota has passed a law which requires that every beverage container sold in that State, subsequent to July 1, 1976 shall be either a reuseable container or a container which is biodegradable.

Several communities including Bowie, Maryland; Loudoun County, Virginia and Ann Arbor, Michigan have passed similar laws which have not been implemented due to legal challenges.

5. *Does mandatory deposit legislation eliminate the use of the metal can as a beverage container?*

Mandatory deposit legislation does not prohibit the use of metal cans. However, in Oregon, after passage of the law, the use of refillable bottles increased and the use of cans decreased. For soft drinks, refillable bottles increased from 53 percent of the market prior to the law to 88 percent of the market in the year following the law.[1] Soft drink cans decreased from 40 percent of the market to 12 percent.[2] Refillable beer bottles increased from 31 percent of the market before the law to 96 percent afterwards.[3] Beer cans declined from 40 percent to 3.5 percent.[4] The use of nonrefillable glass bottles was practically eliminated for both beer and soft drinks.

In Vermont comprehensive data on pre-law and post-law container usage is not available. However, as of April 1975, cans and nonrefillable bottles were still being sold for both beer and soft drinks, but a trend towards more widescale use of refillable bottles for soft drinks has been reported.[5]

Nationwide in 1972 approximately 89 percent of all soft drinks were packaged in refillable bottles, 27 percent in nonrefillable bottles and 34 percent in cans.[6] For beer the figures are approximately 18 percent for refillable bottles, 24 percent for nonrefillable bottles and 58 percent for cans.[7] The market mix of containers varies significantly for different geographic regions.

Mandatory deposit legislation would probably result in a shift towards the increased use of refillable bottles. Nonrefillable glass bottles may well disappear from the market (however for larger sizes nonrefillable bottles may remain). Cans would probably decline in market share but would remain in some quantities, especially in areas where they are currently predominant.

6. *How much solid waste can be prevented by such laws?*

On a national basis, beer and soft drink containers accounted for 8 million tons of solid waste in 1973.[8] This represented 6 percent of total municipal (household and commercial) waste. Beverage containers are a rapidly growing segment of municipal waste, with an estimated growth rate of 10 percent per year from 1962 to 1972.[9]

If 90 percent of the containers bearing a deposit were returned for refilling or recycling, there would be a reduction in beverage container waste of 70 to 75 percent, or 5 to 6 million tons on a national basis.

7. *What about littered beverage containers?*

Most studies show that beer and soft drink containers comprise between 20 to 30 percent of roadside litter by item count.[10 11 12] However many other littered items are smaller and less visible than beverage containers and degrade more rapidly in the natural environment. On a volume basis, which is a better measure of litter visibility, beverage containers have been found to represent 62 percent of highway litter.[11] For the year following enactment of deposit legislation, beverage container litter decreased by 66 percent in Oregon and by 67 percent in Vermont.[13 5]

Footnotes at end of article.

8. *How much energy could be saved by use of returnable containers?*

Beverage containers that are refilled or recycled save energy and materials. A glass beverage container used 10 times consumes less than one-third of the energy of nonreusable containers used to deliver the equivalent quantity of beverage.[14] Aluminum and all-steel cans that are recyled save 78 and 39 percent, respectively, of the energy required to manufacture a can from virgin raw materials.[15]

The energy that would be saved through mandatory legislation depends upon the resulting container mix and the return and recycling rates for the containers. For example, if national mandatory deposit legislation had been in effect in 1973, and if the bottle and can container mix had not changed, and if 90 percent of all bottles had been returned and refilled and 80 percent of all cans had been recycled, approximately 151 trillion British Thermal Units (BTU) of energy would have been saved. If on the other hand in 1973 refillable bottles had represented 80 percent of the market share (and bottle and cans had been returned and recycled at the above rates) approximately 209 trillion BTU's of energy would have been saved.[16]

9. *How significant are these energy savings?*

A saving of 209 trillion BTU's is equivalent to the energy content of 39 million barrels of oil. It is also equal to about one-half of the energy used in producing the current mix of beverage containers. While this amounts to a saving of just 0.3 percent of total national energy use, it is important to note that it is of similar magnitude to the saving achievable through other energy conservation measures currently being considered. For example, it is equivalent to one-half of the energy saving that can be achieved from strict enforcement of a 55-mile per hour speed limit nationwide.[17]

10. *How much materials could be saved through the use of returnable containers?*

If in 1973 90 percent of all bottles had been refilled, and 80 percent of all cans had been recycled, between 5 and 6 million tons of raw materials would have been saved that year. This would represent a savings of 3.8 to 4.6 million tons of glass, 1.1 to 1.3 million tons of steel and 300,000 to 350,000 tons of aluminum.[16]

11. *How would a returnable system affect beer and soft drink prices?*

Beer and soft drinks sold in refillable containers are generally cheaper to the consumer than beverages in one-way bottles and cans. Savings in the range of $.03 to $.05 per 12 ounce container have been frequently observed.[18 19 20 21] However, it has been argued that the costs of handling and transporting returned containers are not fully reflected in retail prices. These costs have been estimated to range from less than $.01 to $.02 per container.[22 23] Therefore, even if these costs are assumed not to have been reflected and are added, beverages in refillable containers cost less to the consumer. To the extent that mandatory deposit legislation induces a shift to refillable bottles, average prices for beer and soft drinks should decline.

However, it should be pointed out that a rapid widescale shift to an all refillable bottle system would require considerable equipment changeover in the brewing and soft drink industries and would result in additional costs that could be passed on to the consumer. If the transition to refillables takes place gradually over a period of years, the costs of rapid changeover would be avoided.

12. *How many times do containers have to be returned before energy and cost savings are achieved?*

For an energy saving to be achieved from use of a refillable bottle, it must make at least four trips or have a return rate of 75 percent.[24] Refillable bottles generally become cheaper than one-way containers at return rates of 80 percent (5 trips), although this varies from bottler to bottler.[25]

In Oregon one year after passage of the deposit law, refillable soft drink containers were returned at a 96 percent rate,[26] and refillable beer containers at an 80 to 95 percent rate.[27 28] Approximately 65 to 70 percent of all cans were being returned and this rate was increasing.[26 28] Detailed data are not available from Vermont, although several bottlers have indicated return rates of 90 to 95 percent.[5]

The subject of average national return rates for refillable bottles is a matter of considerable debate. An estimate calculated by dividing container fillings by container purchases results in an average return rate during the period 1963 to 1972 of 94 percent for soft drinks and 96 percent for beer.[29] These figures may not represent actual return rates since bottle inventories may have been changing. Furthermore, these figures include both "on-premise" beverage consumption (in taverns and restaurants) where return rates would be expected to be higher than for "off-premise" consumption (e.g. beverages purchased from supermarkets or retail stores). Another estimate indicates soft drink container trippage of 10 to 15[30] (return rate of 90 to 94 percent) and a beer container trippage of 18[31] (return rate of 95 percent).

In any case, for a mandatory deposit system it appears reasonable to expect a return rate for beer and soft drink containers that would be much greater than that necessary for energy and cost savings.

13. *How would a mandatory deposit law impact on the beverage production, container manufacturing and distribution industries?*

The impacts of mandatory deposit legislation upon industry would depend upon the extent of the change in the market mix of containers and the time period over which this change takes place. Most estimates of economic impact have been based upon the extreme assumption of a complete and sudden switch to refillable bottles. Under these circumstances, facilities for the production, storage eand distribution of one-way containers, not convertible to returnable systems, would become obsolete and would have to be replaced. Glass and metal container production would decline. Bottlers and brewers would initially have to invest in additional bottle washing equipment and refillable container lines. Additional transportation costs would be incurred for the distribution of beverages and the return of containers. Some retailers would need additional storage space and would have to add employees to handle returned containers.

Based on 1969 data in an industry-sponsored study of the impacts of a ban on nonrefillables, tax writeoffs would amount to $1.3 billion, and total new investments $1.2 billion.[32] More recently the brewing industry has claimed "conversion costs" of $5 billion for a sudden switch to refillables and a ban on one-way containers.[33]

The 1969 study indicated that cost increases in the brewing and soft drink bottling industries would be more than offset by container cost savings.[34] Some of these savings could also be passed on to beverage distributors and retailers to offset increased costs in these sectors. The study found that the aggregate cost to all sectors of the industry (beverage producers through retailers, inclusive) would be $250 million in the first year of a ban, but would actually become a $40 million gain in subsequent years due to container savings.[34]

Tax losses and new investment requirements would be lower for a mandatory de-

posit system in which nonrefillable containers were not completely eliminated. Capital losses would be reduced if time were allowed for normal amortization of current investments over a period of years. A 1975 study for the State of New York, assuming a 3 year phase-in to a market mix of 80 to 90 percent refillables, concluded that new investment requirements in that period would be $53 million per year, compared to a normal investment requirement of $30 million per year with no legislation.[35]

It should also be noted that normal industry competition resulting in changes in relative container prices or introduction of new container types (such as the plastic bottle) could have similar impacts on the container industries.

14. *What would be the effect of National mandatory deposit legislation on employment?*

The impact of mandatory deposit legislation upon employment would also depend on the rate of change of container useage. A rapid shift toward the use of refillable bottles would eliminate some jobs, primarily skilled positions in the container manufacturing industries. It has been estimated that a complete ban of nonrefillable containers in 1969 would have resulted in the loss of 60,000 jobs that year.[36] However it was also estimated that the establishment of a returnable system would also create a roughly equal number of new jobs, primarily jobs of lower skill classification and pay, in the retail and distribution sectors of the economy.[36] It is important to note that the employees displaced would not be directly transferable to these new jobs. Employment dislocations would be reduced if nonrefillable bottles and metal cans continued to be sold or if the change in container useage took place over a period of time. A transition period would allow natural attrition in employment to absorb some of the job losses. Also it would provide time for employment to shift to other plants or industries manufacturing other containers or similar products. For example, it has been estimated that a gradual transition over a 5 year period to a 90 percent reduction in nonrefillable containers would result in the loss of 39,000 positions.[37] A 10 year transition to a similar market would result in the loss of about 17,000 positions.[37]

Studies conducted for the States of Maryland, Minnesota, New York, Connecticut, Illinois, Michigan and Maine all found that the job gains in the retail and distribution sectors would be greater than the losses in container manufacturing.[38-44] In New York, for example, a job gain of 5,200 and a loss of 1,200 jobs was predicted, with a net annual payroll increase of $35 million.[45]

In Oregon, where a deposit law is in effect, one study estimated an addition, of 175 to 200 new jobs and a loss of 340 to 427 existing jobs but not not estimate job increases in retail stores.[46] Another study estimated a net job gain of 365 jobs (including retail).[47]

15. *Is mandatory deposit legislation at cross-purposes with plants built for the recovery of energy and materials from waste?*

A resource recovery plant processes mixed municipal waste in order to extract materials and other products which can be sold. Changing the composition of municipal waste through mandatory deposit legislation would not significantly affect the economics of most resource recovery plants. Approximately 80 percent of the municipal waste stream is organic materials—paper, plastics, etc. This fraction should be the primary concern of a resource recovery facility, as it represents the bulk of the waste, and provides the bulk of revenue ($10 to $15 per ton of waste processed) needed to make resource recovery economically feasible.[48]

As a maximum result of mandatory deposit legislation, glass in the waste stream could be reduced by about 35 to 45 percent, ferrous metal wastes could be reduced by 15 percent, and, where use of aluminum cans is substantial, aluminum wastes could decline by 30 to 45 percent. Under favorable market conditions, gross revenues from the beverage container fraction of the waste stream amount to about $1 to $2 per ton of waste processed. When the costs of recovering and transporting these fractions are considered, the net revenue contribution is considerably less. Removal of the beverage container fraction through a mandatory deposit system would probably not cause a net revenue reduction in excess of $1 per ton of waste processed.[49]

It should be emphasized that recovery technologies for glass and aluminum are for the most part not yet fully demonstrated and markets for recovered glass and metal resources have just begun to be developed. In light of the uncertainties of separating and marketing aluminum and glass from solid waste, beverage container legislation does not entail undue risk for the installation of resource recovery facilities.

Resource recovery system feasibility should not be decided solely on the basis of glass, aluminum and steel recovery economics. Other more important factors are the general uncertainty regarding future markets (especially for the organic fraction) and the institutional obstacles to organizing and implementing a venture of this sort. A significant number of future recovery investment decisions should not be adversely impacted by mandatory deposit legislation.

16. *Are there other mechanisms, such as the litter tax enacted by the State of Washington, that will achieve benefits similar to a mandatory deposit law?*

Litter taxes are generally very small taxes (a fraction of a cent per product) imposed at the time of sale of products likely to be littered. Such taxes could provide additional revenues to collect litter along streets, highways, and recreational areas. The major shortcoming of a litter tax is that it does not create a disincentive for littering (the tax is paid regardless of whether the individual purchasing the product litters the item or not). Furthermore, such a mechanism would not reduce the generation of solid waste, nor would it result in savings of energy or materials. Thus while a litter tax is not incompatible with mandatory deposit legislation, it is not a substitute for such legislation.

17. *Is there a sanitation problem in storing used containers?*

While there is a possibility of insect problems associated with the storage of bottles and cans containing beverage residues, it should be noted that returnable containers have been used for many years without significant adverse public health impacts. If public health laws and sanitation codes are strictly enforced, and containers are picked up on a frequent and timely basis, such problems should be minimized.

18. *Isn't there a loss of convenience to the consumer?*

A deposit law does not require return of the container, but does make the consumer who discards the container pay the amount of the deposit. A study for the State of Oregon found that 87 percent of those surveyed found no inconvenience with returnables.[50] Furthermore this survey found that 91 percent of the respondents approved of the legislation and only 5 percent voiced any disapproval at all.[51]

19. *What is the position of the U.S. Environmental Protection Agency on mandatory deposit legislation at the Federal, State and local levels?*

The U.S. Environmental Protection Agency has testified in favor of the adoption on a nationwide scale of a mandatory deposit system for beer and soft drink containers.[52] Based upon several years of analysis and observations in the States which have enacted mandatory deposit laws, it is concluded that a mandatory deposit program would result in significant conservation of energy and materials, and a reduction in solid waste and litter caused by beverage containers. A sudden shift to a returnable system, however, would likely result in excessive economic disruption and unemployment. To minimize the adverse economic repercussions, it is recommended that a nationwide system be phased in over an extended period of time.

While ideally such legislation should be national, State-level legislation, based upon the experience in Oregon and Vermont, also appears to be effective in achieving the benefits. Below the State-level, ordinances requiring mandatory container deposits would probably be effective in large regions, counties or metropolitan areas. Not enough experience has been acquired to indicate whether local ordinances for smaller communities would be effective.

EPA neither supports nor opposes State or local deposit legislation. EPA favors national legislation in this area and has decided not to promote the adoption of State or local laws, which may be superseded by a national law at a later time. Furthermore the Agency does not have the resources to analyze the economic impacts of different State laws. However, EPA does not oppose State or local deposit legislation that is designed to reduce negative employment and economic impacts and contains provisions anticipating possible national laws.

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SOURCE REDUCTION

Mr. HATFIELD. Mr. President, returnable beverage containers are not a new concept. As recently as 1960, 95 percent of our soft drinks and 50 percent of our beer were packaged in refillable containers of which a deposit was paid. Today 79 percent of the beer and two-thirds of the soft drinks sold in the United States are packaged in "one-way" or throwaway containers.

Our consumption of beverage containers has far outdistanced the consumption of the beverages themselves. For example, in 1959, 15.4 billion beverage containers were consumed. During the following 13 years when per capita consumption of these beverages increased 33 percent, the use of beverage containers increased by a whopping 221 percent—to 55.2 billion by 1972. In 1973, the figure increased to 60 billion and could go to 80 billion by 1980.

It is predicted that we could save 5.2 million tons of glass, 1.5 million tons of steel, and 530,000 tons of aluminum annually by switching to a returnable system. The materials used for these containers equal 45 percent of all glass, 6 percent of all aluminum, and 2 percent of all steel purchased in this country. In testimony before the Idaho State Legislature, William Coors, president of Adolph Coors Brewing Co., made the following statement:

We aren't going to have the materials in which to market our product if we don't start getting our containers.

LITTER AND SOLID WASTE

Beverage container litter amounted to between 54 and 70 percent of the litter in Oregon prior to 1972. On a national basis cans and bottles consist of between 60 and 80 percent by volume of total litter and 20 to 40 percent by piece count. While the antilittering attitude that the industry is trying to instill through programs such as Keep America Beautiful is commendable and should be encouraged, but that alone is simply not enough.

Solid waste has quickly become a premier environmental issue. It is a problem we are now just beginning to understand and cope with. Passage of this legislation would signal a willingness on the part of this body to make a direct commitment to reducing solid waste. The National League of Cities and the U.S. Conference of Mayors have endorsed the need for solid waste reduction. They made the following prediction:

Unless we reduce the total volume of solid waste generated nationally, local governments will continue to be overburdened with the flow and financing of solid waste.

On October 26, 1976, the Oregon Journal published the results of a litter survey which they conducted. Ten 1-mile stretches of road with comparable traffic volume in Oregon and Washington where compared. It was determined that Washington roads have 7.5 times more litter than Oregon roads, probably due to Oregon's deposit law. I ask unanimous consent that the complete survey be printed in the RECORD.

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

OREGON BOTTLE BILL CUTS LITTER ACCORDING TO JOURNAL SURVEY

(By Dean Smith)

Washington highways have 7.5 times more bottle and can litter than comparable roads in Oregon, the Oregon Journal has discovered in a special survey on the eve of bottle bill balloting in four states.

Comparing 10 one-mile road sections of comparable use and traffic volume, the Journal found an average of 294 containers per mile in Washington against 39 in Oregon.

Both states have claimed that their antilitter programs—which in Washington includes a Model Litter Control Act that emphasizes public education and in Oregon the bottle bill—have substantially reduced litter.

Statistics generated in the two states are being used in emotional campaigns in Maine, Michigan, Massachusetts and Colorado where voters will consider ballot measures Nov. 2 patterned after the Oregon law, now in its 5th year.

The Journal tally, which considered only bottle and can litter, showed that few 5-cent returnable beer or soft drink cans were tossed along the 10 miles of Oregon roads inventoried.

Of the 209 cans found in the state, only 11 (or 5.3 per cent) were refundable. The other cans found apparently were purchased outside of Oregon, or were bought before the bottle bill took effect in October, 1972.

The survey, compiled with the help of volunteer students from Tigard High School and Portland State University, could not arrive at a similar comparison for discarded bottles.

It did show that a high number of all-aluminum cans, which are newer to the marketplace than other types of cans, were found in Washington.

Of the 1,968 cans turned up in Washington, 69.7 percent were non-deposit aluminum. In Oregon, 26.2 percent of the 209 cans retrieved were aluminum.

Survey tallies also showed that wine bottles—under consideration for inclusion under the bottle bill—constituted 4.8 percent of Oregon's discards and only 1 percent of those in Washington. Whisky bottles represented 2.2 percent of Oregon's total and less than one percent of the Washington litter.

Bottle bill proponent Don Waggoner, ex-president of the Oregon Environmental Council, said the newspaper's findings confirmed his long-held suspicions.

"It confirms what we've been seeing in Oregon and Washington," Waggoner said, "which is that the bottle bill is in fact working and significantly reducing can and bottle litter."

Not convinced of that conclusion is Portland attorney George Wagner, who represents several can companies and the Oregon Beverage Industry Task Force.

Wagner, noting that litter pickups had occurred on the Oregon survey sites more recently than in Washington, said that Washington has a "superior antilitter program" which is working well.

"Since Oregon cleans up after litterers much more frequently than Washington," Wagner said, "the Journal litter survey found more total litter in Washington than in Oregon. This is a measure of cleanliness, not littering."

Washington Gov. Dan Evans says his state has reduced its total litter by 66 percent since 1971, based on estimates of littering before the litter act took effect.

Former Oregon Gov. Tom McCall, meanwhile, has been claiming in the East that Oregon's litter was reduced by 47 percent after the bottle bill.

The Journal study was not able to determine to what extent the differing anti-litter programs have curbed the rate at which litter is dropped along roadways in the two states.

Officials at Washington's Department of Highways and Department of Ecology, which both conduct litter pickup programs, say they do not keep accurate records on exact highway locations cleaned.

In only one case—Oregon's Highway 224 and Washington's Highway 6—was litter collected on nearly the same date.

On the Oregon route, 97 beer and soft drink containers were found and on the Washington road a total of 144.

Illustrated by the survey is the fact that Oregon emphasized roadside cleanup more than Washington, in spite of the fact that more tax dollars are spent on litter programs in Washington.

The Oregon Highway Division spent $633,000 on litter removal during fiscal year 1975–76, while its Washington counterpart spent $480,162 during the same period.

In addition, Washington spent $724,438 for funding education, advertising and litter collection programs during the fiscal year, according to Mike Aarhaus, assistant program director for the litter act. That money comes from a small tax assessed on litter producing industries, he said.

Linda Bradford, a DOE official, said much of the litter collection funded by the act this summer was performed in state parks and other non-highway areas.

Although the bottle bill has strong public support in Oregon, it has fared poorly thus far elsewhere, with only Vermont passing a similar law.

Industry opponents reportedly will spend $300,000 in Maine, at least $750,000 in Michigan and as much as $1.3 million in Massachusetts to defeat the ballot measures.

Proponents have raised only a fraction of that to boost the refund laws, sources in those states report.

The measure is on the ballot as an initiative in Michigan and a referendum in the other states.

In all but Colorado it would ban pull-top cans, and would institute a minimum 5-cent per container refund in all four states. (Oregon requires only a 2-cent refund on certified containers able to be used by more than one manufacturer.)

For the Journal survey, volunteers went to pre-designated survey miles and picked up only the "observable" litter seen while walking along the highway shoulder.

The sites were chosen based on their average daily traffic load, similarity in the type of road (2-lane versus 4-lane, for example) and the nature of travel it generated.

All carbonated soft drink and malt beverage containers were collected—along with wine and whisky bottles—and were returned for tabulation.

In the case of broken glass containers, only the neck portions were retrieved to avoid counting a single container more than once. Bottle caps, pull-tab tops and other beverage-related litter were not collected.

In Oregon, the data showed 165 beer cans, 44 soft drink cans, 159 beer bottles, 17 soft drink bottles, 20 wine bottles and 9 whisky bottles.

In Washington, 1,273 beer cans, 695 soft drink cans, 806 beer bottles, 161 soft drink bottles, 31 wine bottles and 22 whisky bottles were recovered.

Compilations of the survey data are available by writing the Journal, 1320 SW Broadway, Portland, 97201.

OREGON, WASHINGTON ROADSIDES COMPARED

	Average daily cars	Containers	Days since last pickup
OREGON HIGHWAYS			
Oregon 26, 9 miles west of Buxton	3,200	27	65–74
Oregon 47, 5 miles south of Vernonia	915	13	100
Oregon 99W, 2 miles south of Dundee	9,300	11	78–108
Oregon 126, 9 miles east of Springfield	2,650	85	+365
Oregon 26, 4 miles east of Wemme	3,800	48	86
Oregon 99E, 4 miles south of Woodburn	6,500	34	111
Oregon 219, 10 miles north of Newberg	1,200	23	66
Oregon 224, 8 miles west of Eagle Creek	3,400	97	74
Oregon 221, 4 miles south of Dayton	1,050	17	78–108
Oregon 6, 4 miles west of Gales Creek	2,500	30	65–74
Total (for 10 miles)	34,515	385	
Averages (per mile)	3,452	38.5	
WASHINGTON HIGHWAYS			
Washington 14, 4 miles west of Stevenson	3,275	343	[1] 156
Washington 140, 8 miles north of Washougal	980	339	[1] 217
Washington 502, 4 miles west of Battleground	5,000	306	[1] 217
Washington 503, 4 miles east of Woodland	2,300	591	[1] 217
U.S. 101, 3 miles north of Hoquiam	3,900	423	[2]
U.S. 101, 2 miles south of Raymond	6,300	232	[2]
Washington 603, 4 miles north of Winlock	1,300	149	[1] 139
Washington 6, 5 miles west of Chehalifs	3,000	144	73–80
Washington 41, 12 miles north of Longview	990	253	[1] 217
Washington 504, 8 miles east of Castle Rock	1,300	155	[1] 217
Total (for 10 miles)	28,345	2,935	
Averages (per mile)	2,835	293.5	

[1] Estimates only. [2] Undetermined.

Note: The Washington Highway Department said crews worked portions of these highways at the approximate time indicated, but kept no records of the exact mileposts actually cleaned up by foot patrols.

ENERGY

Mr. HATFIELD. Mr. President, another problem created by the continued use of nonreturnables, and one that has taken added significance over the past few years, is the waste of energy resources due to our willingness to discard perfectly good glass and metal containers after one use. By switching to returnables, we could reduce the container industry's energy consumption by 42 percent and save between 80,000 and 125,000 barrels of oil per day.

According to the testimony of the U.S. Environmental Protection Agency during hearings on my returnable beverage container bill before the Senate Commerce Committee in May 1974, the manufacture of one-way bottles and cans wastes the equivalent energy needs for 1 year of all the residents of New York and Chicago. While reducing this wasteful energy consumption would by no means solve our energy problems, this amendment offers us the opportunity to make significant progress on this critical national problem.

In a study released by the Federal Energy Administration (now DOE) it is predicted that cans will continue to have a significant share of the market in beverage containers and there will be significant reduction in materials use and energy consumption. Based on a return rate of 10 trips for refillable bottles—and it is conceivable that the rate could be higher as has been the case in Oregon—the study predicts energy savings of about 81,000 barrels, which is about 44 percent of the total energy that will be used by the entire beverage container industry.

The study also contains additional figures that indicate an increase of 156,000 jobs primarily in distribution and retailing, along with a decrease of about 38,000 jobs in the container and metals industry, leaving a net increase of 118,000 jobs. These labor statistics collaborate with the experience we have had in Oregon with our own deposit law, and present favorable prospects for success for a national law. Returnables can and do work. The FEA study bears this out.

I ask unanimous consent that the FEA executive summary be printed at this point in the RECORD.

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

ENERGY AND ECONOMIC IMPACTS OF MANDATORY DEPOSITS: EXECUTIVE SUMMARY SEPTEMBER 1976

ACKNOWLEDGEMENTS

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Tayler H. Bingham, RTI, was the project manager for this study. Working with him were Bun Song Lee, Paul F. Mulligan and Philip C. Cooley. Franklin Associates, Ltd., was a subcontractor. At Franklin Associates, William E. Franklin, Robert G. Hunt and Marjorie A. Franklin were primarily involved. Personnel at Franklin Associates were responsible for the materials presented in appendixes D, G, H, I and parts of appendix M.

Morris J. Zusman, Federal Energy Administration, was project officer. Michael Loube, also of the Federal Energy Administration, assisted in the review of this study. Their interest, guidance and critical reviews are very much appreciated.

Many individuals in other government agencies, industry, labor organizations, environmental groups, and in research provided important data, insights and reviews of both the methodology (at an early meeting at RTI) and/or critical reviews of the draft version of this study. Their efforts are very much appreciated. Likewise we owe a debt to other published studies of this issue which also were important sources of data.

EXECUTIVE SUMMARY

1.0 Overview

The subject addressed by this study is the impact of proposed mandatory national beverage container deposit legislation—commonly referred to as "bottle bill" legislation. The study examines specific impacts that the imposition of a 5-cent refundable deposit on all beer and soft drink containers (refillable bottles, nonrefillable bottles and cans) would have on the total beverage related industry.

The study is not a comprehensive cost-benefit analysis of mandatory deposit legislation, but rather examines three major areas of potential impact. These impact areas are

(1) changes in annual energy consumption, (2) changes in capital investment requirements (in terms of fixed plant and equipment), and (3) changes in labor requirements (in terms of jobs and earnings). These impacts are developed for those industries in the total beverage system that would be most affected by changes caused by a mandatory deposit. The industries included are: retailers, beverage producers and distributors, container manufacturers, and producers of basic steel and aluminum.

It is important to recognize at the outset that this legislation would not ban any specific container type. Rather, it would create an incentive for consumers to return all types of empty beverage containers for a deposit refund. However, the response of consumers to the deposit incentive (and its requirement to bring containers back) is expected to cause shifts among the types of containers sold.

To develop the potential impacts, the report first projects energy, capital and labor requirements of the beverage industry assuming no deposit legislation is passed. These baseline projections are then compared to projections of what might happen after a deposit law. Results are reported for a 1982 steady-state situation, assuming that: (1) a law would be implemented in the late 1970's and (2) by 1982 transitory effects will have been dissipated.

2.0 Organization

The report is composed of a summary, three primary chapters and 13 supporting appendices.

Due to the controversial nature of this subject an early draft version of this study was sent to various individuals—in other government agencies, industry, labor, environmental groups, research, and to other knowledgeable and interested persons—for critical review and comment. Their comments and suggestions have been incorporated whenever possible in this final report. For the interest of the reader, these extensive comments have been printed verbatim in Appendix L of the study. Specific questions and issues brought out by these comments are addressed in Appendix M. For any reader not fully aware of the controversy this issue has generated, we suggest a close reading of these appendices.

3.0 Approach

The impact of a deposit law depends primarily on two factors: the technical interrelationships between container types and their respective requirements for energy, capital and labor; and the behavioral (market) responses of producers and consumers to the deposit incentive to return the empty container.

Data does exist to estimate the energy, capital and labor requirements of the beverage container system as a function of the total beverage consumed in each specific type of container (based on a specific trippage of refillable bottles and return rate of cans). This study has identified and measured the technical requirements associated with the production and use of each container type. This was done starting with mining the raw materials and continuing through manufacturing, use and disposal of the container, including a loop for recycling or reuse as appropriate.

The behavioral/market response determines the extent and direction of any impact caused by a deposit law. Unfortunately no data exist to predict with any degree of accuracy what the market response to a deposit law is likely to be. However, it is assumed that under a deposit system the market share represented by nonrefillable bottles will fall to zero since, to the consumer, there is no intrinsic difference between a one-way bottle or a refillable bottle when both have an associated deposit. Because cans, on the other hand, are intrinsically different from bottles, being lighter weight, easier to stack and not subject to breakage, it is believed that cans will continue to have a significant share of the market.

What has been done is to establish a set of parameters from which many possible market responses can be evaluated. Three parameters essentially capture the total behavioral market response. These are: the can market share, the can return rate, the refillable bottle return rate (proportion of containers returned) or trippage. Each scenario of possible market responses can be described by a unique set of parameter values.

4.0 General findings

The continuation of current trends in the beverage industry without the imposition of a deposit law will mean that in 1982, the base year for which impacts are examined, that the production and distribution of beverage will require 383 $\times$ 10^{12} Btu's of energy (about one-half of one percent of the Nation's total energy consumption), $7.3 billion in capital investment, and 369,000 jobs yielding $4.1 billion in labor earnings.

A deposit law could change these projections since the refillable bottle system, when the bottles are returned, is a comparatively labor and capital intensive system; the nonrefillable bottle and can systems are relatively materials and energy intensive. Therefore, any market shift toward refillable bottles with the bottles returned would tend to reduce materials and energy usage while increasing capital and labor requirements. Shifts toward nonrefillable bottles and cans would tend to have the opposite effects.

The increased usage of recycled materials or increases in refillable bottle trippage would tend to reduce the amount of materials required and conserve energy resources for the total beverage system. Over time technological innovations are reducing per-unit energy, labor and material requirements for all container types. The parametric curves displaying the potential impacts of the deposit legislation have these innovations embodied in them. Beyond these general statements the impact of a deposit law will depend on the extent and direction of the behavioral response.

5.0 Parametric relationships

Figures 1 through 5 present the three impacts examined in the study: figure 1, energy; figure 2 capital; figures 3, 4 and 5 labor. Because the impacts are not identical for beer and soft drinks, the impacts are presented for each beverage. To obtain the total impact of beverage container legislation the impacts for beer and soft drink must be added together. The curves are all parametric, showing the impact as a function of the can market share and the container return rate. In order to minimize the number of curves that would have to be displayed, the bottle and can return rates have been assumed to be identical. The subsequent paragraphs discuss the rationale for this assumption.

Figure 1 presents the net energy impacts of the beverage container legislation. This figure can be read, as all the other impact figures, by selecting a can market share and a container return rate. The figure is entered on the x (horizontal) axis at the can market share assumed after a deposit law is passed. A vertical line is projected until it intersects with the container return rate selected. A horizontal line is projected from the intersection point to the y (vertical) axis to read the impact. Figure 1, as all the impact curves, shows what the estimated 1982 can market share is projected to be without a deposit law. The numbers 1 and 2 on the curves correspond to two illustrative scenarios (discussed below) that are used as a means to aid the discussion in subsequent paragraphs.

The wide range of impacts at the extremes of the possible market response points out one reason why this legislation has been so controversial. Figure 1 shows that under differing scenarios the energy impact could be either positive or negative. At one extreme, if all consumers switched to refillable bottles (a zero can share) and discarded them (a zero return rate) energy consumption would increase by 322 x 10^{12} Btu annually or 155,000 barrels of oil equivalent daily. (This value is obtained by entering figure 1a (the beer panel), at the zero can share point and the zero return rate reading 100 Btu x 10^{12} on the y axis and adding it to the 220 Btu x 10^{12} that is read in a similar manner from the soft drink curve). At the other extreme, if all consumers switched to refillable bottles and always returned them, energy consumption would be reduced by 292 x 10^{12} Btu annually or 141,000 barrels of oil equivalent per day.

Neither extreme is realistic. If all refillable bottles are discarded, producers would find it cheaper to package in one-way containers because unless refillable bottles are returned several times, they are more expensive to use. The other extreme is also unrealistic since some bottles will be broken or chipped and some consumers will not return bottles under any circumstances.

(NOTE.—Figures 1-5 are not printed in the RECORD.)

The format for figures 2 through 5 is similar to that for figure 1. In figure 2 the net change in the value of the capital stock for each post deposit law can market share—container return rate combination is shown. Figure 3 presents the net aggregate employment impacts.

Because jobs are gained in some industries and lost in others, aggregating the industries, as was done in developing figure 3, masks the impacts on the individual industries. Therefore, figure 4 presents the net employment impacts disaggregated into each of the six industries considered: glass container manufacturers, can manufacturers, steel manufacturing, aluminum manufacturing, beverage production and distribution, and retailing. These impacts are presented only for the extreme return rates; both beer and soft drinks are shown in the same panel. It is assumed that workers within any industry are substitutable, for example, the same workers can make a one-way bottle or a refillable bottle. In one case, 4f retailing, employment is insensitive to the market shares and ony sensitive to the return rate. Figure 5 is the complement to figure 3. It shows the net aggregate impact on earnings.

6. Illustrative scenarios

This study uses two illustrative scenarios to indicate how to use the parametric curves. The scenarios were chosen to avoid extreme values and provide the reader with two complete estimates of the impact of a deposit law that fall within the broad range of what can be considered to be a reasonable behavioral response to beverage container legislation. However, the reader is again reminded that figures 1–5 provide the vehicle for examining the impact of any scenario.

To place the behavioral responses assumed for the two illustrative scenarios into perspective, and to allow the reader some insight for making his own assumptions, a few observations are first in order.

6.1 Key behavioral parameters

1) Refillable Bottle Return Rate—Currently this rate is about 0.9 or ten trips per bottle. It has declined over time. When the refillable bottle was the primary container, trippage rates of 30–40 were reportedly obtained. Two offsetting factors have to be evaluated to estimate the impact that a deposit law would have on trippage. First, since all stores would accept bottles back under

a deposit law the ease of returning the bottles would be greatly increased thus suggesting a higher trippage. Second, present one-way container purchasers who switched to refillables might still be inclined to discard them which would argue for lower trippage. The assumptions chosen for the two illustrative scenarios, continuing todays trippage rate or reducing trippage by half seem to fall within a reasonable range of expected outcomes after a deposit law is in place.

2) Can Return Rates—In most of the nation there currently are collection centers for the recycling of aluminum cans. Aluminum can collection centers, offering three-fourths of a cent per can, today receive approximately 25 percent of all aluminum beverage cans sold. The aluminum industry protects this rate to continue increasing rapidly in the future years. In the state of Oregon, which has a deposit law, about 70 percent of all cans are returned.

Under a national law the can return rate will depend on a number of key factors. Since individuals currently purchasing cans generally value the convenience of immediately discarding the container, low return rates would be obtained if this behavior continued. However, from a convenience standpoint, cans should be easier to return than bottles, since they are lighter and require less space. In addition, since cans may be returned even in a damaged condition, it will be relatively easy for scavengers to collect cans from waste or litter. Thus, while it is possible that a greater proportion of cans than bottles would be discarded by the initial consumer, it is also possible that the can return rate could be higher than the bottle return rate. With this background, the assumptions used in the illustrative scenarios—80 or 90 percent returns—seem to fall within a reasonable range of future (1982) expectations. Any return rate from zero to infinity can be found using the parametric curves. However, the parametric curves presented in the study tie the can and bottle return rates together, under the assumption that the consumer or scavenger will generally return either container at approximately the same rate.

3) Can Market Share—By 1982 the can market share is projected to be 59 percent. With the imposition of a deposit law, and the likely (and assumed for this report) demise of nonrefillable bottles, the can market share could either rise or fall. Nonrefillable bottle consumers may switch to purchasing cans. This could lead to continued growth in can sales. In addition, since can makers and beverage producers currently have a large capital investment in equipment dedicated to handling cans, the bulk of which cannot be shifted to other uses, they will no doubt face significant incentives to maintain the can as a competitive container in the beverage market. Arguing for a lower can share is the fact that the imposition of a deposit will require can consumers to incur either some new inconvenience by returning cans or dispose of the cans, thus forfeiting the deposit and paying a higher price. This might lead to reductions in the can market share. However, since consumers perceive cans as having some unique attributes (safer and lighter than bottles), total or near total elimination of the can will probably not occur.

Based on the foregoing it has been assumed in the two illustrative scenarios that the can volumes stop growing after legislation; for scenario 1, can sales fall to the 1976 can volume, while for scenario 2 can volume falls to half the 1976 level. This represents a decline of 29 and 65 percent respectively from the projected 1982 levels without a deposit law. In any event, using the parametric curves any can market share from zero to 100 percent may be examined.

6.2 Technical reasons for impacts

In developing any particular scenario (the two scenarios used are illustrative) the reader must keep in mind the basic assumptions used in this study. These are:

1. Beverage markets are reasonably competitive.
2. Cans and bottles will be returned at the same rate.
3. The current prices of beer and soft drinks by container reflect the actual costs of each plus a normal return on investment.
4. The relative shares of the can market for steel or aluminum containers will be unaffected by the imposition of a deposit law.
5. The market share represented by nonrefillable bottles will fall to zero after a deposit law.
6. All returned containers will be either recycled or reused, as appropriate.

Combining these assumptions and the specific behavioral responses assumed for the illustrative scenarios yields the following results (table 1 presents the complete results).

6.3 Illustrative scenario 1

Behavioral response assumed: The 1982 quantity of can sales equal 1976 can sales; cans and refillable bottles are both returned at a rate similar to the current average return rate for refillable bottles; 0.9, for refillable bottles (this return rate implies a trippage of 10 for refillable bottles). Using the parametric curves, the resulting impact of these assumptions on energy, capital, employment and labor can be found.

Energy: Consumption would be reduced about 168×10^{12} Btu annually or 81,000 barrels of oil equivalent daily, compared with 1982 projections of energy use without deposit legislation. This savings is equal to 44 percent of the energy that would have been used by the beverage industry.

Capital: Requirements would be increased by $824 million. This is an increase of 11 percent over capital needs without deposit legislation.

Labor: Employment increases of 156,000, primarily in beverage distribution and retailing, and decreases of 38,000 in container and metals manufacturing for a net increase of 118,000 jobs. This represents an increase of 32 percent in total employment for the beverage related industries. Total labor income increases by $879 million or 22 percent. This smaller income gain is due to the slight reduction in average earnings per employee since the jobs gained are generally less skilled and lower paying than those in the original job structure.

6.4 Illustrative scenario 2

Behavioral response assumed: The 1982 quantity of can sales falls to one-half of the 1976 sales level; cans and refillable bottles are both returned at a 0.8 return rate (this implies an equivalent trippage of five, about one-half the current refillable bottle trippage rate).

The parametric curves can be used to determine the impacts of this illustrative scenario. The results are displayed in table 1.

TABLE 1.—SUMMARY OF THE NET ENERGY AND ECONOMIC IMPACTS OF MANDATORY DEPOSITS: ILLUSTRATIVE SCENARIOS, 1982

	1982 baseline value	Scenario 1 (canned beverage sales equal to 1976 value; container return rate of 0.9) [1]	Scenario 2 (canned beverage sales equal to ½ of 1976 value; container return rate of 0.8) [1]
Beverage consumption rate: 10^9 ounces annually	1,893.5	−3.6	−3.5
Container production rate:			
10^9 units annually	90.6	−33.6	−48.6
Glass containers	18.0	−12.2	−1.6
Refillable	2.4	+3.4	+14.1
Nonrefillable	15.7	−15.7	−15.7
Cans	72.5	−21.3	−47.0
Steel	42.0	−12.8	−27.5
Aluminum	30.5	−8.4	−19.5
System energy requirements: [2] 10^{12} Btu annually	383	−168	−144
System capital requirements: [2] 10^6 dollars	7,303	+824	+2,006
System labor requirements: [2]			
Net employment 10^3 jobs	369	+118	+117
Jobs gained	NA	156	166
Jobs lost	NA	38	49
Labor earnings 10^6 dollars annually	4,080	+879	+936

[1] The values reported in this column represent deviations from the baseline trends reported in the first column.
[2] Major direct and indirect industries.
NA—Not applicable.

Source: Research Triangle Institute.

Capital: Requirements would be increased by slightly more than $2 billion.

Labor: Employment increases by a net 117,000 jobs (increases of 166,000 jobs and decreases of 49,000). Total labor income increases by $936 million.

The impacts described have their basis in the assumptions and behavioral responses assumed. The following short discussion represents the reasons and logical format that yield these results. This same process should be followed to examine and evaluate the impacts obtained from any scenario taken from the parametric curves.

Energy—In the case of the illustrative scenarios, energy savings are due to the increased use of refillable bottle and in the recycling of cans. Reuse of bottles avoids the raw material extraction and processing stages of production, as well as the materials and container-fabrication stages. Energy savings are also obtained from recycling metal since recycling bypasses the raw materials extraction and processing stages and lowers energy needs in the refined materials processing steps. This is of particular significance in the case of aluminum cans.

Capital—In the case of the illustrative scenarios, increased capital needs are due to additional space and handling required to return containers as well as the fact that refillable bottle lines are more expensive per unit of output.

Labor—In the case of the illustrative scenarios, additional labor is required at the retail and the beverage producer and distributor level, both to handle and transport returned containers.

6.5 Sensitivity of Results

Although the parametric curves can be used to examine the sensitivity of the impact of a deposit law across the total range of market response, it is convenient to use the two illustrative scenarios to highlight the sensitivity of the impacts to large perturbations in the market response.

With the exception of capital, all of the impacts are inelastic with respect to market responses in the range of the illustrative scenarios. For a 50 percent change in the can share of the market and a 50 percent change in the trippage (the market response

changes going from illustrative scenario 1 to illustrative scenario 2), the energy impact changes only 14 percent, the jobs gained change only 6 percent, the jobs lost change 29 percent, the net jobs gained change 1 percent and the net labor earnings change 6 percent. The major shift is in capital requirements which change 143 percent. There is, however, no a priori basis for assuming that any particular scenario will in fact occur, which is why the parametric curves have been developed, allowing for the identification and examination of other scenarios.

It is apparent that within this broad range of potential market responses the impact of a deposit law on energy and labor is relatively constant.

7.0 Qualifications

In evaluating the conclusions of this research, the reader should keep in mind that the beverage production and distribution system is very complex and that packaging has a critical effect on the system. Any attempt to describe the system in terms of only three markets each for beer and soft drinks (the refillable bottle, nonrefillable bottle, and metal can markets), as is done in this study, is bound to ignore many factors that will influence the final set of impacts obtained if mandatory deposit legislation is enacted on a national scale. Furthermore, the set of impacts analyzed in this study, while it includes some of the more important issues, does not necessarily provide the complete set of impacts required for a comprehensive cost-benefit evaluation of mandatory deposits. Nevertheless, the material presented can provide an important input to an informed decision-making process.

IMPACT ON THE CONSUMER

Mr. HATFIELD. Mr. President, now let us consider the impact of throwaways on the individual shopper. The use of returnables adds to the expense of the beverage being purchased. The average price of a beverage in a returnable container is about 2 cents less than one purchased in a one-way bottle and about 5 cents less than in a can. When you buy a no-deposit, no-return bottle or can and discard it after use, you are paying for the total cost of packaging that beverage. When you purchase your beer or soft drink in a returnable container, however, you are actually borrowing the package, and sharing its cost with 15 or as many as 20 other consumers, as is the case in Oregon.

Lest we be accused of trying to regulate the marketplace by mandating the use of returnables, let me point out to my colleagues that the industry, through advertising and production policy, has convinced the consumer of the "convenience" of nonreturnables. For this reason, you are hard pressed to find beer and soft drinks sold in reusable containers in most areas of the country. In most stores today you have no choice but to purchase your favorite beverage in a nonreturnable container.

According to Mr. Joseph Griesedieck, the vice chairman of Falstaff Brewing Corp.:

Returnable bottles are the most economical for the consumers and the brewer.

Mr. J. Lucien Smith, the president of Coca-Cola, made the following statement before the Senate Judiciary Committee:

Coke sold in food stores in non-returnable packages is priced, on the average, 30 to 40% higher than Coca-Cola in returnable bottles. The difference lies essentially in the different costs of packaging. The cost of returnables is spread over many uses; the cost of the non-returanble package is absorbed in one use.

Mr. President, I ask unanimous consent that the "Price Comparison Survey of Beer and Soft Drinks in Refillable and Nonrefillable Containers," prepared jointly by the EPA and the League of Women Voters, be printed in the RECORD at this point.

Mr. President, I also ask unanimous consent that several other statements attesting to Oregon's success be printed in the RECORD. Included among these are statements by Mr. Don Waggoner; the Environmental Action Foundation's pamphlet, "All's Well on the Oregon Trail"; and an article for Sierra Club Bulletin by Nancie Fadeley entitled, "Oregon's Bottle Bill Works!"

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

INTRODUCTION

During the past several years, there has been a great deal of interest in requiring a refundable deposit on beer and soft drink containers. The deposit would serve as an incentive for the consumer to return the empty container, so that it could be reused or recycled. In general, a returnable beverage container system is expected to result in an increased market share for refillable glass bottles as compared to nonrefillable bottles and cans.

One of the questions associated with a returnable beverage container system is the impact it would have on beverage costs. There have been a few comparison price surveys that indicate that beverages in refillable bottles are sold at lower overall prices for the consumer. However, these surveys have tended to concentrate on individual market areas and have generally contained only a limited number of price comparisons. In order to obtain more information on a broader basis, the League of Women Voters (LWV), in conjunction with the U.S. Environmental Protection Agency (EPA), undertook this price survey to compare beverages in refillable bottles with beverages in nonrefillable bottles and cans.

BACKGROUND

The information gathering device was a questionnaire. See Appendix IV, on which the respondents were asked to obtain comparable price data for beverages in refillable and nonrefillable containers. In addition to the price comparison data, the League members were asked to report the number of beverage brands available in refillables and nonrefillables in the store where the price data was obtained. Of the 65 questionnaires mailed to League members, 34 were returned, which is a response rate 52.3 percent. The returned questionnaires were completed between June and August, 1975.

The beverage price questionnaire was also used to collect container price comparisons data on soft drinks in the Washington, D.C., area during May, 1975. A supplementary survey of beer prices was undertaken in August, 1975, in order to obtain a complete survey of beverage prices in the Washington, D.C., area. The results of both of these surveys have been included in this report.

SUMMARY

Beverages in refillable bottles are definitely cheaper for consumers than beverages sold in nonrefillable containers, according to the results of each of the three price comparison surveys in this report.

Consumers in the Washington, D.C. area could save an average of 4.4 cents per container, or 26 cents per six-pack, if they purchased soft drinks in refillables. The purchase of soft drinks in eight-packs would save consumers an average fo 63.2 cents, or 7.9 cents per container.

Purchasers of beer could realize savings ranging from 60 cents to $2.00 per case with the purchase of regular beer in refillables in the Washington, D.C. area. They could also economize on their premium beer purchases by buying in refillable bottles. The average potential price savings observed was 55 cents per case with premium beer.

Savings averaging five cents per container, or 10 cents per six-pack, were reported by the League members for soft drinks in 7-ounce to 16-ounce refillables. Consumers could economize even more by buying soft drinks in 32-ounce refillable bottles, which were an average 16.8 cents per container less expensive than soft drinks in the same size nonrefillables.

The League members also reported that soft drinks were generally available in refillable containers, but the brand and size selection was considerably less than the selection that was available in nonrefillables. Beer, however, was available in refillable bottles in only a limited number of instances.

Of the surveys taken in the Washington, D.C. metropolitan area, only the beer survey obtained information on the availability of refillables. The data collected showed that in Washington, D.C., 37.5 percent of the stores surveyed carried refillables, while in the surrounding areas of Virginia and Maryland the percentages were 38.4 percent and 20.6 percent respectively. In addition, except for one grocery store chain, which offered beer in six-packs with refillable bottles, beer in refillables was sold only by the case.

LEAGUE OF WOMEN VOTERS PRICE SURVEY

Brand availability

The consumer generally has a choice in deciding upon the type of package in which to purchase soft drinks, according to the information supplied by the League members. However, except for a few instances, soft drinks in refillable containers are limited in both the range of sizes and the number of brands available when compared with nonrefillable containers.

Two notable exceptions, where refillable containers outnumber nonrefillables, are Oregon and Vermont. In both of these States, all beverages are sold in containers carrying deposits and the majority of these containers are also refillable.

While the consumer generally has a choice of purchasing soft drinks in refillable containers, this same opportunity does not occur with beer. Of the 14 outlets included in this survey that sold beer, only four carried beer in refillable containers, and even then the selection was limited.

Price comparisons

Direct Comparison. Again, the refillable container was shown to be the lowest cost type of package in which the consumer could purchase beverages with one exception. In one instance, the price of a soft drink in refillable and nonrefillable containers was found to be equal, (Table V).

Consumers could have economized on their soft drink purchase in the 7-ounce to 16-ounce size range by purchasing their soda in refillables. Savings with such purchases were found to range from one cent to ten cents per container, or six to 60 cents per six-pack. On a percentage basis, consumer savings were from 4.6 percent to 57.8 percent, while average savings with refillable bottles in the smaller sizes was five cents per container, or 30 cents per six-pack, See Table V–A.

The one instance where refillables and nonrefillables sold for the same price was for a soft drink in the 28-ounce intermediate size, see Table V–B. This was the only direct

comparison in this size, and therefore it is not possible to offer an explanation for this occurrence. It is noteworthy that this is the only instance in the three surveys where a beverage in a refillable container was not less expensive than the same beverage in a similar sized nonrefillable container.

The largest potential savings for consumers of soft drinks is in the 32-ounce size container, (Table V–C). In this size beverage container, savings ranging from 14 to 18 cents per container were reported, or in percentage terms from 40.5 percent to 66.7 percent. The average price differential for the 12 price comparisons was 16.8 cents per container.

For beer, price savings from 30 to 65 cents per case of 24 containers were reported by the League members. This translates into savings in percentage terms of 4.6 percent to 12.0 percent. The average price reduction with refillables was 45 cents per case, see Table V–D.

TABLE V.—(SUMMARY: APPENDIX III–A)
SOFT DRINKS—DIRECT COMPARISONS
TABLE V–A
Volume: 7-oz to 16-oz; Size: 6 and 8 Packs
(Number of Observations: 24)

Savings per refillable container (cents):	
Range:	
Low	1.0
High	10.0
Percent savings per refillable container (cents):	
Range:	
Low	4.6
High	57.8
Average savings per refillable container (cents)	5.0

TABLE V–B
Volume: 28-oz; Size: Single Container
(Number of Observations: 1)

Savings per refillable container (cents)	0

TABLE V–C
Volume: 32-oz; Size: Single Container
(Number of observations: 12)

Savings per refillable container (cents):	
Range:	
Low	14.0
High	18.0
Percent savings per refillable container (cents):	
Range:	
Low	40.5
High	66.7
Average savings per refillable container (cents)	16.8

BEER—DIRECT COMPARISONS
TABLE V–D
Volume: 2-oz; Size: 24-Container Case
(Number of Observations: 3)

Savings with refillable containers per case (cents):	
Range:	
Low	30.0
High	65.0
Percent savings with refillable containers per case:	
Range:	
Low	4.6
High	12.0
Average savings with refillable containers per case (cents)	45.0

Indirect Comparisons. The indirect price comparison data presented in this section is not as easy to interpret as the direct price comparison data presented in the previous section. This is due to the introduction of each beverage price variables as differences in container and pack size, in addition to the cost differences attributable to the use of refillable or nonrefillable containers.

For this reason, the data in Appendix III–B must be examined carefully so that erroneous conclusions are not drawn from the data.

In those instances that the container pack and size comparisons are within a reasonable range, the price differentials between the refillable and nonrefillable containers are relatively easy to interpret. The remainder of the price comparisons were included to provide some further information on the cost per ounce for different types of packages, container sizes, and pack configurations.

While interpretation of the data in this section may not be as straight forward as interpretation of the direct comparisons, the indirect comparisons do indicate that beverages in refillable bottles are available at a lower cost to the consumer than beverages in nonrefillable bottles, assuming that the beverages are packaged in containers of nearly the same size and pack configuration.

APPENDIX III.—LEAGUE OF WOMEN VOTERS SURVEY

APPENDIX III–A: SAME BRANDS, CONTAINER, VOLUME, AND PACK SIZE

Location: Brand: Type of container	Size of container (ounces)	Containers per pack	Price	Deposits	Net price	Price per container	Savings per refillable container	Percentage savings per refillable container
7-OZ CONTAINERS: 6 PACK								
California—San Francisco:								
Canada Dry:								
RET	7	6	$1.45	$0.30	$1.15	$0.1917	$0.0566	29.5
NR	7	6	1.49		1.49	.2483		
10-OZ CONTAINER: 6 PACK								
Virginia—Richmond:								
Pepsi:								
RET	10	6	1.65	.60	1.05	.1750	.0867	49.5
NR	10	6	1.57		1.57	.2617		
South Dakota—Vermillion:								
Canada Dry:								
RET	10	6	1.24	.30	.94	.1567	.0250	16.0
NR	10	6	1.09		1.09	.1817		
12-OZ CONTAINER; 6 PACK								
California—San Francisco:								
Mug Root beer:								
RET	12	6	1.29	.30	.99	.1650	.0833	50.5
NR	12	6	1.49		1.49	.2483		
Colorado—Aurora:								
Pepsi:								
RET	12	6	1.26	.30	.96	.1600	.0517	32.3
NR	12	6	1.27		1.27	.2117		
Coke:								
RET	12	6	1.26	.30	.96	.1600	.0517	32.3
NR	12	6	1.27		1.27	.2117		
7-Up:								
RET	12	6	1.17	.30	.87	.1450	.0533	36.8
NR	12	6	1.19		1.19	.1983		
Hawaii—Honolulu:								
7-Up:								
RET	12	6	1.37	.30	1.07	.1783	.0533	29.9
NR	12	6	1.39		1.39	.2316		
Coke:								
RET	12	6	1.37	.30	1.07	.1783	.0533	29.9
NR	12	6	1.39		1.39	.2316		
Pepsi:								
RET	12	6	1.37	.30	1.07	.1783	.0800	44.9
NR	12	6	1.55		1.55	.2583		
Dr. Pepper:								
RET	12	6	1.37	.30	1.07	.1783	.0833	46.7
NR	12	6	1.57		1.57	.2616		
Montana—Chester:								11.5
Coke:								
RET	12	6	2.25	.95	1.30	.2167	.0250	
NR	12	6	1.45		1.65	.2417		
Pepsi:								
RET	12	6	2.25	.95	1.30	.2167	.0250	11.5
NR	12	6	1.45		1.45	.2417		
Mountain Dew:								
RET	12	6	2.25	.95	1.30	.2167	.0250	11.5
NR	12	6	1.45		1.65	.2417		
Dad's Root Beer:								
RET	12	6	2.25	.95	1.30	.2167	.0250	11.5
NR	12	6	1.45		1.45	.2417		

APPENDIX III—A: SAME BRANDS, CONTAINER, VOLUME, AND PACK SIZE—CONTINUED

Location: Brand: Type of container	Size of container (ounces)	Containers per pack	Price	Deposits	Net price	Price per container	Savings per refillable container	Percentage savings per refillable container
Fresca:								
RET	12	6	$2.25	$0.95	$1.80	$0.2167	$0.0250	11.5
NR	12	6	1.45		1.45	.2417		
Dr. Pepper:								
RET	12	6	2.25	.95	1.80	.2167	.0250	11.5
NR	12	6	1.45		1.45	.2417		
Squirt:								
RET	12	6	2.25	.95	1.80	.2167	.0250	11.5
NR	12	6	1.45		1.45	.2417		
Virginia—Richmond:								
Coke:								
RET	12	6	1.20	.30	.90	.1500	.0867	57.8
NR	12	6	1.42		1.42	.2367		
12-OZ CONTAINER, 1 CASE—SOFT DRINK AND BEER								
Pennsylvania—Allison Park:								
Pepsi:								
RET	12	24	7.00	2.50	4.50	.1875	.0729	38.9
NR	12	24	6.25		6.25	.2604		
Budweiser:								
RET	12	24	7.50	1.00	6.50	.2708	[1] .0125 [2] .0188	[1] 4.6 [2] 6.9
NR-Bottle	12	24	6.80		6.80	.2833		
NR-can	12	24	6.95		6.95	.2896		
Iron City:								
RET	12	24	6.40	1.00	5.40	.2250	.0271	12.0
NR	12	24	6.05		6.05	.2521		
16-OZ CONTAINER, 6 PACK								
New Hampshire—Nashua:								
Coke:								
RET	16	6	1.73	.60	1.13	.1833	.0550	30.0
NR	16	6	1.43		1.43	.2383		
16-OZ CONTAINER, 8 PACK								
Michigan—Rochester:								
Pepsi:								
RET	16	8	2.19	.40	1.79	.2238	.0225	10.1
NR	16	8	1.97		1.97	.2463		
Diet Pepsi:								
RET	16	8	2.09	.40	1.69	.2113	.0100	4.7
NR	16	8	1.77		1.77	.2213		
Virginia—Richmond:								
Pepsi:								
RET	16	8	2.45	.80	1.65	.2063	.1000	48.5
NR	16	8	2.45		2.45	.3063		
28-OZ CONTAINER, SINGLE CONTAINER								
California—San Francisco:								
Canada Dry:								
RET	28	1	.73	.20	.53	.5300	0	0
NR	28	1	.53		.53	.5300		
32-OZ CONTAINER, SINGLE CONTAINER								
Louisiana—Shreveport:								
Dr. Pepper:								
RET	32	1	.44	.10	.34	.34	.15	44.1
NR	32	1	.49		.49	.49		
7-Up:								
RET	32	1	.44	.10	.34	.34	.15	44.1
NR	32	1	.49		.49	.49		
Coke:								
RET	32	1	.44	.10	.34	.34	.15	44.1
NR	32	1	.49		.49	.49		
Minnesota—Roseville:								
7-Up:								
RET	32	1	.53	.20	.33	.33	.22	66.7
NR	32	1	.55		.55	.55		
North Dakota—Bismark:								
Sprite:								
RET	32	1	.52	.15	.37	.37	.15	40.5
NR	32	1	.52		.52	.52		
7-Up:								
RET	32	1	.52	.15	.37	.37	.18	48.6
NR	32	1	.55		.57	.57		
Diet 7-Up:								
RET	32	1	.52	.15	.37	.37	.18	48.6
NR	32	1	.55		.57	.57		
Coke:								
RET	32	1	.52	.15	.37	.37	.18	48.6
NR	32	1	.55		.57	.57		
Pepsi:								
RET	32	1	.52	.15	.37	.37	.18	48.6
NR	32	1	.55		.57	.57		
Diet Pepsi:								
RET	32	1	.52	.15	.17	.37	.18	48.6
NR	32	1	.55		.57	.57		
Texas—Dallas:								
Dr. Pepper:								
RET	32	1	.36	10	.26	.26	.15	57.7
NR	32	1	.41		.41	.41		
Texas—Irving:								
Coke:								
RET	32	1	.43	.10	.33	.33	.14	42.4
NR	32	1	.47		.47	.47		

[1] Bottle. [2] Can.

CONSUMER PREFERENCE

Mr. HATFIELD. Mr. President, if, as the industry maintains, their continued production of nonreturnables reflects the preference of the consumer, why, in a nationwide poll on the issue of nonreturnables recently conducted by Opinion Research Corp. for the Federal Energy Administration, did 73 percent of those polled favor a law requiring that all soft drinks and beer be sold in returnable containers? I submit to my colleagues that the consumer is aware of the advantages of the returnable bottle or can. In Oregon an astounding 91 percent of the citizens have registered their approval of returnables. Similarly, consumers nationwide would eagerly adapt to the new system.

EMPLOYMENT

It is predicted that a net gain of between 80,000 and 118,000 jobs by 1982 with substantial increases in payrolls and labor income—about 22 percent according to the Federal Energy Administration—would result if this bill becomes law. This would be very helpful to an industry already plagued by employment problems due to the recent trend toward larger centralized brewing and soft drink plants at the expense of many thousands of jobs in smaller community breweries and bottling companies. With the 3-year phase-in provided for in this legislation, transitional problems should be minimized.

THE OREGON EXPERIENCE

Now that we have discussed the concept of returnables and their impact on solid waste, energy, the consumer, and employment, we are fortunate enough to be able to put all of this into the context of "real world" experience. In October 1972, legislation banning nonreturnables became law in Oregon. Our experience has been one of outstanding success, as evidenced by opinion polls and the comments of consumers, retailers, and distributors.

Bottles are being returned at a 90 percent rate and cans at an 80 percent rate. No increase in beer or soft drink prices has been attributable to the Oregon deposit law. In a study conducted by Don Waggoner of the Oregon Environmental Council, the Oregon law was shown to have reduced roadside litter 39 percent on a piece count basis and 42 percent on a volume basis after 2 years. Beverage container litter was reduced by 83 percent during those same 2 years with no change in litter cleanup expenditures.

We are saving 1.4 trillion Btu's annually in Oregon. This is enough energy to satisfy the home heating requirements of 50,000 Oregonians or to generate 130 million kilowatt hours of electricity worth $2.8 million annually. Moreover, there was a net gain of 365 full-time jobs, hardly substantiating the gloomy forecasts offered by many prior to adoption of the Oregon law.

Mr. President, I ask unanimous consent that three reports on the success of the Oregon beverage container law appear in the RECORD. The first, "Oregon's Bottle Bill: 2 Years Later," was prepared by Don Waggoner of the Oregon Environmental Council in 1974 and revised in May 1975. The second, "The Economic Impact of Oregon's Bottle Bill" is the work of Dr. Charles M. Gudger and Dr. Jack C. Bailes, professors at Oregon State University's School of Business and Technology. The third, a compilation of information contained in previous studies of the Oregon Beverage Law by the Oregon Department of Environmental Quality in 1977.

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

OREGON'S BOTTLE BILL TWO YEARS LATER

(By Don Waggoner)

FOREWORD

Oregon's Bottle Bill was passed by the Oregon legislature in 1971. It became effective on October 1, 1972, and the results following implementation have been the center of much controversy ever since. It had been challenged in the courts and declared constitutional by both the District Court and the Court of Appeals in Oregon. In May 1974, the Oregon State Supreme Court refused to review the Court of Appeals decision. On May 22, 1974 an announcement was made that no appeal would be carried to the United States Supreme Court, thereby ending any further challenge to the Law's constitutionality.

The length of time between legislative adoption and the effective date of the bill gave ample opportunity to review the before and after consequences of this Act. Two separate major studies regarding the outcome have been completed and released.[1] [2] Litter studies which were started one year prior to the bill's effective date were continued for two years following the effective date. There has been a wealth of information, misinformation, fact and conjecture which has ben generated on this subject.

Why so much interest in Oregon's Bottle Bill? The reason goes well beyond the boundaries of Oregon. It has been interpreted by both supporters and opponents as symbolic in the effort to reverse the move toward the "throw away society". It has been argued that the bill would not work and further that it has not worked. Others have agreed with former Governor Tom McCall when he called the bill a "rip roaring success".

This report has been written with several purposes in mind. First, it is intended to provide a detailed discussion regarding the implementation of Oregon's Bottle Bill for use by others who might consider similar legislation. Second, the analysis points out areas of confusion or disagreement which have arisen and attempts to clarify them. The overall goal has been to document the value of container refund legislation in a world with finite resources that are being rapidly and, in the case of beverage packaging, unnecessarily depleted.

SUMMARY OF CONCLUSIONS

The major conclusions of this report have been summarized as follows:

1. Roadside litter was reduced overall 26% on a piece count basis and 35% on a volume basis the first year after the Bill went into effect. During the second year, the reduction increased to 39% overall by piece count and 47% by volume.

2. Beer and soft drink beverage container litter was reduced by 72% during the first year and by 83% during the second year following the Act's October 1, 1972 effective date.

3. No increase in enforcement activities was observed which would affect littering rates.

4. No changes in litter pickup expenditures were observed.

5. For beer, returnable bottles captured 96% of the market after the Act was implemented compared to 36% before. Nonreturnable bottles, which had held 31% of the market previously, were eliminated and can sales dropped from 33% to 4%.

6. For soft drinks, returnable bottles moved from 53% of the market before the October 1, 1972 date to 88% the year following and 91% two years after. Non-returnable bottles, which had held 7% of the market were removed from the market. Cans moved from 40% to 12% one year later and 9% of sales two years later.

7. A "Littering Index" which shows the relative littering rate for deposit beverage containers shows that beer cans have 16 times the chance of being littered as does a soft drink returnable bottle.

8. Return rates continue to improve for the certified compact eleven ounce "stubby" bottle. 1974 data shows a 93% return rate which compares a 96% return rate for soft drink bottles. As a result, trippages for beer and soft drink refillables are 15 and 24 respectively.

9. Beer sales continue on historical growth trends following the first year adjustment which occurred due to the move from larger cans and bottles to the eleven ounce "stubby".

10. Beer prices in Oregon were slightly higher than in Washington following an increase at the end of 1974. Prior to that time no significant differentials existed.

11. Soft drink sales have been strongly affected by large price increases caused by sugar price variations. Prices remain comparable between Oregon and Washington with large differentials between cans and non-returnables and the cheaper returnable packages.

12. Employment has been increased as a result of the Act. An approximate net increase of 55 to 365 full-time jobs have been created.

13. The economic effect on industry has been small. Other factors not related to the bottle bill have been far more important. Direct consequences of the Act have been estimated to have caused an operating income change ranging between a negative 6.8% to a positive 3.1% based on total sales at retail.

14. Energy savings as a result of a move from 43% refillables to 94% are significant. 1.4 trillion BTU's are being saved annually, enough to provide the home heating needs for 50,000 Oregonians or to generate 130 million Kilowatt hours of electricity worth $2,800,000 annually.

PROVISIONS OF THE LAW

The Act covers all beer and carbonated soft drink beverage containers sold at retail after October 1, 1972. It requires that a refund be paid to any person presenting empty soft drink or beer bottles or cans for refund. A minimum five cent refund is required except for certified standard reusable (refillable) containers where the minimum refund is two cents. The pull tab can is prohibited. For the complete text of the Law as passed in 1971 and amended in 1973, see Appendix A. It should be noted that the Law did not ban cans nor did it require deposits. It does have the effect, however, of encouraging reusable containers and in fact, deposits have been charged on all beer and soft drinks.

The provision to encourage a standard reusable container was included to attempt to retain the then existing "stubby" beer bottle. It was also hoped that it would promote the emergence of a similar bottle for soft drinks. The compact eleven ounce "stubby" had been in wide use by the regional breweries for some time. Since any brewery could wash, fill and attach its own label for each refill, sorting by the retailer and distributor was held to a minimum.

Shortly after the Bottle Bill became effective, more than twenty different brand labels were being attached to the "stubby" by re-

Footnotes at end of article.

gional and shipping brewers. It could therefore be said that "In Oregon, only the label and the beer were different—the bottle was the same".

No move by soft drink bottlers has been made to establish a certified container. None is expected because the spread between a refund of two cents and new soft drink container cost of more than ten cents is much larger than for the "stubby" which has a new cost of approximately five cents. Bottlers want to insure that their reusable bottles return. Therefore, since the October 1, 1972 effective date of the Bill, refunds have been increased from five cents to seven cents and in some cases ten cents on soft drink bottles of sixteen ounces or less. Similarly, quart-size bottles have increased from ten cents to fourteen and twenty cents.

APPLIED DECISION SYSTEMS STUDY

The provisions of the Bottle Bill as enacted in 1971 require that a review of the consequences be made for presentation to the 1975 legislature. To fulfill this requirement, bids were requested from consultants in early 1973. Applied Decision Systems, a Massachusetts firm was awarded the contract on November 1, 1973.

The draft copy of the ADS [2] report was released on September 3, 1974. Hearings were held on September 12 to receive testimony regarding the draft. Conclusions regarding litter reductions were challenged as being too small and economic consequences were alleged to have been misstated. Finally, on one important industry segment, the retailer grocer, ADS had not been able to obtain sufficient data to permit its inclusion in the economic analysis. Subsequently a number of changes were made to the draft. A second hearing was held on October 8, 1974. Additional testimony was received at this hearing and it became apparent that a great deal more research would be needed to resolve the controversies which had developed.

The special legislative committee which nad been established to review the report finally acted unanimously to accept the ADS report with the following motion proposed by Representative Hansell. . . . "So I would move that the committee recommend to the Fiscal Officer and the Emergency Board that the ADS Report, as amended be accepted with the following provisions: that the Fiscal Office have an introduction to the report stating the history of the report and the limitations that are connected with it, and in addition that by accepting the ADS report the Fiscal Office and the Legislature disclaim any responsibility for the accuracy of the figures or the data that is used. In addition, that all statistics and data that are contained as a part of it have a prior statement as to the percent of industry that was contacted, the percentage that responded, and the percentage of the total industry that is represented. That in addition we have clearly emphasized that these questionnaires by their very nature were voluntary."

Discussion on the motion included Representative Hansell's statement that . . . "my purpose in doing this is that we get away from the idea that this is an official report and that the Oregon Legislature has completely approved . . .".

Opponents of the concept of container refund legislation have referred to the ADS [2] report as the "official study". In a release [3] dated September 19, 1974 by Rockey/Marsh-Public Relations two pages of copy contain the word "official" in regard to the ADS study eight times. Others have also used the term "official" to describe the study. A California Beer Wholesalers Association release [4] dated October 24, 1974 bears the heading "Official Study Disputes 'Bottle Bill' Success." Nevertheless, the position of the ADS study is that it was paid for by the State of Oregon but any conclusions have not been endorsed or supported by the State. In short, the ADS study must be able to stand item by item on its own merit.

GUDGER AND BAILES STUDY

Professors Charles M. Gudger and Jack C. Bailes authored a report entitled "The Economic Impact of Oregon's Bottle Bill".[1] This report, issued in March 1974, was supported in part by the National Science Foundation Institutional Grant for Science. It does not consider litter reduction but does review economic aspects in considerable detail.

OREGON LITTER SURVEYS

In October of 1971, litter surveys were begun on 30 randomly selected one mile sites throughout the state highways of western Oregon. The following Oregon State Highway Division map has been modified to show the locations of each of the 30 sites. See Appendix B for additional details regarding each of the test sites. The survey was continued for three years with the last pickup in early September 1974.

Although the thirty sites remained unchanged throughout the test period, the ways in which the litter picked up was tabulated did vary over the period. In general, each change provided more detailed information. For example, during the period October 1971 through September 1972, which will be referred to as "BEFORE", there were five categories of tabulation. During the period November 1972 through September 1973, which will be called "TRANSITION", there were six categories. This change was required because the beer and soft drink can became a refund container as a result of the provisions of the "bottle bill". Finally, during the period November 1973 through September 1974, "AFTER", there were some fourteen breakdowns in the tabulations. See Appendix C, D, E for facsimiles of the data collection sheets. Throughout, the basic groupings were not changed. Rather, greater detail was being supplied within these groupings. Figure I summarizes the categories used.

FIGURE I.—LITTER TABULATION CATEGORIES

Before, October 1971 to September 1972	Transition, November 1972 to September 1973	After, October 1973 to September 1974
More than 5 cent deposit bottles.	More than 5 cent deposit bottles.	Quart bottles (deposit over 5 cents).
5 cent deposit bottles.	5 cent deposit bottles.	5 cent deposit soft drink bottles.
	5 cent deposit cans.	5 cent deposit beer cans.
		5 cent deposit soft drink cans.
2 cent deposit bottles.	2 cent deposit bottles.	2 cent deposit beer bottles.
All other beverage containers.	All other beverage containers.	Nonreturnable beer cans.
		Nonreturnable soft drink cans.
		Nonreturnable beer bottles.
		Nonreturnable soft drink bottles.
All other litter	All other litter	Other cans (miscellaneous).
		Other bottles (miscellaneous).
		Paper beverage related containers—6 pack, case (etc.).
		Miscellaneous litter.
Total items	Total items	Total items.

RESULTS

Litter rates for all items during the transition period show a 26% reduction over the before period based on piece counts. Similarly the after period shows a 39% reduction over the before period. Littering rates for beverage containers showed a 72% reduction during the transition period and an 83% reduction for the after period. Figure II summarizes the results of the litter reduction computations.

It should be remembered that these reductions are for state highway sections. Other areas such as parks, trails, streams, beaches and county and city roads were not included in the test sites. It should also be noted that the results are based on piece counts only. Thus a cigarette butt is given equal weight in the tabulations to the far more visible beverage can.

Two conclusions may now be drawn:

1. Cans are more likely to be littered than bottles.

2. Beer containers are more likely to be littered than soft drink containers.

In each instance the margin is very dramatic. For beer, a can is 4.9 times as likely to be littered as a bottle. For soft drinks the margin is 7.1 times. A beer container is 2.4 times as likely to be littered as a soft drink container.

Finally, a beer can generates 12.9% of total deposit litter with only 2.3% of total sales for a "Littering Index" of 5.61. The soft drink bottle generates only 14.1% of total deposit litter even though it amounts to 39.0% of total sales for a "Littering Index" of 0.36. Thus the beer can has 16 times the probability of being littered as a soft drink bottle. The results can therefore be summarized as "People tend to litter beer cans".

TRIPPAGE

It is very difficult to actually determine the number of round trips which a reusable container makes before it is broken or discarded. No records are maintained on any specific bottle to determine this figure. However, a term known as "trippage" has been developed and is widely used by both the beer and soft-drink industry. "Trippage" is defined as 100% divided by the percentage of containers which fail to return after each filling. Thus, a single-use container's trippage would be 100% divided by 100% or 1 trip. Similarly, a return of half would result in 100% divided by 50% or 2 trips. Finally, a 95% return rate would give a trippage of 100% divided by 5% or 20 trips. For refillables, the actual number of reuses would be somewhat lower than the "trippage" figure calculated here, since breakage in the brewery or bottling plant reduces the quantity that can be refilled.

ADS [2] concluded that before the Bottle Bill became effective there was an 82 percent return rate on the standard 11 ounce "stubby" bottle which was widely used in the Northwest. This is equivalent to a trippage of 5.6 trips. During the transition period, ADS found that returns increased to 95 percent for the regional breweries (a trippage of 20 trips) and 29 percent for the major three national breweries serving Oregon in the "stubby" containers (1.4 trips) to give an overall return rate of 86 percent or 7 trips for the total of all breweries studied.

During the year 1974, return rates for five regional breweries increased [1 2] to 101 percent (a trippage of infinity) while those of four of the major shipping brewers increased to 57 percent. This left an average return rate for the certified "stubby" containers of 93.1 percent and a trippage of 15.

For soft drinks, ADS [2] concluded that return rates were 95.7 percent for before and 95.9 percent for transition. Recent information indicates no change in the return rate, giving a trippage of approximately 24 for both transition and after.

PUBLIC ACCEPTANCE

Six hundred in depth interviews were held with Oregon consumers in September 1973. The results of these interviews have been well documented in the ADS [2] report. They showed overwhelming acceptance by those interviewed. Ninety-five percent of the persons interviewed had an opinion regarding the Bottle Bill and 95 percent of those with an opinion voiced approval. For additional information the reader is referred to the ADS [2] report and Volume I of the supporting materials for that report.

Footnotes at end of article.

BEER SALES—TOTAL OREGON ANNUAL BEER SALES BY VOLUME [13]

FIGURE XI.—ANNUAL OREGON BEER SALES

Year	Annual sales (thousands of barrels)	Percent increase over previous year
1968	1,151.3	1.57
1969	1,228.5	6.71
1970	1,314.6	7.01
1971	1,395.8	6.18
1972	1,469.6	5.29
1973	1,489.8	1.37
1974	1,574.3	5.67

It can be seen that beer sales increased at a relatively uniform annual rate after 1968 through 1972. During the first full year immediately following the Bottle Bill, the rate of increase was only 1.37 percent. However, during 1974, the second full year following the Bottle Bill's date, the increase again rose at the historical rate of 5.67 percent. The ADS study used the period three months before the Act went into effect and nine months after its effective date to compare to previous growth rates. They concluded that the Act had caused a long-term change in the trend of beer sales.

While it is true that there was a slight reduction from historical increases during the TRANSITION year, it is very important to further analyze the reasons for this change.

One of the goals of the supporters of the Bottle Bill was to encourage a switch away from single-use containers back to reusables. This is indeed what happened. The reusable "stubby" 11 ounce bottle increased from 48 percent of total beer sales by container in 1971, to 89 percent in 1973 and 90 percent during the first nine months of 1974. By comparison, 12-ounce cans were moving from 25 percent of the market during 1971, to 2 percent during 1973 and 3 percent during the first nine months of 1974. Similarly, the 16-ounce can changed from 8 percent in 1971 to 1 percent in both 1973 and 1974. In addition, the 12-ounce bottle which captured 14 percent of the market in 1971, moved to 6 percent in 1973 and dropped further to 3 percent in 1974. Sales of reusable quarts remained at 2 percent to 3 percent throughout the period.

The net effect of these changes was to move to a significantly smaller container. Thus, although fillings increased by 13 percent between 1971 and 1973, container barrelage increased only 7.7 percent. Putting it another way, barrelage per 1000 fillings decreased by nearly 5 percent between 1971 and 1973. Since it is likely that a consumer sits down to have a "beer or two" rather than "12-ounces" or "16-ounces" of beer, it is not surprising that the shift to 11-ounce "stubbies" brought with it a relative drop in beer sales measured by barrelage.

The 11-ounce "stubby" was already in general use in Oregon in 1972 when the switch to reusable containers took place. Had the standard container been a 12-ounce bottle, then it is likely that essentially no change in historical patterns would have taken place.

It is interesting to note that beer sales for Oregon have followed a virtually identical pattern to those of its northern neighbor, Washington State. Between 1970 and 1974 Oregon experienced a 19.69 percent increase while Washington [14] obtained a 19.25 percent increase. Similarly, both Oregon and Washington experienced an identical increase of 5.67 percent between 1973 and 1974. It can thus be stated that the Bottle Bill does not appear to have had any appreciable effect on beer sales in Oregon except that caused by reduction in average container size during 1973.

Footnotes at end of article.

BEER PRICES

Recent years have been marked by a large increase in beer prices both in Oregon and nationally. Inflation in virtually every aspect of the brewing industry has brought about these increases. It is thus difficult to evaluate the specific increases, if any, that should be attributed to the Bottle Bill. The decrease in purchase of new containers constituted a reduction in costs. On the other hand, increased handling costs for reusable containers was an offset to these savings. Nevertheless, prices for comparable packages of beer sold in Oregon compared to those in Washington, which does not have refund legislation, were essentially equal throughout both the TRANSITION and AFTER periods. This was true in spite of several increases in both States. Both Oregon Distributors and Retailers increased the percentage markups over their costs during this period. Between 1971 and August 1974, regional brewery price increases of 20.5 percent for the "stubby" 6-pak resulted in a 29.5 percent increase by the Distributors and a 31.4 percent increase posted by the Retailers.

In late December, 1974, regional brewery price increases on the "stubby" 6-pak of 4.9% became 4.9% increases at the distributor level and a 7.2% increase to Oregon consumers. Prices increased only approximately 5% in Washington State. Therefore, prices for beer are approximately 2 to 3% higher per ounce in Oregon for Regional brands on comparable sizes compared to Washington. Washington State has a sales tax of 5% while Oregon has none.

SOFT DRINK SALES

The ADS [2] report detailed a shift from canning operations to franchised bottlers between 1972 and 1973. It concluded that there was probably no net change in packaged soft drink sales between the two years. It is extremely difficult to obtain precise information regarding Oregon soft drink sales. Nationally, soft drink sales stabilized in 1974 with no increase in sales reported.[15] No specific information is published for Oregon. Since 1973, sugar price increases have required significantly increased prices of soft drinks, and this has adversely affected the sale trends of soft drinks both in Oregon and nationally. Consequently, it can be concluded that during 1974, whatever minor impacts the Bottle Bill had on soft drink sales have been completely overshadowed by price considerations.

SOFT DRINK PRICES

Soft drink prices have been subject to extreme inflationary increases of up to 50% in the Northwest. Nevertheless, prices in Washington are comparable to those found in Oregon and there is a significant cost differential between reusable and one-way containers. In Washington, the one-way container is priced between 20% and 25% more per ounce for the same brand in the same size package compared to reusable containers. In Oregon it is difficult to compare refillables to single-use containers of the same size and brand. Comparing an 8-pak 16-ounce returnable package to a 6-pak 12-ounce can package of the same brand, however, the cans cost approximately 50% more per ounce. The same is true in Washington between these two packages.

EMPLOYMENT INCREASES

Two researchers have directed themselves to the employment impacts of the Bottle Bill. Drs. Gudger and Bailes [1] considered retailers, soft drink bottles, brewers, distributors, can manufacturers, and bottle manufacturers. ADS [2] was unable to obtain sufficient information from retailers and failed to include the employment increases for common carrier trucking man hours but did obtain information regarding all other groups.

Drs. Gudger and Bailes concluded that there were increased man hours during the Transition period compared to Before which amount to a net full time increase of 365 people as shown in Figure XII.

FIGURE XII.—EMPLOYMENT IMPACT, GUDGER & BAILES

Production labor	−350
Truck driving	+140
Warehouse and handling	+575
Total	+365

Initially, ADS [2] referred readers to Gudger and Bailes for the retail portion of the employment picture. Recent estimates provided by Jim Glauthier of ADS [16] for both retailers and common carrier trucking have been included in Figure XIII. These figures are somewhat different from those given above partly because these are estimates of jobs lost or gained, not equivalent increases based on hours worked. For example, in the Retailers group, it was estimated by ADS that fifty percent of the increased hours expended did not require additional hiring but was instead done by existing personnel spending longer hours or more efficient use of persons already employed. As a result the estimate of 200 to 250 increase in jobs is half the total that would have been used by Gudger and Bailes.

FIGURE XIII.—EMPLOYMENT CHANGES ADS

	Change	
	Minimum	Maximum
Soft drinks	+82	+98
Brewers	+50	+60
Distributors	+43	+50
Can manufacturers	−140	−162
Bottle manufacturers	−200	−200
Common carrier trucking	+20	+20
Retailers	+200	+250
Total	+55	+116

ECONOMIC EFFECT ON INDUSTRY

Both ADS [2] and Drs. Gudger and Bailes [1] evaluated the economic consequences in great detail. Their methods used were different in many respects and their conclusions also varied significantly. Manufacturing and distributing soft drinks and beer is a very complicated industry process. Unfortunately, because it is a very competitive industry, some data is considered confidential and has not been made available to any researchers. Secondly, some information was made available to ADS which has not and will not be made available to others. These facts make it very difficult to compare the results of these two reports. The net impacts for the sectors studied will be tabulated as shown in Figure XIV.

FIGURE XIV.—CHANGES IN OPERATING INCOME DUE TO THE BOTTLE BILL

[In thousands of dollars]

	Gudger & Bailes	Ads	
		Minimum	Maximum
Glass bottle manufacturers	−264	+68	+106
Can manufacturers	−350	−2,252	−2,463
Brewers	+5,328	−912	−1,182
Beer distributors	−589	−661	−1,498
Soft drink bottlers	+2,765	−3,116	−3,553
Retailers	−2,946	(1)	(1)
Total	+3,944	−6,873	−8,590

[1] Not stated.

It can be seen that the two reports found widely different impacts. On Operating Income, Gudger & Bailes reported an improvement of $3,944,000 while ADS concluded that there was a $6,873,000 to $8,590,000 de-

crease. The most critical differences stem from conclusions regarding return rates or "Trippage" changes as a result of the Bill. ADS concluded that there was virtually no change in soft drink returns of approximately 96% while Gudger and Bailes concluded that the return rates rose from 80% to 92%. Similarly, for beer, ADS concluded that return rates increased from 82% to 86% while Gudger and Bailes used a change of from 75% to 95% in their calculations.

These differences cause very large impacts on the container purchase costs for the brewer and bottler. For example, Gudger and Bailes calculated a $16,184,000 savings in container costs to the brewers and bottlers. The much smaller changes found by ADS resulted in smaller savings for these sectors. Consequently, the negative impacts on bottle and can manufacturers who lost business could not be balanced off against savings for the brewery and bottler in the ADS analysis.

It is different to resolve this discrepancy. As was noted earlier under "Trippage", return rates on stubby beer bottles did increase to 95% in 1974. However, it does appear that soft drink return percentages have remained essentially unchanged by the Act.

Total beer and soft drink sales for 1973 at retail were $126,000,000.[1] The increased profit found by Gudger and Bailes is therefore 3.1% of total sales. By comparison, the loss shown by ADS is 5.4% to 6.8% of total sales. When the savings to the consumer as a result of more frequent purchases of the less expensive soft drink returnable packages is also considered, the impact on the consumer will be very small indeed. Other factors, such as increased raw materials and container costs and general inflationary pressures have had far greater consequences than the shift back to refillables.

ENERGY SAVINGS

Refillable containers are somewhat bulkier than single use containers. Consequently, more labor is needed to handle them. In addition, the extra sorting, handling and cleaning steps involved in the return to the bottler or brewery for reuse also require additional labor. By comparison, the single use container requires more energy in mining, transportation, molding, reduction, smelting and metal forming processes required for each use. Thus, the refillable system is a labor intensive one while the single use system is energy intensive.

Refillable containers have grown from approximately 43% of the soft drink and beer market to approximately 94% during the second year after the Act went into effect. Based upon a recent EPA report "Resources and Environmental Profile Analysis of Nine Beverage Container Alternatives"[17] using Oregon container mix changes, return rates and recycling experience, energy savings have been computed (See Appendix N). This analysis shows that approximately 1,400 Billion BTU's are being saved each year as a result of the Bottle Bill.

This is equivalent to the average Oregon home heating needs of 12,000 units that heat with natural gas or the population of a residential community of approximately 50,000 people. Alternatively, if this energy were converted to electricity, then the annual savings would total approximately 130 million kilowatt hours. If electricity rates were at the approximate average national rate[18] of 2.2 cents per kilowatt hour, this would then total $2,800,000 savings annually.

CONCLUSION

This combination of decreased consumption of energy plus increased employment as a result of the "return to the returnable" is very significant. One characteristic of convenience packaging is that it often causes energy intensive alternatives to be substituted for those which are labor intensive. Thus, energy requirements are increased, while at the same time, jobs are eliminated.

It is regrettable but true that many existing jobs and very large corporate investments are dependent upon the continuation of the wasteful practices of the "no-deposit—no return" concept. More new jobs would be created by a return to refillables than would be lost. However, this fact does not soften the impact upon the specific individual who must abandon old skills and perhaps move to a new community and a new job. This is a general problem which is as yet unsolved but which must be dealt with as our society abandons the wasteful patterns of recent years.

It is perhaps ironic that the highly visible consequences of the "throwaway" being literally thrown away on our roadsides has prompted a new awareness of the more general problems which are caused by the acceptance of the "throw-away ethic". The focus of the debate will likely shift over time from litter reduction to energy conservation and source reduction and the attendant employment increases.

Now that the results of the "Oregon Experiment" are in it is hoped that they will be used by other lawmakers as a guide to enactment of similar legislation. As a nation we we are becoming increasingly aware that our resources are finite—not unlimited. Concepts such as container refund legislation can play an important role in the much needed effort to reestablish an equilibrium with our environment as well as prevent the further erosion of our employment base.

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THE ECONOMIC IMPACT OF OREGON'S "BOTTLE BILL"

(By Charles M. Gudger, Ph. D. and Jack C. Bailes, Ph. D.)

CHAPTER ONE.—INTRODUCTION

1.1. *The Oregon Law.*—On October 1, 1973 a new law, popularly known as "The Oregon Bottle Bill" went into effect in the State of Oregon. This law imposes new regulations on carbonated beverage (malt beverage and soft drink) containers. Its primary purpose was to encourage the use of refillable containers and thus reduce the litter and solid waste associated with disposable beverage containers. The main provisions of the law are as follows:

1. All carbonated beverage containers (with the exception noted below) sold in the state must have a minimum refundable deposit of five cents.

2. Refillable containers used by more than one beverage manufacturer may be certified by the Oregon Liquor Control Commission. A certified container can have a minimum refundable deposit of two cents.

The original law used terminology to the effect that such containers shall be certified upon application by manufacturers. The effect has been that there are, at present, two certified bottles—the 11-ounce brown "stubby" beer bottle and the quart "twist top" beer bottle. No soft drink bottles have been proposed for certification. Obviously, bottles of special shape or with permanently embossed brand identification do not qualify under this provision.

3. The deposit on any carbonated beverage container must be refunded by any retailer or wholesaler who sells that kind, brand, and size of beverage.

In effect this means that containers do not have to be returned to the particular dealer who originally sold the beverage and collected the deposit. In the case of wholesalers, certified bottles have removable labels and are are being redeemed by wholesalers of competing brands.

4. Metal containers having detachable parts cannot be sold in the state.

In effect, this bans the sale of "ring pull" or "flip top" cans. Some new designs of beverage cans such as the "push top" that has disc shaped sections that are pushed into the can, but do not detach, are being marketed in the state. Most of the beverage cans being sold have solid tops that are opened with the standard beverage can opener. It will be noted that cans, although not refillable, must have a minimum deposit of five cents.

5. The law contains provisions for enabling the establishment of cooperative redemption centers to be used by groups of retailers or wholesalers.

No attempt has been made, however, to establish such a center anywhere in the state.

The "Bottle Bill" was widely hailed by environmentalists as a significant step in reversing the very great increase in litter and solid waste represented by packaging materials. It was opposed (moderately by some and vigorously by others) by all sectors of industry that were directly affected by it. Its constitutionality continues to be challenged in the courts to the present time. Some of the opposition, in fact much of the question of constitutionality, is based on the perception of these businesses that they are being singled out and thus are being discriminated against whereas other businesses are responsible for much greater volumes of waste and are not being subjected to similar regulation. As one soft drink bottler, who is not particularly opposed to the bill, stated "After all, the only real difference between a bottle and a piano crate is

that few piano crates are thrown out of cars. Both are packaging materials, and the disposal of both results in environmental problems."

Additional opposition was based on considered opinion that the law would be, at best, only minimally effective in reducing litter. Further, different legislation was proposed (a tax on litter-prone package materials) that was felt to be more effective and less costly to directly affected business.

1.2 *Purpose of This Investigation.*—As with almost all environmental legislation, one of the major questions is that of what its cost will be in relation to what benefits it will bring. In the case of the Oregon Bottle Bill, the cost to government for enforcing legislation of this nature is minimal. The cost to the public as consumers is greatly dependent upon whether business costs are increased and are reflected in higher prices. (Consumer costs associated with returning containers and with having funds tied up in deposits are seen to be so small for individual consumers as to be insignificant.) The major question, then, concerns the economic impact of the law on the industries that produce and market carbonated beverages and on those industries that supply them. This report is primarily addressed to answering this latter question.

The primary objective of this study has been to conduct an independent investigation of the economic impact of the Oregon Bottle Bill on directly affected businesses. Those businesses include Container Manufacturers, Malt Beverage Brewers, Malt Beverage Distributors, Carbonated Beverage (soft drink) Bottlers, and Retailers of malt and carbonated beverages. Determination of the economic effects of the Bottle Bill is necessary for an objective evaluation of the Oregon Bottle Bill. It would not be appropriate to consider only the environmental impact of such legislation, as alternative programs (i.e. with similar reductions of litter, solid waste, or resource usage) may have differing economic implications. It is also important that a study of economic effects of the Bottle Bill be conducted by independent researchers. Conflicting projections and statements issued from industry or environmental associations have not aided objective evaluations.

The specific economic factors to be considered by this study include the following:

1. Changes in sales volumes of malt and carbonated beverages.
2. Changes in container sales mix of malt and carbonated beverages.
3. Return rates of refillable containers.
4. Changes in sales volumes of glass and metal beverage containers.
5. Price changes for malt and carbonated beverages.
6. Changes in production, distribution, and retail costs of operation.
7. Capital losses and changeover costs.
8. New capital investment.
9. Competitive changes—number of brands on the market.

1.3 *Sources of Cost Data—Methodology.*—Starting shortly after the Bottle Bill went into effect, extensive interviews were conducted with representatives of all sectors of the businesses directly affected by the bill in order to determine the affected cost elements of each type of operation. From this information, preliminary questionnaires were designed to elicit the specific data required. Whenever possible, these questionnaires contain checks for intrenal consistency. For example, pre and post-Bottle Bill information on elements such as space, sales volume, and labor cost, was requested so that the consistency of replies could be ascertained. Also, the questionnaires provided means of checking accuracy between sectors. For example, information on return rates, sales volumes, prices, etc., was requested from each industry level so that accuracy of replies could be judged. Industry representatives were most cooperative in reviewing the questionnaires for relevance, for completeness, and for understandability, and provided helpful advice as to industry record keeping practices which aided greatly in wording questions in a way that would make them more readily answered.

Preliminary questionnaires were then personally administered to at least 5 percent of the proposed samples to discover and correct any further problems with terminology, structure, or unwarranted difficulty. From this information, questionnaires were printed and distributed to 100 percent of the licensed malt beverage distributors, 100 percent of licensed soft drink bottlers, and 400 retailers in the state. The retailer sample included 300 grocers and 100 vending machine operators and taverns. All parts of the retailer sample were stratified geographically to assure that all areas—coastal resort, border, high and low population density areas, etc.—were represented. Brewers and container manufacturers with significant market shares in Oregon were interviewed directly by the principal investigators.

Follow up questionnaires were sent to all who did not respond to the initial inquiry, and the investigators attended various industry meetings in order to explain the study and encourage reply. The response rate on mailed questionnaires was expectedly low from businesses that were not significantly affected by the bill, for example, taverns and vending machine operators (service stations) responded at 12 percent and 22 percent rates respectively. Other mailed questionnaire response rates ranged from 32 percent to 48 percent. Whenever practical, atypical data from the replies were checked by personal interview or by telephone. Consequently, it was necessary to exclude very little data from the calculations.

CHAPTER FOUR.—SUMMARY AND CONCLUSIONS

4.1 *Introduction.*—This chapter summarizes the economic effects of The Oregon Bottle Bill on malt beverage brewers, malt beverage distributors, soft drink bottlers, retailers, and manufacturers of beverage containers. These results are based on empirical data collected for the year 1973, and include the effects of the bill on operating income, capital losses and changeover costs, and new investment. Further conclusions are presented concerning the economic impact of the Bottle Bill on the Oregon State Government and on the malt and carbonated beverage consumers of Oregon. Finally, implications are drawn as to the impact of the Bottle Bill on litter, solid waste, and employment.

4.2 *Summary of the Economic Impact of The Bottle Bill on Business:*

4.2.1 *Operating Income.*—Table 4–1 presents the effect of the Bottle Bill on the operating incomes of those business sectors directly affected by the legislation.

TABLE 4–1.—CHANGES IN OPERATING INCOME IN 1973 DUE TO THE BOTTLE BILL

Industry	Change in operating income	Direction of change
Glass bottle manufacturers	$264,000	Decrease.
Can manufacturers	350,272	Do.
Malt beverage brewers	5,328,383	Increase.
Malt beverage distributors	589,000	Decrease.
Soft drink bottlers	2,764,675	Increase.
Retailers	2,945,825	Decrease.
Total change for all industries	3,943,961	Increase.

Source: Oregon State University bottle bill survey.

4.2.2 *Capital Losses and Changeover Costs.*—All industry segments reported zero or insignificant capital losses. This was due to the localization of the Bottle Bill to the state of Oregon and the transferability of physical capital (e. g., vending machines) or capital usage (e.g., use of can lines for beer sold in markets adjacent to Oregon). There are potential capital losses for equipment within the state of Oregon used solely for canning soft drinks, however such losses have not been realized to date. The largest of these possible capital losses would involve the $600,000 book value of canning equipment owned by Emerald Canning Company. The market value of that equipment was unavailable. Those changeover costs that have been reported are shown below:

Soft Drink Bottlers	$75,000
Retailers	99,627
Total Changeover Costs	$174,627

Those changeover costs shown for retailers represent the cost of inventory that did not conform to the requirements of the Bottle Bill and could not be sold after September 30, 1972.

4.2.3 *New Investment.*—The Bottle Bill has resulted in new capital investments in several industry segments, however it has not been possible in all cases to determine the portion of actual increased investment that was necessitated by the bill. New trucks and bottling, washing, or filling equipment may have provided for capacity in excess of that required by the implementation of Oregon's Bottle Bill. Nevertheless, Table 4–2 shows the reported new investment in returnable bottle float for brewers; in truck and bottle handling equipment for beer distributors; in returnable bottle float, trucks, bottle washing and bottle filling equipment for soft drink bottlers; in bottle sorting and handling equipment for retailers.

TABLE 4–2.—NEW CAPITAL INVESTMENT NECESSITATED BY THE BOTTLE BILL

Industry	Amount of investment	Type of investment
Malt beverage brewers	$1,300,000	Bottle float.
Malt beverage distributors.	550,000	Trucks, bottle handling equipment.
Soft drink bottlers	3,310,000	Bottle float, trucks, bottling equipment, washing equipment.
Retailers	193,000	Bottle sorting and handling equipment.
Total new capital investment.	5,353,000	

Source: Oregon State University bottle bill survey.

4.3 *Economic Impact of The Bottle Bill on State Excise Tax Revenues.*—Early projections concerning the effects of the Bottle Bill predicted a decline in state excise tax revenue of up to $.5 million a year (Wagner, p. 24). This prediction was based on the expected negative sales effect of the Bottle Bill. Since the actual 1973 Oregon malt beverage sales records do not support the hypothesis of depressed beer sales, there is no evidence that excise taxes have been affected.

4.4 *Economic Impact of The Bottle Bill on Oregon Consumers.*—The actual net cost to Oregon consumers of beer and soft drinks in 1973 was not significantly different from what it would have been given pre-Bottle Bill market conditions. This was the case even though there was a price increase in 1973 for both beer and soft drinks in returnable bottles. The average price increase amounted to approximately 11 percent for all brands of beer in returnable bottles, and to 7.6 per cent for all brands of soft drinks in returnable bottles. The 1973 prices of soft drinks and malt beverages in cans were unchanged from their 1972 prices. However, the prices of beer and soft drinks in returnable bottles were still lower than the prices of those beverages in cans. This price differential

favoring returnable bottles and the increases in percentages of beer and soft drinks sold in returnable bottles have offset the effect of the 1973 price increases. As shown in Table 4–3, the total expenditure in 1973 by Oregon consumers for beer and soft drinks increased by $183,550 over what they would have spent under 1972 prices and sales mixes. This increase amounts to .1 percent of the actual total expenditure in 1973. If the 1973 price increase is assumed to be due to the Bottle Bill, then the bill has had only an insignificant effect on the total amount spent by Oregon consumers for beer and soft drinks. In Chapter Two, it was concluded that the Bottle Bill did not cause the price increases; under this assumption, the Bottle Bill has resulted in significant savings to consumers. Table 4–3.

TABLE 4-3.—TOTAL EXPENDITURE BY OREGON CONSUMERS FOR SOFT DRINKS AND MALT BEVERAGES

	Soft drink	Malt beverage	Total
Actual expenditure in 1973	$49,246,800	$76,462,000	$125,708,800
Expenditure in 1973 assuming prebottle bill sales mix and prices	49,980,000	75,545,250	125,525,250
Increase (decrease) in beverage expenditure	−733,200	+916,750	+183,550
Change as percent of actual	−1.5	+1.2	+0.1

Source: Oregon State University bottle bill survey.

When a returnable container is not returned, the amount of the deposit is an additional cost to the consumer. The Bottle Bill has resulted in both brewers and soft drink bottlers selling a much higher percentage of returnable bottles, and in a required deposit on beverage cans. However, under the Bottle Bill, the return rates for returnable bottles have substantially increased. The net effect has been a decrease of $266,000 in deposit losses by consumers. Table 4–4 compares the actual 1973 deposits lost with the 1973 estimated deposit losses assuming pre-Bottle Bill sales mixes and return rates.

TABLE 4-4.—OREGON CONSUMERS' LOSSES ON CONTAINER DEPOSITS FOR SOFT DRINK AND MALT BEVERAGE

	Soft drink	Malt beverage	Total
Actual deposits lost in 1973	$1,497,000	$635,660	$2,133,660
Deposit losses in 1973 assuming prebottle bill sales mixes and return rates	1,800,000	593,850	2,393,850
Increase (decrease) in deposit losses due to bottle bill	−303,000	+41,810	−261,190

Source: Oregon State University bottle bill survey.

It is clear that the Bottle Bill has not caused significant economic losses to consumers, rather it may have been responsible for economic gains. On the other hand, consumers have suffered a loss of choice of soft drink and malt beverages in convenience oriented packaging. In addition, consumers are required to expend some effort and perhaps cost to obtain refunds of deposits on returnable containers. The effect of the Bottle Bill on consumer economic utility could not be determined without extensive consumer attitude surveys. This research study did not collect consumer attitude data, however the following sections discuss three additional areas—solid waste, litter, and employment—where the Bottle Bill could affect consumer utility. Even though this report does not provide direct evidence of consumer attitude, it has shown increased return rates, beverage sales in accordance with trends, and that retailers conspicuously did not report consumer complaints. These findings would at least tend to refute any hypothesis of negative consumer attitude toward the Bottle Bill.

4.5 *Solid Waste and Litter.*—Beverage containers sold and not returned eventually enter the solid waste stream either as disposed trash or as litter. Returned containers that are not refilled are not considered to contribute to solid waste in that they are recycled. From the sales mix and return rates under pre and post-Bottle Bill conditions, we can calculate the number of containers entering the solid waste stream annually and the difference resulting from the Bottle Bill. These figures are summarized in Table 4–5.

TABLE 4-5.—NUMBER OF BEVERAGE CONTAINERS PER YEAR IN SOLID WASTE

Type of container	Prebottle bill conditions	Postbottle bill conditions	Reduction
Bottles:			
Beer:			
Nonrefillable	89,910,000	458,800	----------
Returnable	26,692,500	17,556,600	----------
Soft drink:			
Nonreturnable	18,000,000	0	----------
Returnable	36,000,000	21,840,000	----------
Total bottles	173,602,500	39,855,400	133,747,100
Cans:			
Beer	161,320,000	3,478,000	----------
Soft drink	102,000,000	8,100,000	----------
Total cans	263,320,000	11,578,000	251,742,000
Total beverage containers	436,922,500	51,433,400	385,489,100

Source: Oregon State University bottle bill survey.

The Bottle Bill has resulted in an 88 percent reduction in the number of beverage containers in solid waste. It has been estimated that the beverage container share of solid waste disposal cost is 93.3 million dollars per year (Bingham and Mulligan, p. 22). This estimate is perhaps somewhat overstated in that it compares the proportion of beverage containers to all solid waste and uses that proportion of total disposal costs. Obviously a reduction in one type of waste would not necessarily result in a similar reduction in total cost. Others, however, have estimated the cost of collection and disposal of beverage containers to be $176 million (Midwest Research Institute, p. 6). Using the lower figure, however, and considering that Oregon's share of the total beverage market is approximately 0.8 percent, the savings in solid waste disposal costs would be $656,832 per year.

The effect of the bill on roadside litter is even more pronounced. The Oregon Highway Division has conducted monthly litter counts on 25 to 30 one-mile sections of highways since October, 1971. These surveys indicate at least a 92 percent reduction in item count of beverage containers littered (Governor's Litter Composition Survey). Moreover, 66 percent of containers littered recently are non-returnables—either from other states, or purchased prior to the effective date of the bill. Despite any question concerning interpretation of the survey data, it is apparent that beverage container litter has been reduced by at least as much as has beverage container solid waste. It has been conservatively estimated that 5 percent of the beverage containers in the solid waste stream are littered (Bingham and Mulligan, p. 31). Using this percentage, the saving on litter pick-up amounts to a minimum of $366,000 per year assuming no change in frequency or intensity of litter cleanup. Perhaps more realistically, others have estimated national beverage litter collection costs at 86 million dollars (Bingham and Mulligan, p. 34). Applying the Oregon market share and the indicated reduction in litter to this figure results in an estimated saving of $632,000 per year.

4.6 *Employment.*—There has been much speculation as to the effect of the Bottle Bill on the loss of employment in skilled jobs and the gain in unskilled employment (Wagner, Midwest Research Institute, Bowman). In the industry sectors considered in this report, container manufacturers have reduced production employment as have contract canners. Soft drink bottlers and brewers have increased production employment due to increases in washing and sterilizing, and because bottling is more labor intensive than canning. Increases in transportation and delivery costs have added to truck driver employment. The increased handling, sorting and storing of returned containers has added to warehouse and handling employment. Total effects are outlined in Table 4–6.

TABLE 4–6.—*Operating employment effects of the bottle bill*

Production Labor	Decrease	(350)
Truck Driving	Increase	140
Warehouse and Handling	Increase	575
Total Employment	Increase	365

Source: Oregon State University Bottle Bill Survey.

The above figure does not include employment in industries supplying the required new capital-machinery, buildings, trucks, etc., but only that labor expended in on-going operations in the beverage and container industries. Administrative and clerical labor has not been estimated, but it is doubtful that needs in these areas would be lowered by the legislation. The total annual payroll addition represented by the net increase shown in Table 4–6 is estimated to be $1,600,000.

4.7 *Conclusions.*—The Oregon Bottle Bill was adopted with the objective of reducing litter and solid waste by encouraging the use of refillable beverage containers. It was hoped that the means selected would be effective in accomplishing the objective and result in minimum losses to business, minimum costs to government, and minimum cost and inconvenience to consumers. The findings of this study indicate that the objective is being met very well and that the costs are well below anticipated levels.

As to effectiveness: The use of refillable containers has increased from 44.6% in 1972 to 93.15% in 1973. Beverage container solid waste and litter has been decreased by 88%.

As to its cost to businesses: It cannot be demonstrated that the bill has caused reduction in sales volumes. Container manufacturers, beer distributors, and retailers have experienced adverse economic effects, but total operating income for all business sectors combined has been increased by $3.93 million per year due to the bill. Businesses have suffered capital losses and changeover costs of $175,000 and have made new investments of $5.35 million.

As to cost to government: Income tax revenues should be slightly higher due to the increased business income and increased employment and payroll. Excise tax revenues have not been affected. Costs of enforcement of the legislation are minimal. For the same frequency and intensity of collection and disposal, solid waste and litter costs are down substantially.

As to cost and inconvenience to consumers: Carbonated beverage price increases in Oregon cannot be demonstrated to be caused by the Bottle Bill. Yet considering price increases and deposit losses, the total expenditure of Oregon consumers for the same quantity of beverages in 1973 is $75,000 less than in 1972. This study has made no attempt to survey consumer attitudes. On the assumption that what consumers actually do is more indicative of their real attitude than what they say they will do, we conclude that consumers do not perceive great inconveniences resulting from the bill.

Given its objectives and constraints, the Oregon Bottle Bill has been highly successful. Whether other approaches would be as effective or as efficient can be determined only by other experiments.

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OREGON'S BOTTLE BILL; THE 1977 REPORT

OFFICE OF THE GOVERNOR,
Salem, Oreg.

We, in Oregon, are proud of the success of the Bottle Bill, the first of its kind in the nation.

Not only has our natural environment benefited from the law, but our economy has gained as well. By sharing the information we have gained from our experience, we hope you will see the value and application of similar legislation for yourselves.

BOB STRAUB,
Governor.

OUTLINE OF LAW

ORS 459.810 to 459.890

The basic provisions of the Oregon law, commonly called the "Bottle Bill" are:

1. "Beverage" is defined as beer, malt beverage, mineral water, soda water, and carbonated soft drinks.

2. All "beverage" containers must have a minimum refund value clearly marked, paid by distributor to dealer, and by dealer to consumer.

3. Dealers and distributors may not refuse to accept and refund the deposit on empty "beverage" containers of the kind, size, and brand which they sell.

4. A "certified" beverage container is reusable by more than one manufacturer; capacity and shape may be set by the Oregon Liquor Control Commission.

5. Minimum refund value of each container is 5¢, except for "certified" containers, for which the minimum refund is 2¢.

6. Metal "beverage" containers with pull tabs that are detachable without the aid of a can opener may not be sold or offered for sale.

7. Redemption centers may be established by any person in order to accept returned containers.

(See Appendix for copy of law.)

SUMMARY

The Bottle Bill works in Oregon. The evidence that it is valid and effective is overwhelming. There is no basis for the rumors and misinformation continually circulated by Bottle Bill opponents across the country as they attempt to discredit the Oregon success and to stop other states' legislation. A few facts should dispel these distortions; formidable data backs our statements. Among these facts are:

Beverages sold in returnable containers cost less, as they always have, not only in Oregon but all through the nation. Post-Bottle Bill beverage price increases, associated with runaway sugar prices and general inflation, occurred in Washington and California as well as in Oregon.

Sales have not fallen. They have increased. Weather and the availability of disposable income have their usual effects on beverage sales.

Employment has increased as a result of this legislation. A study sponsored by the Federal Energy Administration projects increased employment nationwide as a result of a proposed national Bottle Bill.

State highway department expenditures for litter collection remain stable. And litter has been reduced. Clerical errors involved in the 1972–74 highway department litter survey, long since corrected, are still being trotted out by the beverage industry as evidence against the Bottle Bill.

The aluminum can has not disappeared from Oregon, nor has any container been banned. After an initial slowing in sales, beverage cans are once again claiming their share of the market in Oregon.

Oregonians support the Bottle Bill with an enthusiasm usually reserved for popular sports, motherhood and the flag. They are not disenchanted or embittered, as some industry representatives would have us believe.

The Bottle Bill gives some Americans a chance to demonstrate their real priorities: a good life and clean environment based not on consumerism but on conservation. The public does not demand a throwaway economy; it has merely responded to aggressive advertising and marketing techniques which promote waste of natural resources.

The existence of a Bottle Bill, with its high public support and participation, has greatly enhanced community awareness of and commitment to environmental concerns. It has facilitated recycling and resource recovery operations in the State, as well as public acceptance of solid waste management programs, public involvement in community air quality standards, and public protection of open spaces.

EFFECT ON SOLID WASTE AND ROADSIDE LITTER

380 million fewer beverage containers are disposed of in Oregon each year because of the Bottle Bill. It has been calculated that the number of containers entering the solid waste stream has been reduced by 88 percent as a result of the law. A Portland garbage hauler commented that the volume of household garbage on his route diminished by 7–10 percent when the law went into effect.

NUMBER OF BEVERAGE CONTAINERS PER YEAR IN SOLID WASTE

Type of container	Prebottle bill conditions	Post-bottle bill conditions	Reduction
Bottles:			
Beer:			
Non-returnable	89,910,000	458,800	----------
Returnable	26,692,500	17,556,600	----------
Soft Drink:			
Nonreturnable	18,000,000	0	----------
Returnable	36,000,000	21,840,000	----------
Total bottles	173,602,500	39,855,400	133,747,000
Cans:			
Beer	161,320,000	3,478,000	----------
Soft drink	102,000,000	8,100,000	----------
Total cans	263,320,000	11,578,000	251,742,000
Total beverage containers	436,922,500	51,433,400	385,489,100

Source: Oregon State University bottle bill survey.

Oregonians take great pride in the beauty of their state. They are especially proud when tourists remark that there is noticeably less roadside litter in Oregon than in neighboring states. This fact has been substantiated by several surveys. One of these was carried out in late 1976 by an Oregon newspaper, collecting and comparing litter from Oregon highways and those of its neighbor, Washington. They found 7.5 times more bottle and can litter in Washington. Roadside litter reduc-

tion was the original goal of the law and is also the most obvious result.

To document the level of the law's success, a survey of roadside litter amount (by volume and piece) and content was carried out on highways throughout the state, as provided in the bill. The survey was conducted by the State Highway Division along 30 randomly selected one-mile sites in Oregon, for one year before and two years after the law went into effect. When all the figures were in and comparable factors were checked for accuracy, they showed a significant reduction in beverage container litter. The reduction after one year was 72%, after two years 83%. The trend was clear: the Bottle Bill was indeed producing the desired result. There was no necessity for, nor had provision been made to continue the survey beyond these three years; costs of recording and analyzing masses of data made its continuation impractical.

The Oregon State Highway Division continues its normal highway program of roadway maintenance, right-of-way maintenance, litter collection, and so on. Over the past five years, litter collection costs have risen only 1.5% annually, well below the rate of inflation, from $589,076 in 70/71 to $633,353 in 75/76. These figures include the costs of the Oregon Youth Litter Patrol, which is funded through the sale of "vanity" license plates.

The dramatic reduction in visual pollution along Oregon highways is a result of the greatly reduced volume of beverage container litter. The number of bottles and cans found on comparable test sites before the law amounted to 22,639; after the law had been in effect for two years, the count on the same sites was down to 3,748. Not only are cans and bottles the most visible sort of litter; they are also the least biodegradable. Natural conditions can recycle a tin can to dust in 100 years, an aluminum can in 500 years, and a glass bottle in one million years.

LITTER COMPOSITION ON OREGON'S HIGHWAYS BEFORE AND AFTER THE BOTTLE BILL

	1971–72				1973–74			
	Item count	Percent of total litter	Cubic feet	Percent of total litter	Item count	Percent of total litter	Cubic feet	Percent of total litter
Deposit beverage containers	2,829	4	NA	NA	2,099	4.3	NA	NA
Nonreturnable containers	19,810	25	NA	NA	1,649	3.4	NA	NA
Total beverage containers	22,639	29	678	42	3,748	7.7	112	13
Other items	56,605	71	928	58	44,862	92.3	735	87
Total	79,244	100	1,606	100	48,610	100.0	847	100

Source: Oregon Highway Division.

ENERGY SAVINGS DOCUMENTED

The critical need to conserve energy has begun to receive national attention from both press and government. Bottle Bill proponents have long been aware of the need to look at all energy costs of container reuse, accounting for raw materials acquisition, manufacturing and cleaning processes, and transportation at each stage. Taking into account total resource patterns, energy savings resulting from the shift to returnables have been significant. A net saving of 1.4 trillion BTU's per year has been realized in the new system in Oregon alone, enough to supply the heating needs of 50,000 Oregonians. Much higher savings would be realized with a national bottle bill. A Federal Energy Administration-sponsored study projects a savings of 144 to 169 trillion BTU's annually, equivalent to 70,000 to 80,000 barrels of oil per day saved nationally.

Higher return rates result in higher energy savings, of course. In Oregon, returnable soft drink bottles are reused about 24 times and beer bottles about 20 times. At this rate, the returnable bottle system uses one third the energy consumed in the throwaway system. Added energy savings are obtained from recycling those bottles that are not refilled. The return rate for cans in Oregon is very high, at 80%; the recovered metals are recycled, for additional savings. According to industry figures, the manufacture of aluminum from virgin materials requires 20 times the energy needed for recycling aluminum.

ENERGY SAVING CALCULATIONS—OREGON 1974

	Percent recycled	Container energy per gallon consumed [1] (Btu)	Container size (ounces)	Container energy per filling (Btu)	Container mix 1971 (percent)	Total container for 1974 with 1971 mix (millions of fillings)	Container mix 1974 (percent)	Total containers for 1974 with 1974 mix (millions of fillings)	Difference in container use (millions of fillings)	Energy requirement change (billions of Btu)
Beer:										
Returnable bottles	95	30,730	12	2,880	36	144	96	384	+240	+691
Nonreturnable bottles	0	64,380	12	6,040	31	124	0	0	−124	−749
Can—aluminum	[2] 15	75,030	13	7,620	33	132	0	0	−132	−1006
Aluminum	[3] 70	38,630	13	3,920	0	0	4	16	+16	+63
Subtotal—beer					100	400	100	400		−1,001
Soft drink:										
Returnable bottles	96	11,230	16	1,404	53	159	91	273	+114	+160
Nonreturnable bottles	0	53,010	10	4,141	7	21	0	0	−21	−87
Can—bimetal	[4] 0	53,220	12	4,989	40	120	4	12	−108	−538
Can—all steel	[3] 70	31,340	12	2,937	0	0	5	15	+15	+44
Subtotal—soft drinks					100	300	100	300		−421
Total energy consumption change										−1,422

[1] Based upon data from—Resource and Environmental Profile Analysis—of 9 beverage container alternatives [17].
[2] National average percent recycled of 15 pct [17].
[3] Gudger and Bailes [1].
[4] Although the percent returned to retailers is approximately 70 pct, very few are recycled.

Source: Oregon's bottle bill 2 yr later. Oregon Environmental Council, 1974.

PUBLIC HEALTH AND SAFETY

According to all government agencies charged with inspection and enforcement of health and sanitation standards, no problems related to the Bottle Bill have been reported, nor has any new staff been added to implement the law. Distributors and dealers are managing the flow of returned containers, efficiently sorting and handling them, with no adverse effect on health and safety standards in stores or other outlets.

Public health is protected by this law as it outlaws metal beverage containers with pull tabs. The result has been to make Oregon's recreation areas cleaner and safer. Oregon has fine public beaches that run the entire length of the coast; the Bottle Bill has helped to keep them and our campgrounds and wilderness areas free of sharp metal and broken glass which are a hazard to the health and safety of people and animals.

IMPROVING THE EMPLOYMENT PICTURE

Employment in Oregon increased as a consequence of the Bottle Bill. New jobs were created in brewing, soft drink bottling, transportation and retail sales, while bottle and can manufacturing positions were reduced as the demand for containers dropped. An estimated net increase of $1,600,000 in annual payroll ensued, with its accompanying economic benefit to the community.

EFFECT OF BOTTLE BILL ON OREGON EMPLOYMENT

Production labor	Decrease	(350)
Truck driving	Increase	140
Warehouse and handling	do	575
Total employment	Increase	365

Source: Oregon State University bill survey.

A study by Gudger and Bailes estimates a gain of 365 jobs, calculated from all segments of the economy. The lowest estimate, 135 jobs gained, is from a study by ADS which was based on inadequate data, having failed to elicit enough responses from enough industry sectors.

Improving the employment picture in Oregon was not the initial goal of the Bottle Bill but has been a welcome effect.

THE ECONOMY: SALES UP, PRICES DOWN

The net economic effect of the Bottle Bill on Oregon consumers and beverage-related industries has also been positive. Excise tax records show increased beer sales. Soft drink manufacturers, distributors, and retailers reported a sales increase in 1973 over 1972 of over 10%. This figure is well above the national trend for this economically depressed period. Total operating income for all beverage-related business sectors combined was increased by $3.93 million per year in the two years following the effective date of the law. Beverage sales and price fluctuation are dependent on many factors other than refund legislation, factors which have always influenced the market, such as weather, sugar prices, spendable income, inflation, and labor costs.

Oregon consumers save money with the shift to refillable containers. The price for beverages in cans has traditionally been as much as 50% per ounce higher than for the same beverages in refillable bottles. These prices of beverages in refillable containers were compared with non-reused containers in an EPA-sponsored study in 24 States. Beer and soft drinks in refillable bottles were shown to be definitely cheaper, from 5% to 58% less, depending on the size of the container, with greater savings going to larger sizes.

Nationally, the manufacture of disposable beverage containers has grown eight times faster than the consumption of beer and soft drinks. The beverage industry believes that convenience packaging is largely responsible for sales growth; they resist refund legislation, fearing it will cut into sales volume. However, in Oregon none of these grave economic consequences predicted by the beverage industry has occurred; Oregon's economy is the better for the Bottle Bill.

OREGON BEER CONSUMPTION

Fiscal year	Gallons (millions)	Population (millions)	Consumption (gallons per capita)
1964	27.8	1.856	14.97
1965	30.0	1 906	15.73
1966	31.7	1.972	16.07
1967	33.7	2.001	16.84
1968	35.1	2.006	17.49
1969	35.7	2.055	17.37
1970	39.4	2.081	18.93
1971	40.6	2.091	19.41
1972	44.8	2.143	20.90
1973	46.3	2.183	21.20
1974	46.5	2.224	20.90
1975	48.5	2.266	21.40
1976	52.3	2.299	22.74

Source: Oregon Liquor Control Commission.

ENFORCEMENT

The Oregon refund law is self-sustained and self-implementing, a proper law which is in effect publicly administered.

There have been no enforcement problems associated with the refund law. Its highly efficient design, based on positive reinforcement, creates built-in incentives for complying. The 18-month phase-in period, between passage and implementation, gave retailers and consumers time to understand the law's mechanisms. Complaints are rare, usually resolved informally. No state or local government agency has added staff or incurred significant added expense for enforcement of this law. Enforcement power was charged to the Oregon Liquor Control Commission; they report only five retailers prosecuted in as many years since the law went into effect.

RECYCLING AND RESOURCE RECOVERY

Recycling centers, both commercial and non-profit, have continued to flourish in Oregon since the law went into effect. Since 1970, the number of recycling programs in the state has risen to 325. Bottle Bill opponents had predicted that it would cut into voluntary recycling and discourage the harvest of other recyclable waste products. In fact, the reverse is true; the public has been educated by the Bottle Bill to recycle other items. Public participation is the basis for recycling; beverage containers are not essential to economic operation of recycling centers.

Eighty percent of beverage cans are returned in Oregon; while they are not refilled, they are recycled. Several recycling companies service beer and soft drink dealers, collecting the returned aluminum, steel, and glass containers and processing them in preparation for recycling.

The Bottle Bill has not hindered the planning or implementation of resource recovery processing facilities as part of solid waste management in Oregon. Today's technology allows recovery of energy and some materials from municipal wastes; as it develops, it must become complimentary to the concepts of recycling and reuse, if it is to conserve resources rather than serve as an end in itself. Resource recovery from solid waste cannot rely on any one source of waste, such as beverage containers, and remain economically viable.

The Recycling Information Office of the Oregon Department of Environmental Quality has served as an information exchange for the public and recyclers throughout the state since 1973. Their Recycling Switchboard lists all recycling and resource recovery operations in the state; a monthly bulletin, guides for recycling projects, fact sheets, and market lists are available for recyclers, legislators, environmental groups, educators, public officials, and interested citizens.

PUBLIC ACCEPTANCE

Public acceptance is the real measure of the Bottle Bill's effectiveness. In Oregon 90% of the population approve of the law, and 95% participate in its implementation, as illustrated by the high container return rate. Energy is saved; money is saved; bottler, consumer and environment gain.

Convenience plays an important role in the Bottle Bill's popularity; containers are commonly returned to the store where they were bought, making returns easy for the consumer and the retailer. Another advantage is reduction of household garbage volume and collection cost. And, of course, pride in a cleaner landscape continues to inspire Oregonians to prefer the refillable container system.

The public opinion surveys underscore the persistence of the Bottle Bill's popularity. One, conducted by Applied Decisions Systems in 1973, showed that 95% of those interviewed had an opinion of the law and, of those, 95% approved by law. The second survey, by the Seattle Post-Intelligencer in 1975, showed 90% in Oregon in favor of the bill, and in Washington, a neighboring state, 68% in favor of an Oregon-type refund law for their state.

Oregon retailers and distributors have cooperated and supported this new law from the start, making the transition smooth. Retailers continue to handle the returns themselves rather than requesting the creation of redemption centers as provided for in the law.

Government officials and politicians look favorably on the Bottle Bill. There has been no attempt to repeal this popular piece of legislation; instead, modifications to increase its scope in various ways have been proposed in each session of the state legislature. The fact that the Bottle Bill has not increased the costs of government nor expanded the bureaucracy enhances its popularity with public and officials alike.

APPROVAL/DISAPPROVAL OF BOTTLE BILL

[In percent]

	Approve	Disapprove	No opinion
1973:			
All Oregon respondents	90.8	4.7	4.5
Oregon soft drink consumers	90.8	4.6	4.6
Oregon beer consumers	90.3	5.0	4.7
1975:			
All Oregon respondents	89.9	4.1	6.0
All Washington respondents	68.0	23.6	8.4

Sources: Applied Decisions Systems Study, 1973; Seattle Post-Intelligencer, 1975.

Note: Additional information available. See bibliography.

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For more information, call or write:
Oregon Department of Environmental Quality
Recycling Information Office
1234 SW Morrison Street
Portland, Oregon 97205

COMPARISONS OF BEVERAGE PRICES IN OREGON AND WASHINGTON, OCT. 18, 1976

	Safeway Store		Vancouver Food Center,	Thriftway,
	Vancouver, Wash.	Portland, Oreg.	Vancouver, Wash.	Portland, Oreg.
Blitz:				
6 pack, 11 oz bottles	$1.58	$1.58	$1.59	$1.58
6 pack, 12 oz cans	1.68	1.69	1.69	(1)
32 oz, quart	.58	.56	.63	.56
12 pack, 11 oz bottles	3.08	3.14	----	3.14
12 pack, 12 oz cans	3.28	3.35	3.35	(1)
Olympia:				
6 pack, 12 oz bottles	1.58	[2] 1.58	1.59	[2] 1.58
6 pack, 12 oz cans	1.68	1.69	1.69	(1)
32 oz, quart	.58	.56	.63	.56
12 pack, 12 oz bottles	3.08	[2] 3.14	----	[2] 3.14
12 pack, 12 oz cans	3.28	3.35	3.35	(1)
Rainier:				
6 pack, 11 oz bottles	1.58	1.58	1.59	1.58
12 pack, 11 oz bottles	3.08	3.14	----	3.14
Budweiser:				
6 pack, 12 oz bottles	1.68	[2] 1.72	1.69	[2] 1.72
6 pack, 12 oz cans	1.78	1.84	1.79	1.82
32 oz, quart	.68	.65	----	(3)
12 pack, 12 oz bottles	3.48	[2] 3.39	----	[2] 3.39
Coca-Cola:				
6 pack, 12 oz cans	1.49	1.49	----	----
8 pack, 16 oz bottles	1.85	1.85	----	----
26 oz bottle	3/1.09	3/1.09	----	----
7-Up:				
6 pack, 12 oz cans	1.49	1.49	----	----
8 pack, 16 oz bottles	1.85	1.85	----	----
28 oz bottle	3/.99	3/1.09	----	----
Pepsi Cola:				
8 pack, 16 oz bottles	1.85	1.85	----	----
26 oz bottle	3/.99	3/1.09	----	----
Tab:				
8 pack, 16 oz bottles	1.85	1.85	----	----
32 oz bottle	3/1.09	3/1.09	----	----
Cragmont: 12 oz cans	6/.99	6/.99	----	----

[1] No cans.
[2] 11 oz.
[3] No quarts.

Note: Vancouver prices do not include the 5.1 percent Washington sales tax. Portland prices do not include the minimum deposit.

Source: Oregon Department of Environmental Quality Recycling Information Office.

OREGON JOURNAL ROADSIDE LITTER SURVEY, 1976

	Average daily cars	Beverage containers in litter	Days since last pickup
OREGON HIGHWAYS			
O-1	3,200	27	65-74
O-2	915	13	100
O-3	9,300	11	78-108
O-4	2,650	85	365+
O-5	3,800	48	86
O-6	6,500	34	111
O-7	1,200	23	66
O-8	3,400	97	74
O-9	1,050	17	78-108
O-10	2,500	30	65-74
Totals for 10 mi	34,515	385	----
Averages per mi	3,452	38.5	----
WASHINGTON HIGHWAYS			
W-1	3,275	343	[1] 156
W-2	980	339	[1] 217
W-3	5,000	306	[1] 217
W-4	2,300	591	[1] 217
W-5	3,900	423	(2)
W-6	6,300	232	(2)
W-7	1,300	149	[1] 139
W-8	3,000	144	73-80
W-9	990	253	[1] 217
W-10	1,300	155	[1] 217
Totals for 10 mi	28,345	2,935	----
Averages per mi	2,835	293.5	----

[1] Estimates only.
[2] Undetermined.

Source: Oregon Journal, Oct. 25, 1976.

Mr. HATFIELD. Mr. President, I also ask unanimous consent that several other statements attesting to Oregon's success be placed in the RECORD. Included among these are statements by Mr. Don Waggoner, the Environmental Action Foundation's pamphlet, "All's Well on the Oregon Trail," and an article for Sierra Club Bulletin by Nancie Fadeley entitled, "Oregon's Bottle Bill Works."

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

[From Environmental Action]

ALL'S WELL ON THE OREGON TRAIL

A REFUTATION

In late 1975 the Aluminum Company of America (Alcoa) produced the pamphlet *Trouble on the Oregon Trail*. This publicity piece which angered environmentalists across the country is an effort to convince citizens and government representatives that the bottle bill in Oregon is a failure. Alcoa would have us believe that Oregon's litter has increased since passage of the bottle bill and that the bill is causing serious economic problems.

The truth is that Oregon's experience has been almost entirely positive. Increased employment, reduced consumer costs, less litter, lowered energy consumption and improved quality of the life have all followed the law. Let's look at the facts.

A RIP ROARING SUCCESS

Oregon's bottle bill became effective in October 1972. Under the law, all carbonated beverage containers (cans and bottles) carry a refund value. Dealers are required to pay a refund for any container they stock in that particular type and size. Soft drink and beer cans with detachable pull-tab openers were banned. Certified containers which can be reused by different bottlers carry a 2-cent deposit rather than the usual 5-cents.

The constitutionality of the law was challenged in Oregon courts and upheld. Oregon's ex-governor Tom McCall refers to it as a "rip-roaring success." And polls have shown that 91% of the consumers in Oregon favor the bill.

LESS LITTER UNDER THE LAW

Alcoa presents a chart entitled "Last of the Oregon Litter Counts" in which they compare the average number of litter items found during the summer of 1973 (the first year after the bill) to the average number found in the following year. This chart shows a 52% increase in beverage container litter.

Alcoa draws its figures from a study prepared by George Wagner (an independent consultant) of the Oregon Highway Department's litter counts. Wagner's data has been found to be "inaccurate" for many reasons by the U.S. Environmental Protection Agency (EPA). In his study Wagner compared a significantly under-estimated recount of litter for the first year after the bill was passed to an over-estimated litter count for the second year.

Furthermore, EPA has stated that "since litter data is available for the entire three-year period (before enactment, first and second year after) it is not necessary, nor is it advisable to depend upon a comparison for one three-month period in two successive years after the law's enactment . . .", as Alcoa has done in its chart.

According to EPA, the Oregon Environmental Council's study of the highway department litter collection, "provides the most complete and reliable information on the impact of the bottle bill on litter in the State of Oregon."

There were twice as many returnables sold after the bill than before and yet there was a 26% reduction in the number of returnables found in litter. And, the 83% reduction in total beverage container litter after two years of the law is most significant.

Alcoa would like to give credit for any litter reduction to an "all out effort" made by citizens and government in Oregon and not to the bill.

Alcoa claims that the state highway department quadrupled expenditures on litter clean-up. In fact, funds expended by the highway department on litter clean-up have remained almost constant from 1970 to 1974.

Alcoa's figures on litter citations are also misleading. They use figures which include citations for recreational vehicle sewage.

Alcoa also refers to "hundreds of young people" on patrol picking up litter in Oregon as a possible explanation for litter reduction. They refer to the Youth Litter Corps, SOLV (Save Oregon from Litter and Vandalism)

and KOL (Keep Oregon Livable). These programs could not have had any effect on state litter surveys. The state surveys took place on 30 randomly selected one-mile sections of highways which were surveyed and picked-up early each month. No other litter crew was permitted to clean these test sections.

The fact that beverage container litter decreased by 82% in the first two years of the bottle bill while other litter only decreased by 21% shows that the bottle bill with its financial incentive has been more effective than general anti-litter programs in Oregon.

Trouble on the Oregon Trail states that bottle bills do not ". . . even propose to deal with all the sources of litter." This is true. The bottle bill in Oregon does not attempt to deal with gum wrappers, cigarette butts or any other type of litter except beer and soft drink containers. However, the results of a survey conducted in three Oregon cities before the bill took effect showed that beverage containers comprised 56% by volume of all littered items. They are the most visible and the most dangerous portion of litter.

The container industry is fond of using "piece-count" litter surveys in order to prove that their products do not represent a large portion of litter. Piece-count surveys often include non-manmade items, such as dead animals, leaves and twigs. Such surveys give every item the same value, implying that a gum wrapper is as much of an eye sore as a can or bottle.

BOTTLES AND CENTS

Earnings. Alcoa claims "earnings were down." They are referring to beverage industry earnings which they claim were down by $7 million. Alcoa's data came from a study prepared by Applied Decision Systems (ADS), a Massachusetts consulting firm. Alcoa erroneously calls the ADS report "Oregon's official study." Although ADS was paid by the state for their study, its conclusions have not been endorsed or supported by the state.

Another study prepared by Professors Gudger and Bailes of Oregon State University (OSU) found that business experienced a $4 million increase in operating revenue after the bottle bill. Included is the substantial saving to malt brewers and soft drink bottlers who no longer found it necessary to buy as many cans and bottles.

Consumer Prices. Alcoa asserts that consumers in Oregon are paying more for beer and soft drinks due to the bottle bill. However, both ADS and OSU conclude that although some beverage prices have increased there is no reason to attribute any price rise to the law. Beer and soft drink prices in Oregon remain comparable to prices in neighboring Washington where there is no bottle bill.

Sales. In claiming "sales were down", Alcoa states that sale of private label and warehouse soft drinks dropped 40%. Private label and warehouse soft drinks are the "house brands" which comprised only about 20% of the market before the bottle bill. These beverages were packaged almost entirely in throwaways.

ADS found no change in soft drink sales for the first two years of the bill.

It is true that most stores in Oregon no longer carry as many brands, or as many different kinds and sizes of containers as they did before the law went into effect. But every major domestic beer, and most foreign beers remain on the market. ADS surveyed Oregon consumers and found that only 7% thought the bottle bill had limited their choice of soft drink brands. In addition only 4% expressed negative sentiments toward this brand limitation.

Costs. Stating "costs were up", Alcoa refers to the capital investments paid by industries to switch from throwaways to returnables. This is true but it should be remembered that capital investments were also required when industry switched from returnables to throwaways in the first place. In addition, these extra investment costs are invariably passed on to consumers and do not necessarily constitute a loss to industry.

Employment. Alcoa cites job losses ranging from 165 to 227 in the first year of the bottle bill. This information came from ADS. Alcoa neglects to report that since ADS received little co-operation from retailers, the extensive job gains in retail operations were not calculated. ADS did estimate that there was an addition of a "potentially large number of jobs and overtime hours in retail stores . . ." as a result of the bill.

OSU went into employment impacts in more detail. They found that 350 jobs were gained for truck driving and 575 jobs gained for warehouse and handling giving a balance of 365 additional jobs. They also noted additional employment increases for industries supplying new capital for returnables, such as machinery and trucks.

Small Businesses. It is true that storing and handling returnables can create some problems for retailers but grocers can pass on increases in handling costs to the consumer. Innovations such as the interchangeable "stubby" bottle are making the returnable system more convenient for retailers. The "stubby" is being refilled by all brands of beer interchangeably and its standard size and shape make it easy to stack and handle.

There is no Oregon store, large or small, that has gone out of business as a result of the bottle bill.

Alcoa claims that eight of Oregon's 29 bottlers have sold out within two years of the bill. This is proportional to the number of independent small bottlers selling out to large concerns nationwide, regardless of legislation. It should be noted that selling out is different from going out of business. No bottling plant in Oregon has shut down since the bottle bill was passed.

WHAT ALCOA DIDN'T TELL US

In addition to litter reduction, Oregon has experienced other environmental benefits from the bottle bill.

Energy. Don Waggoner of the Oregon Environmental Council has estimated that Oregon is saving approximately 1,400 billion BTU's each year as a result of the law. This is equivalent to the gas used for home heating by approximately 50,000 people in Oregon annually.

Solid Waste. The OSU study concluded that Oregon has experienced a significant reduction of beverage containers in garbage. Before the bill's enactment, 436,922,500 soft drink and beer containers contributed to Oregon's solid waste every year. After the bottle bill only 51,433,400 containers per year became waste—a reduction of 88%.

PROMISING ALTERNATIVES

It's no surprise that Alcoa suggests resource recovery technology and the Action Research Model from Keep America Beautiful (KAB) as alternatives to bottle bills.

KAB's Action Research Model (ARM), which Alcoa wholeheartedly endorses, is another attempt to draw public attention away from the materials and energy wastefulness of throwaway containers.

KAB's approach is two-pronged. First: convince the public that the only problem with containers is litter and since cans and bottles make up only a small percentage (they use piece-count litter surveys), bottle bills do not help litter reduction. Second: convince the public that litter reduction is achieved by programs such as ARM. They do not, however, show any concrete evidence that ARM is working.

Represented on the Board of Directors of the National Center for Resource Recovery are most of the same corporations that make up KAB—including Alcoa. Resource recovery is a high technology, expensive process of recovering materials and/or energy from solid waste. Although it is a technology that is still in the experimental stage, great hopes are seen for it in the future.

Oregon believes that there is no inherent conflict between their bottle bill and resource recovery. The Oregon State Solid Waste Management Plan, in its effort to achieve 90% recycling by 1982, includes the building of at least a half dozen resource recovery facilities.

ADDRESS BY DON WAGGONER, PAST PRESIDENT, OREGON ENVIRONMENTAL COUNCIL TO THE SIXTH ANNUAL COMPOSTING-WASTE RECYCLING CONFERENCE

Good morning. I am very pleased to be able to be with you today and talk to you about Oregon's bottle bill. We are proud of its success here in Oregon.

The bottle bill concept approaches the problem of human waste by reducing the total amount of waste that is generated. This is the principle of source reduction and is simply summarized with the statement, "Don't make it in the first place." Those of you who read Rodale's "Environmental Action Bulletin" are well aware that Oregon's bottle bill has been extremely successful in this regard.

The Act covers carbonated soft drinks and beer and requires that a refund be paid by the retailer for empty beer and soft drink containers. In order to encourage the use of standard reusable containers, a minimum 2¢ refund is required on all bottles which are certified as being used by more than one manufacturer. For all other beverage containers (including cans) a 5¢ minimum refund is required. The law was passed in 1971 and its success in moving Oregon out of the flip-top, pull-tab, throw-away society has been nothing short of dramatic.

The beer can, which held 33% of the market in Oregon has moved to 4%. The non-returnable beer bottle, which held 31% of the market has been virtually eliminated and the returnable, refillable beer bottle has increased from 36% to 96% of the market.

For soft drinks, a similar pattern has occurred. Cans held 40% of the market prior to the Act. They moved to only 9% of total sales during the second year after the Act's effective date. Non-returnable soft drink bottles are completely off the market and the returnable, refillable soft drink container moved from 53% to 91% of the total soft drink market.

As this has occurred the statement which alleges that "They'll never bring them back anyway" has been roundly disproved. Soft drinks enjoy a 96% return rate and the certified reusable container, the 11 ounce "stubby" enjoys a 93% return rate for the five regional breweries and four of the major shipping brewers.

This, is source reduction at its very best. During 1974, as a direct result of Oregon's bottle bill, there was a reduction of container purchases by bottlers and brewers of 81%. The solid waste stream was therefore reduced by three hundred and fifty million containers.

Now, it is conventional marketing wisdom that decreasing the different types of packages in which the product is offered will reduce sales. The same conventional wisdom tells us that effectively eliminating single use "convenience" packaging by putting a 5¢ refund value on that container will also reduce sales. This simply hasn't happened in Oregon. Beer sales continue to increase as they have in the past and there is no evidence to indicate that soft drink sales have been adversely affected.

As a nation, we are beginning to accept the fact that there *really is* an energy crisis. Further, we are coming to the realization that our natural resources are limited. Finally, there is a spreading revulsion against

the highly visible litter which these throwaway beverage cans and bottles bring to our roadsides, our trails, our rivers, our lakes and our beaches.

Back in 1971, the Oregon bottle bill was enacted by a couragous and foresighted Oregon Legislature. At that time, very few people were concerned about conservation of our national resources and energy. The book "Limits to Growth" had not yet been published. OPEC had not yet shocked the industrialized nations by their price increases. However, Oregonians were becoming increasingly incensed at the litter, the most visible portion of which is often beverage containers. After all, aren't those containers designed to catch our eye?

Thus, litter reduction was the primary reason for Oregon's bottle bill. Without the promise of a significant litter reduction, I am certain that Oregon's landmark legislation could not have been passed. As it was, it was close, very close, but it did pass. The lobbying against its passage was intense, just as it has been in every city, county and state that has considered bottle bills across the country. I am sure that every argument with one exception that has been used throughout the United States was used here in Oregon.

One argument, however, was *not* used in Oregon. That argument is the one that is now being used time and time again throughout the United States. It goes something like this—"Oregon's bottle bill has failed. Litter has increased. Costs have increased. There has been a net job loss. Sales are down and the consumer is no longer able to purchase the aluminum can."

A recent effort which typifies the attack on the Oregon bottle bill is the ALCOA leaflet entitled "Trouble on the Oregon Trail". Perhaps some of you have seen this as it has been widely distributed. I would like to spend several minutes discussing the specific content of this leaflet since it is at the same time one of the most blatant and one of the most often used documents in the campaign to defeat bottle bills throughout the country. The ALCOA pamphlet starts out by stating that despite early reports of success, that the true, negative aspects of the bill are now coming out. It then details some of the anti-litter efforts which have been underway in Oregon. It speaks of the citations and warnings being handed out by police to litterers and mentions that litter clean up costs increased between 1969 and 1973. It also states that in 1973 hundreds of young people were on patrol picking up litter. Thus, it lays the foundation of a picture of Oregon as a state that is somehow different from other states, and which was making major changes which would have been expected to reduce litter even without a bottle bill.

What it fails to say however, is that there was a very elaborate test program which was established to carefully monitor any changes in roadside litter during the year prior to the bill's effective date and for two years following the October 1, 1972 effective date of the bill. The pamphlet implies that there may have been an increase in enforcement activities. This was simply not true. During the first full year immediately following the bottle bill's implementation, litter related warnings and citations actually decreased.

In a similar fashion, the litter expenses are misleading. They suggest that the increase of litter pick up expenditures could have resulted in some change to the litter reduction results. The truth is that the 30 test sites which were randomly selected from state highways in western Oregon were carefully controlled so that any increases or decreases in litter pick-up expenditures would not have effected them in any way.

Under a heading "Twilight on the Trail" the ALCOA pamphlet has been printed in two versions. The first version showed beverage container litter going up by 90% between the first and second years of the bottle bill. (The summer of 1973 and the summer of 1974). The second version which is the result of a printing revision of October, 1975 shows an increase of 52% in beverage container litter. Both of these figures are entirely unjustified. The correct result using comparable data is that there was not an increase at all but instead, a decrease of 20% between these two years.

It will be very illustrative of the tactics which have been used by the anti-bottle bill lobby if we examine this particular claim in some detail. Briefly, two separate studies which were well known to give results which could not be successfully compared have indeed been compared. It is thus, a classic "apples and oranges" comparison.

The first study lasted three years. Litter deposited on 30 one mile sections was picked up monthly or semi-monthly and tallied in the field. I will refer to these tallies as "field counts." The important thing to note is that the three year's data is comparable. Consistant methods were used throughout the full three years of the study. The study started one year before the act took effect and continued for two years after the October 1, 1972 effective date.

The second study covered only the period during the first year after the Act went into effect, it consisted of an additional tabulation of a portion of the field count data. The method used was that after the field tabulations had been made the litter was sent to Salem for a recount. There, only the first twenty-five of the field sites received in Salem were tabulated.

For various reasons, some of which are not completely understood, the Salem counts were significantly and consistantly lower than the field counts. As a result the only conclusions which can be drawn out of the Salem counts are volume relationships between various kinds of litter. However, any direct comparisons between the Salem recounts and the field counts will lead to completely misleading conclusions. This was well known by all persons who have been carefully following the results of Oregon's bottle bill. The Applied Decisions Systems report, one of the principal studies made to evaluate the Act's effectiveness, discusses this at some length in their final report.

Nevertheless, the percentage increases found in ALCOA pamphlets do use the Salem recount in their calculations. Therefore, they have a low base for the first year after the bill went into effect. It then relies upon the field count which utilizes the consistent method of counting for the second year after the bill's effective date.

An earlier report released on December 20th, 1974 by the Oregon Beverage Industry Task Force went even further and claimed a 127% increase. This report not only paired the low Salem recount against the field counts but further contained a basic error in interpreting the data which was provided by the Oregon State Highway Department.

It is significant to note that nowhere in this pamphlet is there a reference to the fact that this "apples and oranges" Salem recount versus field count comparison basis is being used. Rather, a footnote states that "information in this article is from the Oregon Highway Division survey". It is true that this data was provided by the Oregon Highway Division. However, at no time did the Highway Division ever *summarize, compare* or *draw conclusions* regarding their data. Instead, the conclusions were drawn by persons who *used* the Highway Department's raw data, unknowingly made gross errors in dealing with the data and then subsequently chose to compare incompatible surveys. It is difficult to avoid the conclusion that this amounted to deliberate deception with the apparent goal of showing that the bottle bill had been a failure.

The section "Twilight on the Trail" in ALCOA's October, 1975 version ends with the paragraphs "By September, 1974 littering with beverage containers increased 52% while other litter not covered by the Oregon bottle bill dropped 26%. The litter count was discontinued." The clear implication is that the litter count was discontinued as a result of data which was unfavorable to Oregon's bottle bill. The fact is that in October of 1973 it was decided that litter would be picked up for another year. During September of 1974 it was simply reaffirmed that sufficient data had been developed. There is absolutely *no* foundation to the suggestion that the litter count was discontinued because of a souring of the results.

The comparable field count versus field count comparisons show a continuing decline during the second year after the bill went into effect compared to the first. Comparing the year before the Act and two years after, there was a total reduction of 83% for beverage container litter and 21% for other items. This results in a 39% reduction on total litter by piece count and a 47% reduction by volume two years after the Act went into effect. Thus, the 83% reduction in beverage can and bottle litter is even slightly larger than the 81% reduction of total cans and bottles entering the solid waste stream here in Oregon following the major switch to returnable, refillable containers.

The second major ALCOA charge is economic. The "Trouble on the Oregon Trail" pamphlet states that earnings were down, sales were down, jobs were lost, costs were up, businesses were hit and consumers took it on the chin.

It is true that earnings were down some. It is an inevitable fact that source reduction techniques result in elimination of the production of certain items. This results in losses by those companies that were making the now unnecessary products. However, a large portion of the losses in pre-tax earnings which were detailed are a result of a convention used by soft drink bottlers in "writing down the container to deposit." Thus, if a bottler purchases a bottle for 15¢ and the deposit is only 5¢, he immediately charges the difference between 15¢ and 5¢ as a direct reduction of his earnings. Since the Act has gone into effect, the refund has been increased from 5¢ to 10¢ on soft drink returnables of 16 ounces or less and from 10¢ to 20¢ on larger bottles. Following the same logic of the "write down to refund" convention it would appear reasonable that it would now be necessary to "write up the value to refund". It is likely that this simple minipulation would result in more increases in pre-tax earnings being shown than the total losses previously detailed.

The statement that sales of private label and warehouse soft drinks dropped 40% completely ignores the fact that franchised bottler sales, such as Pepsi and 7-UP increased significantly to balance off the private label and warehouse sales decrease.

The statement that "Jobs were lost" ignores the increase in jobs at the retail grocer level and increases in common carrier trucking. In the Applied Decision Systems study it was specifically noted that the impact of the additional handling and sorting of the retail grocer was not included. The ADS report has simply been used directly by ALCOA without stating that the largest area of employment increase had been omitted. When common carrier trucking and retail grocer impacts are included the net change becomes an *increase* of 55 to 365 people. The lower figure assumes that fifty percent of the increased hours expended by the retail grocers resulted in existing personnel merely working longer hours. The 366 net increase is based on equivalent full time employees based on extra hours worked. No mention of this was made in the ALCOA release.

To state that costs were up completely ignores the fact that literally millions of containers did not have to be purchased. Thus, in fact costs were *down*. This is the reason why consumers actually profited from the change. If we look at consumer price level in Oregon and Washington since the bottle bill became effective, we find only slight cost differentials between comparable packages. The only significant differences have been that Oregonians are buying more refillables. For soft drinks, there has been and continues to be a significant difference between the unit cost of a refillable compared to the unit cost of a throw-away. Since Oregonians purchase a higher percentage of the lower unit cost refillables, they have actually saved money.

Finally, to suggest, as ALCOA does, that "8 of the 29 bottlers sold out within two years" as a direct result of the bottle bill is again misleading. Beginning in 1973, the large increase in sugar prices caused the retail prices of soft drinks to go up all over the United States. This resulted in a profit squeeze nationally. In some cases an actual reduction in volume ocurred as consumers resisted the price increases. Consequently, this was a difficult time for soft drink bottlers throughout the country. The important thing to note is that these bottling plants, even though they were sold, are still operating. One contract canner did close his can plant but he also owned the Coca Cola franchise for the area and he continued to bottle Coca Cola.

Nationally, the period since 1950 has been a very bad time for soft drink bottlers. Over 60 percent of all soft drink bottlers went out of business in the period 1950 to 1974. The throw-away container contributed in no small part to this decline. During the same period, soft drink sales increased 276 percent. The source for these figures is the National Soft Drink Association as published in September, 1974 in the magazine Beverage Industry's 1974–1975 Annual Manual.

ALCOA is not the only group which has been distributing this type of misleading information. The Aluminum Association has recently reprinted the October, 1975 version of ALCOA's pamphlet intact and is now distributing it. Recently the national Chief Executive Officer of Pepsico, Donald M. Kendal, has used the Aluminum Association's pamphlet in an answer to concerns raised by a man in Pennsylvania.

Kaiser Aluminum has also used much of the same type of information in their book entitled "At Issue—The Beverage Container", published in February, 1976. You may by now have asked yourself "Who has been developing and providing this misinformation?" The answer is "only ALCOA, Kaiser and the Aluminum Association know for sure". A further related question is "How long will it be before they recognize and acknowledge their errors and correct their literature?' I do not believe that the presidents of ALCOA and Kaiser Aluminum are consciously sanctioning this deplorable wholesale broadcasting of misinformation. While I am certain that they would like to increase their sales of aluminum cans, I simply am not convinced that they are so irresponsible that they would knowingly engage in this kind of misrepresentation. In this post Watergate era, responsible corporate citizens simply cannot afford to deal with anything other than fact. My conclusion is that those at the head of these corporations simply do not know the truth about what their companies are distributing.

Therefore, I urge each of you to write the President and other responsible executives of these companies and ask them what the sources are for their literature. Tell them you do not believe the statements made in their releases and pamphlets can be substantiated and ask them to review them. The reason why the ALCOA pamphlet got changed from the 90% to the 52% beverage container litter increase was that Hugh Considine, president of National Can was informed that the information stating that there was a 127% beverage container litter increase which he was providing to his stockholders was inaccurate. He promptly ordered a change made. A new release was issued on August 11, 1975 by National Can. However, they still didn't get their facts straight, since they were still incorrectly showing an increase rather than the decrease which actually occurred. In October, 1975 ALCOA changed their pamphlet to coincide with the National Can position.

Please join with me in this effort to convince the businesses who are engaged in fighting the container refund concept to at least use a factual base for their arguments. I plan to enter into a dialogue with their executives and I urge you to join me. Should you find new examples of gross misrepresentations I would welcome your sending me a copy of your letter.

I am convinced that the truth will ultimately be understood. Container refund legislation points the way to the future. The Oregon Experiment has proven that a financial incentive to return a container results in increased sales in refillable containers and it helps bring the container back. Refillable containers with Oregon's return rates permitted Oregonians to save 1.4 trillion BTU's in 1974. This is equivalent to the annual energy savings to provide the annual home heating needs for 50,000 Oregonians heating with natural gas.

This source reduction concept and others like it must be substituted for the use-it-once, throw-it-away philosophy which has become all too prevalent. If we permit experiments such as Oregon's bottle bill to flounder after their successful introduction simply because half-truths and mis-information muddy the water, our society's options for solving the very real energy and resource crisis which confront us are greatly reduced. We must not let that happen. Oregon's bottle bill is a small but important step towards showing the ways in which we kick the excessive energy consumption habit. We cannot afford to let the success of container refund legislation which has been so impressively demonstrated here in Oregon slip through our fingers.

[From Sierra Club Bulletin, July/August 1976]

OREGON'S BOTTLE BILL WORKS!

(By Nancy Fadely)

Contrary to widely circulated rumors, we still drink beer and pop in Oregon, having found that they are just as refreshing in returnable containers as they were in the nonreturnables that used to litter the state.

Consumption of these beverages has continued to increase since October 1972, when the Oregon "bottle bill," which requires a deposit on all beer and soft-drink containers sold in the state, became law. The only pattern the Oregon Liquor Control Commission can find in the fluctuation of beverage sales relates not to the availability of returnable or nonreturnable containers, but to weekend weather: the hotter the weekends, the higher the sales.

Only once since the initiation of the bottle bill have sales dropped below the prenonreturnable era. That was in December 1972, a time distinguished by distinctly nonbeer-drinking weather. Beer sales in Oregon dropped almost thirteen percent that cold December; at the same time, the neighboring state of Washington—which has no bottle bill—experienced a *twenty*-percent drop in beer consumption.

Sales figures for soft drinks are harder to obtain because the Oregon Liquor Control Commission doesn't keep track of them, but available information suggests that consumption of carbonated beverages in Oregon continues to follow national trends.

Consumers benefit when they don't have to pay for nonreturnable containers. Gloomy forecasts that the bottle bill would cause prices to soar have proved to be incorrect. A bottle of pop does not cost more in Oregon today than in pre-bottle-bill days—it also costs more in Washington, Idaho and California. Prices in Oregon are comparable to, or lower than, prices across state lines. Contrary to the insistence of the anti-bottle-bill lobby, which spends an estimated twenty million dollars annually to fight the spread of the bottle-bill idea, inflation and the soaring costs of sugar, not the bottle bill, have caused beverage prices to rise.

Forecasts that the bottle bill would hurt Oregon's economy also were wrong. In a study of the economic impact of the legislation, Charles Gudger and Jack Bailes, professors of business administration at Oregon State University, found that although some jobs were lost, twice as many were created. The emphasis has been switched from manufacturing new containers to handling, recycling and refilling old ones—a turn from energy-intensive to labor-intensive activities.

The Oregon AFL–CIO, which opposed the bottle bill when it was introduced in 1971, no longer fights it. There have been no attempts at repeal. Instead, there is considerable talk about expanding the bottle-bill idea to other containers.

Bill Wessinger, who heads Oregon's major brewery, Blitz-Weinhard, has become one of the bottle bill's most enthusiastic supporters. "We haven't bought a new bottle since the bottle bill began," he said. Blitz refills returned bottles—ninety-six million a year—and passes some of the savings on to retailers to cover increased handling costs. Blitz isn't the only brewery to find that new beer is fine in old bottles. Others in the Northwest immediately discovered the savings resulting from reuse. Recently, Budweiser—bottled in Los Angeles—has begun paying a premium price for returnables, trucking them a thousand miles south for refilling.

In spite of inflation, litter pick-up costs in Oregon have not increased since pre-bottle-bill days; roadside and recreation areas, while not immaculate, no longer look littered. Vacationing Oregonians return with reports that they are startled to see litter along roadsides in other states. Tourists vacationing in Oregon seem just as startled by the lack of litter and frequently write the governor to ask what secret method the state has for keeping its roadsides so clean.

Opponents of bottle bills in other states have played with Oregon's litter-count figures in an attempt to discredit such legislation as a way of reducing litter. They have been unwittingly assisted by the poor way in which the state's litter surveys were done. For example, some crews counted even twigs as litter; others did not distinguish between milk containers, which have no deposit, and beer bottles, which do. Another factor complicating before-and-after counts was the publication of which sections of highways were being monitored. Later, other sections had to be selected in order to avoid possible tampering which would affect results. Worst of all, it was only after the litter surveys were under way that those in charge realized that the total volume of litter was a more significant measure than the number of pieces. (A cigarette butt, for example, should not count the same as a beer bottle.) Other complications involved construction activities, snow cover, delayed pickup dates, and discrepancies between counts in the field and those conducted at headquarters.

Nevertheless, analysis of reliable data shows significant decreases in beverage-container litter (by far the most conspicuous kind of roadside litter). Indeed, Oregon's roadsides look cleaner than those of other states. Comparisons of Oregon litter counts with those of neighboring states further con-

firm the value of the bottle bill in reducing litter.

Oregonians have also begun to realize that the bottle bill is energy legislation of the best sort: it takes less energy to recycle or reuse a container, even when it is shipped to Los Angeles for refilling, than it does to make a new one. At a time of increasing world shortages of various resources and commodities, the bottle bill provides a model for the kind of constructive legislation we can enact today. Last year, when home-canning jars were in short supply, America produced—and threw away—8.5 *billion* disposable soft-drink bottles, plus billions more for beer. At the same time, industries are threatened with shortages of aluminum, as well as the energy necessary to produce aluminum products even as throw-away cans continue to fill up America's landfills—another limited resource.

Ask any Oregonian and you'll learn that the Oregon bottle bill is the most popular piece of legislation ever enacted in the state. Young and old, indoor and outdoor types, liberals and conservatives—all know about and like to talk about the bottle bill. So much citizen awareness about a piece of legislation is truly unusual.

Recently, a survey was taken of 601 Oregonians to discover consumer attitudes about the bottle bill. Even though this survey began by pointing out objectionable features, such as the bother of returning features, such as the bother of returning containers and of paying deposits, ninety-one percent of those responding were in favor of the law. Only five percent of those questioned had any unfavorable reactions at all, and only two percent expressed outright opposition. Other public-opinion surveys reveal similar support.

Oregonians' enthusiastic endorsement of the bottle bill is a clear refutation of industry's insistence that Americans demand throwaway packaging. The returns from Oregon indicate that perhaps Americans have embraced the throw-away ethic largely because industry has not offered opportunities for return and reuse.

There is not a single Oregon politician who doesn't boast of his or her support for the bottle bill. Former Governor Tom McCall (a Republican) calls it "a rip-roaring success." Governor Robert W. Straub (a Democrat) has said, "Most Oregonians just wish it went further."

Mr. HATFIELD. Mr. President, the General Accounting Office study, completed in December of 1977, attempts to assess the direct effects of a national beverage container deposit on American industry and the consumer. In an effort to examine the range of possibilities in the effect the mandatory deposit will have, the GAO assessed two extremes of container mixes. One end of the scale was assumed to be the present mix of 52 percent bottles and 48 percent cans and the other was assumed to be the expected shift by manufacturers to a mix of 80 percent bottles and 20 percent cans. The final result might be anywhere between these two extremes.

With these as parameters, the GAO reached conclusions which should give us all pause to consider the opportunity we have to live in a more conservative mannner without sacrificing convenience.

The GAO estimates that even during a 3-year changeover period to returnable containers, cost savings would more than offset the costs of handling returnables, plus the cost of changing filling equipment from one-way bottles to refillables. After the 3-year changeover, GAO estimates that industry as a whole would save between $1.3 billion and $1.9 billion the following year. The savings would accrue to the bottlers. Increased handling costs to distributors and stores would have to be offset by them.

The effects on the environment would be beneficial. U.S. iron ore requirements could be reduced by 2 to 3 million tons. Bauxite use could be reduced by 1 to 1.4 million tons. Energy use could be reduced by 116 trillion to 156 trillion BTU's. The effect on the consumer would be minimal. The consumer will still have the opportunity to discard, but that opportunity will be more expensive. However, addressing that issue, the report notes that the return rate for refillable containers has never dipped below 90 percent from 1947 until 1975, nationally. Also, it publishes the rate for the State of Oregon since the passage of the Oregon bottle bill. Oregonians returned over 92 percent of their bottles and cans in 1976.

The alternative to this situation is probably one where the use of nonreturnable containers increases. The GAO report cites one prediction that the packaged beer market would increase its use of nonreturnable containers to 97 percent of total output, and the soft drink manufacturers would increase use of nonreturnables to 63 percent of the total by 1985, if the Federal Government does not intervene. As part of an effort to prevent such a situation from developing, I ask unanimous consent that these portions of the General Accounting Office study be printed in the RECORD.

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

[Report to the Congress by the Comptroller General of the United States]

POTENTIAL EFFECTS OF A NATIONAL MANDATORY DEPOSIT ON BEVERAGE CONTAINERS

CHAPTER 6.—CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

A mandatory deposit system that imposes a deposit on all beer and soft drink containers would convert the present beverage system from less than 30-percent refillable containers to one with 100-percent returnable and/or refillable containers. Several conclusions can be drawn from our analysis of what this conversion would involve.

First, we estimated that beverage container litter would be reduced about 80 percent under this system. This translates into a possible 7 to 37 percent reduction in total litter. The solid waste reduction would be about 4 percent of the estimated 1985 post-consumer refuse, or about 8 million tons. The estimated reductions in litter and solid waste under the assumed mandatory deposit depend primarily on the change from a combined returnable and one-way container system to a completely returnable system.

Second, the consumer who did not return the container and therefore did not receive a refund of the deposit would pay more to have the privilege of throwing the container into the waste stream. Because a mandatory deposit system places a deposit on all containers, the amount of deposit not reclaimed by consumers would increase.

Third, certain business costs would increase due to handling a greater number of empty containers from the retail store to point of refilling or recycling. The eventual container mix and return rates would make some difference in how much these costs increased, but the capital, equipment, space, and labor costs to handle the returned containers would definitely rise under a mandatory deposit system because of the 100-percent coverage of a deposit law. If there were no substitution of refillable containers for one-way containers under a mandatory deposit law, then the costs of supplying beverages would go up by the amount of the costs brought about by handling previously nonreturnable containers. Even though we view the container mix which would evolve after implementation of a mandatory deposit low as uncertain, we did assume that, as a minimum, refillable bottles would replace one-way bottles (Mix I). This change would create container cost savings which would help offset the rise in business costs noted above.

We analyzed the cost changes for the beverage industry for both the changeover period, assumed to be 3 years after implementation, and for a single year after changeover. Analysis of a larger change in container mix, with refillable bottles also substituting for many one-way metal cans (Mix II), had similar results. The analysis of the costs for the single year after the changeover (1981) showed that Mix I could be about $1.3 billion less costly than continuing the present way of packaging beverages, and that Mix II could be about $1.9 billion less.

The overall conclusion is that legislating a mandatory deposit on all soft drink and beer containers would reduce solid waste and litter, increase the level of retained deposits, and increase the business costs of handling returned containers.

Other changes, including raw material use, energy use, business costs for filling containers, and container costs depend on the container mix. The container mix, which will be determined by the beverage companies, may not change much after implementation of a mandatory deposit.

AGENCY COMMENTS

The draft report was sent to four Federal agencies for review and comment. This reflects the many areas which would be affected if a mandatory deposit law were enacted and implemented. Their comments are reproduced in appendix IV.

The Federal Energy Administration (now part of the Department of Energy) suggested that the potential for lower costs in the beverage system should mean, given competitive markets, that consumer prices would be lower. They suggest that this should be highlighted in our final report. We note in chapter 4 that there seems to be potential for lower prices, but do not believe that there exists enough evidence of a direct link between lower industry costs and lower consumer prices to predict that a mandatory deposit system will result in lower prices.

The Department of Commerce is concerned that we did not examine all the options which could achieve all or part of the purported benefits of mandatory deposit legislation, but rather concentrated on the effects of an option which we felt would be before the Congress for decision in the near future. The specific comments of the Commerce Department about the draft report are reproduced in appendix IV.

The Environmental Protection Agency and the President's Council on Environmental Quality agreed with the presentation of material in our draft report.

NONFEDERAL COMMENTS

In addition to the Federal agencies which commented on the draft report, several industry groups, individuals, and environmental groups were asked to comment on and review the draft.

The industry groups, which included the

U.S. Brewer's Association and the National Soft Drink Association took issue with some aspects of the draft report. We have attempted to answer these criticisms in appendix V. We believe that each assumption which had to be made to analyze a potential Federal action is reasonable and that the analysis which flows from the assumptions is representative of the effects of a national mandatory deposit system as described in the report.

The industries which would bear the brunt of the economic adjustments agree that legislative action should continue to explore ways to combat the problems of increasing solid waste burdens and depletion of raw materials. However, the policy trade-offs for such actions are not well documented and for that reason possible policy alternatives should not be disregarded just beacuse there are other ways of achieving some of the same effects.

The environmental groups and individuals who responded to the draft report were in general agreement with the presentation.

RECOMMENDATIONS

The report was intended to compile in one study the major effects which would result from such a mandatory deposit system and to analyze the degree to which these effects would occur. The analysis we have made indicates that there are positive and negative aspects to the effects of a mandatory deposit system. The ultimate question of the appropriateness of a Federal mandatory deposit law must be answered by the Congress. We do have several recommendations to the Congress should it consider enacting such legislation.

Only by treating all containers equally can the system provide positive results because it is necessary to have as many containers as possible, whatever the mix, returned for reuse. Most legislative proposals call for such treatment, but we emphasize it since any beverage container not included would tend to negate the environmental benefits.

Many allocation formulas are possible, and the executive agency designated as the implementing agency should be responsible for its design. Prime considerations should be administrative ease of implementation and equity of the allocation.

A problem in assessing the effects of the various States' mandatory deposit systems has been the lack of good data on the period before and after implementation of the system. Such analyses will keep the responsible agency informed about the effectiveness of the program and the need for any changes. Measurements should be taken of litter and solid waste, beverage industry changeover costs, costs of goods sold, can recycling, and employment changes.

Returned cans cannot be refilled; they are valuable only as scrap. The price the bottlers and breweries would receive for the scrapped cans is less than the deposit which they could retain if the cans were not picked up from the retailer, this means that there will be no economic incentive to pick up the cans. In addition, the legislation should provide some mechanism to encourage the recycling of these cans once they are returned. Without recycling, some of the environmental benefits of a mandatory deposit system will not be realized.

FLIP-TOP HAZARDS

Mr. HATFIELD. Mr. President, I now ask unanimous consent that two articles which discuss the impacts of flip tops on the health of humans and wildlife be printed in the RECORD.

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

[From the Journal of the American Medical Association]

ALUMINUM "POP TOPS" A HAZARD TO CHILD

(By John D. Burlington, M.D.)

In a 3½-year period, seven children have been treated for complications of ingestion or aspiration of pull tabs from aluminum beverage cans. One child died from a fistula between the esophagus and a branch of the aortic arch, and two children suffered esophageal perforation with local abscess formation. Since aluminum absorbs X-rays poorly, the pull tabs cannot be seen in frontal projection if they overlie vertebral bodies. Any toddler with unexplained alteration of feeding habits or persistent respiratory symptoms requires evaluation for an aspirated or ingested foreign body. (JAMA 235:2614–2617, 1976).

Physicians have been alerted by Alexander et al.[1] Glass and Goodman, and others to suspect esophageal foreign bodies in children with unexplained respiratory symptoms. Radiopaque objects are easily detected by routine roentgenographic examination of the neck and mediastinum, but radiolucent objects still go undetected. The advent of radiolucent plastic toys that are frequently included in breakfast cereal or popcorn as "prizes" has produced a substantial number of esophageal obstructions and perforations in children. To this list of child health hazards producing esophageal obstruction with radiolucent objects, we must now add the ubiquitous metal strips removed from "pop top" beverage cans. These shiny pieces of metal, which litter the ground of parks and picnic areas, prove irresistible to curious toddlers or children crawling in the grass. They place the attractive new objects into their mouths and all too frequently swallow or aspirate them. While many pull tabs undoubtedly pass undetected through the gastrointestinal tract, this report outlines the case histories of seven children in whom they lodged in the esophagus or were aspirated into the airway. In none was the ingestion witnessed or suspected. Six of the children survived their encounter, but one bled to death from erosion of the pull tab through the esophagus into a branch of the innominate artery.

REPORT OF CASES

CASE 1.—A 13-month-old boy was brought to his pediatrician because of a two-week history of inability to take any table food or other solids. He had been able to drink liquids up until four hours prior to being seen. At that time he was unable to swallow his saliva. Chest roentgenograms demonstrated a column of food and air bubbles extending upward from the level of the aortic arch. He underwent esophagosecopy under general anesthesia and a large amount of food was removed from the upper portion of the esophagus. A sharp metal strip from a pop top lying at the base of the food column was removed through the esophagoscope. There were local ulcerations in the esophagus, but no evidence of perforation. His recovery was uneventful, and no stricture or other complication developed.

CASE 2.—An 11-month-old boy was seen because of high fever, difficult respiration, and inability to swallow liquids. On admission to the hospital, his temperature was 40 C rectally, and he was extremely ill. A chest roentgenogram showed mediastinal widening and fluid in the left hemithorax. Aspirated fluid showed mixed flora on Gram stain and yielded a mixture of Gram-positive and Gram-negative organisms. After 12 hours' chest drainage, rehydration, and infusion of intravenous antibiotics, he remained extremely ill. A limited barium swallow examination showed considerable distortion of the upper third of the esophagus in the region of the thoracic inlet and extravasation of contrast material into the mediastinum. After further rehydration, he underwent a right thoractomy and exploration of the upper esophagus. The region between the aortic arch and the thoracic inlet was densely fibrotic, and an abscess cavity continuous with the esophagus contained a free-floating metallic strip from a pop top. The stiff and inflamed edges of the esophageal perforation were loosely approximated with interrupted sutures of 4/0 wire. Large anterior and posterior chest tubes were placed in the right portion of the chest, with the tips near the area of perforation. A Stamm gastrostom was placed for alimentation, and a sump catheter was inserted into the nasopharynx to minimize passage of saliva down the esophagus.

The esophageal closure leaked a small amount of saliva from the third through the seventh day but ultimately sealed completely. On the ninth day, the tube in the left side of the chest was removed, and on the tenth and 14th days the tubes in the right side of the chest were removed. A rather long stricture from the thoracic inlet to the region of the aortic arch developed, which required several dilations starting one month after his original surgery. After five dilations, the esophagus assumed approximately normal caliber, and he had no further difficulties in swallowing. The gastrostomy tube was removed approximately nine months after the original operation and two months after his last dilation.

CASE 3.—A 4-month-old infant was admitted because of a coarse, hacking cough and wheezing respirations. The initial diagnosis of croup or epiglottitis could not be confirmed by lateral roentgenograms of the airway. When his symptoms worsened, he underwent laryngoscopy before an endotracheal tube was passed to relieve his airway obstruction. Wedged between the vocal cords was a rolled-up metallic portion of a beverage can top. This was removed with forceps, and an endotracheal tube was passed into his airway. Forty-eight hours later, the endotracheal tube was removed, and he had no further difficulties.

CASE 4.—A 2-year-old boy was seen for a history of difficulty in swallowing for at least one year. He supposedly had had several normal barium swallow examinations, although our initial study showed a distortion of the esophagus in the portion between the thoracic inlet and the aortic arch. There appeared to be deviation of the esophagus to the left and an apparent diverticulum or duplication of the esophagus extending to the right. Fluoroscopy showed the entire area somewhat stiffened, and peristalsis was abnormal.

An exploratory operation was performed after esophagoscopy showed only the deviation and stiffening of the esophagus. Through a right thoracotomy, the upper portion of the esophagus was mobilized, although it was deeply encased in scar. To the right and posterior portion of the esophagus lay a fairly, large abscess cavity in which a pull tab was lodged, surrounded by pus and old food. There was no mucosal lining, but at operation it was not possible to differentiate a perforation with abscess formation from the diverticulum that had become a repository for the metal strip and food.

The cavity was excised as much as possible, and the esophagus was closed primarily with interrupted sutures of 4/0 wire. A large chest tube was left in place, with its tip near the suture line, and a sump catheter was placed in the nasopharynx. A small amount of saliva

Footnotes at end of article.

was present in the chest tube from the second to the fifth day, although a diatrizoate meglumine swallow examination performed on the tenth day showed no further leakage. The chest tube was consequently removed, and he required four dilations of a long stricture that occurred in the region of the perforation. This slowly resolved, and although his follow-up has been sporadic, he has remained asymptomatic.

CASE 5.—An 11-month-old boy was brought to the emergency room about one hour after onset of an episode of coughing and intermittent cyanosis. This had begun during a family picnic at a public picnic ground. On admission to the hospital, he had coarse breath sounds and marked dyspnea. Chest roentgenogram, including inspiratory and expiratory x-ray films to rule out a foreign body, were all interpreted as normal. He was placed in mist and given postural drainage and bronchial dilators without relief. On the following morning, he underwent bronchoscopy, and the metallic tab of a pop top was removed from the region of the carina. His convalescence was uneventful.

CASE 6.—A 13-month-old girl appeared in the emergency ward, unable to swallow her own saliva. Chest roentgenograms showed mediastinal widening, with a tiny amount of fluid in the left of the chest. A diatrizoate mellumine swallow examination showed complete obstruction of the esophagus at the level of the aortic arch but no extravasation of contrast material. After eight hours of rehydration and infusion of intravenous antibiotics, she underwent esophagoscopy and had a large amount of old food removed from her esophagus. After the food had been removed, it was not possible to pass the esophagoscope through a narrow portion of the esophagus. This scope was removed and a 3½ F bronchoscope inserted. Through the telescope, a small, metallic foreign body could be identified deeply embedded in granulation tissue. At this point, the endoscopy was discontinued, and the patient was returned to the recovery room.

On the following day, with two units of cross-matched blood on hand and with thoractomy instruments in the operating room, the endoscopy was repeated, and the metallic foreign body was removed uneventfully. There was a small amount of bleeding but no evidence of perforation. She was watched carefully in the intensive care area for 48 hours, with a nasopharyngeal sump tube in place, while receiving intravenous fluids and antibiotics. After 48 hours, the diatrizoate meglumine study was repeated and showed a small but distorted lumen in the esophagus and no extravasation of contrast material. By the fourth day, she was afebrile, and her vital signs had returned to normal. She then began a diet of clear liquids and advanced to a soft diet over the next 48 hours.

Two weeks later, she was admitted because of inability to swallow her saliva, and on examination she had food impacted above a stricture in her esophagus. The food was removed through an esophagoscope, and a filiform dilator was passed through the area of the stricture. The filiform dilator was followed with dilators up to 12 F. and then a No. 8 polyethylene feeding catheter was inserted through the nostril into her stomach. She received tube feedings for approximately one week and then underwent an esophageal dilation again. Over the next three months, the stricture slowly softened, and she required no further dilations. She is now asymptomatic.

CASE 7.—An 11-month-old boy had been seen in several different emergency rooms over a period of ten days because of noisy breathing and diminished intake of food and liquid. Numerous chest roentgenograms were taken, including a study of the entire airway from nasopharynx to mainstem bronchi. These were interpreted as normal. On the day of admission, he had passed several tarry stools, and his hematocrit reading dropped from 36% to 14%. Transfusion with packed red blood cells in the intensive care area raised his hematocrit reading to 25%. After six hours of stable vital signs, he suddenly became ashen, his blood pressure dropped to unobtainable levels, and bradycardia developed. Resuscitation required 450 ml of saline and 250 ml of packed red blood cells, approximately one blood volume for this 10-kg child, administered over approximately 25 minutes. When his resuscitation was complete, he began to vomit large volumes of bright red blood, and his abdomen distended rapidly.

With a preoperative diagnosis of upper gastrointestinal bleeding probably originating from the stomach, he was taken to the operating room. Rapid exploration of his stomach and the duodenum showed blood to be welling up from the esophagus. Examination of the lumen of the esophagus showed no evidence of mucosal tears suggestive of a Mallory-Weiss syndrome of esophageal varices. A sterile proctoscope inserted in the distal portion of the esophagus showed only that bright red blood was gushing down from above. The incisions were closed with a single running suture. The patient underwent esophagoscopy from above but bleeding was so brisk that no information was obtained.

Through a left thoractomy, the distal portion of the esophagus was freed up from the diaphragm to the arch if the aorta. An umbilical tape tied about the esophagus just below the aortic arch showed that the bleeding was coming from above. The upper portion of the esophagus between the thoractic inlet and the aortic arch was then freed up, and external compression here demonstrated that the bleeding was from behind the aortic arch. The portion of the esophagus below the arch was opened linearly, and with a finger in the esophagus, bleeding could be temporarily tamponaded by pressing upwards against the aortic arch. During the hurried dissection of the aortic arch in an attempt to control bleeding, blood loss exceeded our ability to replace it, and the patient lost all vital signs. Each time the patient was resuscitated the massive bleeding recurred, and after 20 minutes be had fixed, dilated pupils, so further efforts were abandoned.

At postmortem examination, there was a deep ulceration within the esophagus that conformed exactly to the metallic tab of a pop top. There was also a large perforation of the esophagus into the region of the aortic arch, although no direct communication could be demonstrated with the aorta. Presumably the sharp irregular tip of the metal strip had eroded through into one of the great vessels or perhaps a bronchial vessel. The foreign body was not obtained from the gastrointestinal tract at the time of autopsy, although retrospective review of the chest roentgenograms taken several days before showed a metalic object in the esophagus behind the aortic arch that conformed in outline to a metal pull tab.

COMMENT

Thin strips of aluminum that become lodged in the esophagus are particularly difficult to detect roentgenographically unless they are looked for specifically.[3] Flat objects such as coins invariably become oriented transversely in the esophagus since this represents its greatest diameter.[4] In children, most objects that do not pass the esophagus become impacted at the thoracic inlet or above the aortic arch where the esophagus overlies the vertebral column. Thus, the outline of foreign bodies in this portion of the esophagus is projected over the image of the vertebrae in routine posteroanterior or anteroposterior chest roentgenograms.

Alexander et al [1] have shown that absorption of X-rays by a substance is roughly proportional to its density. Thus, fat is less dense than water, and small shards of glass with a density of 2.4 to 2.8 may not be detectable roentgenographically when imbedded in tissue. Aluminum with a density of 2.7 has much the same radiodensity as glass, so that the pull tabs, which are made of aluminum 0.2 mm thick, show only a faint shadow on an ordinary roentgenogram. In the lateral projection, a pull tab in the esophagus presents 14 mm of aluminum in its greatest diameter, so that recognition should be facilitated. Viewing this portion of the esophagus without interference from projection of the arms and shoulders takes special effort in positioning the patient.

Since many of the ingestions or aspirations involving toddlers are not witnessed by an adult, the history obtained by the first physician to see the child may not suggest a foreign body. However, persistent respiratory symptoms and any change in eating habits should be evaluated by posteroanterior and lateral chest roentgenograms with inspiratory-expiratory views if indicated. The neck and nasopharynx should be included in all such examinations. If these are normal and there is no evidence of mediastinal abscess or free air, a contrast study of the esophagus using thickened barium will frequently show plastic, fish bones, or an aluminum foreign body lodged in the esophagus.

The metal strip from a pop top is usually bent into a hook shape as it is removed from the can. When the ring separates from the bent metal strip, it leaves a serrated edge and two sharp corners. Thus, if diagnosis is delayed, these sharp edges will perforate the esophagus and cause mediastinitis or erode into the mediastinal vessel. Safety pins lodged in the esophagus have caused aortic arch perforation and acute cardiac tamponade,[5] but since they are made of spring steel, they are more readily identified roentgenographically than are aluminum pull tabs. All parents must be cautioned about the hazard of discarded pull tabs just as they are now about the hazards of the open safety pin left within an infant's reach during a diaper change.

Footnotes at end of article.

[From the Defenders of Wildlife, June 1975]

DEADLY THROWAWAYS—PLASTIC SIX-PACK BINDERS AND METAL PULL TABS DOOM WILDLIFE

(By Penny Ward)

A big brown pelican is cruising Florida's coastal salt flats hunting for food. He dives at a shadow in the water, snaps at it, and in a moment finds his prey choking him. It somehow wraps around his neck, then loops over his bill. In panic, the pelican flies back to his roost in the mangroves and claws at his adversary. Soon his foot is entangled. The pelican continues to fight, but in a little while he is dead, strangled by his mysterious antagonist.

The pelican mistook a plastic six-pack can binder for a fish. He became another wildlife victim of an unthinking and uninformed person, who probably tossed the plastic trash into the water without knowing it could harm a wild animal.

Wild creatures are beginning to suffer the fallout of our burgeoning solid waste litter. The "throwaway" beverage container is the chief villian. "No-deposit, no-return" litter grows about eight percent annually. Last year some *three billion* throwaways ended up on our roadsides and recreation areas. Even our most pristine reserves have become the

final resting places for millions of easy-to-tote containers and their by-products, the flip-top pull-tabs and plastic six-pack binders.

While humans see this litter as an aesthetic blight, animals see it as a possible source of food. "The big problem with plastic can binders is that grazing and wading birds are curious and nibble or dive at them," says Frank Kenney, of the U.S. Fish and Wildlife Service. "They manage to tangle them over their heads, a foot gets involved, and they strangle in the ensuing fight."

The tame, curious brown pelican—already a candidate for the endangered species list—is among the most vulnerable to such entrapment. But many states have recorded similar deaths among other types of waterfowl. Aside from the pelican, the most common victims are gulls, ducks, and geese.

If entanglement doesn't strangle the bird, it may starve to death. Dr. Martin Wiley, a Maryland wildlife biologist, describes the plight of a seagull he saw in Chesapeake Bay. "The bird had the plastic rings jammed between the mandibles of his bill and stretched over the back of his head. He could fly, but of course he couldn't eat. I watched him for days but couldn't get close. I knew he was doomed."

Some entangled animals may be able to function, but they become social outcasts. Michigan biologists found a Canada goose with plastic rings merely threaded loosely over his neck. Though he was healthy, the rest of the geese on the lake picked on him unmercifully. The gander was eventually caught and the rings removed, but it was too late to solve his marital problems. His mate and goslings had found the trash decoration so bizarre that they had abandoned him.

Small birds have similar problems with the little pull-tab rings from beverage cans. Some species find them attractive as nesting materials. A member of Washington, D.C.'s Audubon Naturalists Society tells of a cardinal found dead with a pull-tab ring jammed over its face. She thinks that the bird was partially blinded and died of exposure or exhaustion.

These sparkling little rings are also attractive to fish—in fact, some fishermen use them as spinners ahead of bait. Biologists in Michigan and California have discovered fingerling trout girdled by pull-tab rings. They theorize the fish struck at the shiny rings, missed, shot through and got stuck. In both cases the trout were about six inches long. Miracles of growth, the fish were still quite active when discovered, though the rings were slowly cutting their bodies in half.

Bigger fish sometimes swallow the rings, which they perceive as food or as aggravating intruders in their territories. Pull-tabs are occasionally discovered by sportsfihermen in the stomachs of panfish, trout, salmon, and other fish which "strike," as opposed to bottom feeders which "taste." The ring may just ride along harmlessly inside the fish, but if pushed into the digestive tract, it can fatally lacerate or impact the system. (Interestingly, major hospitals across the U.S. report pull-tabs showing up in human stomachs, inadvertently swallowed by a person who'd dropped the tab into the can. They are difficult to detect by X-ray and often require major surgery to remove.)

All grazing animals domestic and wild, accidentally eat bits of trash. Ranchers who lease state or federal lands which permit public recreation are particularly concerned about the dangers litter poses to their herds—dangers often revealed during autospy. E. P. Harvey, general manager of a large family ranch operation which includes five wildlife refuges in the Southwest, has for many years studied the problem. "Domestic animals will chew, taste, smell, and investigate all sorts of things," Harvey says. "They'll eat nails, pull-tabs, plastic items, small can lids, wire bones, and plastic bags." Harvey says that while ingested litter rarely kills an animal unless the object punctures the digestive tract or impacts the bowel, the trash diet leaves the animal in poor physical condition.

"We know a good deal about domestic animals ingesting harmful objects, but little about wildlife," Harvey says. "From observation, however, we know wildlife is interested in the same things as domestic animals, so we can assume the results are similar."

The beverage container itself—steel, aluminum, or glass—creates special hazards. Broken bottles and cans cripple livestock and wildlife. Horseback riders hesitate to ride in road ditches for this reason.

While wild animals are more alert and cautious than their domestic counterparts, rancher Harvey says that in some instances deer and antelope put their feet through beverage cans. When the hoof breaks through, the sharp edges can cut off the blood supply, crippling the animal or causing an open wound. "The lameness may lead to death by predation or severe weather, or the wound can become the target of fatal insect infection."

Perhaps these litter-related tragedies don't comprise a major threat to wildlife, yet the examples recorded are only the tip of the iceberg. The incidents are symptoms of a deteriorating environment. The condition of our wildlife is an index of the quality of our own lives.

A growing threat to animals, litter is already a plague to humans. Our wayside litter amounts to as much as four million tons per year, and we spent $200 million per year to retrieve it. About 35% of the total, 1.4 million tons, is made up of throwaway bottles and cans. And it compounds every day because glass and aluminum virtually never break down in the environment. The litter not only clutters our roadsides, but it defaces our most pristine areas. An outdoorsman who feels he's exploring an area where no one has trod is likely to find an empty beer can that dictates otherwise. Some remote backpacking trails glitter with bottles, cans, and pop tops.

Believing that what we can't see won't hurt us, some people have turned our lake and river bottoms into dumps. In 1972, Dan Carleson, a fishery biologist for the Oregon Game Commission, made a series of dives to survey the bottom of that state's serene and beautiful Diamond Lake. He found a underwater nightmare. Carleson calculated that the lake bottom was strewn with 44,500 empty beverage containers.

And Carleson could only count bottles and cans which were visible. Silt has a tendency to slowly bury its garbage. "We found that as our knees and swim fins sank into the ooze we bumped into a tremendous amount of litter that settled into the bottom," Carleson said. Commenting on Carleson's report, the editor of the *Oregon Game Bulletin* lamented, "It appears that at the rate we're going, Diamond Lake could become a landfill."

This garbage, settled into lake and stream bottoms, causes frequent injuries to swimmers and waders. It also presents road hazards to fish. Fish have accidents too, but they are seldom discovered or recorded. A few years ago a biologist for the Oregon Game Commission found a beer can containing about 50 dead hatchling trout in the Rogue River. He theorized the trout either were attracted by their blurred reflections in the metal, or perceived the dark hole in the can top as shelter. Once they followed the leader inside, they became lost in the crowded darkness and suffocated.

A fisherman at Oregon's Unity Reservoir last winter hauled out a three-pound rainbow trout wedged tightly in a broken beer bottle. And a Michigan fisherman hooked a tormented 21-inch pike which was being slowly decapitated by a six-pack binder encircling its body.

Nowadays litter creates more than an aesthetic barrier between human beings and nature. It creates physical barriers in the forms of barbed wire, locked gates, and no-trespassing signs. The Pennsylvania Fish Commission reports, "Litterbugs are largely responsible for posting by private landowners along our streams and lakes." The story is the same in other states—more and more land is being closed to public access as landowners lose patience with those who litter their property.

Litter is the most obvious sin throwaways commit against our society; it isn't the greatest. More serious sins are the wanton waste of our energy and resources. Last year Americans used over *60 billion* disposable beverage containers. The amount of electrical and fossil-fuel energy squandered in manufacturing these throwaways is staggering. According to studies based on 1972 figures—when we used eight billion *fewer* containers than last year—our throwaways cost enough energy to heat two million three-bedroom homes in the mid-Atlantic states for eight months. In other terms, the throwaways used enough energy to satisfy the annual electrical needs of 9.1 million people. In comparison to a returnable container system, in which a bottle makes about ten round trips between consumer and bottler, our throwaway system costs the equivalent of five million gallons of gasoline per day. That means, in effect, that the equivalent of 4½ ounces of gasoline is wasted in making each 12-ounce container. The figures for aluminum cans are more shocking still: To use an aluminum can, we waste the energy equivalent of *more than half the can's capacity in gasoline.*

In 1972 beverage container production required two million tons of steel, 6.2 million tons of glass, and 575,000 tons of aluminum. This use accounts for 45 percent of all glass and 8 percent of all aluminum production in the country, and is the biggest single demand on our glass and aluminum supplies. While world supplies of these resources are not critically short, we depend on foreign countries for 33 percent of our iron ore, and 84 percent of our bauxite. In these politically troubled times, such dependency is dubious.

The convenience of throwaways isn't free. Consumers pay the price. With a disposable container we actually pay three times. Once when we purchase it, once when we dispose of it, and once to have it laid to rest.

Beverages in throwaways are as much as 40 percent more expensive than drinks in returnable/refillable bottles. According to the beverage industry's own figures, 56 percent of the cost of a container of beer is the container itself. Americans spend about $1.5 billion per year for the throwaway luxury, but because of price-marketing procedures in many stores, they're not apt to be aware of it. For example, eight throwaway bottles of soda may be marked $1.61. Eight equivalent returnables may also be marked $1.61, but the consumer will get back 40 cents, or 25 percent of the purchase price, when he returns the bottles.

Even after it has been purchased, the throwaway keeps on costing. Once the beverage container is emptied, there it is—a throwaway to be throwaway. Beverage containers make up the most rapidly growing category of waste in the national trash can. They comprise about seven percent of the total of our garbage, second only to newspapers. (Garbage means solid waste thrown in trash cans as opposed to waste which becomes litter.) EPA projects that at current rates Americans will toss out 11.3 million tons of beverage containers in 1976. If the

cost per ton to collect and dispose of solid waste remains stable, getting rid of all those bottles and cans will cost us nearly $200 million annually by the Bicentennial.

We are the world's leading garbage-producing nation. New York, for example, creates more garbage than London and Tokyo combined. While New York's population rose only 1.5 percent since 1960, its garbage production rose 42 percent. We are running out of space for all that garbage. A 1973 survey by the National League of Cities revealed that nearly half our cities will run out of refuse landfill capacity by 1978.

The throwaway came to us about 15 years ago, in an age of opulence. Its initiation into society accompanied big gaudy cars and gasoline wars. The term energy shortage hadn't been coined. Our resources appeared never ending, and national environmental concern was still many years off.

But today big gaudy cars and gasoline wars have left the scene, and many people think the throwaway should do likewise. In recent years over 350 bills to regulate beverage containers have been introduced in Congress, or at state and local levels. Oregon, Vermont, and South Dakota already restrict throwaways. Several other states are close to passing bills. Scores of cities and counties have passed such legislation, which at all levels has been upheld in court tests.

The Oregon bottle bill was enacted in late 1972. It required a mandatory five-cent deposit on beverage containers, and banned pull-tab rings. Oregon's success with the bill prompted Republican Senator Mark Hatfield to introduce federal legislation requiring a mandatory deposit and banning of pull-tab rings. The bill (S. 613) would be phased in nationally over a three-year period.

Hatfield's bill is rapidly gaining support, but it is bitterly opposed by the steel, glass, aluminum, and container industries, along with soft drink bottlers and brewers. Fearing the inconvenience and possible loss in profits, these groups spend millions each year to fight container legislation.

The manufacturers say that such legislation will raise prices, lower consumption, create unemployment, and fail to reduce litter. Certainly the change would create initial logistical problems for industry. The net result, however, appears worth the effort. Oregon reports that beverage prices have risen since 1972—but they've risen everywhere, largely due to increased sugar prices. Oregon's beverage prices are in line with those of neighboring Washington state, which does not yet have a bottle bill. Beer and soft drink sales in Oregon continued to climb after the law was enacted. Significantly, Oregon also reports the shift to returnables resulted in a net gain in employment. While there was a shift in the types of jobs, the move created more total jobs in industries. In fact, Maryland's Council of Economic Advisors recently projected that if Maryland returned to returnables, there'd be a net increase of 1,500 jobs generating $18.5 million in personal income.

Both Oregon and Vermont report a heartening decrease in litter following container legislation. Oregon initially reported beverage container litter down 80 to 90 percent, and recently reported total litter has dropped as much as 46 percent. Lake Diamond may not become a landfill after all. Vermont's Agency of Environmental Conservation reports that even opponents of their bottle bill now agree that legislation has greatly decreased beverage-related litter along that state's roadsides.

The Vermont agency reports that the opposition attempted to cloud the litter reduction issue by counting containers placed in roadside trash receptacles along with highway litter, and comparing the tally with pre-bottle law statistics which counted only roadside litter. Despite statistical games, reason dictates people are much less likely to throw away something of specific value than something intended to be thrown away.

The industries opposing container legislation point to recycling and cleanup campaigns as alternatives. Recycling, however, does not yet offer sufficient monetary reward to be successful. Only half a cent is usually offered for cans, the more recyclable of the two container types. Only 15 percent of all aluminum cans made it back to recyclers last year. The statistics for glass are worse. There are only about 100 glass recycling centers in the entire U.S. Old glass is only worth about $20 a ton, and takes more money and energy to recycle. The expense and logistics of hauling materials in for recycling has dampened the volunteer enthusiasm which sprung out of Earth Day movements. In too many cases, cities and charity organizations which sponsored recycling campaigns wound up losing money.

Certainly recycling centers are growing as cities begin to realize there's money and energy in municipal trash. And recycling does save energy and resources. When the EPA examined the various energy requirements of nine beverage container systems, it found that the pull-tab aluminum can, with a 15-percent rate of recycling, was ranked ninth, the worst, for delivering 1000 gallons of beer. A returnable/refillable glass bottle system was ranked first.

Recycling is most valuable as a complement to a system which produces less waste in the first place. A return to returnables is in fact the ultimate in recycling. It places a significant rather than a token bounty on containers. A deposit container which is extravagantly discarded becomes someone else's nickel. And when a ten-trip returnable comes to the end of its journey, it can then be recycled.

Clean-up campaigns, like recycling, are also valuable follow-ups, but they will not eliminate litter by themselves. Two of the largest national campaigns are "Keep America Beautiful" and "Pitch In." KAB is sponsored largely by beverage container industries and their suppliers, along with retail food distributors and fast food chains. "Pitch In" is sponsored by the American Brewers Association. While any clean-up effort is to be praised, these industry campaigns are no more than we might expect from the initiators of the problem. And although both organizations claim to work toward litter reduction, they actually lobby against legislation to eliminate throwaways.

Industry argues that litter is a behavioral problem which can be solved through education. Yet it's difficult to imagine anyone who has not been exposed to antilitter propaganda. In fact, containers themselves now bear a message reading "Please Don't Litter." But the problem increases. Without nipping waste production in the bud, our litter problem won't go away.

Proponents of beverage container legislation are winning inch by inch. Several recent surveys at both state and national levels indicate that citizens overwhelmingly favor returning to returnables. Their chances of doing so voluntarily are slim, since in most areas very few beverages are available in returnable bottles.

Although concerned citizens view container legislation at state and local levels as a step in the right direction, they believe the most logical and desirable legislation is Hatfield's Senate Bill 613. A federal law would create national uniformity and eliminate a series of drawn-out battles. In the minds of many, it's an idea whose time has come.

Opponent industries will suffer some pains as a result of change, but it's difficult to imagine that these corporate giants won't land on their feet. Manufacturers might well do better to spend time and money on positive efforts to facilitate the move to a returnable system. They could create a short, squatty space-saving bottle, standardized for use by more than one distributor. The label would still identify the product, and the standardization would solve sorting and distribution problems.

Several franchised bottlers have recently voluntarily switched to returnables, and realized increases in sales and profit. Joyce Beverages in Chicago made the switch in 1973. During the first year, sales of Joyce's Orange Crush *were up 87%*.

A 7-UP bottler recently stated in a beverage industry newsletter, ". . . if by our own volition, we got rid of the pull-top can and throwaway bottles, we'd make fortunes. While at corporate levels beverage industries still reject the idea, local franchised pioneers of the switch are pleased with the results.

It's unlikely many of us will resent the switch to returnables, given what we've to gain. This is, after all, the only planet we have. Its condition is a good index to the quality of our lives. Our fellow creatures—the birds, animals, and fish—must rely on our intelligence and rational behavior to protect their world and ours.

Mr. HATFIELD. Mr. President, several articles and editorials have appeared in various newspapers and periodicals concerning aspects of the beverage container issue. I ask unanimous consent that these be printed in the RECORD.

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

BRING BACK THE 5-CENT DEPOSIT

Should every can and bottle of soda and beer carry a 5-cent deposit against its return? It seems like a small question until you hear the arguments pro and con; large stakes ride on the answer. A bill to require the nickel deposit seems headed for a vote in the New York State Senate this week and the Assembly soon after. Oregon, South Dakota, Vermont and all Federal installations have had a deposit system for some time; Connecticut appears close to adopting one; the voters of Michigan and Maine approved of deposits last fall, while the voters of Massachusetts and Colorado demurred. The issue boils down to whether consumers can be induced to return their drink containers—to the benefit of the environment, the energy supply and the stock of natural resources—or whether the dislocations in a major industry and the ingrained habits of consumers would merely raise everyone's costs and cause as much social harm as good.

The proposed New York bill would leave customers free to choose drinks in bottles or cans, but only those who return them would retrieve the nickel deposit. Five cents may not justify the bother for some, but it's 30 cents on a six-pack. And what a thriftless consumer would toss away, an eager youngster would likely claim. The bottles he brings back would be refilled and the cans would be recycled.

The sponsors of the bill expect that, with time to prepare and with experience, the bottling and canning industries would not only adjust to the reuse and recycling of containers but also bring their considerable technological skill to the cause of conservation. When consumers and legislators began to object to the annoying pull-tabs on our streets and roadways, the industry was moved soon enough to produce a push-down can opener to eliminate the litter. Each container brought back would save both the energy and the resources needed to produce another five or six or ten containers, depending on the number of round trips from plant to home. One study before the New York Legislature predicts a saving of 7 million barrels of crude oil a year from a lively traffic in returns, enough to run 200,000 cars.

Oregon, which pioneered with this legis-

lation, has achieved a 90 percent return rate of beer and soft-drink containers. It has also reduced the roadside litter in beverage containers by two-thirds, for a net reduction of 10 percent in all road littering, despite the growth in other careless disposal. Why not, then, put deposits on all bottles and cans? Because it is the beverage containers that are most likely to wind up as litter, that can be most readily standardized for easier reprocessing, and, most important psychologically, that were once accepted by the public as deposit items.

The bottlers and canners have argued mightily against these bills, promising rapid strides in waste recycling, as well as cans of much lighter weight that will require less energy, steel and aluminum. They argue that the savings in large cities would be much less than elsewhere because of the constraints on transport and collection, thus reducing reuse from 10 times to perhaps only four. Even those who concede some marginal savings in energy and resources doubt that they warrant the inconvenience to consumers, the hardships to retailers, the retooling of their industries and the ensuing costs in lost jobs and in the higher prices of soda and beer.

The sponsors of the New York bill reply that dislocations and new investments would be temporary, that more people would be employed in handling the containers than would be lost in manufacturing them and that the true costs to the consumer must be measured not only in the price of a drink but in the cost of collecting litter and garbage and of wasting energy and resources.

Laymen, including legislators, may find these rival calculations dizzying. In the end they must choose, particularly when the market that has been left to its own devices has shifted the costs of both litter and waste to the community, rewarding its most wasteful members. It may be a close call on the available evidence but experience elsewhere and the desirable social momentum argue strongly for passage of this measure.

Ideally, the rules ought to be national. Our major distributors of drinks and their container producers need to operate across state borders to achieve economies of scale. But they also need an incentive to share society's concerns and costs and to help Congress enact uniform standards for which all can plan and prepare. The passage of this measure in New York would go a long way toward forcing Federal action and wiping out the state-to-state confusion. Society clearly means to arrest the ugly litter in bottles and cans, to conserve on materials and to save energy in the process. It seems ready to require the cooperation of consumers in this effort. A law in New York would require the collaboration of industry as well.

BOTTLE BILL IS KEY TO THE FUTURE

(By Michael Frome)

The returnable bottle is on its way back into America's life-style, which is cheering news.

It means the throwaway age and its nasty habits are nearing their end. A more welcome blessing for travelers I cannot imagine.

The key to the future is in the "bottle bill"—a law placing a mandatory deposit on all beer and soft drink containers, whether metal, glass or plastic, to encourage purchasers to return them for reuse or recycling. Oregon in 1972 and Vermont one year later took the lead and proved this system will work. It shows in their strikingly clean roadsides and recreation areas.

Additional states, as well as counties, cities and Canadian provinces, have followed the lead in requiring container deposits. Still others are preparing to act. Pressure is building for Congress to produce a national bottle bill covering the entire nation.

A uniform national mandatory deposit system is the only long-range solution to the throwaway container crisis. This is the principle behind the national bottle bill sponsored by Vermont Rep. James Jeffords. Sen. Gary Hart of Colorado has introduced a similar bill, the National Materials Policy Act of 1977, which would place a disposal charge on containers, packaging materials and paper.

Returnables make sense for our time as a means of conserving energy and increasingly scarce raw materials. As matters now stand manufacturers produce more than 60 billion throwaway beverage containers yearly. (That's one per day, year-round for every citizen!) A returnable bottle, however, can be refilled an average of 15 times. With a nationwide deposit system we could insure reuse or recycling of six to seven million tons of glass, steel and aluminum each year.

9TH ANNUAL BOAT SHOW TO OFFER 400 SAILBOATS, CHARTER PLANS

Fly-sail vacations will be featured offerings at the 9th annual Southern California Sailboat Show Saturday through Oct. 30 at the Long Beach Convention Center, where more than 400 sailboats will be showcased.

The fly-sail plan can be used to make arrangements for the boat you want to use on vacation at such destinations as Tahiti, the Virgin Islands, Bahamas and Puerto Rico, with or without a charter captain.

Any way you look at it, the trashing of America has been a sorry chapter in history, with a high price tag on "convenience" and the freedom to pollute.

A couple of years ago, for instance, officials of Rocky Mountain National Park, the jewel of Colorado, tallied two million visitors and estimated they left behind 175 tons of litter every single day. It's been the same everywhere, with plastic cups, paper plates, beer cans and broken bottles scarring roadsides, beaches, campgrounds, lakes and streams.

Even in remote backcountry it's difficult to escape the sight of one kind of throwaway or another, just where you least expect it. Those shiny detachable "flip tops" have caused shocking widespread damage to fish and birds.

It doesn't have to be that way. While the deposit system was being tested at Yosemite National Park last summer, 1.3 million beverages were sold. Out of every 10 containers, seven were returned for refund, accounting for 30 tons of recyclable raw materials. Starting in January, any beverage you buy on federal land, whether park, forest or military base, will have to be in a refillable container with deposit included in the purchase price.

BITTER RESISTANCE

Despite widespread support for returnables, glass and can manufacturers, big beer and soft drink companies and supermarket chains have bitterly resisted the trend. They've poured millions into lobbying and public relations schemes to block effective container legislation, defending the right to throwaway as if it was one of the five freedoms.

Now they've promoting something called a litter tax, such as Washington state has tried with little success. It's the kind of thing that requires a police officer to catch a litterer in the act. The tax only provides funds to pick up litter, while the returnable system prevents it.

The throwaway establishment has seen its efforts to undermine bottle bills in Oregon and Vermont backfire. People can see that returnables cost less than throwaways, that new jobs are created throw recycling and refilling. The ranks of brewers, bottlers and marketers aren't even solid any longer, certainly not tough enough to meet the fights on all fronts.

A recent poll conducted by the Des Moines Register and Tribune showed 75% of Iowans in favor of the Oregon-type bottle bill. A private poll taken by an influential legislator, Floyd H. Millen, recorded support of 87.2% of his constituents.

The Iowa House of Representatives has already voted for mandatory deposits on bottles and cans and Gov. Bob Ray is pressing for action in the Senate. The country plainly can take the bottle bill one state at a time or shift into high gear for a national law. It's strictly a question of time.

MAKE THE BOTTLE BAN NATIONWIDE

Remember when a favorite summer pastime of youngsters was to roam the neighborhood in search of discarded soft-drink bottles, which were immediately returned to the local grocer for a little spending money? In Oregon, the first state to ban throw-away bottles in 1972, industrious youngsters have again rediscovered that forgotten "gold mine" in backyards and alleys. In addition to producing smiling youngsters, Oregon's bottle bill also has saved vitally needed energy that would have gone into making more throwaways, increased the number of jobs primarily in the transportation and bottle-handling industries, and has reduced by almost 90 percent the cans and bottles that used to litter Oregon's highways.

Oregon officials say they found that the incentive not to throw away a beverage can or bottle also spilled over to affect other litter as well. People aren't throwing away candy wrappers and other trash as much as they did before. And despite the loud protests from bottle and can manufacturers who have spent heavily in Oregon and elsewhere to fight anti-throwaway bills, a recent survey indicated that 93 percent of Oregon's residents are pleased with the bill and its results.

Sen. Robert Packwood of Oregon, who is sponsoring a bill that would ban the use of throw-aways all across the United States and require a five-cent refundable deposit on all beverage containers, has just received important new ammunition which, in effect, says that the beneficial effects of Oregon's bottle bill would be repeated nationally if Congress enacted the proposed legislation.

A study by the General Accounting Office, the investigating agency of Congress, indicated a national throw-away ban could save up to 80,000 barrels of oil a day, would conserve millions of tons of glass, aluminum, and steel used in producing containers, and would reduce U.S. dependency on bauxite imports which go into manufacturing aluminum. It would also reduce soft-drink and other beverage prices by more than $1.8 billion a year. Feared job losses in the container industry would be more than offset by increased employment in beverage production and distribution.

Four states have or are in the process of putting into effect throw-away bans, and some 40 states in all have wrestled with the proposition. The new GAO study appears to squelch the arguments most frequently put forward by opponents—i.e., that loss of jobs would wreak economic havoc and that the five-cent deposit would not be incentive enough for returning reusable containers. The opposite has proved true in Vermont and Oregon. Likewise the state-by-state approach advocated by some opponents appears to have little merit; a national uniform law would be easier, more convenient and more economical for beverage manufacturers in the long run.

Clearly the beauty of uncluttered landscapes and the urgent need to conserve energy wherever possible are reason enough for Congress to ban throw-aways—not to mention all those smiling youngsters in Oregon with change in their pockets.

DO BOTTLE BILLS REALLY WORK?

(By Richard Wein and John Marshall)

Aside from the obvious point that litter just plain looks bad recent government studies have revealed that the willful waste of empty beverage containers is costly in terms of energy and natural resources consumption. And these costs appear to be significant.

According to projections made by the Environmental Protection Agency, a nationwide system that encouraged the return and recycling of bottles and cans would result in a savings of half a million tons of aluminum, 1.5 million tons of steel, 3.2 million tons of glass, and almost 50 million gallons of oil a year.

To date, five states (Oregon, Vermont, South Dakota, Michigan, and Maine)—plus all government-owned parks and reservations—have passed strict laws designed to stimulate the recycling of bottles and cans by requiring a cash deposit (or refund) on all beer and soft-drink containers sold within their boundaries.

This year, similar container-deposit legislation—often referred to as "bottle bills"—narrowly missed passage in Connecticut and Massachusetts, and related proposals are currently under consideration in most other states and at the Federal level as well. It all adds up to a determined and impressive legislative effort to curb what has been only half-facetiously referred to as the "throw-away mentality" of the American public.

Like most legislation of far-ranging consequences, the various bottle bills currently being proposed across the country have precipitated heated debates and sharply conflicting claims over their effectiveness.

On the one hand, spokesmen for the bottle and can-producing industry—often joined by beverage manufacturers and distributors and retail grocers—vigorously oppose container-deposit legislation on the grounds that such measures tend to eliminate jobs while simultaneously raising the cost of doing business. Most environmentalists, on the other hand, look upon the nonreturnable bottle and can with about as much relish as a gourmet surveying a fly floating in his soup.

Somewhere between these poles of vested interest stands the average consumer: harassed, and thirsty.

If there is any place where the controversy surrounding bottle legislation has settled into a semblance of objectivity, it must be in either Oregon or Vermont. Not only have these two states pioneered beverage-container-deposit legislation, they have also lived with the consequences of this act for a combined total of nearly a decade.

Although the widespread use of returnable containers predates current legislative efforts in this direction, it was more than a quarter of a century, it was not until the late 1960s that a small group of Oregon environmentalists began lobbying for a comprehensive statewide bottle law.

Their efforts were finally rewarded in the spring of 1971 when the Oregon legislature passed a law banning flip-top cans and prohibiting the sale of containers of beer or carbonated soft drinks without a minimum two-cent refund.

As in Oregon, impetus for a Vermont bottle law was spawned by public concern for growing litter levels within the state.

In 1970, largely owing to the vocal support of local college studies, Gov. Deane C. Davis sponsored the first state Green-Up Day, during which all Vermonters were encouraged to voluntarily pick up trash along roadways, riverbanks, and hiking trails.

Although Green-Up Day continued to be an annual rite of spring for the next few years, the enthusiasm of local residents for this form of public garbage collection soon began to wane.

Then, in the summer of 1971, just at a time when the seeds of discontent with Green-Up Day were first beginning to sprout, a young girl named Gatey Graves cut her foot on a broken bottle at a fishing access near Lake Champlain.

Gatey's father happened to be a lawyer as well as a member of the Vermont legislature. Outraged by what had happened to his daughter, Graves went straight to his study and drafted a bill that would require the recycling of all bottles purchased within the Green Mountain State.

In the face of one of the most intensive lobbying campaigns ever seen in Vermont, the Graves Bill—altered to include a minimum five-cent deposit on beer and soft-drink cans as well as bottles—became state law at the twenty-fourth hour of the last day of the 1972 legislative session.

Besides the mandatory deposit, the original Vermont bottle law carried the provision that a fee of 20 percent of that deposit (amounting to roughly one cent per bottle or can) be paid to the retailer as compensation for the extra work involved in collecting and storing the empty containers.

The law was amended in 1975 to include a ban on flip-top cans, nonbiodegradable plastic rings for six packs, and nonrefillable beer and soda bottles.

As in Oregon, the Vermont over-the-counter price for beer and soft drinks was marked up to include the deposit (refund), which is returned to the consumer when he or she brings the empty containers back to the retailer. Having collected these bottles and cans, it becomes the retailer's responsibility to pass them along to the distributor, who has the option of recycling them, dumping them, or carting them back to a beverage manufacturer to be refilled.

Despite the differences in implementation, the original intent of the Oregon and Vermont bottle laws was the same: to reduce litter. And both states have certainly accomplished that goal.

During the first year that the bottle law was in effect in Oregon, beverage-container refuse along roadsides dropped by 72 percent. In Vermont the reduction of landscape litter has been even greater.

According to Donald Webster, Vermont's director of environmental conservation, just about all the beverage containers collected for refund in the state are currently being recycled.

In Oregon, where empty nonrefillable bottles have had a sad history of winding up in town dumps, the Carter Distributing Company of Albany, Ore., has recently installed a four-thousand-dollar glass-crushing machine and is now smashing thousands of nonrefillables a week and selling the glass to the Owens-Illinois Corporation.

Perhaps one of the most confusing, misunderstood and generally maligned aspects of bottle legislation has been its effect upon the consumer.

Vermont's Donald Webster points out that in 1974–75 the beverage-container-manufacturing industry, in an all-out attempt to denigrate beverage-container-deposit legislation, engaged in a campaign of "resistance, misinformation, coercion, and distortion, not only in Vermont, but it all other parts of the country where similar legislation might be considered." And last fall, Vermont's US Rep. James Jeffords noted that during referenda campaigns in Michigan, Maine, Massachusetts, and Colorado, opponents of beverage-container-deposit legislation stated publicly and in numerous radio and television advertisements that the law in Vermont was costing the average family approximately a hundred dollars a year.

According to Jeffords, this hundred-dollar-a-year cost figure is "totally incorrect" and he cites as evidence of the basic economy of refillables the testimony of Coca-Cola president J. Lucian Smith Jr. before the House Subcommittee on Monopolies and Commercial Law.

"Coca-Cola sold . . . in nonreturnable packages is priced, on the average, 33 percent higher than Coca-Cola in returnable bottles." Smith told the Washington lawmakers. "The difference lies essentially in the different costs of the packaging: the cost of returnables is spread over many uses; the cost of nonreturnable package is absorbed in one use."

Given these circumstances, Jeffords has computed that, far from losing money because of the bottle law, the average Vermont family actually saves about 60 dollars a year by purchasing beer and soft drinks in returnable bottles and cans. In Oregon, officials estimate that their container legislation saves enough electrical energy to meet the annual home-heating needs of 50,000 residents.

Although there appears to be little doubt that the average consumer will wind up being the beneficiary of bottle laws in Oregon and Vermont, the legislation has forced beverage manufacturers and distributors in both states to invest substantial amounts of cash in converting their operations to comply with stricter legal standards.

Beverage manufacturers, for example, have had to purchase expensive washing and labeling equipment for refillable glass bottles. And distributors have found it necessary not only to buy extra trucks to collect empty containers, but also to hire extra personnel to sort the empties that have been collected.

Yet despite the extra work and money that the bottle laws in Oregon and Vermont have cost the distributors, most of them appear to be living, if not happily, at least placidly, with the legislation.

These firms write off the extra expenses incurred for trucks, personnel, and the like to "overhead," and pass them along to the retailer. Since all distributors must remain competitive with one another, thirsty Vermonters and Oregonians rarely see very much of this overhead reflected in the prices they pay for beer and soft drinks.

These days, when distributors and beverage manufacturers in Vermont and Oregon talk about bottle laws, they are more apt to talk about discrimination than balance sheets.

As Vermont Bottlers' spokesman Lee Kilburn puts it: "Any law that's forced on one industry, when you're trying to solve your total solid-waste and litter problem, isn't fair. We're part of the solid-waste problem and we're part of the litter problem; but we're not the total cause of either one of these problems."

It is Kilburn's contention that if beer and soft-drink bottles and cans must carry a deposit, then all other metal and glass food containers should be marked for deposit as well.

Perhaps the single largest interest group to be affected by the bottle laws in Vermont and Oregon is the retail grocers—the owners and operators of stores large and small who collectively serve as the front-line shock troops for the entire deposit-return system.

It is the retail grocer who sells the beer and soft drinks to the public and who reaps the rewards of empty containers. It is the retail grocer who must find sufficient space in his establishment to store these empties until the distributor arrives to cart them away. And it is the retail grocer who on many occasions has helplessly watched competitors in neighboring states without bottle law siphon off his business by radically undercutting his prices.

According to a report prepared by two economics professors at Oregon State University, the operating income for grocery stores and super markets in that state dropped by about $3 million during the first year the

bottle law was in effect. Concurrently, Oregon retailers had to make one-time capital investment of nearly $200,000 to pay for bottle-sorting-and-handling equipment and the construction of space for container storage.

It is hardly surprising, therefore, that retailers remain the largest single body of critics of the Oregon bottle law.

Vermont retailers appear to be just as concerned about storage as their counterparts in Oregon, but like Oregonians, they have lived with this problem for a number of years and have learned, by necessity, how to cope with it.

As Bernie Nadeau, the owner of a small grocery store in Middlebury puts it: "If you have everything set up, ample storage space, and the right kind of help, the bottle law is all right."

What Nadeau and many other Vermont retail grocers do complain about is the 20 percent handling fee they receive from the distributor for taking in, sorting, and storing the empty bottles and cans. "It's not enough," says Nadeau. "For my operation the handling charge has not covered the cost of dealing with the bottles."

Not all Green Mountain grocers—particularly those doing business in border areas of the state—are as soft on the Vermont bottle law as Bernie Nadeau. That's because following passage of the legislation, many of these grocers found that local customers started shopping in neighboring states where the price of beer and soft drinks was not inflated by a mandatory container deposit.

This disturbing trend has been particularly evident along the Vermont-New Hampshire border where, according to Jim Holmes (the executive secretary of the Vermont Retail Grocers' Association), some small businessmen have experienced a 50 percent drop in beer sales since the bottle law went into effect.

One man who doesn't need to be reminded of such statistics is Dan Fraser, an owner of Dan and Witt's Store in Norwich.

Dan and Witt's is locted almost within a beer can's throw of the New Hampshire border and less than a dozen miles from a Granite State shopping center.

Fraser won't say how much business he's lost to his competitors in New Hampshire, who not only have no mandatory container-deposit legislation but also operate under a more favorable beverage sales-tax arrangement than exists in Vermont. But he does have some hard words for the Green Mountain lawmakers who, he feels, are responsible for his loss of business to New Hampshire.

"The people in Montpelier," he says, "don't care about any business on the border. The ones that make the laws, that is. No wonder they've got a big shopping center just over in West Lebanon, N. H. They're there to collect all the business from Vermont. And those people up in Montpelier don't realize that."

Donald Webster, sitting behind his desk in a state office building hard by the Vermont capital dome does not dispute Fraser's claims of retail border jumping.

"Some of it had to occur," says Webster, who also points out that prior to the passage of the bottle law, Vermont had a 25 cents-per-gallon tax on beer while New Hampshire's beer tax was less than half that amount. But today, Webster notes, the malt-beverage tax differential between New Hampshire and Vermont is about six cents. "So," he says, "logic dictates that border crossing isn't really worth it."

Webster's logic notwithstanding, there are a handful of enterprising Vermont retailers who are actually making money from the state's bottle law.

These are the owners of discount beverage stores and redemption centers, which, during the last five years, have appeared near almost every major Green Mountain population center.

These discount redemption centers sell beer and wine like other grocery stores, but they have also been specially set up to receive, sort, and store vast quantities of empty beverage containers.

By making it more convenient for customers to return their empties, these establishments take in far more beer bottles and cans than they sell. Since the Vermont bottle law requires distributors to pay retailers upwards of a penny "handling charge" per container, the redemption centers have the potential of making substantial profits on bottles and cans that they never sold in the first place.

The discount beverage store and redemption center has yet to make an appearance in Oregon, since the state does not have a malt-beverage tax—and its neighbors do have one—Oregonians are not tempted to cross borders to buy beer.

According to the public-opinion polls taken in Oregon and Vermont, residents of both states overwhelmingly support beverage-container legislation as a means of cleaning up the environment, conserving energy, creating jobs, and bringing about consumers savings.

THE ABC'S ABOUT BEVERAGE CONTAINERS

(By Mark Sullivan)

A. CONTAINERS AND THE OVERALL WASTE PROBLEM

As the nation's largest conservation education organization, the National Wildlife Federation (NWF) is concerned about waste in any form. In recent years, America has increasingly become a throwaway society. Everyday, more products are introduced, designed exclusively to be used once and then thrown away. A few years ago, people would have scoffed at the notion of disposable lighters or entire razors (not just blades) that are used until dull and then tossed into the trash. Durability is out. Disposability is in.

We find it difficult to accept the argument that this is progress. In an age when reminders of our dependence upon wise use of our natural resources come in the form of higher prices and loss of income and employment, conservation is more essential than ever before.

Finding alternatives to our wasteful habits requires national attention. Education is necessary to make the public aware that their consumer choices play a vital role in conservation. It will take time to find and implement many of the other needed conservation measures, but there are some areas in which obvious and logical alternatives are currently available. One of the most visible and nagging problems is the waste of beverage containers for beer and soft drinks.

Changing the present system for marketing beer and soft drinks can yield energy savings equal to 81,000 or more barrels of oil per day plus conserve material resources annually of 5.2 million tons of glass, 1.5 million tons of steel and 500,000 tons of aluminum. Also, changing the system could actually create between 80,000 and 118,000 additional jobs, save consumers as much as $1.8 billion annually and provide other desirable benefits in the form of reduced litter and solid waste. Most surprising, however, is that the proposed change is not so much a new idea as it is an old idea reconsidered, placing refundable deposits on containers as an incentive for their return for reuse and recycling!

B. REFILLABLES VS. THROWAWAYS

Not so many years ago, soft drinks and beer came almost exclusively in bottles designed to be used, washed and refilled over and over again. In fact, as late as 1960, 95 percent of all soft drinks and 50 percent of all beer was sold in refillable bottles. With refillable bottles the consumer buys only the beverage. The container is borrowed. A deposit is paid to encourage the consumer to return the container. Even if the purchaser does not return the container, the deposit provides the incentive for someone else to bring it in to claim the deposit. Persons 20 years old and older may remember collecting bottles for spending money in their childhood.

Studies commissioned by various federal and state agencies have found that refillables are used an average of 15 return trips each. That means the cost of the container is shared by all 15 users.

About 15 years ago, non-refillable containers (both bottles and cans) began to appear in large numbers on store shelves. Advertisements emphasized convenience. With non-refillables the purchaser did not have to pay a deposit or return the empty container. When used, the container could simply be discarded. These non-refillables were immediately dubbed "throwaways."

And "throwaway" is what people do with most of them. If the consumer is conscientious, the empty container goes into a trash receptable. If not, it ends up as litter. With returnables there was at least the incentive for someone to pick them up for the deposit. Throwaways provide little incentive for their collection. Now the only way they are picked up is when tax dollars are spent for litter cleanup or a volunteer group, like the Boy Scouts, has a litter pickup campaign. Litter is only one of the more visible adverse impacts of throwaways. If litter is what we gain, what is lost and who loses?

C. TAXPAYERS

Municipal and state expenditures for refuse cleanup cannot be provided to pick up all trash. When money is available, it is usually allotted to handle refuse on a priority basis. If only a small amount of money is available, it will be used first to pick up the biggest, most glaring refuse, such as junk autos and abandoned appliances. Roadside litter is of a lower priority and pickup will be concentrated upon major or scenic highways. Money is rarely available to clean up back roads, city side streets or alleys. Funds are never available for picking up litter on private lands. Farmers, for example, find litter on their land a special nuisance. Broken bottles can cut tractor tires: cans can get caught in farm machinery and cause expensive damage.

One suggested solution has been to increase litter collection expenditures. Preventing as much litter as possible in the first place, however, is most important. The Environmental Protection Agency (EPA) estimates that 4.1 billion beer and soft drink containers were littered in 1975 and that this figure will exceed 5 billion by 1980. EPA estimates that beer and soft drink containers currently comprise 20–30% of all litter by piece count and 40–60% by volume. If a substantial segment of the beverage container portion of litter can be avoided, limited funds for litter cleanup will go much further. Besides, even if litter can be cleaned up, it then becomes a disposal problem.

The cost of litter pickup is only one facet of the beverage container liability to the taxpayer. The overwhelming bulk of throwaway containers goes into our municipal trash collection and disposal systems. Taxes or user fees are charged to the public to handle that trash. Trash disposal is the second most costly municipal service—behind education but ahead of such vital services as police and fire protection. The EPA estimates that 8 million tons of beer and soft drink containers were thrown away in 1976. These accounted for 8.5% of the manufactured goods in the municipal waste stream. Tax dollars were spent to pick these up, haul them and put them into already over-burdened and expensive municipal landfills.

Containers which are refilled or recycled cause neither litter nor solid waste.

D. THE CONSUMER

If the price of a refillable bottle is shared by all of the users, the price of the throwaway is borne entirely by the single user. Actually, when beer or a soft drink is purchased in a throwaway, the consumer is buying the container as well as the beverage. The container will cost around seven cents (glass a little less, metal a little more). A recent survey conducted for EPA of soft drink bottles alone found that soft drinks in non-refillables cost consumers almost 1½ times more than in refillables.

If the consumer recycles, can the cost of the throwaway container be recovered? Some of it, yes, but only a very small portion. Even recycled aluminum, the most valuable of the containers, is worth only a fraction of what the consumer paid for the container. At 15–20¢ per pound recovered aluminum is valuable, but it takes 23 beer and soft drink containers (12 oz. equivalents) to make a pound of aluminum!

This low value helps to account for the very disappointing recycling rates nationwide.

In 1975, less than 16% of the aluminum beer and soft drink containers purchased were recycled. Steel container recycling was below 5% and the glass rate even lower. Even aluminum, for which one major beer distributor will pay ¾¢ per can, does not provide adequate economic incentive for most consumers to recycle.

E. NATURAL RESOURCES

In 1975, Americans purchased over 65 billion throwaway beer and soft drink containers. That amounts on an average to more than 300 containers for each man, woman and child in the nation. Worse still, the trend toward throwaways has yet to peak. The U.S. Department of Commerce estimates that by 1980, over 90 billion throwaways will be used annually. In 1975, over 80% of beer and 66% of soft drinks consumed were sold in throwaways.

In 1975, EPA estimates that 1.5 million tons of steel, 6.8 million tons of glass and 475,000 tons of aluminum were manufactured from raw materials to make beer and soft drink containers. It is estimated that this usage will increase to 1.7 million tons of steel, 8.2 million tons of glass and 643,000 tons of aluminum by 1980. If our current recycling efforts doubled, this increase would not even be offset. Can we afford for such a depletion of our resources to continue? William Coors, whose company pioneered the aluminum beer container, addressed this when he told the Idaho legislature in 1974, "We are not going to have the materials to market our product, if we don't start getting our containers back."

In addition to our material resources, we must also consider the waste of what is fast becoming our most precious resource—energy.

F. ENERGY

Energy is required to remove the virgin materials from the earth, to transport them to factories, to make each container, to wash each container (whether brand new or to be refilled), to transport the containers to the stores, power the delivery truck (whether empty or loaded with containers to be recycled or refilled), to pick up the litter, to haul the throwaways to disposal, and to shred and compact the throwaways in the disposal site. This energy is lost forever.

A refillable glass bottle used only ten times requires less than ⅓ of the energy for the equivalent beverage marketed in throwaways. While using refillables requires even less energy than making cans out of recycled metal. It must be noted that just using recycled aluminum and steel would save 78% and 39%, respectively, of the energy required to make cans from virgin resources. Clearly, using refillable bottles and maximizing the recycling of cans would save energy, but how much energy does the beverage industry use?

In fact ½ of 1% of our nation's entire energy consumption is currently used just in the production and distribution of beer and soft drinks. EPA estimates that in 1975, 465 trillion BTUs of energy were used by the beverage container industry. By 1980, the figure is projected to surpass 580 trillion BTUs. A substantial portion of that energy is derived directly from petroleum and natural gas. In the winter of 1973–74 and then again in the winter of 1976–77, severe shortages first of petroleum and then natural gas triggered an economic downturn, yet we continue to waste precious energy on throwaways!

G. ALTERNATIVES

It is clear that we cannot just ban beverage containers. They are a necessity. Ideally, the public should use fewer non-refillable containers and recycle those that are used. The beverage container industry contends that it is only responding to consumer demand, and that it would not sell so many throwaways if people did not want so many of them. Why then are so many throwaways sold?

Increasingly, consumers are not being given the choice to use refillables, because many beverages are not available in refillables, and many stores will not stock them or accept them for refund. Recycling is stymied because recycling centers are inconveniently located and may cost the consumer so much in time, effort, and transportation that recycling just doesn't make economic sense.

Prices of throwaways are misleading and seem cheaper than they in fact are. They do not include costs for litter cleanup and solid waste disposal, which the public pays later. In fact, those of us who use refillables or recycle throwaways subsidize the rest of the population who do not. We pay for their mess!

But the major blame lies with the public. The beverage industry notes that when given the choice between refillables and throwaways, the buying public chooses throwaways. We must take the time to evaluate all of the factors and consider them in their proper perspective. We cannot afford to be lazy. We must reject the argument that "convenience" is progress, and remember that throwing away, even when we clean it up, is wasteful!

Providing the public with the stimulus to reuse and recycle is the obvious answer. Conservationists have examined the situation and found that the solution may well have been *behind* us, in our not too distant past. The reason why the all-refillable system was so successful and why even today the return rate for refillables remains at around 90%, is the economic incentive to return the containers provided by the deposit. This is the basis for what has become known as the "bottle bill" concept.

H. "BOTTLE BILLS"

"Bottle bill" is the common term used for any measure requiring payment of a minimum deposit for the container when a beverage is purchased.

Contrary to what many people believe, bottle bills do not ban throwaway containers. As a result of bottle bills, consumers tend to buy fewer non-refillables for logical reasons. Throwaway bottles become non-competitive. Why buy a throwaway bottle if you have to pay a deposit? You might as well use a refillable because then you only borrow the container and get your deposit back when you return it. If you return the throwaway you get back your deposit, but not the price you paid for the container. The single attraction of the throwaway bottle for consumers is lost. The same can be said for the beverage industry. If bottles must be accepted for return, refilling is cheaper than recycling.

Beverages in cans, especially all-aluminum ones, will still be competitive because cans have some other attractions besides being disposable. They are lighter and will not break. The deposit provides the needed incentive to return the can for recycling. Since cans can be flattened and take up little storage space, some people find the extra cost for the container worthwhile, because they are easier to save and return in bulk for the deposits.

Bottle bills are currently in effect in many places, nationally and even in other countries. Five Canadian provinces, for example, have bottle bills. Some have been enacted on a local level (Bowie, Maryland; Mill Valley, California for example), but the most effective bottle bills in this country have been enacted at the state level.

In 1972, Oregon led the way when its legislature enacted its landmark "bottle bill." Two other states (Vermont and South Dakota) took the state legislative route to their respective bottle bills. When the legislature failed to act in four states where popular referenda were allowed, conservationists took their case to the people in November of 1976. Despite massive publicity campaigns mounted by the opponents the public approved bottle bills by large margins in two states (Maine, 58%; Michigan 63%). In the two other states, the referenda were defeated (Massachusetts, 49%; Colorado, 32%).

I. VARIATIONS ON THE BOTTLE BILL

While all of these bottle bills have the container deposit concept in common, they are not identical.

Oregon's bill included a prohibition against cans with detachable pull tabs. Other bottle bills have followed this pattern, and, in fact, three states that do not have deposit legislation (California, Minnesota and Virginia) have prohibited the tabs. To accommodate this, the industry introduced the push-button lid which accomplishes the same objective as the pull-tab without detaching.

Other bottle bills have prohibited the plastic rings used for marketing cans. Both pull tabs and plastic rings are annoying sources of litter and a particular menace to both humans and wildlife. The tabs, for example, are easily swallowed and since they cannot always be detected by x-ray, are especially dangerous. Fish and other animals can also swallow tabs. Birds can get their heads caught in plastic rings and die of starvation.

Some bottle bills provide a modest handling allowance for retailers to offset their expenses in handling returned containers. Others provide the incentive of a lower deposit on standardized containers that can be filled by more than one distributor because this streamlines handling. Some require that containers have a stamp indicating the deposit and signifying that they were purchased in a particular state or community, in order to guarantee their acceptance for refund and to keep track, especially in small states, of containers from surrounding states that carry no deposit.

J. OPPOSITION TO BOTTLE BILLS

As is the case with any measure requiring change, not everybody likes bottle bills. In fact, the bottle bill opposition is well organized, well financed and vocal. Their arguments must be considered. Some are not easily brushed aside.

Opponents note that a major reason for the switch to throwaways was to improve sanitary conditions in stores. They argue that a deposit system will cause a return to piles of filthy bottles around stores. This, of course, is not so much a weakness of returnables as it is of the way stores handle them.

A change such as the deposit requirement will cause initial dislocations and some immediate expenses (storage space and per-

haps equipment) and some additional costs (perhaps extra employees to handle refillables), especially for distributors and retailers.

As noted, some of the bottle bills make special provision to cover these costs. All allow for a transition period to minimize the disruptions. These costs by no means outweigh the financial benefits to consumers or compare to the overall benefits.

Proponents note that there were massive dislocations when the beverage industry shifted to throwaways. Many jobs were lost and a lot of small, predominantly local, beer and soft drink bottlers went out of business. In fact, as throwaways take over more of the market, this trend continues. There were over 700 brewing plants in the U.S. before World War II. Today there are less than 100!

The most often heard opposition to bottle bills is the claim that they do not work, are economically disastrous and cause massive unemployment. Perhaps the best way to approach this is by looking at the record.

K. BOTTLE BILL EXPERIENCES

Two states (Oregon and Vermont) have had bottle bills in effect since 1972 and 1973, respectively, and have been the subjects of innumerable investigations. But, as former Oregon Governor Tom McCall notes in his travels around the country expounding on Oregon's bill, it is hard to argue with "a riproaring success."

In Oregon, in the year following the enactment of the bottle bill, beverage container litter was reduced by 72%, reducing total volume of litter by 35%. In the second year, these figures increased to 83% and 47% respectively. In Vermont beverage litter dropped 67% in the first year, despite the fact that the industry resisted the bill by continuing to market beverages in throwaways almost exclusively.

In both states the increases in beverage prices that have occurred since enforcement of the bottle bill have paralleled those nationwide due to higher sugar and grain prices and other factors unrelated to the bottle bill. In Oregon, sales of beer and soft drinks have kept pace with sales trends nationally. In Vermont, opponents attributed a drop in sales of beer and soft drinks to the bottle bill, but an EPA report noted that the primary cause was poor ski conditions which resulted in reduced tourist spending in the State.

Vermont is small and its beverage supplies come almost exclusively from distributors in surrounding states. The bottle bill effect upon energy and employment there has been hard to calculate. Oregon, on the other hand, is larger both in size and population, so the effects of its bottle bill have been possible to gauge. Studies in Oregon show that while there was a shift in employment from some segments to others, there was a net gain in both jobs and labor income as a result of its bottle bill. Annual savings equivalent to 1.4 trillion BTUs of energy (enough to satisfy the annual heating needs of 50,000 Oregonians) and a reduction of 88% in the number of beverage containers going into Oregon's solid waste disposal system were achieved.

Surveys have also found that while there are definitely costs for sanitary handling of containers, these costs have been much lower than had been anticipated. In fact, one Oregon grocery chain has become so enthusiastic that it sends representatives around the country to speak in favor of bottle bills!

Perhaps the greatest testimony to the success of the bottle bill experiments in both Oregon and Vermont is public acceptance. In both states, recent opinion surveys have found that 9 out of 10 people like the bottle bill in their state. Also, the public is cooperating. Return rates for refillable bottles are exceeding expectations and recycling of cans is phenomenal compared to voluntary recycling programs.

Yosemite National Park in California is serving as a voluntary test site for EPA's federal facilities deposit guidelines. The results of this test have received outstanding publicity nationwide. The average stay of a visitor in Yosemite is only 2½ days. This does not provide much time for educating people about the system. A remarkable 7 out of 10 container return rate has been accomplished. This success has encouraged EPA about the potential for full implementation of its guidelines.

With bottle bills in operation in several states, the momentum for bottle bills is picking up elsewhere. More than 20 additional states will consider beverage container deposit measures in 1977. Coupled with EPA's guidelines, the proliferation of bottle bills around the country does add credence to one complaint of the bottle bill opponents. Since each bill is different, the beverage industry is forced to meet different requirements in different states. Conservationists see this as one more argument in favor of their ultimate goal, a national bottle bill.

L. NATIONAL BOTTLE BILL

The advantages of a federal bill are obvious. Not only would the standardizing of deposits and other requirements make the bottle bill less difficult for the industry, it would also yield more efficient conservation results than a piecemeal state-by-state approach. The EPA has projected the following potential effects of a national beverage container deposit law phased in by 1980:

Reduction in roadside litter by 60–70% of container litter and total litter by 20–40% (by item count or volume).

Reduction in annual municipal solid waste by 7 million (at least 5% of the total) annually.

Reduction in total U.S. energy consumption of over 245 trillion BTUs annually.

Savings in virgin raw materials of 5.2 million tons of glass, 1.5 million tons of steel and 500,000 tons of aluminum annually.

Consumer price savings of about 2.5¢ per 10-ounce beverage serving.

Net increase in employment of 80,000 jobs.

EPA is not the only one looking at the potential savings from a national bottle bill.

Searching for ways to conserve energy without causing economic disruption, the Federal Energy Administration (FEA) commissioned a $100,000 study of the potential impacts of a national bottle bill phased in by 1982. Released in the Fall of 1976, the 760-page report entitled *Energy and Economic Impacts of Mandatory Deposits* provided an unparalleled analysis of the beverage industry. The study projected findings assuming such things as improvements in the throwaway system technology to reduce energy consumption. The study also assumed conservative return trip rates for refillables. It noted that the beverage industry currently is energy and technology intensive while a deposit system relies more on employment and less on machines. The study also found that the industry uses substantial amounts of energy derived directly from especially precious sources such as petroleum and natural gas. Some of the study's projections for a mandatory deposit bottle bill include:

Savings of $1.8 billion annually for consumers.

A net increase of 118,000 jobs with an accompanying annual increase in labor income of $879 million.

Energy savings equivalent to 81,000 barrels of oil per day. This is comparable to the 200,000 barrels per day savings that would result from strict enforcement of the national 55 mph speed limit and represents 44% reduction in the energy usage of the beverage industry.

Environmental Action, Inc. (EA) a national lobbying organization leading the bottle bill fight, and Rep. James Jeffords (Vt.), sponsor of the national bottle bill, used the FEA study to determine what effect a national bottle bill might have had were it in effect during the harsh winter of 1977. EA and Jeffords estimate that 30–50 billion cubic feet of natural gas alone would have been saved, alleviating the natural gas shortage. EA noted, "If a national beverage container deposit law had been in effect this year, we would have saved more natural gas than is used by the city of Washington, D.C., plus the states of Maine, New Hampshire and Vermont" in a year.

The FEA study also noted that the energy required to return refillables is marginal because consumers do so on regular shopping trips and retailers load them on returning delivery trucks.

Support for a national bottle bill is coming from other quarters as well. The National Commission on Supplies and Shortages, a bipartisan study group established by Congress, chaired by Donald Rice of the Rand Corporation (and including among its 11 members the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the President's Council of Economic Advisors, two Senators and two members of the House of Representatives) recommended in its final report issued in December, 1976, that a national bottle bill be enacted.

The Unfinished Agenda: The Citizen's Policy Guide to Environmental Issues, a task force report commissioned by the Rockefeller Brothers Fund and released in early 1977, not only endorses the beverage container deposit concept as an excellent conservation measure for immediate implementation, but adds that this approach might well be applicable in other areas besides beverage containers, citing specifically other packaging materials, appliances and electronic equipment. The task force recommends serious consideration of a national "bottle bill" for automobiles as an excellent answer to the abandoned auto problem.

M. THE CHALLENGE

Bottle bills on a state-by-state basis or on a national level are not the complete answer to waste. Though less, there still will be litter and solid waste to confront, requiring both recycling and acceptable disposal methods. We must also learn to reduce the waste of energy and resources in a variety of other areas. Conservation, however, is the key, the point from which we must proceed.

The bottle bill concept offers a tailor-made remedy for one of the most visible and unnecessary forms of waste. The bottle bill is conservation at its purest. Few conservation measures, as the plant closures and other severe emergency steps taken during winter of 1977 vividly demonstrated, boast such minimal disruption to the economy while providing additional benefits to society. Conservationists know that the bottle bill is not the complete answer, but it is an excellent place to start.

N. FURTHER INFORMATION

To learn more about bottle bills contact:

Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Recycling Information Office, Department of Environmental Quality, State of Oregon, 1234 S.W. Morrison, Portland, Oregon 97205.

Vermont Agency of Environmental Conservation, P.O. Box 489, Montpelier, Vermont 05602.

O. CITIZEN ACTION

For more information on citizen action on bottle bills contact:

Michigan United Conservation Clubs, P.O. Box 30235, Lansing, Michigan 48909.

Natural Resources Council of Maine, 51 Chapel Street, Augusta, Maine 04330.

Maine Audubon Society, Gilsland Farm, 120 Old Route 1, Falmouth, Maine 04105.

Oregon Wildlife Federation, P.O. Box 4552, Portland, Orgeon 97208.

Oregon Environmental Council, 2637 S.W. Water Ave., Portland, Oregon 97201.

Vermont Natural Resources Council, 26 State Street, Montpelier, Vermont 05602.

Environmental Action, Inc., 1346 Connecticut Ave., N.W., Washington, D.C. 20036.

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RETURNING TO "RETURNABLES"

Perpetuation of what has become almost an American tradition—the attitude of "make it, use it, throw it away"—has received a boost from the Massachusetts House of Representatives.

The House refused to endorse an initiative petition measure banning use of nonreturnable bottles. In doing so it soothed national container industry fears that, if the Bay State joins Oregon and Vermont in requiring that beverages be sold in returnable bottles, the rest of the nation might soon follow suit.

In 1973 the average American used 71 "six-packs" of beverages. One out of every four of those containers ended up as trash. Bottles and cans account for approximately 50 percent of the national litter problem.

At the same time surveys on the impact of bottle laws in Vermont and Oregon show that 90 to 95 percent of the returnable beverage containers are being reused. In Oregon overall litter has dropped 39 percent, while beverage, container refuse has plunged 83 percent.

In Massachuseetts the AFL–CIO opposed the bottle bill, saying it would result in loss of up to 1,000 jobs in the bottle-making trade. Yet a Federal Reserve Bank of Boston report concludes that there would be a net gain in employment, although primarily in less-skilled, lower-paid retailing jobs. It indicates an over-all benefit to the state's economy.

On a national scale, a draft Federal Energy Administration report concludes that requiring deposits on beverage containers would result in economic gain.

Fortunately, the issue is not dead in Massachusetts. Backers of the proposal can place it on the November, 1976, ballot if they collect a little over 9,000 signatures, which should not be difficult. Meanwhile several other states, including Maine, New York, Maryland, and Virginia, are now considering similar bottle legislation.

The most effective way to curb litter, aside from convincing people not to toss it down in the firstplace, is to make it too costly for the needless litterer.

Bay State citizens and indeed all Americans ought to realize that legislative bans on disposable bottles mean both the creation of jobs and a litter-free landscape.

BOTTLE BILLS WINNERS AND LOSERS

(By Ellen Stern Harris)

While most of us were paying close attention to the fate of the candidates earlier this month, we may not have noticed the outcome of ballot issues in states other than our own. Frequently these results can serve as an important indication of developing trends that may, in time, affect our own state's decision-makers.

Nationwide, consumer and environmental groups had their eyes on Michigan, Maine, Massachusetts and Colorado. Each of these states had measures listed that were patterned after the Oregon and Vermont bottle bills requiring deposits on beverage containers to encourage recycling. In Massachusetts, the bottle bill lost by one-half of one percent and in Colorado by a whopping 60 percent.

TREMENDOUSLY ENCOURAGED

And yet the public interest groups are tremendously encouraged. That's because in Maine, where the container industry outspent the citizen organizations by 30–1, 58 percent of the voters approved a bottle measure. The greatest victory, however, was in Michigan where 63 percent of the electorate enacted such a law—in spite of the industry expenditure of an estimated $3 million in an attempt to defeat the deposit requirement.

William W. Sadd, president of the Washington, D.C.-based Glass Packaging Institute,

said, "The industry is obviously concerned. We anticipate that consumer prices in Michigan and Maine will rise as a result of higher prices associated with changes in the distribution system. Nonetheless," he added, "this industry stands ready to supply the returnable bottles needed for the changeover—just as we have always tried to supply what the market demands."

The Environmental Protection Agency, concerned with the energy wasted by not reusing bottles as well as the litter problems throw-away containers cause, has adopted regulations requiring a 5-cent deposit on soft drink and beer bottles and cans sold on all federal facilities beginning next September.

EPA expects savings of 2,000 barrels of oil per day plus an annual savings of 80,000 tons of glass, 24,000 tons of steel and 6,000 tons of aluminum from just this example of enlightened consumerism. Military bases and national parks such as Yosemite (where this program has already gotten under way) will lead the way in demonstrating that returnable bottles are "in" once again.

As for the EPA's official position with regard to expanding such programs: "EPA favors national mandatory deposit legislation, phased-in, to minimize employment and other economic dislocations. It does not oppose similar state and local legislation, as long as it includes such provisions and anticipates possible national legislation in this regard," Marvin Schlackman of EPA's regional office in San Francisco told me.

If you have followed the battles to get California's legislature to approve a bottle bill, you may recall that this year its author, Sen. Omer Rains (D-Ventura), was unable to get the votes needed even to pass its first committee hurdle. He will, nevertheless, reintroduce it as SB4 in January, according to proponent Fritzi Bernstein, solid waste subcommittee chairman for the Sierra Club in Los Angeles.

ENVIRONMENTAL BURDEN

What amazes me is how we can continue to accept the economic and environmental burdens connected with producing and distributing containers that hold liquids for human consumption containing little if any nutritive value. It seems a question of fairness when, whether or not you choose to purchase such drinks, you are required to pay for the cost of disposing of the containers discarded by others. That's because these expenses are all included in the county and city's budgets. Disposal costs are paid for out of local governments' general funds that include our increased property taxes. Renters also feel the pinch as landlords frequently justify additional rent increases based on higher property taxes.

Trucking solid waste to landfills, located farther and farther from urban areas, means higher governmental costs for fuel and more smog being generated. In addition, what few scenic canyons remain near population centers are increasingly being usurped for use as landfills.

Besides the bottle-bill approach, other aspects of solid waste are receiving accelerated attention from various segments of government and industry. Next week: barriers to the recycling of newspapers.

Today, bottle-bill advocates are pushing basically similar legislation across the nation. They have made hundreds of efforts to enact bills—from Congress down to City Hall. South Dakota has passed container legislation due to go into effect in July. The District of Columbia's council adopted a bill in 1974, only to have the mayor veto it. The federal Environmental Protection Agency backs a national bill. So do such diverse organizations as the National League of Cities and the U.S. Conference of Mayors, the League of Women Voters and the United Auto Workers.[1]

The backers now see more than trash involved. They say that America has become a throwaway society, has lost the pioneer ethic of "waste not, want not." They see the bottle bill as a way to begin recapturing national thriftiness. In their scenario, if we refilled 90 percent of beverage bottles and recycled eight of ten beverage cans, the country would annually save from five to six million tons of basic resources (glass, steel, aluminum) and energy equivalent to 39 million barrels of oil.

There is also the issue of cost to the consumers. In 1972, the president of Coca-Cola, U.S.A., told Congress: "Coke sold in food stores in nonreturnable packages is priced, on the average, 30 to 40 percent higher than in returnable bottles." Why? Soft drink cans cost about seven cents each. The Pepsi-Cola franchiser in Portland, Ore., figures that using refillable bottles again and again reduces the container cost *per filling* to less than a penny, compared with four to seven cents for throwaways. A 1971 study by Prof. Bruce Hannon at the University of Illinois concluded that changing from throwaways to refillables would save consumers about $1.4 billion a year.[2]

[From Reader's Digest, March 1976]

CAN THIS LAW STOP THE TRASHING OF AMERICA?

(By Earl and Miriam Selby)

In the last 15 years, a revolution has swept through the U.S. soft-drink and beer industries. Back in 1960, we drank 95 percent of our soda pop and 50 percent of our packaged beers from refillable bottles—the kind that could be brought back for the deposit and then used over and over. Today, 79 percent of packaged beer and two out of three soft drinks are sold in cans and "no-deposit, no return" bottles, which are used once and then thrown away.

As a result, America is living amid the offal of the beer and beverage industry. Consider:

We are now using about 60 *billion* beverage throwaways a year. These cans and bottles add some nine million tons of trash to our national garbage can.

Using what it called conservative estimates, the Research Triangle Institute of North Carolina reported that in 1969 more than two billion beverage containers found their way to the national roadside. Since then, the total may have reached three billion. Such throwaways account for 20 to 40 percent of all litter.

Several years ago, a metals company offered a dime a pound for empty aluminum beer and pop cans. In 14 weeks, Billy R. Hall, a Dallas cement-finisher, and his wife salvaged almost a quarter of a million cans from the streets and alleys of their city.

A 1975 California study put that state's current litter *injuries* at 300,000 per year. The predominant causes: broken beer and pop bottles and pull-tab openers from cans.

How do we avoid this trashing of America?

In the early 1970s, two states—Vermont and Oregon—pioneered a kind of legislation that has come to be known as "the bottle bill." This legislation led to a deposit-and-refund system on beer and carbonated soft-drink containers, cans included. The theory was that it would encourage everyone to return containers to the beverage network so they could be refilled or recycled, thus cutting down on litter and also lightening the overburdened garbage can.

How did the idea work? In Oregon, according to a study by Massachusetts' Applied Decision Systems (ADS), beer and pop roadside trash declined 66 percent within one year of passage of the bottle bill; *all* litter declined 11 percent. Another study by Don Waggoner, past president of the Oregon Environmental Council, indicated that two years after the bottle bill the state's beverage trash was down 83 percent; all litter, 39 percent. In Vermont, the highway department reports that can and bottle litter declined 76 percent in one year; all litter, 33 percent.

Such a change, however, especially on a national scale, would hit certain giant industries with megaton force. Here is the reason:

There was a time when a brewer's territory was limited to the distance that a team of horses—and later a truck—could cover in a day. Throwaways changed all that. No longer concerned about getting containers back to the plant, brewers could ship a thousand miles or more, enabling the big ones to invade the local markets of smaller rivals. From 184 in 1958, the number of brewers shrank to 55 in 1974. Eight beer manufacturers now control nearly three-quarters of the market. If throwaways were banned, these giants would be hard hit.

The ADS survey provided another insight into why the beverage industry fights for throwaways. In 1972, big national brewers charged an average wholesale price of $2.50 in Oregon for a case of beer in 11-ounce, refillable bottles. For a case of 12-ounce throwaway cans, the average wholesale price was $3.20. On the bottled beer, the brewers included a mark-up for themselves of 32 cents over the cost of manufacturing. On the cans, the mark-up was 74 cents. The mark-ups for soft drinks were even larger.

It is easy to see why most big beverage makers and bottlers have fought bottle bills. They have been joined by can and glass makers, beer wholesalers, supermarket chains, and the large unions of steel, glass and aluminum workers. It has been a costly fight. William Coors, whose brewery is the only major beer maker to favor deposit legislation, has publicly put the spending at $20 million a year. There is no doubt about the campaign's success. Of hundreds of efforts to enact bottle bills, only three states and a scattering of local jurisdictions have succeeded. And most of the county and city laws have been suspended, pending court tests.

The bottle bill has done much to detrash Oregon and Vermont. Nonetheless, there are serious questions that can be raised. Here, in mini-debate form, are some of them, with replies summarizing both the industry position and that of the bottle-bill advocates.

1. Won't consumers lose "convenience" and "freedom of choice"?

Industry: Beer and soft-drink makers adopted throwaways because the consumer wanted them. Though consumers may tell pollsters they favor returnables, in the marketplace they buy non-returnables because they want the convenience. They should be allowed to choose.

Advocates: Throwaways are "convenient" chiefly for the beverage industry's biggest customer: food outlets, which avoid the cost of handling returnables. As for the consum-

[1] Bottle bills include various provisions. Oregon's law banned the pull-tab can altogether, on the ground that the tab was dangerous, unsightly and omnipresent in litter. Vermont initially did not ban the pull-tabs, but now has banned both them and non-refillable bottles, starting in 1977.

[2] The impact of containers on the cost of beer is immense. A 1973 article in *Beverage Industry* said that for three of the largest brewers—all heavily into non-returnable cans and bottles—containers constituted 56 percent of their average manufacturing expenses. This was almost three times the amount spent on labor, and nearly four times the cost of the beer's agricultural ingredients.

er's supposed preferences, a survey in Oregon found that only 12 percent of consumers felt it was inconvenient to pay deposits and return empties. Only seven percent thought the bottle bill limited their choice of soft drinks—three percent for beer.

2. Does a bottle bill cost jobs?

Industry: A national bottle bill would throw from 60,000 to 160,000 people out of work. As chairman William F. May of the American Can Co. says, this nation is too deeply committed to the one-way, no-deposit, no-return container to go back to the refillable system.

Advocates: Though there would be dislocations, overall a bottle bill *creates* employment because of the additional workers needed by beer and soft-drink makers and distributors. Anyway, did industry shed tears when throwaways allowed big brewers to swallow smaller plants and eliminate some 20,000 jobs? When Vermont's AFL–CIO leadership tried to get support for fighting that state's bottle bill, the rank and file turned it down.

3. What about the impact on industry?

Industry: It would be catastrophic. Can and bottle plants would lose billions in sales. In Oregon alone, the ADS study reported, can makers lost about $10 million in one year's sales, and it was expected that glass sales, after a spurt to meet the need for new refillables, would go down another $3.6 million.

Advocates: The bottle bill doesn't mean the end of beverage-can sales. Now that progress is being made toward an ecologically sound nondetachable opener for cans, metal containers could be expected to retain about 20 percent of the market. Besides, as the Oregon Court of Appeals told American Can and other industry litigants: "With every change of circumstance in the marketplace, there are gainers and there are losers. There will be new gainers and new losers as the industry adapts to the ban."

Industry: We estimate that converting to refillable systems—dismantling can lines, getting new equipment—would cost $5 billion. That's intolerable.

Advocates: A few years ago, the industry hired Midwest Research Institute of Kansas City to determine the impact of a ban on throwaways. MRI estimated aggregate impact (including new equipment and additional labor) for brewers, beer distributors, bottlers and retailers in the first year to be a loss of $247 million. By the second year, however, lower container costs with a refillable system were seen as yielding an aggregate gain of $37 million.

Industry: The extra costs of handling returnable bottles could be devastating to small grocers. And a flood of returnables would overwhelm the storage capacities of supermarkets. Also, stores would be exposed to vermin-ridden containers.

Advocates: There is some inconvenience for grocers in handling returns. However, when a group of Vermont grocers claimed losses because of the bottle bill, a court upheld the law and dismissed the suit. Vermont grocers already get, for handling costs, a 20-percent allowance on the deposit. Oregon's legislature, on the other hand, has not seen the need to authorize such an allowance. And neither state has yet cited any store as a health hazard for having empty beverage containers.

4. What about consumer prices?

Industry: They would have to go up, because of the tremendous costs of converting plants to refillables.

Advocates: If industry converted to returnables, it would save money, because it would be paying less per use for containers. With these savings, prices could be reduced. A widely accepted estimate is that a bottle could be refilled ten times.

Industry: The trouble with all those "savings" is that they are based on the assumption that people will return bottles. A refillable bottle may make only two or three round trips between plant and consumer in big cities, as few as five or eight elsewhere.

Advocates: When industry was arguing against a government proposal to destroy bottles bearing outlawed cyclamate labels, it said the containers lasted five years. An Arizona bottler says he gets about 50 round trips per bottle.

Besides these questions, there is one more point to consider. What do the people of Oregon and Vermont think of their bottle laws? In Vermont, every attempt to repeal or cripple the law has been defeated. The ADS public-opinion poll for Oregon says: "'Overwhelming' is virtually the only word to describe Oregon's approval of the bottle bill. Nine in ten people (91 percent) said they approved, and only one in 20 voiced any disapproval at all."

All right, says industry, but that was a poll. There have been eight legislative votes in other states involving the bottle bill, and the bill has been turned down every time.

[From the Reader's Digest, May 1976]

THE LOBBY THAT BATTLES THE BOTTLE BILLS

(By Earl and Miriam Selby)

A "bottle bill" is a piece of federal, state or local legislation aimed at helping America kick the habit of throwing away 60 billion beer and soda-pop cans and bottles every year. To stem this nine-million-ton tide of trash, the typical bottle bill proposes that all beverage containers—cans included—carry deposits with mandatory refunds, so they will be returned for refilling or recycling. Advocates of bottle bills argue that they will cut down on litter and trash, conserve energy and resources, and save consumers more than a billion dollars a year.

On the surface, those promises seem so attractive that one wonders why we haven't embraced a nationwide bottle bill. A partial answer may be found in what happened in two localities when bottle bills came up against the lobby supported by the beverage and container industries:

In 1970, in Washingon State, college professor Robert Keller triggered a statewide vote on a bottle bill. He and his group had $600 to spend on their cause. The lobby had $300,000. It inundated the state with commercials, advertising and other material. The bottle bill lost.

In Florida, a Dade County (Miami) survey estimated that a typical mile of a major Dade street is littered with 17,850 cans each year. A young county commissioner, Harvey Ruvin, proposed a bottle bill. His side had $1700—plus whatever free air time they could get under the federal "Fairness Doctrine"—to tell their story to the public. The lobby had $180,000—most of it from outside of Dade County—to mount a spectacular advertising blitz using 19 newspapers, 20 radio stations and four television outlets. In November 1974, the voters turned the bottle bill down.

William K. Coors, the only major brewer who favors deposit legislation, estimates that industry pours out $20 million a year to battle the bottle bill and to promote its own alternatives. Support is drawn from the can and bottle makers, the beer and pop industries, certain supermarket chains, and large unions of steel, glass and aluminum workers. With a total annual budget of $7.5 million, the United States Brewers Association alone can call on its lawyers, economists, consultants, think-tank researchers and field representatives to help quash a bottle bill. Such money and firepower are hard to overcome.

Thus, bottle-bill advocates have lost every one of the eight elections involving the bill. In all, there have been hundreds of efforts in Congress and the states to enact various forms of bottle-bill or other beverage-container legislation. To date, only the Oregon, Vermont and South Dakota legislatures plus a scattering of local jurisdictions, have succeeded. (South Dakota's law is not scheduled to become effective until 1978.)

The success of the lobby can be explained not only by its munificent war chest, but also by its shrewd tactics. Consider:

The lobby plays hard, and for keeps. In New York City, a group known as the Environmental Action Coalition received $350,000 in support over a period of three years from industry—Pepsi-Cola, the Can Manufacturers Institute, the Aluminum Association and other keepers of the lobby—to educate the public on such industry-endorsed goals as recycling and resource-recovery programs. In the spring of 1975, however, the Coalition endorsed the bottle bill as a companion to resource recovery. Since then, it has received almost nothing from the lobby.

The lobby can be devious. It sometimes submarines discussion of a bottle bill by raising unwarranted fears. Mayonnaise jars are a favorite tactic. William Ginn, a leader in Maine's struggle to get rid of throwaway containers, was startled when a brewers' spokesman he was debating on radio referred to such jars, implying that the bill could lead to deposit on them, although nothing in the legislative proposal even remotely supported this. Ginn got so caught up in the Mayonnaise question that by the time he recovered himself he had lost the debate. Says Ginn: "I know—now—what the technique is: confuse the public by making it unsure as to just what the bottle bill is. You don't vote for what you have doubts about."

The lobby uses time-consuming court challenges. In Bowie, Md., the city council passed a bottle bill. The lobby sued to overthrow the bill. Four years went by before the lobby was defeated in the courts.

The lobby hides its identity. Its politically active committees frequently bear names that give no indication that they are industry-supported. In Washington State, the lobby called itself Citizens Committee Against Initiative 256; in Maryland, the the Maryland Council on Environmental Economics; in Eau Claire, Wis., the Eau Claire Consumer Information Committee; in Florida, the Dade Consumer Information Committee. When Dade County environmentalists protested that this last name was misleading because the committee was not a consumer group, an industry spokesman stated that the name was proper because the committee was trying to get information to consumers.

The 1974 Florida battle deserves further attention because Dade County was so strategically important. With more than a million and a half residents, and up to 12 million tourists annually, the Miami area accounts for nearly one percent of the U.S. beverage market, consuming the contents of 490 million throwaway cans and bottles every year. If Dade went for the bottle bill—and if tourists brought word of the law back home—the domino effects could ripple everywhere.

So out went the lobby's call for money. In a single week, the Dade Consumer Information Committee collected $98,200, with individual contributors going as high as $7000. Florida law, however, limits donors in single-issue fights to $1000. The lobby was therefore forced to return $61,000. Milwaukee's Joseph Schlitz Brewing Co., which had sent in $2800, got $1800 back. A bit later, the Dade committee received $1000 from a malt company and $800 from a Wisconsin firm selling ducklings. Both are owned by Schlitz. From St. Louis, Anheuser-Busch (Budweiser)

chipped in $1000. So did seven of its transportation subsidiaries, and a can company partially owned by the brewer. Total: $9000. For this single election in one county the lobby eventually financed the Dade committee with $150,000, drawn from 23 states as far away as Washington and California.

How to use the money? First, the committee hired public relations counselor Richard Rundell to coordinate its campaign. A man with 20 years' experience in Florida politics, Rundell laid down this basic strategy: "Keep the campaign *local* by using Miami people who can tell audiences, 'I am one of you. Big business happens to be against this [the bottle bill], but so am I and so should you be.' "

At Rundell's suggestion, a public-opinion poll was taken to orient the campaign. The poll found that while voters strongly endorsed a deposit on bottles, they were five-to-four against a deposit on cans. The lobby therefore concentrated its advertising firepower on can deposits. In one ad, the headline implied that *all* cans, not just beverage containers, would be subject to deposit.

The lobby fastened on inflation as the umbrella for its campaign. It claimed that fighting the bottle bill was "fighting inflation," since a deposit raised the cost. It did not mention that deposits would be refunded—nor that nationally franchised soft drinks already on local shelves in deposit bottles were generally cheaper than the same brand in throwaways.

Many supermarkets put stickers on all six-packs of beverages, saying the bottle bill would raise the price 30 cents (the deposit). The Winn-Dixie grocery chain, which financed its own campaign with $30,000, printed anti-bottle-bill statements on paper bags, so a shopper carrying one became a walking billboard for the lobby.

The lobbly touched off memories of fights over "forced busing" by calling the bottle bill the "forced deposit" law. A young black man was hired to broadcast commercials against the bottle bill and to rebut claims that the bill would help save the environment. "We made it clear," Rundell wrote in the *Public Relations Journal*, "that we felt some of our minority groups didn't have much of an environment to worry about."

Indeed, the well-organized lobby was on the attack in so many places, in so many ways, that the environmentalists never could catch up. Before the campaign, the lobby's own poll had predicted that the bill would pass, possibly by two-to-one. The actual vote, after the lobby finished its three weeks of intensive work, was 57 percent against it.

The lobby isn't always that successful. But, as in Vermont, even when it loses the first battles, it keeps the war going. Shortly after Vermont inaugurated the deposit system in 1973, beer distributors boosted their prices in the state by 60 cents a case, exclusive of deposits. Twenty-four cents were mandated in the law to repay grocers for handling container returns. And the other 36 cents? Gov. Thomas Salmon, an advocate of the bottle bill, hung them on the lobby. He charged it was grabbing for profits in an "overt attempt to anger the Vermont public by substantial increases in the price," an anger which could then be funneled into a drive to repeal the bottle bill.

Having seen something of how the beer and soft-drink lobby works, and so often wins, who can doubt its power?

CONCLUSION

Mr. HATFIELD. Mr. President, the no-deposit, no-return attitude that dominates more and more packaging ignores the energy and solid waste problems in the idolization of convenience. Beverage containers are a good place to reject this wasteful ethic in an area where we know we can succeed.

I realize that an extensive amount of materials have been offered for the RECORD this afternoon. It was my intention in this presentation to compile all the arguments in favor of this legislation at one time so that my colleagues, their staffs and others who use the RECORD would have a comprehensive review of the issue for easy reference.

In conclusion, Mr. President, I ask that the Beverage Container Reuse and Recycling Act of 1979 appear at this point in the RECORD.

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

S. 50

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 "Beverage Container Reuse and Recycling Act of 1979."

FINDINGS AND PURPOSES

SEC. 2. Congress finds and declares that:

(1) The failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources.

(2) The littering of empty beverage containers constitutes a public nuisance, safety hazard, and esthetic blight and imposes upon public and private agencies unnecessary costs for the collection and removal of such containers.

(3) Empty beverage containers constitute a significant and rapidly growing proportion of municipal solid waste, disposal of which imposes a severe financial burden on local governments.

(4) The reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on individuals, local governments, and the environment.

(5) A uniform national system for requiring a refund value on the sale of all beverage containers would result in a high level of reuse and recycling of such containers when empty.

DEFINITIONS

SEC. 3. For the purposes of this Act:

(1)(A) The term "beverage" means beer or other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form and intended for human consumption.

(B) The term "beverage container" means a container designed to contain a beverage under pressure of carbonation.

(C) The term "refundable beverage container" means a beverage container which has clearly, prominently, and securely affixed to, or printed on, it (in accordance with section 4) a statement of the amount of the refund value of the container.

(2)(A) The term "consumer" means a person who purchases a beverage in a beverage container for any use other than resale.

(B) The term "distributor" means a person who sells or offers for sale in commerce beverages in beverage containers for resale.

(C) The term "retailer" means a person who purchases from a distributor beverages in beverage containers for sale to a consumer or who sells or offers to sell in commerce beverages in beverage containers under pressure of carbonation to a consumer.

(3) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(4) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof,

(B) within the District of Columbia or any territory of the United States, or

(C) which affects trade, traffic, commerce, or transportation described in subparagraph (A) or (B).

(5) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

REQUIRED BEVERAGE CONTAINER LABELING

SEC. 4. No distributor or retailer may sell or offer for sale a beverage in a beverage container under pressure of carbonation unless there is clearly, prominently, and securely affixed to, or printed on, it (in accordance with regulations prescribed by the Administrator) a statement of the amount of the refund value of the container, such amount being not less than 5 cents.

RETURN OF REFUND VALUE OF BEVERAGE CONTAINERS

SEC. 5. (a)(1) If a consumer tenders for refund an empty and unbroken refundable beverage container to a retailer who sells (or has sold at any time during the period of six months ending on the date of such tender) a brand of beverage which was contained in the container, the retailer shall promptly pay the consumer the amount of the refund value stated on the container.

(2) If a retailer or consumer tenders for refund an empty and unbroken refundable beverage container to a distributor who sells (or has sold at any time during the period of six months ending on the date of such tender) a brand of beverage which was contained in the container, the distributor shall promptly pay the person the amount of the refund value stated on the container.

(b) The opening of a beverage container in a manner in which it was designed to be opened shall not, for purposes of this section, constitute the breaking of the container.

RESTRICTION ON METAL BEVERAGE CONTAINERS WITH DETACHABLE OPENINGS

SEC. 6. No distributor or retailer may sell or offer for sale a beverage in a metal beverage container a part of which is designed to be detached in order to open such container.

RESTRICTION ON METAL BEVERAGE CONTAINERS WITH DETACHABLE OPENINGS

SEC. 7. (a) Except as otherwise provided in this section, State or political subdivision thereof may establish or continue in effect any law respecting a refund value of beverage containers sold with a beverage under pressure of carbonation to the extent the Administrator determines the law is consistent with this Act.

(b) No State or political subdivision thereof may, for purposes of determining the amount of any tax imposed by such State or subdivision on the sale of any refundable beverage container, taken into account any amount charged which is attributable to the refund value of such container, if a statement of such refund value is affixed to or printed on the container in accordance with section 4.

(c) A State may require that a distributor pay a retailer for the tender of a refundable beverage container an amount, in addition to the amount of the refund value required to be paid under section 5(a)(2), for the retailer's handling or processing of the container.

(d) Subsection (a) does not prevent a State or political subdivision thereof from establishing or continuing in effect any law respecting a refund value on containers other than for beverages.

SEC. 8. Whoever violates any provision of section 4(a), 5(a), or 6 shall be fined not more than $1,000, or imprisoned for not more than 60 days, or both, for each violation.

S. 50 BEVERAGE REUSE AND RECYCLING ACT OF 1977

SEC. 9. (a) The provisions of Section 4, 5 and 7 shall apply only with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after three years after the date of enactment of this Act.

(b) The provisions of Section 6 shall apply only with respect to beverages in beverage containers sold or offered for sale in interstate commerce on or after one year after the date of enactment of this Act.

By Mr. BENTSEN:

S. 51. A bill to amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to order of August 4, 1977.

S. 52. A bill to reduce duplicative and conflicting Federal rules or regulations, and for other purposes; to the Committee on Governmental Affairs.

S. 53. A bill to modify the procedures used for the promulgation of rules or regulations by the independent regulatory agencies, and for other purposes; to the Committee on Governmental Affairs.

S. 54. A bill to reduce the costs of Federal regulations, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REFORM

Mr. BENTSEN. Mr. President, one of the charges leveled against King George III of England in the Declaration of Independence was that—

He has erected a Multitude of new Offices and sent hither Swarms of Officers to harass our People . . .

Ironically, millions of Americans make precisely the same charge against the Federal Government today 202 years after the signing of the Declaration of Independence.

In recent years, our pluralistic, regionally diverse society has sometimes had difficulty uniting to develop a consensus on the most pressing problems we face as a nation. It is truly ironic that today a consensus has been reached in all parts of this great Nation and among just about every group of Americans that one of our most pressing problems is the incredible tendency of our own Government to expand and intrude.

The overwhelming majority of Americans support the legitimate efforts of Government to clean up our air, to keep our water pure, and to improve the quality of life for all citizens. I support these goals. I have fought for them. What I oppose are unwarranted, confusing, and unreasonable regulations which strangle individual freedom and individual initiative and give no consideration to cost/benefit ratios.

Excessive Federal regulation is an engine of inflation. But there is a deeper, more alarming casualty of excessive regulation, one that attacks the vital center of the American economy. Our well-being as individuals and as a society rests in part on our historic ability to generate rising real incomes for all—wages and salaries that stay ahead of prices. We have been almost unique in attaining a sustained rise in real incomes throughout our history. No other nation in history has done so well for so long. The key to this enviable record has been rising productivity—the ability and willingness of American entrepreneurs to innovate, to bear risks, to invest in technology which enables workers to produce more this year than last, and more next year than this year.

Productivity and risk-taking are the twin pillars of our bountiful economy.

But, they are subject to breakdowns, to a weakening of intensity and spirit. And we have seen just that occurring in the past decade, in part due to strangulating Federal regulations.

Entrepreneurs are so concerned with filling out forms and complying with this or that rule that their innovative energies are being squandered, dissipated—not on efforts to raise productivity, but rather on Federal regulations. Their freedom to dream, to innovate, to succeed is being shackled in a sea of redtape from Washington. They are becoming an endangered species, one Washington seems bent on eliminating rather than helping.

Talking about excessive regulation is easy. The hard part is crafting specific, effective remedies to reduce the burden—the cost of regulations—without jeopardizing regulatory objectives. I made a start in 1978 at that job. In 1978, I was privileged to have the overwhelming support of my colleagues in the Senate for three pieces of legislation we passed to impose some order on the chaotic Federal regulatory system. But, the real work lies ahead. There is no question in my mind that this work must be done. Taxpayers, consumers, entrepreneurs are simply fed up with hand-wringing public officials who decry the cost of regulation without offering specific proposals to make the system more efficient and effective.

The regulatory reform legislative package I am introducing today is varied. Mr. President, this is a package designed to fundamentally alter our Federal regulatory system. It introduces accountability—both in Federal agencies and in the Congress—for new regulations. It introduces a system for abolishing existing regulations which are excessive or inefficient. It mandates a thorough overhaul of the system for reviewing proposed regulations before issuance to insure that they minimize costs to consumers and businessmen. And, it mandates an aggressive Federal effort to seek out and eliminate existing rules or regulations which duplicate or conflict with one another.

THE REGULATORY CONFLICTS ELIMINATION ACT

Under this legislation, which passed the Senate in 1978 as an amendment to the sunset bill, S. 2, the Office of Management and Budget will annually report to Congress and the President on Federal agency rules or regulations which duplicate or conflict with rules or regulations promulgated by other Federal agencies. At the start of each fiscal year, the President will submit his recommendations for resolving or eliminating duplication or conflicts among rules or regulations at the Federal level. The recommendations affecting Federal agencies go into effect 60-days following their submission unless disapproved by Congress. The GAO will evaluate the OMB report, the President's recommendations as well as each agency's progress in implementing those recommendations.

It is simply outrageous for a small businessman to confront the impossible situation where complying with one regulation requires violating another. My legislation is designed to eliminate the irrationality of conflicting or overlapping regulations.

REGULATORY COST REDUCTION ACT

Under this legislation, regulatory agencies—the independent regulatory agencies as well as those in the executive branch—will be required to meet their regulatory objectives in the most cost-effective manner available.

Congress has sadly failed to impose this requirement in most measures establishing new regulatory programs. As a result, regulatory agencies often issue regulations that employ excessively costly methods to achieve their goals. This is a tragic waste of our country's scarce resources. We need to clean up our environment, we need to make our highways safe, we need to improve the healthfulness and safety of our work places. But if we do this wastefully and inefficiently, we are simply misusing valuable resources that could be used to achieve other goals—to raise the standard of living of the middle-income American taxpayer, to alleviate the poverty of disadvantaged Americans, to strengthen our military or to revitalize our cities and rural communities. Each $1 billion spent unnecessarily on achieving the goals of a regulatory agency—when a less costly but equally effective alternative is available—is $1 billion that we could otherwise devote to worthwhile goals. We may be a wealthy nation, but as our taxpayers and voters have recently told us, things at home are tight and there just is not any money to burn.

Therefore, regulatory agencies should be required to minimize the cost of achieving their regulatory goals unless this consideration is overridden by a more important national goal. My bill will do this. All agencies will be required to examine all options for attacking a regulatory problem and to choose the least costly alternative. They will be required to publish an extensive regulatory impact analysis in the Federal Register to back up their existing regulations, with the same goal in mind.

INDEPENDENT AGENCIES REGULATORY IMPROVEMENTS ACT

Under this legislation, independent agencies will be required to follow the same procedures in developing rules and regulations as are now required of the Executive agencies under the provisions of Executive Order 12044 issued by President Carter on March 28, 1978. For constitutional reasons, independent agencies are exempted from the provisions of the Executive order; my bill would bring them into line with the regulatory procedures called for in this Executive order without relinquishing any congressional authority to the President.

This Presidential order establishes a mechanism for the review of proposed rules and regulations designed to permit broad comment and participation in rulemaking activities. This mechanism would be uniform across Cabinet departments. My legislation would significant-

ly enhance this commendable effort by President Carter by making the regulatory review mechanism uniform across almost all of the other Federal agencies.

FEDERAL REGULATORY BUDGET ACT

This legislation will force the President and Congress each year to put a cap on the amount of regulatory costs each agency can impose on the non-Federal sector, just as we now do in the fiscal budget. This would force agencies to choose the least costly way of achieving regulatory goals.

The bill establishes a formal mechanism within the framework of the Congressional Budget Act passed 5 years ago for limiting the burden of Federal rules and regulations. Annually, the President and Congress would establish a maximum regulatory cost—a ceiling—for each Federal agency. This ceiling would be fixed, inviolate, just as agency budgets are today. The cap would be determined after an extensive, broad-based series of hearings, administrative reviews and ample opportunity for public input.

Mr. President, my legislative efforts are not aimed at the legitimate efforts of Government to clean up our environment, to protect consumers or to improve worker health and safety. They are aimed instead directly at excessive, unnecessary, and unreasonable Federal regulation. They are undertaken in the Jeffersonian spirit of allowing our citizens the freedom to regulate their own lives.

I ask unanimous consent that the text of each bill I have introduced today be printed in the RECORD.

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

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—REGULATORY BUDGET PROCEDURE

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds that—

"(1) Federal rules and regulations often impose excessive costs of compliance upon the non-Federal sector;

"(2) Federal rules and regulations have grown in number and scope so rapidly that the agencies and the Congress have not had an adequate opportunity to examine the costs of compliance with such rules and regulations; and

"(3) it is the responsibility of the Congress to determine the appropriate levels of costs of compliance with Federal rules and regulations.

"(b) It is the purpose of this title to require the Congress to establish, for each fiscal year, a regulatory budget for each agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency. It is the intent of Congress, for each of the first five years for which a regulatory budget is prepared, to impose a budget which will result in reducing the total costs of compliance with Federal rules and regulations by 5 percent per year.

"DEVELOPMENT OF REGULATORY COSTS ANALYSIS PROCEDURES

"SEC. 1102. (a) The President shall, in consultation with the Business Advisory Council established pursuant to subsection (g)—

"(1) establish criteria for use in the determination of which rules or regulations are rules or regulations within the meaning of this title and furnish such criteria to the head of each agency; and

"(2) develop methods of determining the costs of compliance with rules or regulations and furnish such methods to the head of each agency.

"(b) In developing the methods required under subsection (a)(2), the President shall, after consultation with the Business Advisory Council—

"(1) take such action as may be necessary to insure that such methods are based upon the most accurate available statistical and accounting knowledge and techniques; and

"(2) provide, to the maximum extent feasible, that such methods are uniform for all agencies while taking into account the different functions of each agency.

"(c)(1) At least ninety days before the submission of the criteria and methods required under subsection (a) to the head of each agency, the President shall—

"(A) publish such criteria and methods in the Federal Register in order to solicit public comments thereon for a period not in excess of forty-five days; and

"(B) submit such criteria and methods to the Comptroller General, the Director of the Council on Wage and Price Stability, the Chairman of the Administrative Conference of the United States, and the Director for their review and comments.

"(2) The Comptroller General, the Director of the Council on Wage and Price Stability, the Chairman of the Administrative Conference of the United States, and the Director shall submit comments and recommendations concerning the criteria and methods submitted pursuant to paragraph (1)(B) within forty-five days of the receipt of such criteria and methods.

"(d) Each year, at a time and in a manner consistent with the provisions of sections 1103 and 1104, the President shall review and update the criteria and methods established under this section in accordance with the procedures established in this section.

"(e) The President may delegate his responsibilities under this section to the Director of the Office of Management and Budget.

"(f) The head of each agency shall utilize the criteria and methods developed by the President under this section to carry out the functions required under section 1103.

"(g)(1) The President shall, in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), establish a Business Advisory Council to provide such information and advice as he may require to carry out his responsibilities under subsections (a) and (b) of this section.

"(2) The Council shall be composed of not less than 25 nor more than 50 members selected by the President. Such members shall include representatives of each major industrial and commercial sector, and shall include individuals from each geographic region. Such individuals shall include members from enterprises of various sizes, and shall include, to the extent possible, individuals from businesses affected by each of the major areas of Federal regulation.

"(3) The President shall provide the Council with necessary clerical and other supportive services and shall cause the minutes of meetings of the Council to be duly published. Members of the Council, other than full-time employees of the Federal Government, while attending meetings of the Council or otherwise serving at the request of the Council or the President away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

"REGULATORY COST COMPLIANCE REPORTS

"SEC. 1103. (a)(1) Each year, the head of each agency shall conduct a study of the costs of compliance with rules and regulations promulgated by that agency. The head of each agency shall utilize the criteria established by the President under section 1102 in conducting the study required under this subsection.

"(2) The head of each agency shall submit a report to the President, the Congress, and the Comptroller General by the November 10 preceding the beginning of each fiscal year. The report shall contain the results of the study required under paragraph (1), and shall contain a statement of—

"(A)(i) the costs of compliance for the fiscal year ending on the September 30 prior to the date on which the report is submitted;

"(ii) a comparison of the costs of compliance for such fiscal year with the regulatory budget, if any, established for such fiscal year under section 1105; and

"(iii) a full explanation for any costs of compliance which exceeded the regulatory budget for such fiscal year; and

"(B) the estimated costs of compliance for the fiscal year in progress when the report is submitted and for the succeeding fiscal year—

"(i) with rules and regulations of such agency in effect on the date on which the report is submitted;

"(ii) with rules and regulations of such agency which are to be issued, or are expected to be issued, after the date on which the report is submitted; and

"(iii) with all rules and regulations of such agency as specified in clauses (i) and (ii).

"(b) By May 15 of each year, the Comptroller General shall review the reports required by subsection (a), and shall submit a report to the Congress containing the results of such review. Such report shall identify (1) any inadequacies in the reports submitted by the head of each agency, and (2) any errors in estimates of the costs of compliance specified in such reports.

"REGULATORY BUDGET RECOMMENDATIONS

"SEC. 1104. The budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, for each fiscal year, shall include a regulatory budget for each agency which shall contain recommendations for the maximum costs of compliance with all rules and regulations of each agency during the fiscal year for which the budget is submitted. If the proposed regulatory budget for any agency is lower than the estimated total costs of compliance determined by the agency head under section 1103(a)(2)(B), the Budget message shall recommend specific actions which may be taken during such fiscal year to reduce the costs of compliance with the rules or regulations of such agency.

"REGULATORY BUDGET RESOLUTION

"SEC. 1105. (a)(1) On or before September 15 of each year, the Congress shall complete action on a concurrent resolution to establish a regulatory budget for each agency which sets the maximum costs of compliance with all rules and regulations promulgated by each agency which will be in effect during the fiscal year beginning on October 1 of such year. In developing such regulatory budget, the Congress shall utilize the reports submitted by the head of each agency pursuant to section 1103(a), the report submitted by the Comptroller General pursuant to section 1103(b), and the recommendations submitted by the President pursuant to section 1104.

"(2) The provisions of section 305 shall apply to the consideration of concurrent resolutions required under this subsection.

"(b) On or before July 15 of each year, each standing committee of the House of

Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate (and each other committee of the Senate which has legislative jurisdiction) shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses its views and estimates with respect to the establishment of the maximum costs of compliance with rules and regulations which relate to matters within the respective jurisdiction or function of such committee or joint committee.

"(c) In developing the concurrent resolution required under subsection (a) for each fiscal year, the Committee on the Budget of each House shall hold hearings and receive testimony from among Members of Congress and such appropriate representatives of the agencies, the general public, and national organizations as the committee deems desirable. On or before August 15 of each year, the Committee on the Budget of each House shall report to its House the concurrent resolution required under subsection (a) for the fiscal year beginning on October 1 of such year.

"REPORTS AND SUMMARIES OF CONGRESSIONAL ACTION

"SEC. 1106. (a) Whenever a committee of either House reports a bill or resolution to its House, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director, which contains an estimate of the costs of compliance with the rules or regulations required to carry out the provisions of such bill or resolution.

"(b) The Director shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions which will create costs of compliance as a result of rules or regulations required to carry out the provisions of such bill or resolution. Such report shall include—

"(1) an up-to-date tabulation, by agency, of the costs of compliance with rules or regulations required to carry out the provisions of each such bill or resolution on which Congress has completed action;

"(2) an up-to-date status report on all bills and resolutions which would create such costs of compliance; and

"(3) an up-to-date comparison, by agency, of the maximum costs of compliance established for each agency pursuant to section 1105 with the costs of compliance—

"(A) with rules or regulations in effect on the date of such report; and

"(B) with rules or regulations required to carry out the provisions of bills or resolutions on which Congress has completed action.

"NEW LEGISLATION MUST BE WITHIN REGULATORY BUDGET

"SEC. 1107. (a) After the Congress has completed action on the concurrent resolution required under section 1105 for a fiscal year, it shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment which would result in additional costs of compliance in such fiscal year, or any conference report on such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report; would cause the level of costs of compliance for any agency to exceed the maximum costs of compliance established for that agency in the concurrent resolution required under section 1105.

"(b) For purposes of subsection (a), the costs of compliance during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"(c)(1) The committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. The Committee on the Budget shall report the resolution to the Senate, within ten days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such ten-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

"(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

"(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

"DEFINITIONS

"SEC. 1108. For purposes of this title—

"(1) the term 'agency' has the meaning given to it by section 551(1) of title 5, United States Code;

"(2) the term 'Comtproller General' means the Comptroller General of the United States;

"(3) the term 'costs of compliance' means, with respect to an agency, the costs imposed upon the non-Federal sector as a result of compliance with rules or regulations promulgated by that agency, including wages, salaries, benefits, capital costs, rents, interests, State and local taxes, and costs due to data collection and recordkeeping, preparation and submission of forms, data, and reports, purchase of necessary equipment, management time, training, and changes in the quality or mixture of raw materials or output, except that such term does not include normal business or recordkeeping costs which would exist in the absence of such rules or regulations;

"(4) the term 'Director' means the Director of the Congressional Budget Office;

"(5) the term 'non-Federal sector' means an individual, partnership, association, corporation, business trust or legal representative thereof, organized group of individuals, labor organization, State or territorial government or branch thereof, or political subdivision of a State or territory or a branch thereof; and

"(6) the terms 'rule and regulation' mean any rule as defined in section 551(4) of title 5, United States Code.

"EFFECTIVE DATE

"SEC. 1109. The provisions of this title shall take effect on the date of its enactment, except that the provisions of sections 1103 through 1107 shall apply only with respect to the first fiscal year beginning at least eighteen months after the date of enactment of this title, and succeeding fiscal years.".

(b) Section 1(a) of such Act is amended—

(1) by striking out the word "and" before "title X", and

(2) by inserting before the period a comma and the following: "and title XI may be cited as the 'Regulatory Budget Act of 1979'.".

(c) Section 1(b) of such Act is amended by adding at the end of the table of contents the following new items:

"TITLE XI—REGULATORY BUDGET PROCEDURE

"Sec. 1101. Statement of findings and purpose.
"Sec. 1102. Development of regulatory costs analysis procedures.
"Sec. 1103. Regulatory costs compliance reports.
"Sec. 1104. Regulatory budget recommendations.
"Sec. 1105. Regulatory budget resolutions.
"Sec. 1106. Reports and summaries of congressional actions.
"Sec. 1107. New legislation must be within regulatory budget.
"Sec. 1108. Definitions.
"Sec. 1109. Effective date.".

(d) Section 904(a) of such Act is amended by striking out "and 1017" and inserting in lieu thereof "1017, 1105, 1106, and 1107".

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Regulatory Conflicts Elimination Act of 1979."

STATEMENT OF FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) duplication among Federal rules, regulations, and data collection requirements often impose excessive and unnecessary costs and burdens on the private sector;

(2) conflicts between rules or regulations promulgated by the different executive departments and independent agencies impose excess costs on the private sector, create uncertainty, result in unintentional violations by persons required to comply with such rules and regulations, and create a disregard for the spirit and intent of such rules and regulations; and

(3) such duplicative and conflicting rules or regulations are a source of inefficiency in government, thereby reducing the productivity of government employees and increasing Federal taxes.

(b) It is the purpose of this Act to reduce or eliminate duplicative and conflicting rules or regulations among Federal agencies.

DEVELOPMENT OF REGULATORY COST ANALYSIS PROCEDURES

SEC. 3. (a) The President, in a time and manner consistent with his responsibilities under section 5, shall—

(1) establish criteria for use in the determination of which rules or regulations are within the definition of rule or regulation established in section 7; and

(2) determine criteria for use by the heads of the Federal executive departments and independent agencies in examining the costs of compliance with Federal rules or regulations.

(b) The President shall transmit the criteria developed under this section to the head of each executive department and independent agency.

ANALYSIS OF REGULATORY DUPLICATION AND CONFLICT

SEC. 4. Each year, at a time to be specified by the President in accordance with his re-

sponsibilities under section 5, the Director of the Office of Management and Budget, in cooperation with the head of each executive department and independent agency, shall submit to the President, the Congress, and the head of each independent agency a regulatory duplication and conflicts report. Each regulatory duplication and conflicts report shall—

(1) identify specific rules or regulations, including data collection requirements, of each executive department or independent agency which are duplicative of or conflict with the rules or regulations of any other executive department or independent agency, and identify the provisions of law which authorize or require the promulgation of such duplicative or conflicting rules or regulations;

(2) determine the costs of compliance with the rules or regulations of each executive department or independent agency which are duplicative or conflicting rules or regulations;

(3) contain recommendations for—

(A) modifying, eliminating, or consolidating duplicative rules or regulations among the executive departments and independent agencies; and

(B) resolving conflicting rules and regulations among the executive departments and independent agencies; and

(4) report on actions taken by each department or agency during the fiscal year prior to the fiscal year for which the report is made, and the actions which each department or agency is undertaking or planning to undertake during the fiscal year for which the report is made, to modify or eliminate duplicative or conflicting rules and regulations in accordance with the recommendations submitted under section 5.

REGULATORY CONFLICTS REDUCTION RECOMMENDATIONS

SEC. 5. (a) On or before October 1 of each year, beginning with the fiscal year 1980, the President and the head of each independent agency shall prepare and transmit to the Congress and the Comptroller General a report containing recommendations for modifying or eliminating duplicative or conflicting rules or regulations promulgated by, in the case of the President, each of the executive departments, and in the case of the head of each independent agency, that agency.

(b) Recommendations submitted by the President and the head of each independent agency to the Congress pursuant to this section shall be implemented by the President or the head of each independent agency, as appropriate, at the end of the first period of sixty calendar days of continuous session of Congress after the date on which such recommendations are transmitted to the Congress unless, between the date of transmittal and the end of the sixty-day period, the Congress passes a concurrent resolution which states in substance that the Congress disapproves any part or all of the recommendations submitted under this section.

REVIEW BY THE COMPTROLLER GENERAL

SEC. 6. (a) Within thirty days after the receipt of the reports required under section 5, the Comptroller General shall submit a review of such reports to Congress. Such review shall include—

(1) an evaluation of the report of the Director of the Office of Management and Budget submitted under section 4;

(2) an evaluation of the recommendations submitted under section 5; and

(3) an assessment of the efforts of each department or agency to modify or eliminate duplicative or conflicting rules or regulations during the fiscal year prior to the fiscal year for which the report is submitted under section 5.

(c)(1) The Comptroller General shall acquire directly from the head of any department, independent agency, or other authority of the executive branch of the government information which he considers necessary to carry out the provisions of this Act.

(2) All executive departments, independent agencies and instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Comptroller General and furnish all information requested to the extent permitted by law.

DEFINITIONS

SEC. 7. For purposes of this Act—

(1) the terms "rule and regulation" mean any "rule" as defined in section 551(4) of title 5, United States Code;

(2) the term "duplicative rule or regulation" means rules or regulations promulgated by Federal agencies which are designed to—

(A) attain the same or similar regulatory objectives;

(B) acquire the same or similar information or statistics; or

(C) encourage or discourage the same or similar courses of action by the private sector;

(3) the term "conflicting rules or regulations" means rules or regulations promulgated by Federal agencies which require different courses of action in the same or similar situations, or require the private sector to violate one rule or regulation in order to fully and faithfully be in compliance with another rule or regulation;

(4) the term "Comptroller General" means the Comptroller General of the United States;

(5) the term "costs of compliance" means the costs imposed upon the private sector as a result of compliance with rules or regulations promulgated by any Federal agency;

(6) the term "private sector" means an individual, partnership, association, corporation, business trust or legal representative thereof, an organized group of individuals, or labor organization, which is not part of, or directly funded as, an entity of a Federal, State, or local government department, agency, or other instrumentality;

(7) the term "independent agency" means an agency of the United States having quasi-legislative or quasi-judicial powers, as determined by the Director of the Office of Management and Budget; and

(8) the term "executive department" means the executive departments identified in section 101 of title 5, United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 53

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 "Independent Agencies Regulatory Improvements Act of 1979".

STATEMENT OF POLICY AND PURPOSES

SEC. 2. (a) It is the policy of the Congress that rules or regulations issued by the independent regulatory agencies—

(1) be as simple and clear as possible;

(2) achieve legislative goals efficiently and effectively; and

(3) not impose unnecessary burdens on the economy, on individuals, public or private organizations, or State or local governments.

(b) It is the purpose of this Act to establish a procedure for the development of rules or regulations by the independent regulatory agencies which insures that—

(1) the need for and purpose of a rule or regulation are clearly established;

(2) the head of each agency and other officials responsible for policymaking within each agency exercise effective oversight over the promulgation of rules or regulations;

(3) opportunities exist for early participation and comment concerning rules or regulations by Federal agencies, State or local governments, businesses, organizations, and individuals;

(4) alternatives are considered and analyzed before rules or regulations are issued; and

(5) compliance costs, paperwork, and other burdens on the public are minimized.

DEVELOPMENT OF REGULATORY ISSUANCE PROCEDURES

SEC. 3. (a) Each agency head shall review and revise the procedures of the agency for the development of rules and regulations, and shall modify such procedures in a manner which minimizes paperwork and which is in accordance with the provisions of this Act. Each agency head shall, in the modification and revision of such procedures, incorporate the procedures specified in subsection (b) and section 4.

(b) Each agency head shall develop procedures to give the public an early and meaningful opportunity for participation in the development of rules and regulations. In developing such procedures, the agency head shall consider—

(1) the publication of an advance notice of proposed rulemaking;

(2) the holding of open conferences or public hearings;

(3) the sending of notices of proposed regulations to publications likely to be read by affected individuals and groups; and

(4) the direct notification of interested parties.

PROCEDURES FOR SIGNIFICANT REGULATIONS

SEC. 4. (a)(1) At least twice each year, each agency head shall publish in the Federal Register an agenda of significant rules or regulations under development or review by the agency. On the first Monday in October of each year, each agency head shall publish in the Federal Register a schedule specifying the times during that fiscal year when the agendas will be published. Each agency head may publish supplements to the agendas at other times during the year if necessary, but shall take such action as may be necessary to insure that the required agendas are complete.

(2) Each agenda published in accordance with paragraph (1) shall include—

(A) a description of the rules or regulations being considered by the agency;

(B) the need for and legal basis of each proposed rule or regulation;

(C) the status of rules or regulations listed on prior published agendas;

(D) for each rule or regulation, the name and telephone number of an agency official who is knowledgeable concerning such rule or regulation;

(E) if possible, a statement as to whether a regulatory analysis will be required for a rule or regulation analyze alternative approvisions of section 5; and

(F) a list of rules or regulations scheduled to be reviewed in accordance with the provisions of section 6.

(b) Prior to the development of any significant new rule or regulation, each agency head shall review the issues concerning the rule or regulation, analyze alternative approaches to the rule or regulation, develop a tentative plan for obtaining public comment concerning the rule or regulation, and establish target dates for the completion of steps in the development of the rule or regulation. An agency head may not delegate his responsibilities under this subsection to another official or employee of the agency.

(c) Each agency head or agency official responsible for the promulgation of rules and regulations shall approve significant rules or regulations prior to their publication for public comment in the Federal Register. Such approval shall be based upon a determination that—

(1) the proposed rule or regulation is needed;

(2) the direct and indirect effects of the

rule or regulation have been adequately considered;

(3) alternative approaches have been considered and the least burdensome of the acceptable alternatives has been chosen;

(4) public comments have been considered and adequate responses have been prepared;

(5) the rule or regulation is written in plain English and is understandable to the parties required to comply;

(6) an estimate has been made of the reporting burdens or recordkeeping requirements which will be required for compliance with the rule or regulation;

(7) the name, address, and telephone number of a knowledgeable agency official is included in the statement to be published with the rule or regulation; and

(8) a plan has been developed for the evaluation of the rule or regulation after its issuance.

(d) In the case of significant rules or regulations, each agency head shall include in the procedures for public participation developed pursuant to section 3(b) a sixty-day period for public comment on proposed rules or regulations, and shall require that in cases where a sixty-day comment period is not possible by reason of an emergency, or is barred by statute or court order, the publication of the proposed rule or regulation include brief statement of the reasons for a shorter time period.

(e)(1) Each agency head shall establish criteria for the identification of significant rules or regulations. Such criteria shall include—

(A) the type and number of individuals, businesses, organizations, State or local governments, and other institutions to be affected by the rule or regulation;

(B) the compliance and reporting requirements likely to be required as a result of the rule or regulation;

(C) the direct and indirect effects of the rule or regulation, including the effect on competition; and

(D) the relationship of the rule or regulation to the rules or regulations of other programs and agencies.

(2) If an agency head determines that a rule or regulation does not meet the criteria established pursuant to paragraph (1) for a significant rule or regulation, he shall include a statement to that effect in the Federal Register at the time the rule or regulation is proposed.

REGULATORY ANALYSIS

SEC. 5. (a) Each agency head shall prepare a regulatory analysis for significant rules or regulations which may have major economic consequences for the general economy, individual industries, geographic regions, or levels of government (as described in clauses (1) and (2)). Each agency head shall establish criteria for the determination of which rules or regulations will require a regulatory analysis. Such criteria shall require that a regulatory analysis be performed for each rule or regulation if such rule or regulation will result in—

(1) an annual effect on the economy of $100,000,000 or more; or

(2) a major increase in the expenses of individual industries, levels of government, or geographic regions.

The provisions of the preceding sentence shall not preclude any agency head from performing a regulatory analysis for any rule or regulation.

(b) Each regulatory analysis shall include—

(1) a succinct statement of the problem to be addresed by the rule or regulation;

(2) a description of the major alternative ways of dealing with the problem considered by the agency;

(3) an analysis of the economic consequences of each alternative considered by the agency; and

(4) a detailed explanation of the reasons for the choice of the alternative utilized in the rule or regulation.

(c) Each agency head shall establish procedures for the development of a regulatory analysis and for public participation and comments regarding such analysis. Each agency head shall include with the public notice of a proposed rule or regulation an explanation of the alternative selected or favored for use in the proposed rule or regulation and a short description of the other alternatives considered. Each agency head shall also include with such notice a statement describing how an individual may obtain a copy of the draft regulatory analysis prepared concerning the proposed rule or regulation.

(d) Each agency head shall prepare a final regulatory analysis which shall be made available to the public on the date of publication of the final rule or regulation.

(e) The provisions of this section shall not apply to rulemaking proceedings pending on the date of enactment of this Act if the agency head has prepared an economic impact statement in accordance with the provisions of Executive Order 11821, issued November 27, 1974, and Executive Order 11949, issued December 31, 1976.

REVIEW OF EXISTING REGULATIONS

SEC. 6. (a) Each agency head shall periodically review the rules and regulations of the agency to determine whether such rules and regulations conform with the purposes and policies of this Act as stated in section 2. Each agency head shall utilize the procedures established in section 3 through 5 to carry out the review of such rules and regulations.

(b) Each agency head shall develop criteria for the selection of rules and regulations to be reviewed in accordance with the provisions of subsection (a). Such criteria shall include—

(1) the continued need for the rule or regulation;

(2) the type and number of complaints or suggestions received concerning the rule or regulation;

(3) the burdens imposed on parties directly or indirectly affected by the rule or regulation;

(4) the need to simplify or clarify the language of the rule or regulation;

(5) the need to eliminate overlapping and duplicative rules or regulations; and

(6) the length of time since the rule or regulation has been evaluated and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule or regulation.

(c) Within sixty days of the date of enactment of this Act, each agency head shall publish the criteria for selection of rules and regulations to be reviewed and a list of possible rules or regulations to be selected for review in accordance with the provisions of this section. Rules or regulations selected for review after the selection of rules or regulations for the initial listing under this section shall be included in the semiannual agency agendas required under section 4.

IMPLEMENTATION

SEC. 7. (a) In carrying out the provisions of this Act, each agency head shall consider a series of closely related sets of rules or regulations as one rule or regulation.

(b)(1) Within sixty days of the date of enactment of this Act, each agency head shall prepare a draft report concerning the efforts of the agency to implement the provisions of this Act. Such draft report shall include—

(A) a brief description of the procedures of the agency, in effect on the day before the date of enactment of this Act, for the development of rules or regulations and the changes in such procedures made to comply with the provisions of this Act;

(B) the criteria of the agency for defining significant rules or regulations;

(C) the proposed criteria of the agency for the identification of which rules or regulations require regulatory analysis; and

(D) the proposed criteria of the agency for the selection of rules and regulations to be reviewed, and a list of rules or regulations that the agency will consider in its initial review.

(2) Each agency head shall publish the draft report required under this subsection in the Federal Register in order to solicit public comment thereon. Each agency head shall transmit a copy of such draft report to the Comptroller General.

(3) After receiving public comment on the draft report in accordance with paragraph (2), each agency head shall revise such report as may be appropriate and transmit such revised report to the Comptroller General. Unless notified by the Comptroller General that the report misstates or omits necessary elements of the report, such report shall be submitted for publication in the Federal Register.

(c) The Comptroller General shall monitor the implementation of the provisions of this Act by the agencies. The Comptroller General shall report at least semiannually to the President and the Congress on agency compliance with the provisions of this Act, including an analysis of its effectiveness. Within two years from the date of enactment of this Act, the Comptroller General shall report to the President and the Congress concerning any further legislation necessary to achieve the purposes of this Act.

APPLICABILITY

SEC. 8. The provisions of this Act shall not apply to—

(1) rules or regulations issued in accordance with section 556 and 557 of title 5, United States Code;

(2) rules or regulations issued with respect to a military or foreign affairs function of the United States;

(3) matters related to agency management or personnel; and

(4) rules or regulations related to procurement by the Federal Government.

DEFINITIONS

SEC. 9. As used in this Act—

(1) the terms "rule" and "regulation" mean any rule as refined in section 551(4) of title 5, United States Code;

(2) the term "agency" means the independent regulatory agencies of the United States, including the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Mine Safety and Health Review Commission, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, and the Securities and Exchange Commission; and

(3) the term "Comptroller General" means the Comptroller General of the United States.

S. 54

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 "Regulatory Cost Reduction Act of 1979".

STATEMENT OF FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) Federal rules and regulations have grown in number and scope without sufficient emphasis on minimizing the costs of compliance with such rules and regulations;

(2) many government programs and policies are adopted with inadequate understanding of their direct and indirect costs to the public and with little consideration of these costs in relation to the benefits to be achieved;

(3) inflation in the United States is at least in part attributable to government programs and policies which impose excessive regulatory costs on business and the public;

(4) agencies can often achieve desired regulatory objectives through various alternative regulatory and other methods and can minimize excessive regulatory costs by choosing the least costly of such alternatives; and

(5) resources, both public and private, devoted to the achievement of regulatory objectives are not available for the fulfillment of other human needs, including alleviation of poverty, provision of health care and education, revitalization of urban areas, prevention of crime, creation of productive jobs, provision of adequate housing, and strengthening of the national defense, and thus should be devoted to regulatory objectives in the most cost-effective and least wasteful manner.

(b) Therefore, it is the purpose of this Act to control the cost of government regulation by establishing a procedure which will insure that, whenever possible, alternatives are considered and analyzed before rules or regulations are issued and that regulatory objectives are achieved in the most cost-effective and least wasteful manner.

DEVELOPMENT OF REGULATORY COST-EFFECTIVENESS ANALYSIS PROCEDURES

SEC. 3. (a) Within one year after the date of enactment of this Act, the President shall—

(1) establish criteria for use in the determination of which rules and regulations are within the definition of rule or regulation established in section 10, and furnish such criteria to the head of each agency; and

(2) develop methods of determining the costs of compliance with Federal rules and regulations and methods of comparing the cost-effectiveness of alternative ways of achieving regulatory objectives, and furnish such methods to the head of each agency.

(b) In developing the methods under subsection (a)(2), the President shall—

(1) take such action as may be necessary to insure that such methods are based upon the most accurate available statistical and accounting knowledge and techniques; and

(2) provide, to the maximum extent feasible, that such methods are uniform for all agencies while taking into account the different functions of each agency.

(c)(1) At least ninety days before the submission of the criteria and methods required under subsection (a) to the head of each agency, the President shall—

(A) publish such criteria and methods in the Federal Register in order to solicit public comments thereon, for a period not in excess of forty-five days; and

(B) submit such criteria and methods to the Director of the Council on Wage and Price Stability, the Chairman of the Administrative Conference of the United States, and the Director of the Congressional Budget Office for their review and comments.

(2) The Director of the Council on Wage and Price Stability, the Chairman of the Administrative Conference of the United States, and the Director of the Congressional Budget Office shall submit comments and recommendations concerning the criteria and methods submitted pursuant to paragraph (1)(B) within forty-five days of the receipt of such criteria and methods.

(d) The President may delegate his responsibilities under this section to the Director of the Office of Management and Budget.

(e) The head of each agency shall utilize the criteria and methods devloped by the President under this section to carry out their functions under this Act.

REGULATORY COST-EFFECTIVENESS REQUIREMENT ESTABLISHED

SEC. 4. The Congress authorizes and directs that, to the extent feasible and to the extent permitted by law, the head of each agency shall, whenever alternative methods exist for achieving a regulatory goal or objective, utilize the most cost-effective method of achieving such regulatory goal or objective, unless the head of the agency determines that the national interest requires the use of a less cost-effective alternative.

REGULATORY IMPACT ANALYSIS MANDATED

SEC. 5. (a) The Congress authorizes and directs that, for all rules or regulations meeting the criteria established under the provisions of section 3 (a), the head of the issuing agency shall prepare a draft regulatory impact analysis, which shall include—

(1) a succinct statement of the problem to be addressed by the rule or regulation, including the provision or provisions of law authorizing or requiring the rule or regulation;

(2) a description of the major alternative ways of dealing with the problem considered by the agency;

(3) an analysis of the economic and social consequences of each alternative considered by the agency, including the estimated compliance cost of each alternative;

(4) a detailed explanation of the reasons for the choice of the alternative utilized in the rule or regulation.

(b) If the alternative utilized in the rule or regulation is not the least-costly or most cost-effective alternative, the draft regulatory impact analysis shall include a detailed statement justifying the alternative utilized and shall explain in detail how the national interest required the choice of the alternative utilized.

(c) For the alternative utilized in the rule or regulation, the draft regulatory impact analysis shall also include—

(1) a statement of the recordkeeping and paperwork burden of the rule or regulation;

(2) a statement of the economic impact of the rule or regulation, including its impact on inflation, investment, productivity, employment, the environment, the public welfare, and other economic objectives;

(3) a statement examining its relative impact on large and small businesses;

(4) a list of federal rules or regulations which overlap or conflict with the rule or regulation; and

(5) a cost-benefit analysis of the rule or regulation, whenever the head of the agency determines that such an anlysis is possible.

(d) Each agency head shall establish procedures for the development of a draft regulatory impact analysis and for public participation and comments regarding such analysis. In developing such procedures, the agency head shall consider—

(1) the publication of an advanced notice of proposed rulemaking, with publication of the draft regulation impact analysis;

(2) the holding of open conferences or public hearings on the draft regulatory impact analysis;

(3) the sending of notices to publications likely to be read by affected or interested individuals and groups; and

(4) the direct notification of interested parties.

(e) Each agency head shall prepare a final regulatory impact analysis which shall be made available to the public on the date of publication of the final rule or regulation, which shall also contain the agency's actions on comments and recommendations made by the public in response to the draft regulatory impact analysis.

(f) The provisions of this section shall not apply to rulemaking proceedings pending on the date of enactment of this Act if the agency head has prepared an Economic Impact Statement in accordance with the provisions of Executive Order numbered 11821, issued November 27, 1974, and Executive Order numbered 11949, issued December 31, 1976.

REVIEW OF EXISTING REGULATIONS

SEC. 6. (a) Within five years after the date of enactment of this Act, each agency head shall review the existing rules and regulations of the agency to determine whether such rules and regulations conform with the purposes and policies of this Act. Each agency head shall utilize the procedures established in this Act to carry out the review of such rules and regulations.

(b) Each agency head shall utilize the criteria established in section 3(a) for the selection of rules and regulations to be reviewed in accordance with the provisions of subsection (a). Within sixty days after the criteria established in section 3(a) are furnished to the head of each agency, each agency head shall publish a list of rules or regulations to be selected for review in accordance with the provisions of this section.

(c) In addition to the information required under section 5, the draft and final regulatory impact analyses for existing rules and regulations shall include—

(1) an analysis of the degree to which technological change, economic conditions or other factors have changed since the date on which the rule or regulation was promulgated, the degree to which such changes have altered the continued need for the rule or regulation, and the degree to which such changes have made possible the adoption of alternatives which did not exist or were not considered at the time of the original date of promulgation; and

(2) if, after review of an existing role or regulation, the agency head determines that an alternative way of achieving the regulatory goal or objective should be implemented, an analysis of how the change in the regulation can be implemented with the least cost and disruption to those affected by the change.

(e) Each agency head shall, insofar as is possible and to the extent permitted by law, endeavor during the review of existing rules and regulations to—

(1) eliminate unnecessary, outmoded or excessively costly rules and regulations;

(2) simplify or clarify the language of such rules and regulations;

(3) eliminate overlapping and duplicative rules and regulations;

(4) eliminate or rewrite rules and regulations which conflict with or fail to implement the purposes of the enabling legislation.

IMPLEMENTATION

SEC. 7. (a) In carrying out the provisions of this Act, each agency head shall consider a series of closely related sets of rules or regulations as one rule or regulation.

(b)(1) Within one year after the date of enactment of this Act and annually thereafter at a time to be designated by the President, each agency head shall prepare a draft report concerning the efforts of the agency to implement the provisions of this Act. Such draft reports shall include—

(A) a brief description of the procedures

of the agency, in effect on the day before the date of enactment of this Act, for the development of rules and regulations and the changes in such procedures made to comply with the provisions of this Act;

(B) a description of actions taken, if any, during the preceding year to increase the cost-effectiveness of the agency's rules or regulations, including a summary of all regulatory impact analyses prepared during the preceding year pursuant to the requirements of sections 5 and 6;

(C) a description of actions which the agency plans to undertake during the upcoming year to increase the cost-effectiveness of its rules or regulations, including a list of all existing rules or regulations to be reviewed during the upcoming year pursuant to the requirements of section 6; and

(D) an estimate of the costs of compliance with the agency's rules or regulations both at the beginning and end of the preceding year, and projected costs for the upcoming year.

(2) Each agency head shall publish the draft report required under this subsection in the Federal Register in order to solicit public comment thereon. Each agency head shall transmit a copy of such draft report to the President.

(3) After receiving public comment on the draft report in accordance with paragraph (2), each agency head shall revise such report as may be appropriate and transmit such revised report to the President for his approval prior to publication of the final report in the Federal Register. Copies of the final report will also be transmitted to the President of the Senate, the Speaker of the House of Representatives and the Comptroller General.

(c) The Comptroller General shall monitor the implementation of the provisions of this Act by the agencies. The Comptroller General shall report at least annually to the President and the Congress on agency compliance with the provisions of this Act, including an analysis of its effectiveness. Within three years from the date of enactment of this Act, the Comptroller General shall report to the President and the Congress concerning any further legislation necessary to achieve the purposes of this Act.

APPLICABILITY

SEC. 8. The provisions of this Act shall not apply to—

(1) rules or regulations issued with respect to a military or foreign affairs function of the United States;

(2) matters related to agency management or personnel;

(3) rules or regulations related to procurement by the Federal Government; and

(4) rules or regulations issued in response to an emergency or which are governed by short-term statutory or judicial deadlines, except that in the case of rules or regulations within the provisions of this clause, the agency shall publish in the Federal Register a statement of the reasons why it is impracticable or contrary to the public interest for the agency to issue the rule or regulation in accordance with the procedures established in this Act, including the name of the agency official responsible for the determination.

JUDICIAL REVIEW

SEC. 9. Judicial review of a final regulation as otherwise prescribed or permitted by law may include review of whether such regulation was promulgated in compliance with this Act, but only to determine whether such regulation was promulgated with deliberate or capricious disregard for the provisions of this Act.

DEFINITIONS

SEC. 10. For the purposes of this Act.—

(1) the terms "rule" and "regulation" mean any "rule" as defined in section 551(4) of title 5, United States Code;

(2) the term "agency" includes each authority as defined by section 551(1) of title 5, United States Code;

(3) the term "Comptroller General" means the Comptroller General of the United States; and

(4) the term "cost effective method or alternative" means the method of achieving a regulatory goal or objective with the minimum cost, where such cost shall be the sum of the costs incurred by the administering agency plus the costs incurred by all individuals, partnerships, associations, corporations, business trusts or legal representatives thereof, organized groups of individuals, labor organizations, States or territorial governments or branches thereof, or political subdivisions of States or territories or branches thereof as a result of complying with a rule or regulation, except that such costs shall not include normal business or recordkeeping costs which would exist in the absence of such rule or regulation.

By Mr. BENTSEN (for himself, Mr. LONG, Mr. CHILES, Mr. STENNIS, Mr. ZORINSKY, and Mr. JOHNSTON):

S. 55. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes; to the Committee on Finance.

MEAT IMPORT ACT OF 1979

Mr. BENTSEN. Mr. President, today I am again introducing a long overdue piece of legislation. The Meat Import Act of 1978 was passed overwhelmingly by the 95th Congress. It passed the Senate by voice vote and passed the House by 289 to 66, but was vetoed by the President after adjournment.

Thus, now in 1979 we must again seek a solution to the problems created by our current meat import law. This law and its administration have worsened the problems of our livestock industry and our consumers by magnifying the boom and bust cycle of the cattle market. The current law lets in more imports when domestic meat supplies are high and prices are low. This further depresses prices and drives even more cattlemen, and especially our smaller and younger ranchers, out of business. These low prices cause a larger-than-necessary reduction in our cow herd, with the result that during the inevitable boom phase of the cycle supplies are shorter and prices are higher. Any housewife will point out the impact in the supermarket, and especially the fact that these prices never seem to go down as far or as fast as they go up. The rancher loses also during high prices, because consumers switch to other foods such as chicken or pork, and many of them do not switch back to beef after new eating habits are formed, even when the price of beef goes back down.

Also, the current law calls for a reduction in beef imports when our domestic supplies decrease and prices are thus high, an action which would only drive prices even higher. This results in the President taking action to raise or suspend the meat import quotas. Such action must sometimes be taken, but under the current law the threat of Presidential action is always hanging over the cattle market, and the tremendous political pressures which are attracted by such power have resulted in such actions being taken in 7 of the last 9 years. This has given our producers anything but a stable market, with a resulting loss in confidence and efficiency.

Last summer, for example, the cattle industry had just broken out of some of the worst years in its history, and the ranchers who had not succumbed to their massive losses of the past 4 years were once again starting to operate at a profit. Then in June, President Carter announced a 200-million-pound increase in the beef import quotas. The effect on supermarket prices was minimal, but the impact on the cattle market was immediate and dramatic.

The real blow of this decision was not the additional meat imports. The real damage was done by the message to the rancher that he would be sacrificed readily when a little extra help was needed to reduce the monthly inflation statistics. No matter that his low prices had for months before masked increases in nonfood items and lowered the overall increase in the Consumer Price Index. The ranchers got the message, and the resulting lack of confidence has reduced our cow herd to the levels of 1969 and led Secretary of Agriculture Bob Bergland to call on producers to rebuild their herds. The roller-coaster ride only gets more violent, and everyone loses. Consumers pay higher prices, and more small ranchers are forced out of business.

Congress recognized last year that this must stop, that our beef supplies and thus prices must be stabilized through a countercyclical meat import formula such as in the bill which I introduced last year. The Congress also recognized that the formula meant little if the quotas were still subject entirely to expected or unexpected actions by the President, so it provided some restraints on the President's discretion and authority.

We found out that the President would not go along with that, that he was not willing to give up the broad authority which Presidents have used so often. And so the bill was vetoed and the consumer and the cattleman were both left on this roller coaster of prices.

Mr. President, this problem of cattle cycles has gone from bad to worse, and we do a disservice to both ranchers and consumers if we sweep it under the rug because a bill was vetoed. I have come back today with another bill which I believe will provide needed protection to both producers and consumers and which endeavors to reach a more workable arrangement on this question of Presidential discretion.

The major problem with the current authority of the President is that it has sometimes been used at the wrong time. When low prices have moved the cattle cycle into its liquidation phase, the resulting increased cow slaughter depresses prices even further. Presidential action to increase imports at this point can have a severe impact on prices, which in turn prolongs and deepens the liquidation. This causes the inevitable upturn to be unusually violent, with more impact on consumer prices.

The President has said that he must have authority to increase imports to protect consumers when domestic supplies are inadequate. The countercyclical formula is intended to do this, but he still wishes to retain his authority just in case. My bill will allow this. It will leave the President his existing authority during the expansion phase of the cattle cycle, which is the period when domestic supplies are short and the countercyclical formula is increasing imports. If the formula does not do the job during this time of shortage, then the President can take action.

During the liquidation phase of the cycle, however, the President could raise the quotas only in case of a national emergency or natural disaster. This is a time of large domestic supplies and low prices, and so there should be no need to suspend the quotas. Also, this is the time when the market is most vulnerable to disruption. A loss of confidence by producers here makes that coming low point even lower, and makes the next high much higher. The whole point of this bill is to avoid that boom-and-bust cycle. Suspension of the quotas during this period would defeat the whole purpose of the countercyclical concept, and so should be done only under extreme circumstances.

These different periods can be distinguished easily, because the countercycle fraction in the formula is a good indication of which phase the cycle is in. Thus, when the fraction is 1.0 or above, the formula is increasing imports and the President would have the authority to increase them further. When the fraction is below 1.0, imports are being decreased in response to domestic oversupply and low prices, and the President would be able to open the import floodgates only in a true emergency or natural disaster. The only other change from last year's bill is a requirement for a 30-day comment period before any Presidential action to increase imports becomes effective. This will lessen the shock of such actions and provide for needed public input into what have previously been closed door decisions.

The need for this legislation was recognized the 95th Congress, which passed the corrective legislation by an overwhelming margin. The Congress by that vote served notice on the President that the market needed protection from Presidential actions. This bill retains that needed protection, and it also gives the President the authority to act to prevent shortages. It is a good bill, a reasonable bill, and should be speedily passed and implemented to prevent even worse price gyrations than we have seen during this last cattle cycle.

Mr. President, I ask unanimous consent that the text of the bill along with a brief summary be printed in the RECORD.

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

S. 55

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2 of the Act of August 22, 1964, entitled "An Act to provide for the free importation of certain wild animals, and to provide for the imposition of quotas on certain meat and meat products" (19 U.S.C. 1202 note) is amended to read as follows:

"SEC. 2. (a) This section may be cited as the 'Meat Import Act of 1979'.

"(b) For purposes of this section—

"(1) The term 'entered' means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

"(2) The term 'meat articles' means the articles provided for in the Tariff Schedules of the United States (19 U.S.C. 1202) under—

"(A) item 106.10 (relating to fresh, chilled, or frozen cattle meat),

"(B) item 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep (except lambs)), and

"(C) items 107.55 and 107.60 (relating to prepared and preserved beef and veal (except sausage)) if the articles are prepared, whether fresh, chilled, or frozen, but not otherwise preserved.

"(3) The term 'Secretary' means the Secretary of Agriculture.

"(c) The aggregate quantity of meat articles which may be entered in any calendar year after 1978 may not exceed 1,204,600,000 pounds; except that this aggregate quantity shall be—

"(1) increased or decreased for any calendar year by the same percentage that the estimated average annual domestic commercial production of meat articles in that calendar year and the 2 preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of meat articles during calendar years 1968 through 1977; and

"(2) adjusted further under subsection (d).

For purposes of paragraph (1), the estimated annual domestic commercial production of meat articles for any calendar year does not include the carcass weight of live cattle specified in items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules entered during such year.

"(d) The aggregate quantity referred to in subsection (c), as increased or decreased under paragraph (1) of such subsection, shall be adjusted further for any calendar year after 1978 by multiplying such quantity by a fraction—

"(1) the numerator of which is the average annual per capita production of domestic cow beef during that calendar year (as estimated) and the 4 calendar years preceding such calendar year; and

"(2) the denominator of which is the average annual per capita production of domestic cow beef in that calendar year (as estimated) and the preceding calendar year. For the purposes of this subsection, the phrase domestic cow beef means that portion of the total domestic cattle slaughter designated by the Secretary as cow slaughter.

"(e) For each calendar year after 1978, the Secretary shall estimate and publish—

"(1) before the first day of such calendar year, the aggregate quantity prescribed for such calendar year under subsection (c) as adjusted under subsection (d); and

"(2) before the first day of each calendar quarter in such calendar year, the aggregate quantity of meat articles which (but for this section) owuld be entered during such calendar year.

In applying paragraph (2) for the second or any succeeding calendar quarter in any calendar year, actaul entries for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent data is available.

"(f)(1) If the aggregate quantity estimated before any calendar quarter by the Secretary under subsection (e)(2) is 110 percent or more of the aggregate quantity estimated by him under subsection (e)(1), and if there is no limitation in effect under this section for such calendar year with respect to meat articles, the President is required to limit by proclamation, upon giving thirty days notice by publication in the Federal Register, the total quantity of meat articles which may be entered during such calendar year to the aggregate quantity estimated for such calendar year by the Secretary under subsection (e)(1); except that no limitation imposed under this paragraph for any calendar year may be less than 1,200,000-000 pounds.

"(2) If the aggregate quantity estimated before any calendar quarter by the Secretary under subsection (c)(2) is less than 110 percent of the aggregate quantity estimated by him under subsection (c)(1), and if a limitation is in effect under this section for such calendar year with respect to meat articles, such limitation shall cease to apply as of the first day of such calendar quarter. If any such limitation has been in effect for the third calendar quarter of any calendar year, then it shall continue in effect for the fourth calendar quarter of such year unless the proclamation is suspended or the total quantity is increased pursuant to subsection (g).

"(g) The President may, after providing opportunity for public comment by giving thirty days notice by publication in the Federal Register of his intention to so act, suspend any proclamation made under subsection (f), or increase the total quantity proclaimed under such subsection, if he determines and proclaims that—

(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic cattle industry;

(2) the supply of articles of the kind described in subsection (b)(2) will be inadequate to meet domestic demand at reasonable prices: or

(3) trade agreements entered into after the date of enactment of this Act ensure that the policy set forth in subsections (c) and (d) will be carried out.

Any such suspension shall be for such periods, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection."

"(h) Notwithstanding the previous subsections, the total quantity of meat articles which may be entered into the United States during any calendar year may not be increased by the President if the fraction described in subsection (d) for that calendar year yields a quotient of less than 1.0, unless—

"(1) during a period of national emergency declared under section 201 of the National Emergencies Act of 1976, he determines and proclaims that such action is required by overriding national security interests of the United States, or

"(2) he determines and proclaims that the supply of articles of the kind to which the limitation would otherwise apply will be inadequate, because of a natural disaster, to meet domestic demand at reasonable prices.

Any such suspension shall be for such period, and any such increase shall be in such amount, as the President determines and proclaims to be necessary to carry out the purposes of this subsection. The effective period of any such suspension or increase made pursuant to paragraph (1) may not extend beyond the termination, in accordance with the provisions of section 202 of the National Emergencies Act of 1976, of such period of national emergency, notwithstanding the provisions of section 202(a) of that Act.

"(i) The Secretary shall allocate the total quantity proclaimed under subsection (f)(1), and any increase in such quantity provided

for under subsection (g), among supplying countries on the basis of the shares of the United States market for meat articles such countries supplied during a representative period. Notwithstanding the preceding sentence, due account may be given to special factors which have affected or may affect the trade in meat articles. The Secretary shall certify such allocations to the Secretary of the Treasury.

"(j) The Secretary shall issue such regulations as he determines to be necessary to prevent circumvention of the purposes of this section.

"(k) All determinations by the President and the Secretary under this section shall be final.

SEC. 3. Section 2 shall take effect January 1, 1980.

SEC. 4. The Secretary of Agriculture shall study the regional economic impact of imports of meat articles and report the results of his study, together with any recommendations (including recommendations for legislation, if any) to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate not later than December 31, 1979."

SUMMARY OF BENTSEN BEEF BILL

A. Countercyclical formula. Same as vetoed bill.

Average Imports 1968–1977 times 3 yr. moving avg. domestic beef production; average domestic beef 1968–1977 times 5 yr. moving avg. per capita supply of domestic cow beef; 2 yr. moving avg. per capita supply of domestic cow beef.

B. Presidential Discretion.

1. Same as under current law during years when the 5/2 countercyclical fraction in the formula is 1.0 or above.

2. When the fraction is below 1.0 the President could suspend quotas only in the case of a national emergency or in case of a shortage caused by a natural disaster, as in the original Senate bill.

This would protect producers during the liquidation phase, when prices are low and supplies are high. During this phase the countercyclical formula restricts imports where the old formula increased them. This is the phase when the domestic industry most needs help.

C. Import Floor.

Same as final version of the bill, 1.2 billion pounds per year. Administration had sought 1.3 billion pound floor.

D. Live Cattle Imports.

Carcass weight of live cattle imports would be excluded from domestic production base, as in vetoed bill.

E. Slightly Processed Beef.

Loophole allowing importation of fresh beef outside the quota if it has been slightly processed is closed, as in prior bills.

F. Thirty-day notification is required before any Presidential action.

By Mr. BAYH (for himself, Mr. BAKER, Mr. BELLMON, Mr. BURDICK, Mr. CHAFEE, Mr. CRANSTON, Mr. DANFORTH, Mr. DECONCINI, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GRAVEL, Mr. HATFIELD, Mr. HUDDLESTON, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. LEAHY, Mr. MAGNUSON, Mr. MATHIAS, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. PACKWOOD, Mr. PELL, Mr. PROXMIRE, Mr. PRYOR, Mr. RANDOLPH, Mr. RIBICOFF, Mr. RIEGLE, Mr. STAFFORD, Mr. STEVENSON, Mr. TSONGAS, Mr. WILLIAMS, and Mr. ZORINSKY):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT

Mr. BAYH. Mr. President, as we begin the 96th Congress, we once again approach the time for a Presidential election, and once again we must drag out the strange mechanism for choosing our President and Vice President which is known as the electoral college. It was a compromise measure in the beginning which never worked as intended, and it has been the object of criticism and concern ever since. For 200 years our country has steadily moved to allow greater participation by its citizens in the selection of its leadership. Only with the choice of President and Vice President have we failed to give Americans a stronger and more equitable voice. Direct popular election is a logical step in that process. Today with the support of many of my colleagues I am introducing our proposal for this much needed electoral reform. We come from both sides of the aisle and represent many political philosophies.

Direct election is a measure which has been studied intensively in the Senate for well over a decade, but has only once reached the Senate floor. It was not allowed to come to a vote in 1970 although it was approved in the House by a vote of 339 to 70. I am confident that the 96th Congress will debate and pass this joint resolution by the necessary two-thirds vote, to be ratified by the States, and thereby finally provide our political system with a safe and fair means of electing the President and Vice President.

Mr. President, the electoral college is not harmless. If, as its defenders like to say, it has worked, it has worked oftentimes in strange ways. It carries with it always the risk that it may not work at all. Three times in the past a President was elected who did not win the popular vote. The country survived, although in the troubled times of 1876 there were serious threats of insurrection. Of course, no one can foretell with accuracy what would be the reaction in the United States in the second half of the 20th century if the duly elected President were not the popular vote winner. But we should be thinking about it. There have been three near-misses in the last five elections. When we consider our present day increased suffrage, widespread education, ever-present communications systems, and perhaps most importantly popular dissatisfaction with and distrust in national leadership and the political process, it is reasonable to predict that there would be a political crisis. There is nothing speculative in the view that the mandate of the President to lead would be severely, perhaps irreparably, weakened.

Electing a President who is not the popular vote winner is only one danger presented by the electoral college. There is little that would happen in our political life that could be more destructive of public confidence if the election should fail to produce a President and thereby be thrown into the House of Representatives. The one vote cast per State in the House could well invalidate the will of the people altogether since some States may have voted for a candidate of a party which is not the majority party of their House delegation. For States with even-numbered House delegations there is the additional danger of a tie vote which would mean the discounting of that State's vote completely under the present contingency procedure.

The prospects are excellent that a contingency election under the electoral college system would take place in a political quagmire. It was widely feared in 1968, for example, that the entry of George Wallace into the Presidential race would force a decision of the election in the House of Representatives, with all the political dealing and delay that might entail. It is worth noting, however, that Wallace had an additional election scenario in mind. In interviews in 1968, Wallace indicated that he felt that he might be able to swing the election to the candidate of his choice by "delivering" his electors. The prospect of the presidency being brokered in this manner might well embarrass and frighten all of us. As for the deals which a contingency election in the House might inspire, a reading of the diary of John Quincy Adams in the period between early December 1824, when it was clear that there was no electoral vote winner, and the 36th ballot in the House which resulted in his presidency, is enough to frighten the most hardened political observer.

Finally, Mr. President, the electoral college is inimical to our political life because unlike any other election in the United States from county commissioner to U.S. Senator, in a Presidential election all votes do not count the same. Under the electoral college, one American's vote is not equal to another's, simply on the basis of where he happens to live. Only with the direct election system would all votes be equal. The electoral college's strange alchemy of apportioning electoral votes plus its "winner-take-all" rule produces the anomolous result that, for example, a citizen from Iowa's vote is actually worth less than his neighbor's in Illinois, but more than his neighbor's in Nebraska. This effect is contrary to our experience in all other elections and the principles behind our form of Government.

The inequities inherent in the electoral college are also contrary to voter participation. The electoral college system is a disincentive for voter turnout, and this is reflected in the way presidential campaigns are conducted. It makes no difference to a Presidential candidate how many people show up on election day in any State so long as he receives a plurality of one, for that one extra vote determines the outcome of the State's bloc of electoral votes. The votes constituting the plurality over the winner's vote of one are actually worthless. Conversely, all the votes for the loser are not simply lost; they are in effect recast for the winner along with the State's bloc of electoral votes.

These inequities are of great practical consequence to the way campaigns are run and thus on the degree of encourage-

ment by candidates for voter participation. With the electoral college, some States are inherently more influential than others, helping a candidate to decide where he will spend his time and effort. Therefore he will, in all likelihood, ignore much of the Plains and Mountain States and the South. If he reasonably expects to either win or lose a State, however, he will probably write it off as well. Thus, few Democratic candidates go to Massachusetts or Rhode Island, or Republicans to Wyoming. The electoral college gives neither the candidate nor the national party any incentive to either work to turn out the vote in those States, or widen the margin of victory if he expects to win, or narrow it if he expects to lose. There is no advantage in building significant margins of victory. As an example of how this works, in 1976 Mr. Ford picked up 45 electoral votes in California with a 127,000 plurality. Mr. Carter earned 45 electoral votes in five Southern States with a 1,044,000 plurality.

Winning under direct election, however, depends precisely on a party's ability to get out the vote and to build sizable pluralities in every community simply because every vote counts and therefore no State or population can easily be ignored.

Mr. President, there is little doubt that the American society is ready to abolish the electoral college and establish direct election in its place. Over 80 percent of the American people who expressed their opinion in the most recent Gallup and Harris polls approved of the direct election amendment. Support was overwhelming in all regions of the country. The 1977 surveys showed overwhelming popular approval of those responding to the questions in every region of the Nation and among Democrats, Republicans, and Independents. The amendment has been endorsed by an array of national organizations including the American Bar Association, the U.S. Chamber of Commerce, AFL–CIO, UAW, League of Women Voters, Common Cause, National Federation of Independent Business, National Small Business Association, National Farmers Union. In the 95th Congress it was cosponsored by 45 Senators, including 28 Senators from small States. It has broad support in the House where it passed by an 83 percent vote in 1969.

In the next several weeks I intend to announce the rest of those Senators who are cosponsoring this proposed amendment and at that time I would like to describe the strong efforts of many of my colleagues over the years to establish direct election. I am sure they join me in my belief that in 1979 the time has come to replace the strange mode of Presidential election which was left to us in the last harried hours of the constitutional convention. It is time, Mr. President, that we in Congress take the action that a great majority of our constituents long have supported and for which many of our colleagues have labored, and pass the direct election amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the proposed legislation and a section-by-section analysis.

There being no objection, the joint resolution and summary were ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

"SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

"SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 40 per centum of the whole number of votes cast.

"If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding paragraph, a runoff election shall be held in which the choice of President and Vice President shall be made from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election. The pair of persons joined as candidates for President and Vice President receiving the greater number of votes in such runoff election shall be elected President and Vice President.

"SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election, other than a runoff election, shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than the thirtieth day after the date on which the election occurs.

"SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice President-elect.

"SEC. 6. Sections 1 through 4 of this article shall take effect two years after the ratification of this article.

"SEC. 7. The Congress shall have power to enforce this article by appropriate legislation.".

DIRECT ELECTION OF THE PRESIDENT

SECTION-BY-SECTION ANALYSIS

The resolution contains the customary provisions that the proposed new article to the Constitution shall be valid as part of the Constitution only if ratified by the legislatures of three-fourths of the states within seven years after it has been submitted to them by the Congress.

Section 1 of the proposed article would abolish the electoral college system of electing the President and Vice President of the United States and provide for their election by direct popular vote. The people of every state and the District of Columbia would vote directly for President and Vice President. This section prevents a candidate for either office from being paired with more than one other person. Candidates must consent to run jointly.

Section 2 provides that voters for President and Vice President in each state must meet the qualifications for voting for the most numerous branch of the state legislature in that state. The term "electors" is retained, but instead of referring to the electoral college, the term henceforth means qualified voters, as it does in existing provisions dealing with popular election of members of Congress. This clause also permits the legislature of any state to prescribe less restrictive residence requirements and is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the states for voting in Presidential elections.

The Congress is also empowered to establish uniform residence qualifications. This authority would in no way affect the provisions dealing with residency requirements in Presidential elections adopted as part of the Voting Rights Act of 1970. The District of Columbia is not referred to in section 2 because Congress now possesses the legislative power to establish voting qualifications for the District under article I, section 8, clauses 17 and 18.

Section 2 is modeled after the provisions of article I, section 2, and the 17th amendment to the Constitution regarding the qualifications of those voting for Members of Congress. As a result, general uniformity within each state regarding the qualifications for voting for all elected federal officials is retained. Use of the expression "electors of the most numerous branch of the state legislature" does not nullify by implication of intent the provisions of the 24th amendment that bar payment of a poll tax or any tax as a requisite for voting in federal elections. The Supreme Court, moreover, has held that a poll tax may not be enacted as a requisite for voting in state elections as well, *Harper* v. *Board of Supervisors,* 383 U.S. 663 (1966).

Section 3 requires that candidates obtain at least 40 percent of the whole number of votes cast to be elected President and Vice President. The expression "whole number of votes cast" refers to all valid votes counted in the final tally. Section 3 further provides that if no pair of persons receives at least 40 percent of the whole number of votes cast for President and Vice President, a popular runoff will be held among the two pairs of persons who receive the highest number of votes.

Section 4 embodies provisions imposing duties upon Congress and the states in regard to the conduct of elections. The first part of this section requires the state legislatures to prescribe the time, place, and manner of holding Presidential elections and entitlement to inclusion on the ballot—subject to a reserve power in Congress to make or alter such regulations. This provision is modeled after similar provisions in article I and the 17th amendment dealing with elections of

members of Congress. States will continue to have the primary responsibility for regulating the ballot. However, if a state sought to exclude a major party candidate from appearing on the ballot—as happened in 1948 and 1964—the Congress would be empowered to deal with such a situation.

Section 4 also requires Congress to establish by statute the days for the regular election and any runoff election, which must be uniform throughout the United States. This conforms to the present constitutional requirement for electoral voting (article II, section 1), to which Congress has responded by establishing a uniform day for the election of electors (3 U.S.C. 1).

Section 4 further requires Congress to prescribe the time, place and manner in which the results of such election shall be ascertained and declared. The mandatory language is comparable to the mandatory duties imposed upon the states to provide popular election machinery for members of Congress. In implementing this section, Congress may choose to accept state certifications of the popular vote as it now accepts electoral vote certifications under the provisions of 3 U.S.C. 15. Federal enabling legislation will be required to provide the specific legislative details contemplated in the broad constitutional language of the amendment.

Section 5 empowers Congress to provide by legislation for the death, inability or withdrawal of any candidate for President and Vice President either before or after a regular runoff election, but before a President or Vice President has been elected. Once a President and Vice President have been elected, existing constitutional provisions would apply. Thus, the death of the President-elect would be governed by the 20th amendment and the death of the Vice President-elect would be governed by the procedure for filling a Vice Presidential vacancy contained in the 25th amendment. Section 5 also empowers the Congress to provide by legislation in case of the death of both the President-elect and Vice President-elect.

Section 6 provides that the article shall take effect two years after ratification. Since state and federal legislation will be necessary to fully implement and effectuate the purposes of the proposed amendment, a reasonable period of time should be provided between the date of ratification and the date on which the amendment is to take effect.

Section 7 confers on Congress the power to enforce this article by appropriate legislation. The power conferred upon Congress by this section parallels the reserve power granted to the Congress by numerous amendments to the Constitution. Any exercise of power under this section must not only be "appropriate" to the effectuation of the article but must also be consistent with the Constitution.

Mr. DOLE. Mr. President, the Senator from Kansas joins as a cosponsor to Senate Joint Resolution 1, the proposed constitutional amendment to establish direct election of the President and Vice President. That candidates for these two positions should be selected by direct election is an idea which I have long supported. I am hopeful that early in this Congress we shall have the opportunity to debate this issue, and to vote on final passage of Senate Joint Resolution 1.

HISTORY

The electoral college system was provided for in the Constitution because at one time it seemed the most fair way to select the President and Vice President. Alexander Hamilton apparently expressed the prevailing view when he wrote that the small number of persons selected from the general population would most likely have the ability and intelligence to select the best persons for the job. I have no doubt but that in the 18th century, the electoral college was well suited for our country. However, already by the early 19th century, misgivings were being voiced about the college.

The skepticism seems to be related to the formation of political party candidates, and the difference they made in the selection of the President and Vice President. In the years since then, the electoral college has remained in use. It has served us fairly well—except for three times when it allowed a candidate to gain the Presidency who did not have the most popular votes.

There have been numerous other elections in which a shift of a few thousand votes would have changed the outcome of the electoral college vote, despite the fact that the would-be winner came in second place in popular votes. Mr. President, I think we are leaving a little too much to chance, and to hope, that we will not witness yet another unrepresentative election.

SMALL STATES

Many persons have the impression that the electoral college benefits those persons living in small States. I feel that this is somewhat of a misconception. Through my experiences with the Republican National Committee and as a Vice Presidential candidate, it became very clear that the populous States with their large blocks of electoral college votes were the crucial States. It was in these States that we focused our efforts.

Were we to switch to a system of direct election, I think we would see a resulting change in the nature of campaigning. While urban areas will still be important campaigning centers, there will be new emphasis given to smaller States. Candidates will soon realize that all votes are important, and votes from small States carry the same import as votes from large States. That to me is one of the major attractions of direct election. Each vote carries equal importance.

Direct election would give candidates incentive to campaign in States that are perceived to be single party States. For no longer will minority votes be lost. Their accumulated total will be important, and in some instances perhaps even decisive.

SUMMARY

The objections raised to direct election are varied. When they are analyzed, I think many objections reflect not so much satisfaction with the electoral college, but rather a reluctance to change an established political system. While I could never advocate change simply for the sake of changing, neither should we defer action because we fear change.

In this situation, I think the weaknesses in the current system have been demonstrated, and that the prudent move is to provide for direct election of the President and Vice President.

I hope that the Senate will be able to move ahead on this resolution. As long as we continue with the electoral college system we will be placing our trust in an institution which usually works according to design, but which sometimes does not. There are remedies available to us, and I trust the Senate will act to correct this weakness in our political system.

By Mr. DECONCINI (for himself and Mr. GOLDWATER):

S.J. Res. 2. Joint resolution to require the Federal Government to end deficit financing; to the Committee on the Judiciary.

Mr. DECONCINI. Mr. President, I am today introducing a constitutional amendment prohibiting deficit financing on the part of the Federal Government except in situations of grave national emergency declared by the Congress. Senator GOLDWATER joins me in cosponsor of this measure.

The content of the amendment we are suggesting, Mr. President, is well known. It would simply require the imposition of an income surtax to raise whatever additional revenues may be necessary to keep the budget in balance. This surtax would take effect for the calendar year following any fiscal year in which outlays exceeded revenues unless the Congress, by a two-thirds vote of those present and voting, declares a state of national emergency and suspends it in whole or in part. It would, thus, provide an uncomplicated and eminently practicable procedure for restoring responsible fiscal management to the Federal system.

It is becoming abundantly clear, Mr. President, that we cannot continue to live beyond our means as a nation. The old maxim, "There's no such thing as a free lunch," is as fundamentally valid for government as it is for any other institution or group. At some point, the laws of economics demand a settling of accounts. The costs of providing goods and services, whether in the private or public sector, may be temporarily postponed, but they cannot be avoided forever.

For too long the Federal Government has been operating as if it were exempt from the basic economic relationship. Deficit has been piled upon deficit, and in the process, the national debt has reached astronomical, indeed, almost incomprehensible magnitudes.

At the end of fiscal year 1977 the gross Federal debt stood at $785,583,000,000, which equals $3,571 for every man, woman, and child in this country. Yet, as astounding as these figures are, they understate the volume of public indebtedness in the United States. Thus, in 1976, the last year for which complete data have been compiled, the net Federal debt amounted to $515.8 billion. Off budget, but federally sponsored credit agencies had outstanding obligations of another $81.4 billion. At the same time, State and local governments were liable for $236.3 billion, Thus, 2 years ago, aggregate public debt in the United States came to a monumental $833.5 billion. The entire gross national product for that year, Mr. President, was only slightly more than double this amount, that is $1,750,000,000, and the interest on the Federal debt for that year was $27.2 billion, which was 7 percent of total outlays and a little over half of the deficit for that year.

The intervening biennium has brought over $100 billion in additional Federal deficits alone.

We cannot afford, Mr. President, to continue mortgaging the future in this manner. It is time to call a halt and bring this Nation's fiscal affairs back under some semblance of control. That is what the amendment I am introducing today intended to accomplish. It is imperative that we act promptly and expeditiously on this matter. Further delay can only worsen the economic and financial disarray with which we are confronted.

No one, to be sure, favors deficit financing as a matter of principle. Just the opposite is usually the case. I am sure that none of my colleagues think that deficits are desirable per se. At most, some may consider budgetary unbalances a necessary evil under certain economic conditions. Indeed, there is general agreement among my collegues, and for that matter, most public officials from the President on down, as to the need for a balanced Federal budget. Yet, despite this seemingly overwhelming consensus, a consensus that I believe has been forming for some time, we have been unable to achieve it. In fact, deficit financing has become a virtual addiction in the Federal sector.

In only 9 of the last 31 years has the Federal budget been in the black. Worse still, outlays have exceeded receipts in every budget in this decade and the gap has widened dramatically since fiscal year 1974. In that year, the Federal deficit was $4.7 billion. In fiscal year 1975, it jumped to $45 billion and then shot to $65 billion in 1976. It has since hovered in the range between $40 and $55 billion.

The economic consequences have been as disruptive as they should have been predictable. Inflationary pressures have sharply intensified, compounding economic uncertainties, exacerbating social conflict and unrest, and raising the specter of coercive governmental interference in the private enterprise system. This instability in turn has discouraged capital formation and stunted the growth of productivity in American industry.

The consequences have been sluggish domestic growth coupled with chronically unfavorable trade balances and a dangerously weakened dollar.

The reason it has proved so difficult to accommodate the Federal budget to these economic realities, in my judgment, have less to do with ideology or political chicanery than is commonly supposed. They inhere, instead, in certain characteristics of the institutional system through which the budget is formulated.

Let me elaborate briefly. The focus in the existing budgetary process is almost exclusively on expenditures. We estimate revenues and try to adjust outlays accordingly. But there is no direct and explicit mechanism for coordinating revenue decisions with particular authorization and funding decisions. To be sure, the congressional budget process directs attention in a general sort of way to these relationships. But, to all intents and purposes, the process of forming tax policy still involves a different set of actors, roles, and interests than do the budgetary and appropriations processes. Moreover, even when tax policy remains relatively consistent, revenues may fluctuate owing to economic circumstances. The upshot is that the revenue side of the budget is, as a practical matter, uncontrollable. And, if budget receipts cannot be definitely known, they can, in a sense, be ignored, for recourse can always be had to additional borrowing to cover the costs of expanding existing programs or instituting new ones.

This temptation to resort to the easy expedient of deficit financing is rendered all the more appealing by the fact that, at any given time, approximately 80 percent of the Government's expenditures are uncontrollable.

It is, of course, always difficult to reach agreement as to where the requisite changes and reductions should be made. Reasonable people may well disagree as to the merit of this or that program or agency. Moreover, every program has its clients, supporters, and advocates.

Taken in combination, these factors mean that a strategy which relies solely on reducing government spending to achieve a balanced budget suffers from severe handicaps.

The amendment I am introducing today would establish a procedure for coordinating tax and spending decisions and thus serve to make the real costs of governmental programs unmistakeably clear. It would, therefore, create a direct and compelling incentive for keeping a much tighter rein on Federal expenditures. It would, I believe, help to insure the kind of tough discipline that will be necessary to get Federal overspending under control and reverse the tendency toward unlimited growth in the public sector.

I urge my colleagues to support this measure, and I especially urge my colleagues on the Senate Judiciary Committee to hold indepth public hearings on this most pressing of economic issues affecting the well-being of all Americans.

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

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

S. J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. In exercising its powers under article I of the Constitution, and in particular its powers to lay and collect taxes, duties, imposts, and excises and to enact laws making appropriations, the Congress shall seek to assure that the total outlays of the Government during any fiscal year do not exceed the total receipts of the Government during such fiscal year.

"SEC. 2. No later than the twentieth day after the close of each fiscal year, the President shall—

"(1) ascertain the total receipts of the Governments during such fiscal year, not including any receipts derived from the issuance of bonds, notes, or other obligations of the United States, and not including any receipts from any income tax surtax imposed under this article;

"(2) ascertain the total outlays of the Government during such fiscal year, not including any outlays for the redemption of bonds, notes, or other obligations of the United States; and

"(3) if the total receipts described in paragraph (1) are less than the total outlays described in paragraph (2), determine the percentage rate of income tax surtax, to be imposed as provided in section 3, which is necessary to provide an additional amount of revenue equal to the amount by which such total receipts are less than such total outlays, and transmit to the Congress, by special message, the rate of income tax surtax so determined.

"SEC. 3. Subject to the provisions of section 4, an income tax surtax, at the rate determined and transmitted by the President under section 2—

"(1) shall be effective for the calendar year following the close of the fiscal year with respect to which the determination was made, or for so much of such calendar year for which such surtax is not suspended under section 4, and

"(2) shall apply, as an additional income tax for the period for which it is in effect, with respect to the income tax liability of each taxpayer which is attributable to the portion or portions of such taxpayer's taxable year or years which fall within such period.

The income tax liability attributable to a portion of a taxable year falling within a period shall be based upon the ratio of the number of days in the taxable year within such period to the total number of days in the taxable year.

"SEC. 4. In the case of a grave national emergency declared by Congress (including a state of war formally declared by Congress), the income tax surtax which would otherwise be in effect for a calendar year under section 3 may be suspended for such year, or a portion thereof, by a concurrent resolution agreed to by a rollcall vote of two-thirds of the Members present and voting of each House of Congress, with such resolution providing the period of time, if less than the whole calendar year, during which such surtax is to be suspended.

"SEC. 5. This article shall apply with respect to the first fiscal year beginning after the ratification of this article and each succeeding fiscal year.

"SEC. 6. The Congress shall have power to enforce this article by appropriate legislation.".

By Mr. LUGAR:

S.J. Res. 4. A joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, the cost of living crisis is not a new one, but a majority of Americans now realize that it has reached such dangerous proportions that our basic political and economic in-

stitutions are threatened. The time for courageous and effective action is at hand.

Since 1967, the purchasing power of the dollar has been cut in half. Eighty-one percent of the American public expresses support for a constitutional amendment to require a balanced Federal budget. For the first time, a majority holds Government principally to blame for inflation. Twenty-two State legislatures have petitioned Congress for a constitutional amendment on this subject. 1978 saw the passage of proposition 13, seven other States tax or spending limits, and the defeat of a number of prominent liberal, pro-spending Senators. Yet Congress in the same year passed a budget which proposed spending of $39 billion more than revenues.

Congressional inability to restrain itself from extravagant spending, even in the face of runaway inflation, has exasperated average citizens and seasoned observers alike, and has spawned a host of proposed remedies. Some would raise taxes to match revenues. Some would flatly prohibit unbalanced budgets except in times of war or declared national emergency. Still others would limit the yearly increase in Federal spending to some figure, such as the percentage increase in the gross national product, without reference to budget balance or imbalance. Each of these ideas enjoys a degree of support in the country, but, after extensive study of the range of alternatives, I have come to favor a different approach.

The heart of the overspending dilemma is political and structural, a fundamental fact with which reformers must contend. The growing awareness by numerous groups that they can organize successful raids on the public treasury, and their increasing sophistication in doing so, has rendered a simply majority for the spending of public money far too easy to attain. The pressures for more spending are as intense and tightly focused as a laser; the sentiment for restraint is as diffused as ceiling light.

Legislative rules frequently apply a familiar procedural device to situations in which restraint is difficult, pressures intense, and in which the subject matter involves departure from an important norm. The device is the supermajority—the requirement of more than a mere 50 percent plus one vote—and it is ideally suited to the most crucial single decision made by Congress each year, the passage of the Federal budget.

The resolution which I introduce today proposes a constitutional amendment to prohibit an unbalanced budget, except by a two-thirds vote of those present and voting in both Houses of Congress. I submit that this amendment would address effectively the principal crisis confronting American government in the modern era, and would do so with the dignity, clarity, and flexibility befitting any change in the basic charter of our democracy.

The Constitution abounds with precedent for such a "supermajority" requirement. Two-thirds majority of both Houses are currently required to override a Presidential veto of a bill, to override a Presidential veto of a congressional resolution, or to propose a Constitutional amendment to the state legislatures. Two-thirds vote of both Houses was required by the 14th amendment to admit to Congress any individual who had participated in the Civil War on the Confederate side. The votes of a four-fifths majority are required to block a listing of the yeas and nays on a congressional vote.

Two-thirds vote of the Senate is constitutionally required to convict a Federal official upon impeachment. Two-thirds of the Senate must approve any treaty. Two-thirds of either House must concur before a Member can be expelled. And, at the subconstitutional level, the Senate rules are filled with supermajority requirements for such issues as cloture of debate or the designation of a special order.

The supermajority amendment would have virtues which elude other proposals aimed at the spending inflation dilemma. It is simple to express and simple to understand. It is simple to implement; the required vote on the Second Budget Resolution reduces to a single vote the final determination of the overall Federal spending level, and could serve as the balanced budget vote.

The amendment would involve no disruption of established congressional procedures. The only difference would be the reaffirmation of the principle that a balanced, noninflationary budget is such an important norm and a national goal, that those who would deviate from it must carry a greater-than-usual burden of proof.

In practice, the two-thirds amendment will enjoy one more advantage which leads me to prefer it over available alternatives. It will be flexible, and adaptable to changing conditions, in that it does not require a balanced budget every year, but instead significantly increases the burden of proof necessary to unbalance it. There is no requirement that a Presidential emergency be declared first, or that taxes automatically increase to cover the additional spending—only that the budget evidence convince two-thirds, rather than one-half, of those voting if a deficit is to be established. Thus, in times of severe economic recession, when economists might agree that additional spending or a tax cut is appropriate, nothing would prevent this result as long as the economic case is strong enough to persuade two-thirds of both Houses of Congress.

The ravages of perpetual overspending are now too clear for dispute. Now is the time, before the petitions of 34 State legislatures force an unpredictable constitutional convention over this issue, to rectify the structural infirmity which has permitted inflation to continue to grow. It is time to establish that the stewardship of the tax dollar, and of the relinquished personal freedom which that dollar represents, is as important as a treaty or a veto override, and that those who would inflate our currency must at least make an abnormally convincing case before the Government printing presses roll.

By Mr. STENNIS:

S.J. Res. 6. A joint resolution to require the Federal Government to end deficit financing; to the Committee on the Judiciary.

PAY-AS-YOU-GO CONSTITUTIONAL AMENDMENT

Mr. STENNIS. Mr. President, I am introducing a joint resolution proposing a constitutional amendment which would require the Federal Government to terminate deficit financing and operate on a pay-as-you-go basis. This resolution is identical with Senate Joint Resolution 180 of the 94th Congress and Senate Joint Resolution 26 of the 95th Congress. These resolutions were offered and championed primarily by the distinguished former Senator from Nebraska, Mr. Curtis. They were cosponsored by me and many other Senators.

Mr. President, I want to commend the former Senator from Nebraska for the work he has done in this important field. He started the ball rolling and brought public recognition to the problem. I intend to do what I can to follow through to bring the matter to a successful conclusion.

Before discussing the provisions of this resolution, Mr. President, let me mention one simple fact that will make the dimensions of the problem clear. The fact is this: From $382 billion at the end of the fiscal year 1970 our staggering national debt will have increased to a currently estimated $840 billion at the end of fiscal year 1979. This is an increase of $458 billion in 9 short years, an average of about $50 billion a year. I doubt that this is the heritage that any of us had planned to leave our children and grandchildren.

Let me briefly explain this proposed constitutional amendment. It is clear and it is simple. More than that, it is workable. It mandates the Congress to balance the budget every year. But it goes further; it has a built-in self-enforcing provision.

Under the amendment the President would be required, within 20 days after the close of the fiscal year, to determine whether there is a deficit, and, if so, the amount of it. It would then be required that a surtax be levied for the calendar year following the year in which the deficit was incurred in an amount sufficient to offset the deficit. This surtax would be expressed as an added percentage of the income tax of all individuals and corporations. Under the amendment neither the President nor the Congress would be authorized or empowered to levy the surtax; it would automatically be imposed under the authority of the Constitution.

In short the amendment would be self-executing. No discretion on the part of anyone would be involved. If expenditures exceeded revenues a surtax would have to be levied for the following calendar year to balance the budget. The rate of surtax would be determined by the President as a mathematical calculation and no judgmental decision by the President or the Congress would be required.

The sole exception from the requirement for a balanced budget would be that it could be set aside by a three-fourths vote of all Members of each House in case of a grave national emergency. This would be a proper and necessary safety valve available in such cases as a state of declared war or a serious national depression.

This amendment has a special merit, Mr. President. It makes it clear and plain that any Member of Congress who votes for appropriations that result in a deficit is automatically and simultaneously voting for a tax increase. Under the proposal one follows the other as the night follows the day and the taxpayers who bear the burden of the tax increase will know who imposed it on them.

I submit, Mr. President, that complete and utter disaster is not an overstated description of what can happen if we follow the same fiscal course that we have followed for the last quarter of a century and if we fail to bring Federal spending under control. I endorsed the Congressional Budget Act of 1974. It was a great step forward and it has worked well. I applaud it. With it the Congress at last broke into the clear in reasserting its constitutional control of the purse strings and entering the field of Federal fiscal policymaking in a really meaningful way. However, it is apparent that the Budget Act alone will not stop deficit spending. The discipline and firm restraint that this proposed constitutional amendment would provide is, in my opinion, essential if we are to bring about the fiscal responsibility and budgetary control which is absolutely necessary to the economic well-being of our country.

We do not often find a Member of Congress who will openly express opposition to a balanced Federal budget. Instead, the argument is that we cannot do it yet; that the time is not right. There is always some superficially plausible argument to support the claim that we cannot take immediate steps to balance the budget. This will be true as long as there are special interests, special groups, and special constituencies which make huge demands on the public coffers. We must bite the bullet and say that the fast and loose buck stops here.

I know that there are a number of other measures proposed which have as their purpose bringing the budget under control and eliminating deficit financing. Certainly all of them should be fully and completely explored and considered and if any of them has more merit than the constitutional amendment which I am proposing I will certainly be glad to support them.

Mr. President, I am not going to burden the record with a long and detailed recital of facts and figures. We are all aware of the stark and sad financial history which has been written by deficits piled on top of deficits and an ever-growing national debt. I do want to point out that since 1950 the Federal budget has been in balance on only five occasions. We have had a deficit in every year but one since 1960. The result is and was inevitable. Like the ordinary citizen who does not manage his finances properly, and imprudently and continuously spends more than he earns, we find ourselves deeper and deeper in debt. The consequences of this are made plain by the unpalatable and unpleasant fact that the amount we will pay this year as interest on the national debt is more than the entire Federal budget for fiscal year 1950.

I believe, Mr. President, that it will give a great and positive boost to our economy when we embark upon the course of balancing the budget. If everyone knew that the United States had its finances under control it would create confidence at home and abroad. I believe that the U.S. dollar, which has been so weak in recent times, would be bolstered and strengthened. We all know that the potential of this country is tremendous. Our possibilities are unlimited. Private enterprise and our system of government are not failing institutions. The future will be bright if we reverse the practice of continuous deficit financing.

We are all aware of the extent, depth, and vigor of the taxpayers' revolt. The taxpayers are dissatisfied both with the crushing burden of taxes and the quality of government which they receive. The action of the California voters on proposition 13 still reverberates and causes aftershocks throughout the Nation. It dramatizes the plight and intensity of the feeling of the taxpayers.

When we discuss the tax revolt evidenced by the action on proposition 13 in California, and many elections in other States, we should realize that this stems, in part, from the fact that one of the largest and most important elements in the soaring inflation which we have experienced is taxation. Between 1972 and 1976, food prices increased by 44 percent; housing rose by 36 percent; transportation jumped 44 percent; personal care increased 36 percent; and medical care rose 42 percent.

In comparison with these figures taxes soared by a whopping 75 percent. These facts and statistics, along with the growing dissatisfaction with the quality of government, explain the tax revolt that has been growing and that threatens to erupt in this country. The unrest and discontent will surely grow and grow unless something is done to lighten the tax burden. It is not only within our power but it is our duty to take action that will give effective relief to the taxpayers and, at the same time, eliminate the tremendous deficits we have seen in the Federal budget in recent years and curb the growth of the astronomical national debt.

There could be little dispute that high taxes and continued deficit financing lead to inflation. Inflation, unless controlled, can drag us into a depression, and send the unemployment rate soaring. When inflation is rampant it takes all of the income of many of our citizens to provide the bare necessities of life for themselves and their families.

I believe that the amendment which I propose today is an idea whose time has come. The people are beginning to express themselves through the ballot box. In addition, at least 22 State legislatures have already called for a constitutional amendment with the same basic purpose as the resolution which I am proposing. Other States have indicated that they intend to take the same action.

Mr. President, we should start now—at this very moment—to advance toward a pay-as-you-go constitutional amendment. At best it will take several years to get the constitutionally-required two-thirds vote in both the House and the Senate and have the amendment ratified by three-fourths of the States. This means that, even if the Senate passes this resolution during this session, its effective date will still be several years down the road, so that the Congress would have time to act to bring the budget into balance.

Mr. President, the extent to which Federal expenditures have swollen is strikingly indicated in the case of the Department of Health, Education, and Welfare. HEW's $182 billion budget for fiscal year 1979 is the third largest in the world. It is surpassed only by those of the United States and of the Soviet Union.

The message we have received from the grassroots is loud and clear. Its meaning is unmistakable. Legislators on both the State and national level should hear and heed it. The smoldering anger and frustration of those who pay the taxes will only increase unless relief is forthcoming and forthcoming soon. The average middle-income taxpayer will not tolerate much longer increasingly large tax bites being taken out of his pocketbook to pay for spending programs that grow ever larger and which he feels are wasteful and unnecessary.

Mr. President, we are faced with a grave situation requiring drastic action. It is time to cry "halt." Returning to a course of fiscal integrity and responsibility will require courage and steadfastness. Certainly there is no easy answer. However, at this time I believe that the best answer lies in the adoption of a constitutional amendment such as I propose here today. This would effectively prevent the Congress from continuing to mortgage the Nation's future so extravagantly. I believe that the rewards which will come into our country as a result will be great. I hope that the Senate will take early and affirmative action on the resolution I have proposed.

By Mr. McCLURE:

S.J. Res. 9. A joint resolution to amend the Constitution of the United States to provide that appropriations made by the United States shall not exceed 33⅓ percent of the average national income of the prior 3 calendar years, except as specified during war or national emergency; to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, today I am introducing a constitutional spending limitation amendment to limit the amount of our tax money which the Federal Government may spend. This amendment will provide protection against oppressive taxation in the same way the Bill of Rights protects our civil liberties and political rights. Now is the time to halt the growth of Government

and a constitutional limit on the spending power of Government is the best way to do it.

Unless we change the direction of this country, government at all levels will take 54 percent of every dollar we make by 1984. High taxes are choking the economy by penalizing productivity, thrift, and investment. Limiting the size of Government is essential if we are to get the economy moving at full capacity again. But important as the economic effects of this amendment are, the most important benefit will be the preservation of this country as the land of the free where, as George Washington said, Government is the servant, not the master of the people. No one is free if he does not own the fruits of his labor. Limiting the power of Government to spend our money is the most important issue we face. It will be the dominant political issue of the next few years. Those of us who have long fought for tax and spending limits are heartened by the many proposition 13 type referendums that were passed in the last election. The voters of these States have shown that big Government is not inevitable. It can be halted. We have a choice.

After 12 years of working in Congress and sponsoring 25 bills to reverse the tax and spend philosophy which dominates Washington, I now believe we have found a way to achieve our goal.

I saw the irresponsible direction Government spending was taking as a freshman Congressman and therefore supported a measure in the 90th Congress to require a single appropriations bill so that we might more closely examine total Government spending and facilitate its control. Throughout my service in Congress, I have supported legislation to limit expenditures and prevent expenditures from exceeding revenues.

This year I will also introduce a constitutional amendment that, following the lead of Senator Curtis, will require a balanced budget. In past years I have supported zero-based budgeting and set legislation because I felt they would help control the rapid increase in Government spending. In 1975 I introduced the Kemp-McClure Jobs Creation Act, a comprehensive tax cut proposal which created the broad consensus that now exists for permanent, across-the-board tax reduction. At that time I said:

As a nation, we stand at a crossroads. One road, that traveled by Great Britain, has the immediate appeal associated with redistributing existing wealth; but it also holds in store the ultimate pain of sharing not the wealth but the resultant poverty. The other, less frequently traveled road, promises continued progress and gradual enrichment for all members of society. The price of a brighter future is a less profligate present.

Five years ago I joined in sponsoring the Budget Control Act of 1974, and I sought an assignment to the newly created Budget Committee. But by the time we reported our first congressional budget resolution it was clear that although we had created a new budget process, we were still unwilling to control spending. In minority views prepared for the first budget resolution I wrote:

For literally the first time the Senate has the occasion to specifically address itself to the aggregate budget and national economic policy, especially as it involves the budget. The process itself is an important step toward rationally addressing economic and budget questions, which has for too long been limited to ad-hoc approaches. But it is not the exercise that is important—it is the result that matters!

The result, as I feared in 1974, has been continued runaway growth in the size and cost of Government.

These measures have failed to moderate the growth of big Government because the beneficiaries of our tax dollars are well organized and skillful at manipulating Washington. The Federal Government, in turn, has an insatiable appetite for problems to solve and pressure groups to please. Until now, these forces have overwhelmed the ability of the average American who pays for all this to influence the cause of events. To correct this unbalance, I urge my colleagues in Congress and the State legislatures to amend the Constitution and limit the power of Government to spend our money.

This amendment limits Federal expenditures to one-third of the national income averaged over the past 3 years. National income is the total net income earned in production. It differs from gross national product mainly in that it excludes depreciation charges and other allowances for business and institutional consumption of durable capital goods and indirect business taxes. The Federal Government is now spending just under 35 percent of that figure. This amendment would result in an immediate reduction of between $10 and $12 billion and more importantly it prevents Federal tax bites from becoming any larger.

I believe that this amendment offers the best instrument for returning this country to the ideals on which it was founded.

By Mr. McCLURE:

S.J. Res. 10. A joint resolution to require a balanced budget; to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, there is a good deal of justified alarm about the size of the Federal deficit, which exceeded $50 billion for fiscal 1978. The deficit and our inability to control it are vital issues which have a significant impact on our society and must be faced.

When families or businesses incur repeated and rising operating deficits, bankruptcy inevitably follows. When the Federal Government incurs such deficits, inflation is the inevitable consequence. In an attempt to finance this deficit the Treasury issues obligations that are puchased by the Federal Reserve and in so doing, monetizes the newly created debt. This is done in such a way that Federal spending increases without a compensating reduction in private spending. The outcome of such a series of events is clear—interest rates rise, prices rise and the economy heats up. Further, any borrowing from the private sector to finance the deficit, drains the private economy of the resources and the incentives needed to sustain expansion.

Realizing that the Federal Government is the principal culprit in our current economic difficulty is the first step that must be taken. The sure, but painful, cure for inflation and the inflation-caused recession is simply to slow the rate of growth of the money supply. Unfortunately, this cannot be done without the elimination of recurrent high employment Federal deficits. In turn, deficits cannot be controlled until we recognize two facts: First, money expenditures do not solve social problems, and second, more money spent on a bad idea will not make that idea good. Money alone does not solve problems either for individuals or for nations. New ideas and the reaffirmation of older, but valid financial standards, however, are proven methods of economic problem solving. Today we should turn our attention to principles of fiscal integrity not only because we hope to avoid inflation, but also because we strive to preserve this democracy.

It will take a constitutional amendment to get this Government back to a balanced budget. Despite the best efforts of many of us, the Congress is apparently unwilling to balance the budget on its own. I, therefore, am introducing a constitutional amendment to require a balanced budget. This amendment is the result of many years of effort by Senator Curtis and others.

The citizens of this country have clearly demonstrated its mood on taxation and Government spending. Already, 22 State legislatures have called for a Constitutional Convention for basically the purpose of considering a balanced budget amendment, and other States have indicated that they intended to take the same action. Over 45 such proposals were submitted in the last Congress.

Spending is out of control, primarily because politicians in Congress no longer give equal weight to defending the public purse as to accommodating the pressure groups. Any effort to slow down the increase in Federal spending takes considerable political courage. Those who benefit from some spending program are easily organized into a political pressure group dedicated to continuing and expanding their programs. Now is the time when every program should be examined to see whether or not there are more effective ways of accomplishing its intended results, and whether or not those results might not be better accomplished by returning the responsibilities to local levels of government, or to the voluntary private sector.

Many are unwilling to balance the budget. It would necessitate a reduction in Government spending and in turn reduce the size of Government relative to the private sector. It would be an inroad on the power that has been concentrated in Washington, and a decline in centralized political clout. Yet this is a small price to pay to make fiscal soundness a reality. This proposed amendment will do the job, just as many of our State constitutions require a balanced budget.

Mr. President, I feel it significant that on the opening day of this Congress, Republicans have introduced proposals

that would balance the budget, put a limit on Government spending, index the tax brackets to prevent inflation from increasing the tax burden de facto, a proposal calling for a savings tax credit to allow for sound capital formation and expansion, as well as a one-third tax cut. It is clear that the Republican Party is serious about the economy and making fiscal soundness a reality. I ask my colleagues to join me in supporting these proposals that will return this Nation to the principles of fiscal integrity and preserve this Nation.

By Mr. TALMADGE (for himself and Mr. NUNN):

S.J. Res. 11. Joint resolution to amend the Constitution relating to a balanced budget; to the Committee on the Judiciary.

Mr. TALMADGE. Mr. President, every national survey that I see, ranks inflation and government spending as the No. 1 issue and problem of the United States. Over the past dozen or so years that our Nation has been plagued by inflation, there has been a lot of talk but little action toward reducing massive multibillion dollar deficits year after year after year. During all this time, we have seen the U.S. economy become weaker and weaker. We have seen the American dollar hit bottom. We have seen our friends and allies the world over lose faith in the stability of our Nation and government.

The only way I know to bring about a balanced budget is to prevent Congress from spending money we do not have on programs we do not need.

The only way I know to accomplish this goal is by a constitutional amendment. This approach is favored by an overwhelming majority of the American people.

I have been pushing for such a constitutional amendment for many years and I am today reintroducing my amendment to prohibit deficit spending except in times of emergency specifically declared by Congress.

By Mr. HELMS:

S.J. Res. 13. A joint resolution to amend the Constitution of the United States; to the Committee on the Judiciary.

THE HELMS BALANCED BUDGET AMENDMENT

Mr. HELMS. Mr. President, I submit a resolution to provide that the Constitution be amended to require that Federal outlays do not exceed Federal revenues. In other words, this is a proposal to require a balanced Federal budget.

The discipline this amendment would impose on the Congress and the President is imperative. The cost of not balancing the Federal budget is too high. This proposed amendment would allow deficit spending during a "grave national emergency" by a three-fourths vote of both Houses of Congress.

MORALITY OF BALANCED BUDGETS

The Federal Government has no funds to spend except money taken from the taxpayers, or the demonstrably ruinous deficit financing. It takes either through taxation and other revenue producing activities, or it takes through the financing of budget deficits. Inflation is caused by the monetization of those debts—the excessive creation of money—through the Federal Reserve System purchase and handling of those Federal debt instruments.

When the Federal Government imposes taxes equal to the amount of the expenditures, then citizens can know to what degree they are being burdened to pay for those Federal outlays. Congress has to approve the taxes to match the level of outlays. Congress has to justify expenditures which are popular or necessary with equal taxes, which are never popular.

When the President and the Congress so operate the Federal Government that the politically popular expenditures exceed the politically unpopular taxes, then Congress is hiding the cost of its largess. Politically, it is a "something-for-nothing" pretense. It is about as straightforward as a con-game. It is about as honest as a chain letter that promises windfall wealth. It is the ultimate "free lunch," except there's nothing free about it.

Mr. President, let us not be deluded: inflation is caused by Federal deficit spending, and inflation is the greatest economic disruptor ever conceived by man. And the American people now realize that the evil of inflation is caused by deficit spending.

One major way inflation disrupts the economy is in its destruction of the ability of people to measure relative economic worth. During inflationary periods, the value of currency is not stable, and its utility as the most important standard of measuring value is lost. And when the most important economic standard is corrupted, the other standards in the society come under attack. The relativism inflation imposes on the economy has been paralleled in our time by relativism in other values as well.

Inflation also cripples our society by concentrating economic power in the big corporations and the big unions. Only the big corporations have the power to ride out inflation and the money to pay for economists to aid in overcoming inflation. Only the big unions have the muscle to win gains for union members in times of inflation. In other words, the great competitive vitality that our economy has exhibited in the past is discouraged, because the small businesses are hit hardest by inflation, and the small unions are less able to operate. The innovators are discouraged, and penalized, by government-imposed inflation.

During inflation other centers of power in the society for various educational and charitable work are crippled. The resources of churches, schools, and other non-government groups and organizations are eroded by inflation, and as a result, the good works that once were performed by non-government organizations are now left only to government.

And during an inflationary period, the independence of the individual is undermined. The worker that saves for retirement finds that the value of savings has been cut drastically, and the worker finds government aid the only way to survive.

INFLATION AND THE FOUNDERS

One of the earliest reasons for forming the Union was to preserve the sanctity of contracts between individuals in the various colonies. It was rightly held that for commerce to grow and the Nation to prosper, contracts between citizens should be held enforceable.

But what do we do today?

If I rent a house from someone for a given sum, I am in effect paying a different real amount every month. The lease I signed to rent for a sum certain is being violated regularly—not by either party to that lease, but by the Federal Government which is corrupting the medium of exchange in which that contract is denominated.

By its depreciation of the dollar, the Government has not only eliminated the sanctity of contracts, it has almost made it impossible for a contract to be written in terms of constant value.

An honest dollar is necessary for honest business.

THE ECONOMICS OF BUDGET DEFICITS

Twentieth century budget deficits have been rationalized by politicians because of the allegedly salutary effects that deficits have on the Nation's economy. John Maynard Keynes said that the Government could stimulate economic activity by increasing aggregate demand: that is, by putting money into people's hands through Government deficits. Since Government spending is always politically popular the politicians naturally embraced the economics of Lord Keynes. The less attractive aspects of Keynes' economics were ignored: the inflation, the economic disruptions, and the aggrandizement of Government power.

Keynes' economic theory is today the dominant school of thought in our great Government-supported universities and certainly in the high policy centers of our Government. But, the contemporary Keynesian view of the economy has ceased to fit the facts. The Keynesian policies of stimulation have resulted in inflation and high unemployment—stagflation. When he was asked about these two problems, the Secretary of the Treasury said, "We don't know enough about inflation." It was as if the side effects of Keynesian policies indicated something basically wrong with reality rather than something basically wrong with Keynesian economics.

In a predictably self-righteous editorial last week in the Washington Post the contention was advanced that a balanced budget would put economics back to the era of Calvin Coolidge. The obvious unintentional irony is that it was during Coolidge's administration that Keynes was writing his most important works, and it indeed is the economics of that generation that we must discard.

The "common wisdom" which is held by all practicing Keynesians states that in times of economic slowdowns, the Federal Government should spend more than it takes in to stimulate the economy. Not only are these attempts at stimulation almost always timed wrong,

but the stimulation is almost never accompanied by reciprocal spending cutbacks when the economy is overheated.

Ironically, the Post editorialist overlooked one of the most important tools of demand stimulation—the monetary authority of the Federal Reserve System. And the Fed does not necessarily need the excuse of Federal deficits to expand the money supply.

If the regulation of demand is the axis of economic activity as held by orthodox Keynesians, then the Federal Reserve System should be able to do the job. The politically unattractive part about this is, of course, that the Keynesian politicians would have no excuse for free lunch giveaway programs.

In fact, of course, we are now coming to the realization that the economy is not the simplistic thing that the orthodox Keynesians would have us believe. The economy depends in large part on the kinds of incentives there are for economic activity.

A balanced Federal budget will require Congress to look toward economists that have answers and not excuses. A balanced budget will require that Federal expenditures can justify themselves within the confines of firm spending limits. And, a balanced budget will eliminate the excuse for the scourge of inflation.

The language of my amendment is brief. I believe that the Constitution should not carry involved statute-like verbiage. As a result, however, my proposal does not specifically define the term "outlays." I think that should be clear enough, and I distinctly did not want a Constitutional amendment to get into the nuances of the Budget Act.

The other possible criticism of my amendment is that it does not provide for a phase-in of the balanced budget. Obviously, if our gluttonous Government went on a strict diet tomorrow and ceased running up a deficit of a billion dollars every 10 days, there would be drastic, untoward side effects. But constitutional amendments are not passed in a day. They usually take several years—time enough for Congress to get the message and begin trimming down.

Finally, I think that if Congress does not act and act soon, the various States may go ahead and amend the Constitution by the convention process. Over 20 State legislatures have already approved resolutions calling for a constitutional convention to approve an amendment requiring a balanced Federal budget.

I have also introduced legislation initially sponsored by Senator Sam Ervin of North Carolina which would provide for an orderly constitutional convention process, so that if the States act in this manner, there will be minimal risk from this unprecedented procedure.

Mr. President, I ask unanimous consent that my joint resolution be printed in the RECORD at this point.

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

S.J. RES. 13

Resolved, by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification.

"ARTICLE—"

"SECTION 1. Except when Congress shall determine, by three-fourths of the votes of both Houses thereof, that a grave national emergency exists, the Congress shall assure that the total outlays of the Government during any fiscal year (not including any outlays for the redemption of bonds, notes, or other obligations of the United States) do not exceed the total receipts of the Government during such fiscal year (not including any receipts derived from the issuance of bonds, notes, or other obligations of the United States).".

SENATE CONCURRENT RESOLUTION 1—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO SENIOR CITIZEN INTERNS

Mr. ROTH submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), that, notwithstanding any limitation imposed by law or other authority, effective January 3, 1979, and until otherwise provided by law, each Member of Congress is authorized to hire one additional employee each year for one of the two-week periods specified under section 5(2). Such employee shall be designated a Claude Pepper Senior Citizen Congressional Intern, hereinafter in this resolution referred to as a "Senior Citizen Intern" or an "Intern".

SEC. 2. A Senior Citizen Intern shall—

(1) be at least 60 years of age on the effective date of the appointment involved;

(2) (A) be a bona fide resident of the State represented by the employing Member, if such Member is a Senator; or

(B) be a bona fide resident of the congressional district represenetd by the employing Member, if such Member is a Representative, a Resident Commissioner in the House of Representatives or a Delegate to the House of Representatives;

(3) serve in the offices of the employing Member in the District of Columbia;

(4) be compensated as provided in section 3(1); and

(5) be subject to the same regulations as an employee hired under the clerk hire allowance of the Member involved, except that such Intern shall not be eligible to participate in any health or life insurance program, or any retirement system, applicable to congressional employees, and shall not accrue leave under any employment provisions applicable to congressional employees.

SEC. 3. Each Member shall have available from the contingent fund of the Senate or the House of Representatives, as appropriate, such sums as may be necessary for payment of—

(1) Senior Citizen Intern compensation at a rate of not more than $300 per week; and

(2) travel expenses for one round trip of each Senior Citizen Intern between the place of residence of such Intern and the District of Columbia, including the actual cost of transportation and other reasonable expenses.

SEC. 4. The positions made available in the first section and the amounts made available under section 3 shall be in addition to any position or amount made available to Members of Congress under any provision of law or other authority.

SEC. 5. The Select Committee on Aging of the House of Representatives and the Special Committee on Aging of the Senate shall, with respect to Senior Citizen Interns in the House of Representatives and the Senate, respectively—

(1) prescribe such regulations as may be necessary to carry out this resolution; and

(2) specify a two-week period in May and a two-week period in September in each year for which appointments may be made under the first section.

SEC. 6. As used in this resolution, the terms "Member of Congress" and "Member" mean a Senator, a Representative, a Resident Commissioner in the House of Representatives, and a Delegate to the House of Representatives.

Mr. ROTH. Mr. President, I submit this resolution with the understanding it will not automatically require additional moneys for the contingent fund of the Senate. Rather, the disbursing officer will fund the program with available moneys first and request additional funding only as necessary to cover the remainder of the cost.

SENATE RESOLUTION 10—SUBMISSION OF A RESOLUTION RELATING TO MUTUAL DEFENSE TREATIES

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 10

Whereas, the Senate amended the International Security Assistance Authorization Act, S. 3075, on July 25, 1978, expressing the sense of the Senate that there should be "prior consultation" between the Senate and the Executive Branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954 with the Republic of China; and

Whereas, the amendment was subsequently broadened to express the "sense of Congress" and was part of the measure signed into law by the President on September 26, 1978;

Whereas, the President on December 15, 1978 declared that notice of termination of the Mutual Defense Treaty would be sent to the Republic of China, without prior consultation with the Senate or with the government of the Republic of China: Now, therefore, be it

Resolved, That the Senate disapproves of the action of the President of the United States in sending notice of termination of the Mutual Defense Treaty with the Republic of China.

SENATE RESOLUTION 11—SUBMISSION OF A RESOLUTION RELATING TO THE REPUBLIC OF CHINA

Mr. DECONCINI submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 11

Whereas, the United States of America and the Republic of China and their respective peoples have enjoyed a relationship of friendship for three decades;

Whereas, the United States of America and the Republic of China have been bound together by a Mutual Defense Treaty since March 3, 1955;

Whereas, the President unilaterally invoked the termination clause of the Mutual Defense Treaty without prior consultation with the Senate;

Whereas, the President in his negotiations with representatives of the People's Repub-

lic of China failed to receive assurances for the future safety and well-being of the government and people of Taiwan:

Now, therefore, let it be Resolved

That the United States of America acknowledges and reiterates its long-standing policy of friendship towards the government and people of Taiwan;

That the United States of America will not tolerate any aggression by the People's Republic of China against the government or people of Taiwan for the purposes of reunification or for any other purpose;

And that in the event of such aggression, the United States of America will take whatever action may be necessary to preserve the independence and freedom of the government and people of Taiwan.

Mr. DECONCINI. Mr. President, I believe that all Members of this body were disconcerted to learn that President Carter invoked the termination clause of the Mutual Defense Treaty of 1955 with the Republic of China without any prior consultation with the Senate. Such an action is virtually without precedent in American history.

Whether the powers conferred upon the President by the Constitution technically are sufficient for the President's action is not the only issue. There is a broader issue that goes to the core of the traditional bipartisan nature of American foreign policy. Bipartisanship requires that the President consult with the opposition party prior to undertaking major foreign policy initiatives. But in the extant case, the President failed even to consult members of his own party. Thus, the decision to recognize the People's Republic has taken on not only a partisan flavor, but has created an atmosphere of confrontation between the Senate and the President.

Thus, I believe, that on the score of consultation alone the President should be made aware of our disappointment. The resolution that I submit today does just that, although its primary purpose is otherwise.

It appears to me that the question of whether the United States should or should not at this juncture in world history recognize the People's Republic of China is at least a debatable one. The American people are most likely divided on the issue, although the march of events suggests that this course moves us in the right direction.

However, whether we agree or disagree over the decision to recognize the People's Republic, I believe the American people are virtually unanimous in their concern for the fate of the people and the government of Taiwan. After three decades of friendship and alliance, the action of the President essentially cuts Taiwan off and allows her to drift in a sea of uncertainty.

Incredibly, the administration, in its negotiations with the People's Republic of China, did not extract any concession regarding the future of Taiwan. I believe that this is merely another example of American negotiating weakness which seems always to be geared towards a result regardless of cost. It is that penchant in our foreign policy that should make each of us cautious over the agreements negotiated.

Every assurance the United States has that the People's Republic will not invade or otherwise coerce the people of Taiwan is based upon extrapolation and reading between the lines. For example, the administration has argued that they do not have the technical capability to launch such an invasion—therefore, an assurance is not necessary. I believe we have all witnessed on the international scene enough examples of the improbable occurring that our foreign policy should not be based upon such so-called technical assessments or the imputation of motives.

In the absence of formal assurances from the People's Republic about the future well-being and safety of the government and people of Taiwan, I believe it is imperative that the U.S. Congress clarify its resolve not to tolerate the use of force, and to continue to honor, in essence, our commitment to insure the continued independent existence of Taiwan, if that is the will of its people. To allow them to stand alone at this critical juncture in their history is unconscionable.

But there is a broader purpose yet in this resolution. By reneging on its historic commitment to protect and defend Taiwan from possible Communist invasion and coercion, the United States is denuded of its credibility as the prime defender of open societies against Communist incursion. It seems to me a very elementary principle that effectiveness in deterring others involves credibility on the part of the potential deterer. Without such credibility, the will of the deterer will be constantly tested. Thus, the President's action in terminating the mutual defense treaty with Taiwan shakes American credibility and invites our opponents to test our resolve.

The resolution I am recommending to my colleagues is a simple one. It merely reaffirms the American commitment to protect and defend the government and people of Taiwan should they be faced with aggression from the People's Republic. It does not preclude the people of Taiwan from choosing to incorporate themselves with the mainland, if that is their wish. But it also will allow them to retain a separate existence and identity, if that is their wish. The United States cannot dictate a two-China policy for China. But we can provide the Taiwanese with the support they will need, if that is the course of action they ultimately decide to pursue.

The realities of world politics will, I believe, lead to the development of two Chinas, just as we have two Germanys and two Koreas. I personally believe that for the foreseeable future this is the best solution to a conflict which has been enduring as it has been deep. Furthermore, the United States should not by its actions assist the Communist regime in Peking from absorbing the pro-Western government of Taiwan.

SENATE RESOLUTION 12—SUBMISSION OF A RESOLUTION RELATING TO UNITED STATES COMMITMENT TO TAIWAN

Mr. DANFORTH (for himself, Mr. YOUNG, Mr. THURMOND, Mr. DOMENICI, Mr. WALLOP, Mr. COCHRAN, Mr. BAYH, Mr. HEINZ, Mr. HAYAKAWA, Mr. SIMPSON, Mr. HELMS, and Mr. STONE) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 12

Whereas, the United States of America and the People's Republic of China have recognized each other and established diplomatic relations on January 1, 1979;

Whereas, the President notified the Republic of China on January 1, 1979 that the United States will terminate our Mutual Defense Treaty with it on January 1, 1980;

Whereas, in announcing this historic event on December 15, 1978, the President correctly stated that "we will continue to have an interest in the peaceful resolution of the Taiwan issue;"

Whereas, the United States has received no explicit assurances from the People's Republic of China that it will not employ force to reunite Taiwan with the mainland: Now, therefore, be it

Resolved, that it is the sense of the Senate that in the event of military aggression by the People's Republic of China against the people and territory of Taiwan, the United States must—

(a) terminate diplomatic and commercial relations with the People's Republic of China;

(b) provide military assistance to the people of Taiwan on an urgent basis in accordance with constitutional processes;

(c) bring the matter to the prompt attention of the United Nations Security Council with the objective of bringing the hostilities to an immediate end; and

(d) take what other actions are necessary to bring the aggression to an end and thereby secure a peaceful future for the people of Taiwan.

Mr. DANFORTH. Mr. President, on January 1 of this year, the United States and the People's Republic of China (PRC) ended almost 30 years of mutual isolation and established diplomatic relations. The move toward normalized relations began in 1972, with President Nixon's trip to China.

Few would disagree, I think, with the wisdom of normalizing our relations with the People's Republic of China, a country which governs over one-fourth of the world's population. The question is on what terms we recognize the PRC—and that answer rests on what obligation we have to the 17 million people on the island of Taiwan. Under the President's plan, we have agreed to the PRC demand that the United States break formal diplomatic ties and terminate our Mutual Defense Treaty with Taiwan.

Taiwan has relied on the United States ever since it became the refuge of Nationalist Chinese driven from the mainland when the Communists assumed power in 1949. Our Mutual Defense Treaty with Taiwan has assured its stability and security for 25 years. Extensive American trade with Taiwan has helped its leaders establish a thriving economy.

In light of our long-standing relationship with Taiwan, I believe the President should have received definite assurances from the PRC with respect to the peaceful future of Taiwan. The administration has stated that it received no explicit assurances from the People's Republic of China that it will not employ force to reunite Taiwan with the mainland. The agreement the President reached with

the PRC is no different from what we could have had at any time since 1972. In short, I fear that the announced plan runs the risk of undermining the security of our friends on Taiwan and damaging the reputation of the United States as a dependable ally.

There is more at stake in this issue than merely the continued prosperity and security of the 17 million Chinese on Taiwan. America's reputation as a reliable ally is on the line. Taiwan is not alone in its dependence on our support. Korea and Israel rely heavily on our commitments for their security, and we have been urging countries like Egypt and Saudi Arabia to place more trust in us. We have defense treaties with European nations in NATO, and with Southeast Asian countries in SEATO. For these relationships to work, our word must be trusted.

The President stated in a television interview on December 19 that the PRC "know our firm expectations, clearly expressed to them, that the differences between China and Taiwan will be settled peacefully." I do not believe that our unilateral declaration of our expectations represents an adequate security guarantee to Taiwan. Indeed, Chinese Vice Premier Teng Hsiao-Ping recently refused to rule out the use of force against Taiwan if peaceful means fail to achieve unification.

In a widely reported January 5 news conference, Teng stated:

President Carter indicated a wish that unification (of China and Taiwan) be accomplished by peaceful means. We take notice of that wish. At the same time, we make it very clear that the solution is China's internal affair.

We shall try to solve the Taiwan question by peaceful means. Whether or not this can be done is a very complex question. We cannot assume any undertaking that no other means than peaceful will be used to achieve unification of the motherland. We can't tie our hands.

In view of these statements and the absence of any guarantees from the PRC, I am today submitting a resolution which will enhance the future security of Taiwan and not abandon totally our commitment to the people of Taiwan. Joining me in this resolution are Senators YOUNG, THURMOND, DOMENICI, WALLOP, COCHRAN, BAYH, HEINZ, HAYAKAWA, SIMPSON, HELMS, and STONE.

This resolution expresses the sense of the Senate that in the event of military aggression by the PRC against Taiwan, the United States must:

Terminate diplomatic and commercial relations with the PRC;

Provide military assistance to Taiwan on an urgent basis in accordance with constitutional processes;

Bring the matter to the prompt attention of the United Nations Security Council with the objective of bringing the hostilities to an immediate end; and

Take what other actions are necessary to bring the aggression to an end and thereby secure a peaceful future for the people of Taiwan.

Mr. President, recognition of the People's Republic of China and, with it, termination of the defense treaty with Taiwan has been anticipated since the Shanghai Communique of 1972. Better relations with mainland China should enhance America's presence in the world community and no doubt will improve significantly our market for exports—which will help our balance of payments problem. I support these ends—but we must be careful to seek them in a way which does not let down our friends and jeopardize their security.

SENATE RESOLUTION 13—SUBMISSION OF A RESOLUTION WITH RESPECT TO THE CONTINUING RELATIONSHIP OF THE UNITED STATES WITH THE REPUBLIC OF CHINA

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 13

Whereas, the United States and the Republic of China and their peoples have been allies for more than 25 years;

Whereas, the President unilaterally gave notice to the Republic of China that the United States intended to terminate on January 1, 1980, the Mutual Defense Treaty Between the United States of America and the Republic of China;

Whereas, the United States established diplomatic relations with the People's Republic of China on January 1, 1979:

Whereas, the governments of the Republic of China and the People's Republic of China claim sovereignty over the same territory;

Whereas, the continued security and stability of the Asian Pacific region, and especially the continued peace and prosperity of the people of the Republic of China, is of major strategic interest to the United States; and

Whereas, the United States seeks to maintain such confidence as is essential to financial investment in such region and as is essential to making commercial agreements between the United States and the Republic of China and between the United States and the People's Republic of China: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of the United States—

(1) does not condone any threat or use of force in any attempt to unify the Republic of China and the People's Republic of China;

(2) does not recognize the right of either the Government of the Republic of China or the Government of the People's Republic of China to subvert the other by means of the use of force or the threat of an imminent use of force;

(3) should, in accordance with its constitutional processes, take all steps necessary to assist the Republic of China in ensuring its security and the security of the United States in the event of an act of aggression by the People's Republic of China against the Republic of China;

(4) should interpret any interference by any country with the commercial or cultural programs or military or economic assistance programs between the United States and the Republic of China as an unfriendly act and should react accordingly; and

(5) should use its voice and vote in each international organization of which the United States is a member to prevent the exclusion or the removal of the Republic of China from membership in each such organization.

Sec. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED FOR PRINTING

AMENDING THE STANDING RULES OF THE SENATE—SENATE RESOLUTION 9

AMENDMENTS NOS. 1 THROUGH 53

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

Mr. BAKER submitted 53 amendments intended to be proposed by him to Senate Resolution 9, a resolution to amend the Standing Rules of the Senate.

NOTICES OF HEARINGS

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRANSTON. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Veterans' Affairs will conduct a hearing on S. 7, which I am introducing today, the proposed "Veterans' Health Care Amendments of 1979," on January 25, at 9:30 a.m., in room 6226 of the Dirksen Senate Office Building.

Persons interested in testifying at this hearing should contact Ellen Akst, associate counsel of the committee, at 224-9126.

SUBCOMMITTEE ON LABOR

Mr. WILLIAMS. Mr. President, the Subcommittee on Labor will hold a hearing on plant closings and relocations on Monday, January 22, 1979. The hearing will be held in Newark, N.J., in room 730, Federal Building, 970 Broad Street at 9:30 a.m.

CHESAPEAKE BAY HEARINGS

Mr. MATHIAS. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on Federal program coordination related to Chesapeake Bay on January 29 at 10 a.m. in Annapolis, Md. The hearing will be in the Old Appropriations Committee Room in the State capitol building.

ADDITIONAL STATEMENTS

THE 96TH CONGRESS ECONOMIC CHALLENGE

Mr. HELMS. Mr. President, with timing that obviously required a great deal of forethought, the Wall Street Journal last Friday began publication of a column by Paul Craig Roberts.

Craig served with great distinction as economic counsel to Senator ORRIN HATCH; he also gave much helpful advice to many other Members of this body. His new position with the Journal will allow his thoughtful analyses to be shared by hundreds of thousands of readers of that newspaper.

In his inaugural column, I believe Dr. Roberts has set forth the chief issues of an economic nature that will confront the 96th Congress.

In the broadest sense, the question is: "What makes the economy run?" Specifically, the question is: "Does depression-era Keynesianism work in the last quarter of the twentieth century?"

In his inaugural column entitled "The Tax Brake," Craig Roberts goes to the

core of the economic debate: Do the equations of the Keynesians and their dependence on the concept of aggregate demand fit the facts of contemporary economic life? Craig Roberts summarizes the arguments and comes to the conclusion that they do not. He is right.

Mr. President, the new Congress will have to confront major economic problems. This Congress will almost surely be faced with the problem of a recession—I hope it does not, but unfortunately it seems to be a fair prediction.

This Congress will, in all likelihood, be asked to vote on the question of mandatory wage and price controls. I fear that those in this Congress who would rather trust the wisdom of bureaucrats to control the marketplace will urge on this Nation, a kind of dictatorial regulation of the economy to set wages and prices in an attempt to control inflation. In spite of history's lesson that controls do not work and logic's lesson that controls will never work, there will probably be an attempt made to again impose such control.

This Congress must also address the question of the nature of the effects of our highly progressive tax system, and the massive disincentives imposed on the people of this nation. Disincentives discourage output, savings, and economic growth. And, it is these disincentives imposed by the Federal Government that must be debated and, I hope, reduced.

This Congress will be asked to consider a constitutional amendment of seminal economic importance: an amendment to require a balanced budget. The Keynesians defend deficit spending as an economic miracle drug. In fact we have seen the system addicted to this drug to the extent that its horrible side effects of inflation and stagnating economic activity seem to have become acceptable in some minds. The Keynesians have concluded that somehow new solutions are needed for these allegedly new problems. In fact, the new remedies needed are the removal of old ones.

What is needed is the freeing of our economy from massive deficits.

What is needed is the freeing of people from massive disincentives.

What is needed is the freeing of our policymakers from the myopia of Keynesian dogma.

Mr. President, the American people have made it clear for a number of years now that they consider inflation to be the Nation's No. 1 domestic problem. The orthodox Keynesians in our midst have chosen to fudge their democratic principles in this regard and attempt to publicly attack the symptoms of inflation: increases in the price level. They have ignored its causes—inordinate increases in the money supply caused by massive Federal deficits.

Mr. President, the 96th Congress has been given certain instructions by the American people. In many respects they are economic in nature, but in other respects they go to the heart of what philosophers calls the "American Experience." Americans have said that they do not want inflation, that they do want a balanced budget, that they do not want massive regulation. But I think it is that they want government to get off their backs.

If big government was ever a "good thing" then there has been too much of a good thing.

The 96th Congress has an opportunity for innovation in the best sense. Let the 96th Congress begin a trend toward reliance on the free market. Let the 96th Congress adopt a credo:

In all that the people can individually do as well for themselves, government ought not to interfere.

Lincoln said it in 1854. It is no less true today.

Mr. President, I ask that the column by Paul Craig Roberts be printed in the RECORD at the conclusion of my remarks.

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

[From the Wall Street Journal, Jan. 11, 1979]

THE TAX BRAKE

(By Paul Craig Roberts)

Keynesian economics began its career full of confidence that if only politicians would accept deficits and the use of the government's budget to manage demand, economic stability would be assured. It was all to be so easy. Whenever demand wasn't sufficient to maintain full employment, government budget deficits would pump up spending and take up the slack in the economy. Whenever spending was so high as to threaten inflation, government budget surpluses would restrain demand.

Today Keynesian economics, the basis for economic policy for the past two decades, is mired in stagflation. The hopes are gone, and the confidence shattered. Unappealing "phillips' curve" trade-offs between inflation and unemployment march back and forth over the shredded banner of economic stability. Today pumping up demand pumps up the price level, and restraining spending pumps up unemployment. Faced with defeat on one front or the other, the policymakers offer the people austerity. Selfishness, Keynesians say is the cause of it all. Labor and business take advantage of demand stimulus to raise wages and prices. Inflation is worsening because people are becoming more selfish.

The exhaustion of Keynesian thought has led to controls, touted as the answer to selfishness. But the real problem is that the Keynesian doctors have been treating only half of the economy. Demand has been managed, but the factors governing the responsiveness of supply to demand have been ignored. Fine-tuning large macro-aggregates took Keynesians away from the foundation of economic science—the effects of prices on behavior. The study of how prices affect behavior was relegated to microeconomics, a smaller concern. In the Keynesian view, production responds to prices in individual markets, but, over all, demand is king.

It was in this way that Keynesians came to ignore the two most important prices governing production. One is the price of leisure in terms of foregone current income, and the other is the price of current consumption in terms of foregone future income. The lower these prices are, the lower production will be.

Both prices are affected by the tax rates on additional earnings. The higher the marginal tax rates, the lower the after-tax rates of return to additional work effort and investment, and the cheaper leisure and current consumption are in terms of foregone income.

In short, high tax rates encourage leisure and consumption and discourage work and saving. This means that, as tax rates rise, supply responds less to an increase in demand. A decline over time in the responsiveness of supply to opportunities to sell is consistent with the rising rate of inflation that has accompanied expansionary monetary and fiscal policies.

For a decade the tax brake has been increasingly applied to production while demand has been stimulated. U.S. Department of Commerce statistics show that the effective tax rate on corporate income has risen significantly over the last decade. And IRS statistics show that the growth of income has moved more and more people into higher brackets. Demand has spurted while supply has lagged.

In an economy with a progressive income tax, the higher the price level, the greater the tax bite on additional earnings. The more rapid the increase in the price level, the quicker the tax bite grows. Corporate income does not escape this effect. Inflation causes the firms' books to understate the cost of inventory, plant and equipment used up in production, thus reporting costs as taxable income. Since tax rates rise with inflation, inflation automatically applies the tax brake to production.

The tax brake is different from the Keynesian idea of "fiscal drag." Fiscal drag results from rising tax rates cutting into disposable income or effective demand, thus hindering spending. The tax brake, however, results from rising disincentives to produce additional income. It applies to production on the supply side of the economy and not to spending on the demand side of the economy.

The tax brake requires that we refine some influential concepts. Whether there is excess capacity or excess demand depends on the rate at which additional income is taxed. If these rates are high, there can be excess demand even though there is excess capacity in the physical sense, as productive factors remain idle for lack of incentive. With income support programs, high marginal rates of taxation on income, and low after-tax returns to saving and investment, it is not surprising that efforts to spend away unemployment only drive up the price level. Stagflation is simply a result of people's responses to the incentives established by government policies.

Studies by Martin Anderson at Stanford and Martin Feldstein at Harvard show that in the U.S. the highest tax rates are borne by people who attempt to get off welfare (as a result of loss of benefits) and by owners of capital (as a result of taxation of nominal gains), while in Sweden high tax rates have driven people so deep into leisure that policymakers are discussing ways of taxing it. Such are the consequences of ignoring the prices that govern production. Before U.S. policymakers propose to fight leisure by taxing it, we should release the tax brake and establish an incentive structure for economic growth.

LOREN BASLER

Mr. CHURCH. Mr. President, every year I host a series of Christmas parties for senior citizens around Idaho as a way of saying thanks to the elderly of the State for all the contributions they make to their communities and for their support of my efforts as chairman of the Senate Aging Committee. In Boise, an old friend, Loren Basler, helps out by leading the singing of Christmas carols.

Loren is now 80 years old, but he is a legend in Idaho. A former football coach, he won many championships for both high school teams and for the College of Idaho before he went on to work with the Veterans' Administration.

The Idaho Statesman in Boise ran a feature story on Loren on Christmas day,

highlighting his career. I would like to share it, and I ask that it be printed in the RECORD.

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

[From the Idaho Statesman, Dec. 25, 1978]

LOREN BASLER'S STILL GOING STRONG 50 YEARS LATER

(By Jim Poore)

Last week, Idaho Senator Frank Church threw a Christmas party for the senior citizens at the YMCA. Naturally, it made the paper with a picture of Frank, his wife and some senior citizens singing carols.

At first I just glanced at the picture and wondered if it would be Frank Church or Steve Symms who would be throwing a party for me on Christmas when I'm 65. Then the man on the right side of the picture caught my eye—he looked awfully familiar.

Yep, that was him all right—that fierce barrel chest, the strong sense of leadership which hadn't dulled much even though he was clipping along at 80 years of age. Just the kind of guy you'd want to write about on Christmas Day.

Loren Basler looked just as natural directing *Silent Night* as he must have over 50 years ago when he directed Boise High School's football program to astonishing heights.

That may be one of the best kept secrets around Boise these days, that the man who guided Boise High School's football team to 44 straight victories and to four straight state titles is still alive, well and taking charge of things whenever he can.

For a long time, I thought Loren Basler owned a music store called Basler's which used to stand on 11th Street, near Idaho Sporting Goods. It's gone now, but Loren Basler isn't.

"That was my wife's store, I didn't have anything to do with it," said Basler, who had his hands full coaching football, basketball and track at Boise High School.

I had called Basler to ask him what he thought about the plan proposed by the SIC for a state football playoff, a plan that eventually was not acted upon by the A-1 superintendents and thus once again keeps Idaho from having a true state playoff for its large schools.

Basler, however, thought the plan was just fine, and then he started talking about what it was like 50 years ago, when you played football in little padding, without facemasks and when there was a state playoff—not just for the big schools, but for the best the state had to offer.

"It was pretty much up to the schools to make the arrangements and the contracts after they were far enough along in the season to know who was champion in their respective area of the state," Basler said. "It wasn't organized into conferences as such like we have now."

For instance, in 1927, Boise defeated Lewiston for the state championship. For Basler, defeating Lewiston for the championship was a bit ironical—he had coached the team in 1924 before Boise High called. Basler's place at Lewiston was taken by his good friend Sib Kleffner, who later opened a successful sporting goods store in Boise which is the ancestor of McU's.

In 1928, Boise defeated Nampa for the district title and American Falls for the regional title before winning the state championship by default when a meningitis epidemic broke out in Twin Falls. Since Boise had already defeated Twin Falls during the regular season, the Braves were declared champions.

They came back to win it in 1928 and 1930, beating Nampa in 1930 after stopping Fruitland in a playoff game.

Basler coached a lot of young men who grew into Boise's leading citizens. Carl Smith, Jess Swan, John Swan, Bernard Lemp, Wee Willie Smith, Bob Hoobler, Wanek Stein Sr., Ed Elliott, Hank Uranga, Kenneth Robertson, Ted Biladeau, Earl McReynolds and Harold and Irving Schweibert all played for Basler.

After Boise High School, Wee Willie Smith went on to gain the most fame on the football field, running for big chunks of yardage for Idaho in the old Pacific Coast Conference before going on and playing professional football with the New York Giants.

Basler feels one of the reasons he had such success at Boise High School was because he took his football team to McCall every summer for a two or three weeks conditioning program before the season started.

"We'd rent the YMCA camp and we got in shape," Basler said. "We couldn't play football up there, it was against the rules. We went on hikes over steep mountains, did a lot of jogging and racing and a lot of punting and kicking, although it wasn't organized. It was for getting in shape but it was a morale builder too."

Basler left Boise High School after the 1932 season to become head coach at College of Idaho which, at that time, was a real power, playing schools like Idaho. Basler led C of I to the Northwest League championship.

About the school's decision to drop football last year, Basler will only say, "It broke my heart to see them give it up."

In the late '30s, Basler left the C of I. The state board of education had asked him to take a leave of absence to help set up recreation programs in various Idaho towns.

The leave of absence became permanent and Basler never coached another football game.

Basler moved to Weiser to open and direct a vocational trade school before returning to Boise to work for the Veterans Administration. That job took him to Montana and then Seattle before he retired and returned to Boise where he was secretary of the Elks Lodge for many years.

Basler always intended to return to coaching, but it never happened.

"I enjoyed it very, very much," he said. "I was one of those individuals who always seemed endowed with good players, so I was pretty successful. I always thought some day I might go back again, but it never worked out so I could."

Today, you can still see Loren Basler moving around town, with the same steady stride he must have exhibited when he was Coach Basler to those who flocked to the old Public School Field to watch the Braves' dynasty in action.

He still sings in the Wright Methodist Church choir while his wife Evelyn plays the organ. He still goes to all the high school football games and roots for not just Boise, his old team, but the young men at Capital and Borah.

And when Senator Frank Church drops by Idaho, he knows who to reach for to lead the Christmas Carols at the YMCA. Hopefully, Loren Basler will be doing his singing for a lot more Christmases to come.

TRIBUTE TO FORMER SENATOR WENDELL ANDERSON, OF MINNESOTA

Mr. KENNEDY. Mr. President, as the new Congress convenes, all of us regret the absence of our fine colleague and friend from Minnesota, Senator Wendell Anderson.

When Senator Anderson came to the Senate in 1977, he was already a national leader. As an outstanding Governor of Minnesota, he had already made his mark as a leader of the National Governors' Conference and as Chairman of the Democratic Platform Committee in 1976. As Governor of Minnesota, he had also earned an excellent record of leadership in both public and private education, from the elementary to the college level.

Long before proposition 13 captured the attention of the Nation, Senator Anderson understood the challenge. He froze property taxes for senior citizens, and did his best to keep them down for others. Since then, property taxes have climbed more slowly in Minnesota than almost any other State.

In his 2 brief years with us, I worked with Senator Anderson on many different issues, and I gained enormous respect for his leadership and record of service to the people of Minnesota. On the Armed Services Committee, he was an effective advocate of a strong but lean defense. On the Budget Committee, he worked hard to bring the deficit down while meeting the real needs of the Nation. As a member of the Energy Committee, he was a leader in the difficult 2-year struggle to enact a responsible energy policy for America, capable of meeting the Nation's future needs and preventing unjust windfalls to the large oil and gas companies.

Senator Anderson was also an outstanding Senator who was responsive to the people of Minnesota. One of the most complex issues in the past Congress concerned the Boundary Waters Canoe area in Minnesota. No one is ever fully satisfied with a compromise, especially when feelings are running high. But no State ever had a more conscientious or dedicated Senator working to resolve a difficult controversy in his State. And he finally resolved that issue in a way that protected the environment, avoided excessive Federal interference in the State. and was fair to the residents of northern Minnesota.

It was not an easy job, coming to the Senate, filling the shoes of two fine leaders like FRITZ MONDALE and Hubert Humphrey. But the people of Minnesota can be proud of Wendell Anderson. As Governor and Senator, he fit the mold of that State's giants of the past, and we shall miss his leadership here in the future.

VERMONT ROYSTER HONORED; SPEAKS OF PRESS FREEDOM

Mr. HELMS. Mr. President, about 3 weeks before Christmas, I flew back to Washington to attend a dinner honoring one of America's most respected editors, Vermont C. Royster, who has retired as editor of the Wall Street Journal. He is now teaching journalism at the University of North Carolina at Chapel Hill.

Vermont is a native of Raleigh, which is my home also. I think it is safe to say that Vermont Royster has done as much as anyone alive to preserve the credibility of the news media. Throughout his career, he has been responsible, fearless, objective, and well informed—all essential to a great editor.

The occasion on December 5, 1978, at the National Press Club, was the an-

nual Fourth Estate Award dinner. Vermont Royster was the sixth journalist to receive the award. Previous winners, beginning in 1973, were Walter Cronkite, James Reston, John Knight, Jack Stroud, and Herb Block.

In his acceptance speech, Vermont Royster offered some valuable advice to the news media of America. He was not self-righteously lecturing anybody, but he made clear that the first amendment demands that responsibility and freedom be parallel. As he put it:

Freedom of the press is not some immutable right handed down to Moses on Mt. Sinai. It is a political right granted by the people in a political document, and what the people grant they can, if they ever choose, take away.

My background having been the news business, I was heartened, Mr. President, that the distinguished journalists present on that occasion vigorously applauded that and other statements by Mr. Royster.

I hope that my colleagues and others will take time to read Vermont Royster's speech. Mr. President. All of us will profit from it. For that reason, I ask that the text of the address be printed in the RECORD at the conclusion of my remarks.

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

REMARKS BY VERMONT ROYSTER

It's hardly necessary for me to say how pleased and honored I am to be here this evening, in this Club, before this audience.

Of all the moments of recognition that may come to a man in his lifetime, none is more deeply felt than that which comes from his peers.

That is especially true for me tonight because of those who have previously received this award. You make me a member of a very distinguished company. For that I am most grateful.

But must confess I am also embarrassed. When I received the invitation to this dinner I did not realize there was a conspiracy afoot—among old friends, my wife and present colleagues—to turn the evening into a "this is your life" affair, one that would make it for me an evening overflowing with nostalgia.

I didn't realize I would have to sit here and listen to people, one of them from my distant past, talk about me. That is embarrassing—even though I accept all words of praise as being richly deserved!

However I am chastened by recalling something Arthur Krock said to me some years ago. He remarked that no newspaperman was ever treated as a "distinguished journalist" until he was either dead or decrepit. And since I am, happily, still alive I am left with that other alternative.

In any event, I have to admit having arrived at an age where one's thoughts about the present are entangled with memories of the past. And it's always dangerous to stir an old man's memories. He is much too apt to bore you with tales of how it was in the "olden days," and to fill the air with lamentations about their passing.

For example, I remember this Club when the room we are now in was little more than an unfinished barn and the Club itself was on the ragged edge of survival.

I remember when the Washington press corps, in total, numbered only a few hundred and you could know almost all of them by sight. There was no radio and television press gallery, not even a gallery to accommodate the periodical press. Today I am stunned by the number of pages it takes in the Congressional Directory to list the accredited press in all its forms; I refuse to use that word "media."

That was not all that was different. I well remember my first Presidential press conference. For the record, the date was Friday, May 15, 1936—more than 40 years ago—and Franklin D. Roosevelt was holding his 295th press conference since becoming President.

I presented my shiny new press credentials to the guard at the Pennsylvania Avenue gate, walked up the winding driveway and entered the West Wing of the White House.

To the left of this room was a modest office for Steve Early, the President's press secretary. Beyond and out of sight were offices for Marvin McIntyre, the President's only other regular aide, and for Missy Le Hand, his private secretary. There were two others, designated as executive clerks. And that was all. The entire White House staff.

The press conference itself was held in the Oval Office. There was only a handful of reporters gathered, lined up behind Fred Storm of the UP, a huge, hulking man who had the privilege of being the first to enter. Occasionally be rapped on the door leading from the reception hall and then laughed loudly at his feigned impatience.

Someone in the crowd joked, "His Excellency is keeping the press waiting!" But it was all good natured. At 22 years old I was awed and envious of the camaraderie.

Actually I had no business being there; the White House was far above my assignment. So I stood in the back trying to hide from Claude Mahoney, The Wall Street Journal's White House correspondent, and Alfred F. ("Mike") Flynn, its senior Washington reporter. I was afraid they would think me too forward for a neophyte.

When the door opened, we gathered around the President's desk, no more than 20 of us. It wasn't a historic press conference. About all I remember of it was some casual talk about how the President was going down the Potomac on the Presidential yacht and would be back Sunday night. There were some desultory questions but I find no notes among my memorabilia. I remember only being overcome at being a few feet away from the President, at being one of the little band entitled to this privilege.

Press conferences of Cabinet officials were equally informal. The Agriculture Department was my first beat and usually only four or five of us would meet with Henry Wallace in his office. No microphones. No snaking cables for lights and television cameras. It was no different with Henry Morgenthau or Harold Ickes or Cordell Hull.

In those days all the major government departments were within easy walking distance—Agriculture, Treasury, State, the White House, even War and Navy—and since The Journal office was then equally informally organized I would often wander to other press conferences, not because journalistic duty demanded it but simply because it was fun and helped give a feel for the whole of government.

Incidentally, I would drift to the State Department for another reason. My wife, Frances, worked there as a secretary when we were first married—and made more money than I did as a Washington correspondent!

The working rules for press conferences were, by and large, those applied by the President. In general we could paraphrase what he said but could use no direct quotes without express permission. He could also give us information "for background only" which we could make use of but not attribute to him. And he kept the privilege of going "off the record" entirely when he chose.

I do not need to tell you how different it is today. That old State Department building has become the Executive Office Building and it houses more staff aides to the President than, in those olden days, there were members of the press corps.

Presidential press conferences are now TV events. The last one I attended was in the time of Gerald Ford, and I swore I would never attend another. Unless you want to get your face on television there's not much point to it.

Press conferences of cabinet officers and other high government officials are also now staged with almost equal panoply.

Though I am reluctant to admit it, there are some gains in the way the new technology has altered the manner of doing things. The ordinary citizen today does get a chance to see the President in action and doubtless to form impressions not just by what the President says but by his style. His grace under pressure, or his lack of it is not wholly irrelevant to his performance as our national leader.

The same is true of course of others in the public arena, a Secretary of State speaking on some matter of foreign policy, an economic adviser testifying before a Congressional committee. Even a 10-second snippet on the evening news tells us something about the person, and that too is not irrelevant to his public performance.

But I am not persuaded that the technological changes are all for the better. President Roosevelt could, and often did, just think out loud without fear that every word was put indelibly on the record. He could share with the reporters around his desk some information that would help them to do their jobs better, help them understand what was involved in some public question. He could, and sometimes did, misstate himself at first expression, as everyone may do in casual conversation, and then on second thought rephrase his remarks.

The modern President has no such latitude. He must live in constant fear of the slip-of-the-tongue. A misstated name from a lapse of memory can be an embarrassment. Awkward phraseology on some matter of public import is beyond recall or correction; it is flashed around the word irretrievably.

One consequence of this, it seems to me, is that Presidents today try to say no more at a press conference than what might be put as well in a carefully drafted statement. The loss here is both to the President and to the press.

The President has lost an opportunity to be frank and open. The press has lost an opportunity to share his thought processes which, without being the stuff of tomorrow's headlines, nonetheless could help them on their own to do a better job of informing their readers and listeners.

I might add, by the way, that the President has also lost the opportunity to deal bluntly with the stupid question, not unknown at a Presidential press conference. Anyway, I cannot imagine President Carter telling a reporter on television that he had asked a silly question and to go stand in the dunce corner, something President Roosevelt didn't hesitate to do.

So much for the changes wrought by technology, with their advantages and disadvantages. There are also, I think, more subtle differences in the relationship between the press and government as it was and as it is. The surface differences capsule more profound changes—in our government, in our craft, and not least in the role this journalistic craft plays in the society in which we live.

I have heard it said that the old relationship between the Washington press corps and the government was too "cozy." The im-

plication is that we were "taken in" by the informality of, let us say, Mr. Roosevelt's press or the more casual relationship between the few regulars around a cabinet officer. That we were too flattered at being admitted as at least semi-insiders, too easily accepting the off-the-record conversation. That all this somehow intimidated us from doing our job.

I don't believe it. The competitive instinct among reporters than was no less than now. On my first beat, Agriculture, Felix Belair of The New York Times knocked naivety out of me in a hurry and he never seemed to be intimidated by Henry Wallace. I never noticed Eddie Folliard of the Post, Turner Catledge of the Times or Harrison Salisbury of the UP passing up a good story out of deference to authority.

Investigative reporting isn't new, either. It was the press that exposed the Teapot Dome scandal. In my time—for one example—Tom Stokes of Scripps-Howard won his Pulitzer for exposing graft and corruption in the WPA. The defeat of FDR's court-packing scheme was due to the spotlight the press kept on it.

But there was one thing about the press then, I think, which was different from today. We did not think of ourselves and the government as enemies.

We were cynical about much in government, yes. We were skeptical about many government programs, yes. We thought ourselves the watchdogs of government, yes. We delighted in exposes of bungling and corruption, yes. But enemies of government? No.

In any event I don't recall hearing much in those days about the "adversary relationship" between press and government. Today I hear the phrase everywhere.

It reflects an attitude that shows in many ways. At these new-style press conferences, including those of the President, the questions often seem less designed to elicit information than to entrap. Even the daily press briefings by Jody Powell have become a sort of duel, an encounter that would have astonished Steve Early and the then White House press regulars.

There appears to be a widespread view that here on one side are we, the press, and over there on the other side are government officials, none of whom can be trusted.

I suppose it's a result of Watergate. We blame everything now on Watergate—much as the Chinese do everything on the Gang of Four.

But it is, I must confess to you, an attitude that leaves me uneasy.

Under our Constitution the three official Estates of the realm are the executive, the legislature and the judiciary. Each has a different role and sometimes they disagree, one with another, about what is proper public policy. But no one supposes that because a President may differ with Congress on a particular matter that they are "enemies" by nature, or that the Supreme Court is an adversary of both. Unless each gives the others a full measure of respect our society would dissolve into anarchy.

The press is not an institution of government. But it is most definitely an institution of our society, made so by the First Amendment to our Constitution. It is not too much to say, I think, that one intent of the First Amendment was to make the press, collectively, a part of the system of checks and balances that helps preserve a free society.

That is, in Macaulay's felicitous phrase, we in the press constitute a Fourth Estate of the realm. But that very phrase "Fourth Estate" implies that we are part of the self-governing process of our society, not something set apart from it.

As such we are permitted—nay, invited—to inform the people what the other Estates are doing and upon occasion to criticize what they are doing. In that last respect, of course, our right is not different from that of other citizens, all of whom are free to speak their minds. We differ from other citizens only in the fact that watching government perform is our full-time occupation.

But that role, or so it seems to me, is not the same thing as casting ourselves as adversaries, enemies even, of government as government. There's a distinction, and an important one, between differing with a President in some editorial or commentary and being an adversary of the Presidency.

To think ourselves adversaries of government as government makes me uneasy for several reasons. For one, if the press collectively thinks itself an adversary of government, why would not the government begin to think of itself as adversary to the press?

We have, in fact, already seen some signs of that. Some of us have been spied upon—our mail opened, our telephones tapped—as if we were agents of some hostile power. Some of us have been hauled into court and thrown into jail.

The reminder here is that in polity, as in physics, every action creates a reaction. We have in turn reacted to this harassment, as well we should. We ought to cry alarm whenever the government, whether the executive or the judiciary, seems bent on intimidating us by harassment. But we ought also, so I think, take care that we in our turn do not over-react.

We should, with all the energy that is in us, defend the rights of all citizens against executive spying. When citizens cannot write to one another freely or speak to one another without fear, then all liberty is endangered.

We should demand for all citizens due process against unwarranted searches and seizures of their private papers. We should hold both the executive and judiciary strictly accountable that the right of the people be secure in their persons, their houses, papers and effects be not violated.

We should insist that no warrants, or subpoenas, be issued against any citizen except upon probable cause, duly supported before the courts and particularly describing why and what is to be seized.

We should be zealous in our protection of all citizens in their right to a public trial by an impartial jury. That means we should take care that nothing we do prejudices the minds of those who will be called to give judgment on a person accused.

That also means, surely, that we should uphold the right of an accused to obtain witnesses in his favor—by compulsory process, if need be, as the Constitution provides.

We should remember that the First Amendment protects the freedom of speech of all citizens, not just our own voices.

That is where we should stand our ground, defending the rights of all.

Beyond that we should be wary.

We should be especially wary of claiming for ourselves alone any exemption for the obligation of all citizens, including the obligation to bear witness in our courts once due process has been observed.

The risk, if we do, is that someday the people may come to think us arrogant. For there is nothing in any part of the Bill of Rights, including the First Amendment, that makes us a privileged class apart.

And it cannot be said too often: Freedom of the press is not some immutable right handed down to Moses on Mt. Sinai. It is a political right granted by the people in a political document, and what the people grant they can, if they ever choose, take away.

But what a precious right that is they have granted us.

So long as the First Amendment stands, the American press, each part choosing what it will, can publish what it will. When we think it necessary to the public weal we can seize upon documents taken from government archives and broadcast them to the world. We can strip privacy from the councils of state and from grand juries. We are free to heap criticism not only upon our elected governors but upon all whom chance has made an object of public attention. We can, if we wish, publish even the lascivious and the sadistic. And we can advance any opinion on any subject.

This is unique among the nations of the world. In what other country is the press so free? Even in that England which is the wellspring of our liberties there remain after 200 years limits upon the freedom of the press.

Only in America are the boundaries of that freedom so broad.

That is why I cherish it and pray the people will never think we abuse it. For there is no liberty that cannot be abused and none that cannot be lost.

Finally, let me say that it has been my good fortune to live in such a country, and for more than forty years to have been a small part of its Fourth Estate.

That is, incidentally, longer than any person now serving in the other Estates of the realm, the Supreme Court, the Congress or those Executive Offices on Pennsylvania Avenue. With a little bit of luck I hope to still be speaking my mind when many of those now serving the other Estates have gone on to other occupations.

So there is no other honor I could receive greater than your expression here this evening that, in the opinion of my peers, I have served well that Fourth Estate.

I am grateful to you for this award. And I thank you for listening.

JOE SAVAGE

Mr. CHURCH. Mr. President, in these days of big Government and impersonal bureaucrats, we often lose sight of the countless citizens who volunteer their time and efforts for the improvement of their communities, serving without pay on public boards and commissions simply because they feel an obligation to their fellow citizens.

Recently, the Times-News in Twin Falls printed a feature story about such a citizen, Joe Savage, and the service he and his father before him provided their community for 32 years as members of the local hospital board.

As Joe Savage was quoted as saying in the article, "It's our civic responsibility."

I would like to share the article, Mr. President, and ask unanimous consent that it be printed in the RECORD.

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

LIKE FATHER, LIKE SON

JOE SAVAGE AND HIS FATHER HAVE BEEN ON HOSPITAL BOARD A TOTAL OF 32 YEARS

(By Lorayne O. Smith)

KIMBERLY.—"I've been accused of walking through surgery with cow manure on my boots."

Joe Savage of Kimberly, whose 12-year service on the Magic Valley Memorial Hospital board ends today, said the story goes that a female board member was once asked during a bridge club session if it was true "that Mr. Savage had to have the manure scraped from his boots before he walked through the surgery department."

This is just one example of the many misconceptions people have about the hospital, Savage said during an interview at his

home here Friday. The former board chairman who was not reappointed for another term was sorting the huge piles of material accumulated through the years into plastic garbage bags to pass on to his as yet unnamed successor.

In the first place, he said, no one just "walks through" the hospital surgery department. The Kimberly rancher said he's only been in surgery twice—once as a patient and when the board was taken on a tour through the department.

Hospital talk, whether misconception or not, has long been part of the Savage family, for Joe was appointed to the board when his father, the late W. B. (Bill) Savage, retired in October, 1966. Together, father and son have served a total of 32 years on the MVMH board. Each served as both treasurer and chairman.

Many people believe that board members are paid, but they serve without reimbursement and no one on the present board "would want it any other way," Savage emphasized, adding, "It's our civic responsibility."

Other citizens erroneously think that the hospital is primarily supported by the county taxpayers, while only 3 percent of the $12 million yearly operating budget actually comes from this source.

But there is one point upon which Savage feels strongly—that a local hospital is best managed by public-minded citizens serving gratis on the hospital board which in turn hires the administrator.

"Doctors know health care, but they don't know hospital administration," he said.

Board members do not in any way provide health care, but after a few year's learning period on the board, the hospital trustees do become knowledgeable on the complexities of hospital management, Savage said.

He also believes, county commissioners should "leave the hospital management to the hospital board" and resents their "going over the board's head" in the current controversy over management by inviting private management firm representatives here to make their proposals.

"They (the commissioners) were pressured by the doctors," he said, whom he again described as "knowing health care but not having expertise to run a hospital."

"It takes three years to learn all the working of a hospital—you don't pick it up in a year," Savage said.

"I don't agree with Ann Cover (county commissioner) on change for the sake of change. If a person is doing a good job he should be allowed to continue," he said.

But Savage does not want to be "too negative" about his not being reappointed to the hospital board of which he has been chairman the past two years.

The former chairman discredits the influence of some 2,000 signatures on petitions presented the commissioners asking them to investigate other private management firms after the board under Savage's leadership last fall turned down proposals from the Hospital Corporation of America (HCA).

He feels people signed the petitions "because they were friends of certain doctors."

One of his principal objections to the HCA proposal was the firm's policy of having 51 percent physician membership on boards of facilities they operate.

He is convinced people in this country do not want their hospital operated by physicians.

Magic Valley Memorial Hospital's history is interwoven with the Savage family. His father, along with other civic leaders such as Clyde Bacon, Pat Parry, Everett Sweeley and Marshall Chapman, was instrumental in obtaining state legislation back in the late 1940s authorizing county commissioners to establish both hospital boards and levy taxes to assist in their operation.

According to C. D. Hiatt of Twin Falls, another former hospital board member, local civic leaders knew it was necessary to have countywide representation on a hospital board to gain support for passage of the $1.5 million bond issue to construct MVMH which was dedicated in September, 1951.

That year Joe Savage was attending the University of Idaho at Moscow. After graduating in 1952 he returned to his home town of Kimberly where he has since lived, operating farms and ranches out of Kimberly, Hansen, Murtaugh and in Gooding county.

While he did not follow hospital affairs too closely in those years, Savage recalls his father was on the original board when MVMH was built.

Asked if hospital business was a household topic during the years when his father was first board treasurer and later chairman, Savage said "to some extent."

But he explained that board members "have access to some information, such as payment writeoffs and anything of a personal nature you wouldn't talk about even to your wife."

Service on the hospital board is a real learning experience, Savage said. With hospital operation and health care becoming steadily more complex, the learning never ends.

"The government regulations will kill you," Savage said. The 1122 review process, part of the Social Security Act, is a good example of the complexity.

Another result of this increased complexity is that now the hospital administrator must bring many problems to the board which have become "too much responsibility for one person to solve."

All this means that hospital board members must donate many hours to their volunteer jobs if they hope to keep abreast of new developments, let alone understand the basics of hospital operation.

He compared a hospital to a small city, with its own laundry, housekeeping, food and maintenance departments. MVMH employs some 500 persons, making it one of the largest employers in the county.

Much of the nitty gritty of hospital board work is carried on through committees, many of which also meet monthly. Savage, as board chairman the past two years, has attended most of these.

The working committees include executive, whose members also constitute the finance committee; building; labor; joint conference, half of whose membership is composed of doctors; and the hospital development and public relations committee.

"To do the very best job, the board chairman should attend all these meetings so you really know what's going on," Savage said, "there's no substitute for being present."

And that's just what Savage has done. In his 12 years of service he has missed only two regular board meetings.

His interest above and beyond the call of duty drew high praise from James Rosenbaum, hospital administrator.

"He not only gave leadership to the board but really contributed a good deal of time and effort to make the hospital a recognized regional institution," the administrator said. "He probably put in more time than the job required because he felt a personal commitment to put in whatever time was necessary, not only to lead the board but to understand a very complex industry."

TRIBUTE TO FORMER SENATOR EDWARD BROOKE OF MASSACHUSETTS

Mr. KENNEDY. Mr. President, for the past 12 years my colleague from the Commonwealth of Massachusetts was Edward W. Brooke.

Throughout this time, on every issue before the Senate, he was a model of concern, sensitivity, courage, and intelligence. He was concerned about the problems of our Commonwealth. He was sensitive to the plight of those in our country who have so much to offer but have not found the way to offer it. He was courageous within his own party and in pursuing his vision. And, in all of these efforts, he applied a fine intelligence.

As a member of the Banking Committee, he was deeply involved in housing and transit. The Brooke amendment kept public housing tenants from paying exorbitant rents. He authored the Federal program through which subsidized housing is financed. So, too, he was a powerful force for the development of urban mass transit.

His work on the Appropriations Committee took him into all areas of Federal funding. In each, his humanity and vision shaped the leadership which he gave to that committee and the Senate. Senator Brooke had a deep commitment to improving the quality of health care, and he was a tireless advocate of greater Federal assistance, especially in the area of cancer research. He also knew the need for communities to gain greater control over their own destinies, and he worked diligently with the Community Services Administration.

Senator Brooke was also a leader of great courage and skill in guiding appropriations for the Departments of Labor and Health, Education, and Welfare through Congress without the abortion and busing restrictions that have been so controversial in recent years.

In his work outside of the committees on which he served, Senator Brooke was also extremely active. He was an outstanding leader on every major civil rights issue of the past decade in the Senate. He was an early supporter of the first SALT agreement. He had the courage to stand up and work against the appointment of Clement Haynsworth and Harold Carswell to the U.S. Supreme Court.

His very presence and success in the Senate was a symbol and encouragement to black Americans and all other minorities to take their places in elective office throughout this country. When he first came to the Senate, in 1966, he was one of a handful of black elected officials in the Nation. There are over 4,500 today, a tribute in large part to the trail he blazed in the Senate.

Massachusetts is losing an outstanding member of the Senate. Our offices were located next to one another for many years, and we worked closely together throughout our service here. As Senator Brooke leaves the Senate, I am confident that his eloquent voice will continue to be heard and that his career will continue to be an inspiration to the Nation. His contributions in the past will be remembered in the better housing in which children live. They will be remembered in the longer lives enjoyed by former cancer victims. They will be remembered by black and white Americans together in the schoolrooms and lunchrooms and voting places of Massachusetts and Mississippi, Connecticut and California, Arkansas and Arizona. They will be re-

membered as he continues to lead us toward a better and more just America in the future.

Mr. President, I commend my former colleague from Massachusetts for his brilliant record in the Senate, and I wish him great success in his future work.

MARGARET MEAD

Mr. JAVITS. Mr. President, late in 1978 our Nation lost one of its finest personalities and intellects when Margaret Mead, whom I knew well, succumbed to cancer. On the day of her passing, and periodically since, hundreds of thousands of words of tribute have been written about Dr. Mead, including a thoughtful, incisive piece by Alden Whitman of the New York Times.

Yet, none of what has been written about her can even yet capture fully the essence of Margaret Mead. Her contributions to the science of anthropology and thus to our society cannot yet be fully appreciated. Her pioneering methods of research alone will continue to bear the fruit of human enlightenment as others follow in her footsteps, benefiting from her genius.

As a result, Mr. President, Margaret Mead lives on. She is with us in the brilliant studies she conducted on human behavior; she lives on in the many books she has authored, including the first, great book that launched her career, "Coming of Age in Samoa," written in 1928 and which continues to be a best-seller even today; her ideas thrive in the minds of her students whom she stimulated with her zeal and zest for the search for knowledge and truth; and her legacy still shines in exhibits she caused to be erected for thousands to view each year at the American Museum of Natural History in New York City, where she was curator emeritus in the department of anthropology. Her testimony before congressional committees showed all her talent and was of great benefit to our Nation.

Mr. President, Dr. Mead passed away while the Congress was in adjournment. As a result no CONGRESSIONAL RECORD was available for those of us who knew and revered her to extol her contributions to learning and society. I ask at this first opportunity, to do just that by printing in the RECORD of this first day's proceedings of the 96th Congress the obituary from the November 16, 1978, New York Times by Alden Whitman that captured as well as any I have read the full worth and richness of Dr. Mead's long and active career.

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

MARGARET MEAD

(By Alden Whitman)

Margaret Mead, the anthropologist, author, lecturer and social critic, died yesterday at New York Hospital after a year-long battle with cancer. She was 76 years old.

Dr. Mead, who was curator emeritus of the department of anthropology at the American Museum of Natural History, had known that she had cancer but remained active at her work until she entered the hospital on Oct. 3, according to a museum spokesman.

President Carter mourned her death in a statement saying that she had "brought the humane insights of cultural anthropology to a public of millions." There were other tributes from Kurt Waldheim, Secretary-General of the United Nations, from Mayor Koch, the Smithsonian Institution, Edward J. Lehman, the executive director of the American Anthropological Association, and Faye Wattleton, president of the Planned Parenthood Federation.

"I'm in the middle of several different things," Dr. Mead said offhandedly a few years ago and reeled off to an inquiring friend a dozen projects that she was pursuing simultaneously. She was not boasting. She was just stating a fact of her life that had been true since early childhood: the slight but sturdy Dr. Mead was possessed of virtually boundless energy, an unquenchable curiosity, a tenacious memory and a genius for organizing her time.

She often gave the impression of being ubiquitous because she was rarely at rest in any one place for very long and because she could not permit a moment to pass unutilized. In all this she had a zest that even in her 70's confounded friends and colleagues of lesser verve.

The American Museum of Natural History, with which she was associated for most of her professional life, once drew up a list of subjects in which she was "a specialist." The list read:

"Education and culture; relationship between character structure and social forms; personality and culture; cultural aspects of problems of nutrition; mental health; family life; ecology; ekistics; transnational relations; national character; cultural change, and cultural building."

The museum might well have added "et cetera," for Dr. Mead was not only an anthropologist and ethnologist of the first rank but also something of a national oracle on other subjects ranging from atomic politics to feminism. She took on (and dismissed with disdain) Dr. Edward Teller, the hydrogen bomb advocate, and she was once described as "a general among the foot soldiers of modern feminism." Insofar as anyone can be a polymath, Dr. Mead was widely regarded as one.

HEADED SCIENCE ASSOCIATION

One evidence of her formidable powers was her election, at the age of 72, to the presidency of the American Association for the Advancement of Science. She was the second woman to head this group, one of the ranking organizations of the country's scientific community. Her stature as a scientist had been assured for many years, albeit somewhat grudgingly because she was a woman in a male-dominated discipline.

For those who saw Dr. Mead in middle age and on, she was a robust, 5-foot-2-inch figure who carried a forked walking stick (she broke her ankle years ago). Her head was topped with fluffy, slightly curly hair cut in bangs, and her feet were shod in plain leather sandals. Her voice was melodious, and her face, with its rimless glasses, was pleasant and open.

Although she could be lacerating, she was more often gentle and witty. She believed civilized mankind to be often ill-informed and pigheaded, yet she usually displayed great compassion for its individual members.

From the publication of her first book, "Coming of Age in Samoa," in 1928, in which she described the values of adolescent lovemaking in Samoan society, Dr. Mead's name become associated with sexual theory. A good deal of her subsequent writing contended that sexual repression worked against healthy maturation of the young and against successful marriages.

"ECLECTIC CIRCUITRY"

Her anthropological studies also covered other topics and were generally highly regarded as making her an expert in the sociocultural life of primitive peoples. Some, though, were reserved about the seeming contradictory nature of her material. "She illustrates the principle of eclectic circuitry," one critic said.

The number of Dr. Mead's scientific and popular lectures was staggering—110 in one sample 12-month period—and each was different. Her popular lectures, delivered usually to overflow crowds, were sometimes on rather esoteric subjects. "Acculturation Among the Iatmul Tribe of New Guinea" was one of them. ("For years I have been able to guarantee audiences a good address by using words that aren't in home dictionaries," she once said.)

Sometimes she got her audiences mixed up. Once, for example, she spoke learnedly on sex deviations among the Tchambuli to a group of theologians. They took it in good part, as did a men's luncheon club whose members applauded her talk on cultural stability in the South Seas.

Over the years, Dr. Mead lectured, sometimes for no fee, on such subjects as air pollution, hunger, mental hygiene, sex, women's careers, population control, primitive art, the family, nutrition, city planning, military service, tribal customs, alcoholism, child development, architecture, drugs and civil liberties. No matter what the topic, she did her homework. After one talk on tribal customs, a questioner asked about consumption of betel nuts in the Admiralty Islands. There was a ready and long response, as if betel nut problems were her life work.

AN ACTIVE ADVOCATE

Dr. Mead's fellow anthropologists were often uneasy about her. "You wonder what she'll take off on next," one said some years ago. "We know what Dr. Blank will say—he's probably already distributed his paper. But we're never sure about Margaret Mead."

Not only was Dr. Mead unpredictable; sometimes she also did not abide by the rules of behavior that most scientists set for themselves. Anthropology, essentially the study of adaptation, should refrain from influencing the events it observes and interprets, most scientists believe. But Dr. Mead, according to her critics, was not only a student of adaptation but also an active advocate of many specific changes in modern society.

The critics, however, almost universally admired her as a person, however much they were distressed by her as a scholar-activist. They thought she was too scattershot and sometimes self-contradictory. "But then," one critic said, "we do owe a lot to Margaret for putting us on the map."

Some social scientists thought that Dr. Mead was lacking in introspection on the human relations of her field work in the South Seas. "The remarkable thing about Margaret is that she's always been interested in the psychological end of anthropology and is, in fact, one of the leading contributors to the field," a critic said. "But her first love and primary interest is the study of culture, and she never gets to the person in the full sense."

"OH, PIFFLE"

To this and other criticisms, Dr. Mead's usual reaction was, "Oh, piffle." It was said with noticeable spunk, tinged with disdain.

Spunkiness was, indeed, among Margaret Mead's earliest traits. Born in Philadelphia on Dec. 16, 1901, she was the daughter of Edward and Emily Fogg Mead. Her father, who taught economics at the University of Pennsylvania, had hoped for a son and once told his daughter, "It's a pity you aren't a boy; you'd have gone far."

She determined to go to college and did, to De Pauw University, from which she went on to Barnard College to get her Bachelor of Arts degree in 1923.

At Barnard, the young student met Franz Boas, a magnetic man who was one of the

world's ranking anthropologists. He became her mentor, and she became one of his four graduate students at Columbia, where she took her M.A. in 1924 and her Ph.D. in 1929.

"Franz Boas had to plan—much as if he were a general," Dr. Mead recalled, "with only a handful of troops to save a whole country." Dr. Boas thought she ought to work among American Indians, his area of interest, but she wanted to investigate Polynesia.

SPUNKINESS AND GUILE

Her spunkiness won out, assisted by a bit of guile. She suggested to Dr. Boas that he was trying to manipulate her and suggested to her father that her mentor was trying to control his daughter. Dr. Boas gave in, and her father gave her $1,000 for a world trip.

By this time, Dr. Mead was married to Luther S. Cressman, a young seminarian who often joked unhumorously of having to make an appointment to see his wife. They parted temporarily when she went to Samoa in 1926.

On shipboard, there was a love affair with Reo F. Fortune, a New Zealand anthropologist, to whom she was married after a brief reconciliation with Dr. Cressman. Meanwhile she did the field work for and wrote "Coming of Age in Samoa." From the start, it was enormously popular, especially among young people, some of whom were influenced by it to become anthropologists.

The scientific question underlying "Coming of Age in Samoa" was whether "the disturbances which vex our adolescents [are] due to the nature of adolescence itself or the civilization." Her findings suggest that the answer was the civilization. The easy-going ways in Samoa minimized conflict and the incidence of neurotic personalities due to guilt feelings.

TWO DARING CHAPTERS

The book was descriptive rather than statistical. It also included two chapters that daringly applied her findings to modern society, in which she proposed that strait-laced sex attitudes might be relaxed without "accepting promiscuity."

The book has often been attacked in scientific circles as too subjective and lacking the data for verifiable behavior. However, her conclusions were based on detailed observation, and if she did not conduct anthropometric tests or produce statistical surveys she did convey her subjects graphically. A typical sentence read, "Her grandmother is very old; the muscles in her neck are stringy like uncooked pork."

Dr. Mead settled down with the people she was studying. She ate their wild boar, wild pigeon and dried fish; helped to care for ill children, and gained the confidence of her informants. At one time she built a wall-less house so she could observe everything around her.

She possessed a trait unusual in anthropologists of her time, an ability to shed her Western preconceptions. She would sit on the ground for hours without moving as she watched tribal peoples. "She knows how to use her eyes, how to see," said Ken Heyman, a fellow scientist. "She has an uncanny perception for different cultural styles."

BOOKS SHOWED INTUITION

This finely attuned intuition was evident in her books on the seven cultures she studied—Samoan, Manua, Arapesh, Mundugumor, Tchambuli, Iatmul and Balinese. Out of these inquiries came, in addition to "Coming of Age in Samoa," "Growing Up in New Guinea," "Sex and Temperament in Three Primitive Societies," "Balinese Character" and "New Lives for Old." Some of her most extensive studies were done with the Manua—she visited them several times—and they spoke her name as "Makrit Mit."

Dr. Mead's association with tribal peoples was the subject of a notable New Yorker cartoon that depicted a tribal chief handing out books to boys about to be initiated into adolescence. "Rather than go into the details," he was saying, "I'm simply going to present each of you with a copy of this excellent book by Margaret Mead."

The idea behind the cartoon was not far fetched, because the Iatmul peoples once met her at their dock singing "My Darling Clementine" and then carried her off to their village.

Generalizing from her investigations, Dr. Mead said that each culture had its own distinct psychological profile. "Each society," she wrote, "has taken a special emphasis and given it a full and integrated expression at the expense of other potentialities of the human race."

Amid her studies, her life was anything but tranquil. Dr. Mead and her husband, Dr. Fortune, met Gregory Bateson, a British anthropologist, in New Guinea. There was a personal crisis among the three as a result of which there was a divorce, and Dr. Mead and Dr. Bateson were married. They had a daughter, Catherine. They were divorced after about 15 years.

"The Bateson years were probably the richest of her life," a friend of Dr. Mead said, noting that she and her husband were "perfect partners in mind and temperament." Recalling the union in her memoir, "Blackberry Winter," Dr. Mead was wistful about her marriage and its years in Bali, saying:

"I think it is a good thing to have such a model once [as Mr. Bateson] even if the model includes the kind of extra intensity in which a lifetime is condensed into a few short years."

In another recollection, she seemed to fault herself, saying "American women are good mothers, but they make poor wives; Americans are very poor at being attentive to anybody else."

Nevertheless, in their Bali years the couple took and annotated 25,000 photographs. This work, which was done in 1936–38, had a large impact on other anthropologists.

TURNED TO CURRENT ISSUES

Although Dr. Mead had usually adverted to modern society in her books and lectures before 1940, she moved more directly into discussion of her own times in "And Keep Your Powder Dry: An Anthropologist Looks at America," issued in 1942. The book dealt with American character outlined against the background of the seven other cultures she had studied. It increased the demand for her lectures and gave her the chance to speak out on current issues.

One of the issues that she tackled was male-female relationships, her thoughts on which she gathered into "Male and Female: A Study of Sexes in a Changing World," published in 1949. "A vast, turbulent book," Rebecca West said of it. Among its observations was, "Differences in sex as they are known today are based on the bringing up by the mother—she is always pushing the female toward similarity and the male toward difference."

In more recent years, Dr. Mead became an outspoken leader of the feminist movement. Indeed, she felt it her duty to improve people's understanding of themselves and especially women's understanding of themselves. She liked to talk, often with scorching humor, about what she saw as the follies of conventional ways of loving, working, birthing, housing and aging. This sense of mission appeared to many to account for Dr. Mead's restless zeal. "She wanted to be a mother to the world," a friend said.

TAUGHT AT COLUMBIA

In addition to her post at the American Museum of Natural History, she was also adjunct professor of anthropology at Columbia and taught the subject at Fordham.

In addition to her daughter, Mary Catherine Bateson Kassarjian, dean of social sciences at Raza Shah Civar University in Iran, Dr. Mead is survived by a granddaughter, Sevanne, and a sister, Elizabeth Mead Steig of Cambridge, Mass.

Funeral services will be private and burial will be in Buckingham, Pa. A memorial service will be held at 2 P.M. tomorrow in St. Paul's Chapel, Columbia University.

"PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES"

Mr. CHURCH. Mr. President, each year the Senate Committee on Aging publishes a checklist of itemized deductions for individual taxpayers.

A major purpose of this summary is to protect older Americans—as well as younger Americans—from overpaying their taxes.

In addition, the committee wants to assure that taxpayers are completely current concerning any new developments affecting the Internal Revenue Code.

Late last year, the Congress enacted the 1978 Revenue Act which included several important tax relief provisions for all taxpayers, including older Americans.

Most of these provisions will become effective for taxable year 1979. However, some are applicable during 1978, and will be helpful for taxpayers who will prepare their tax returns during the next few weeks.

One of the most important tax relief measures for older Americans is my amendment to permit taxpayers 55 or older to exclude once in their lifetime, up to $100,000 in profit when they sell their homes. The effect of this measure is that practically all elderly persons will not be subject to capital gains tax if they sell their personal residences. This tax savings can provide considerable help for persons preparing for retirement, or those who may want to supplement their social security.

The committee's checklist is not an all-inclusive summary for every conceivable circumstance. This would require a lengthy and complicated document, which may lose some of its value for the typical taxpayer. But, the checklist can help to safeguard individuals from overpaying their taxes, especially those who are not completely current on tax relief provisions.

The checklist is helpful for taxpayers in other ways as well. The summary, for example, provides guidance to determine whether it would be more advantageous to itemize deductible expenses or claim the standard deduction.

In addition, it may be useful for individuals in planning their personal and tax affairs.

Finally, it may even be helpful for taxpayers who have already filed a tax return but overlooked allowable deductions. These persons may still claim items initially omitted by filing an amended return, form 1040X. But, it must be filed within 3 years after the original return was due or filed, or within 2 years from the time the tax was paid, whichever is later.

Mr. President, I ask unanimous consent that the Committee on Aging's checklist of itemized deductions and

summary of tax relief measures for older Americans be printed in the RECORD.

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

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3% of your adjusted gross income (line 31, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 31, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expenses (subject to 3% limitation):

Abdominal supports (prescribed by a doctor).
Acupuncture services.
Ambulance hire.
Anesthetist.
Arch supports (prescribed by a doctor).
Artificial limbs and teeth.
Back supports (prescribed by a doctor).
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian Science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning, X-ray, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as substitute for, regular diet; physician's statement needed).
Gynecologist.
Hearing aids and batteries.
Home health services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lipreading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care, including nurse's board paid by you).
Occupational therapists.
Opthalmologist.
Optician.
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physical therapist.
Physician.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (prescribed by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.
Splints.
Supplementary medical insurance (Part B) under Medicare.
Surgeon.
Telephone/teletype special communications equipment for the deaf.
Transportation expenses for medical purposes (7¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

TAXES

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, trucks, motorcycles, airplanes, boats, mobile homes, and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security, Veterans' pensions or compensation payments, Railroad Retirement annuities, workmen's compensation, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation and public assistance payments).

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 31, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20% of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, State or local governmental units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 7¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.
Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points is an established business practice in your area. Not deductible if points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—may deduct the separately stated "finance charge" expressed as an annual percentage rate.

CASUALTY OR THEFT LOSSES

Casualty (e.g., tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. Report your casualty or theft loss on Schedule A. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, you may use Form 4684 for computing your personal casualty loss.

MISCELLANEOUS

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.
Union dues.
Cost of preparation of income tax return.
Cost of tools for employee (depreciated over the useful life of the tools).
Dues for Chamber of Commerce (if as a business expense).
Rental cost of a safe-deposit box used to store income-producing property.
Fees paid to investment counselors.
Subscriptions to business publications.
Telephone and postage in connection with investments.
Uniforms required for employment and not generally wearable off the job.
Maintenance of uniforms required for employment.
Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).
Business entertainment expenses.
Business gift expenses not exceeding $25 per recipient.
Employment agency fees under certain circumstances.
Cost of a periodic physical examination if required by employer.
Cost of installation and maintenance of a telephone required by your employment (deduction based on business use).
Cost of bond if required for employment.
Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Educational expenses that are: (1) required by your employer to maintain your position; or (2) for maintaining or sharpening your skills for your employment.

Political Campaign Contributions.—You may claim either a deduction (line 31, Schedule A, Form 1040) or a credit (line 38, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State, or local office in any primary, general, or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) State committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $100 ($200 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $25 ceiling ($50 for couples filing jointly).

PRESIDENTIAL ELECTION CAMPAIGN FUND

Additionally, you may voluntarily earmark $1 of your taxes ($2 on joint returns) for the Presidential Election Campaign Fund.

ADDITIONAL INFORMATION

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contacting your local IRS office.

OTHER TAX RELIEF MEASURES

Filing status	*Required to file a tax return if gross income is at least—*
Single (under age 65)	$2,950
Single (age 65 or older)	3,700
Qualifying widow(er) under 65 with dependent child	3,950
Qualifying widow(er) 65 or older with dependent child	4,700
Married couple (both spouses under 65) filing jointly	4,700
Married couple (1 spouse 65 or older) filing jointly	5,450
Married couple (both spouses 65 or older) filing jointly	6,200
Married filing separately	750

Additional Exemption for Age.—Besides the regular $750 exemption, you are allowed an additional exemption of $750 if you are age 65 or older on the last day of the taxable year. If both a husband and wife are 65 or older on the last day of the taxable year, each is entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1979, you will be entitled to the additional $750 exemption because of age for your 1978 Federal income tax return.

"Zero Bracket Amount."—The "zero bracket amount" is a flat amount that depends on your filing status. It is not a separate deduction; instead, the equivalent amount is built into the tax tables and tax rate schedules. Since this amount is built into the tax tables and tax rate schedules, you will need to make an adjustment if you itemize deductions. However, itemizers will not experience any change in their tax liability and the tax computation will be simplified for many itemizers.

Tax Tables.—Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax easier. In addition, you do not have to deduct $750 for each exemption or figure your general tax credit, because these amounts are also built into the tax table for you.

Multiple Support Agreements.—In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) gross income, (3) member of household or relationship, (4) citizenship and (5) separate return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $750 dependency deduction if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10% of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose

Sale of Personal Residence.—You may exclude from your gross income some or all of your gain from the sale of your principal residence, if you meet certain age, ownership, and occupancy requirements at the time of the sale. These requirements, and the amount of gain that may be excluded, differ depending on whether you sold your home before July 27, 1978, or on or after that date. The exclusion is elective, and you may elect to exclude gain only once for sales before July 27, 1978, and only once for sales on or after that date.

If you sold your home before July 27, 1978, and you were age 65 or older before the date of sale, you may elect to exclude the gain attributable to $35,000 of the adjusted sales price if you owned and occupied the residence for 5 of the 8 years ending on the date of sale. If you sold the home after July 26, 1978, and you were age 55 or older before the date of sale, you may elect to exclude $100,000 of gain on the sale if you owned and occupied the residence for 3 of the 5 years ending on the date of sale (or 5 of 8 years under cercumstances). Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded.

Additionally, you may elect to defer reporting the gain on the sale of your personal residence if with 18 months before or 18 months after the sale you buy and occupy another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence; (2) you were on active duty in the U.S. Armed Forces; or (3) your tax home was abroad. Publication 523 (Tax Information on Selling or Purchasing Your Home) may also be helpful.

Credit for the Elderly.—You may be able to claim this credit and reduce taxes by as much as $375 (if single), or $562.50 (if married filing jointly), if you are:

(1) Age 65 or older, or

(2) Under age 65 and retired under a public retirement system.

For more information, see instructions for Schedules R and RP.

Credit for Child and Dependent Care Expenses.—Certain payments made for child and dependent care may be claimed as a credit against tax.

If you maintained a household that included your dependent child under age 15 or a dependent or spouse incapable of self-care, you may be allowed a 20% credit for employment related expenses. These expenses must have been paid during the taxable year in order to enable you to work either full or part time.

For detailed information, see the instructions on Form 2441.

Earned Income Credit.—If you maintain a household for a child who is under age 19, or is a student, or is a disabled dependent, you may be entitled to a special payment or credit of up to $400. This is called the earned income credit. It may come as a refund check or be applied against any taxes owed. Generally, if you reported earned income and had adjusted gross income (line 31, Form 1040) of less than $8,000, you may be able to claim the credit.

Earned income means wages, salaries, tips, other employee compensation, and net earnings from self-employment (generally amount shown on Schedule SE (Form 1040) line 13). A married couple must file a joint return to be eligible for the credit. Certain married persons living apart with a dependent child may also be eligible to claim the credit.

For more information, see instructions for Form 1040 or 1040A.

ENERGY TAX ACT

The Energy Tax Act of 1978 is directed at providing tax incentives for energy conservation measures and for conversion to renewable energy sources.

A credit of up to $300 may be claimed for expenditures for energy conservation property installed in or on your principal residence, whether you own or rent it. The residence must have been substantially completed by April 20, 1977. Items eligible for the credit are limited to the following: insulation (fiberglass, cellulose, etc.) for ceilings, walls, floors, roofs, water heaters, etc.; exterior storm (or thermal) windows or doors; caulking or weatherstripping for exterior windows or doors; a furnace replacement burner which reduces the amount of fuel used; a device to make flue openings (for a heating system) more efficient; an electrical or mechanical furnace ignition system which replaces a gas pilot light; an automatic energy-saving setback thermostat; and a meter which displays the cost of energy usage.

A maximum credit for renewable energy source property is $2,200. Equipment used in the production or distribution of heat or electricity from solar, geothermal, or wind energy sources for residential heating, cooling, or other purposes may qualify for this credit.

Energy credits may be claimed by completing Form 5695 and attaching it to your Form 1040. Credit for expenditures made after April 19, 1977, and before January 1, 1979, must be claimed on your 1978 tax return. Do not file an amended 1977 return to claim a credit for expenditure in 1977.

Examples of items which do not qualify for energy credit are the following: carpeting, drapes, wood paneling, exterior siding, heat pump, wood or peat fueled residential equipment, fluorescent replacement lighting system, hydrogen fueled residential equipment, equipment using wind energy for transportation, expenditures for a swimming pool used as an energy storage medium, and greenhouses.

For further information, consult the instructions for Form 5695 and IRS Publication 903, Energy Credits for Individuals.

TRIBUTE TO FORMER SENATOR DICK CLARK OF IOWA

Mr. KENNEDY. Mr. President, as the 96th Congress convenes, it is without Senator Dick Clark of Iowa.

In his 6 years as a Member of this body, Senator Clark established an outstanding reputation. He was an outspoken voice on many subjects, and during his service with us, we gained immense

respect for his integrity, courage, and leadership.

On issue after issue, Dick Clark was often the first to blow the whistle on serious abuses. He earned a well-deserved reputation as Mr. Integrity and Mr. Reform because of his hard work and leadership in areas like the Senate Ethics Code and the effective reforms he sponsored in areas like campaign financing and the Federal lobbying laws. And when a prior administration was tempted to involve our country in the Angolan Civil War, Senator Clark said no—no more Vietnams in Asia, no new Vietnams in Africa, no more sons of Iowa or of any State killed in senseless conflicts overseas.

No Senator cared more about his State or gave it more dedicated service. The farmer, the factory worker, the veteran, the senior citizen, and many others knew they had a Senator who worked for them and cared about their needs.

In his 1972 campaign, Senator Clark walked across Iowa, one of the first Members of the Senate to use that effective method of campaigning. He demonstrated his accessibility to the people, his willingness to listen to their ideas and understand their problems.

Senator Clark was well known for his hard work in many areas, but he felt that his most significant accomplishments were in the area of agriculture. He took pride on his close relationships with the farmers of Iowa. Among his most important accomplishments was his authorship of legislation to end the abuses in commodity regulation. He was also a leader in sponsoring major reforms in packinghouse regulations and in the Nation's grain inspection system.

As a member of the Rules Committee, Senator Clark was a leader in many different efforts to reform the Senate and make it function more effectively. In addition to his outstanding leadership in reforming the campaign financing laws, he played a major role in the reform of the filibuster and seniority rules in the Senate.

It is not only the people of Iowa who have lost a courageous and responsible voice for reform and integrity. Many of us in the Senate have lost a close personal friend as well. Government in Washington may not be all that the people of the Nation would like it to be. But it is a better and more responsive government today because Dick Clark passed this way, and we shall miss his example and his friendship.

JERRY BROWN'S SECOND INAUGURAL

MR. CRANSTON. Mr. President, the headlines on Jerry Brown's Inaugural Address last Monday focused on just one sentence of his lengthy speech—and not unreasonably, since his endorsement of a constitutional amendment to mandate a balanced Federal budget and of a constitutional convention was the most controversial aspect and clearly the news story.

But there was a great deal more to the speech. The Governor's review of the accomplishments and promises of California, of the challenges faced by those who will reach majority in the year 2000, and of the paradoxes of our successes and failures presents a fascinating commentary on where our society is and the alternatives it faces.

Most importantly, Governor Brown calls for sacrifice, for belt tightening, for less reliance on government, for national emphasis on productivity and maximization of each citizen's potential, for reduced governmental interference in our lives, and for enhancement of the quality of our environment.

I invite my colleagues to read the speech in full and ask unanimous consent that it be printed in the RECORD. In addition, I ask unanimous consent that California Joint Resolution Number 2 relative to a balanced Federal budget appear as an appendix to the Governor's speech.

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

INAUGURAL ADDRESS OF GOVERNOR EDMUND G. BROWN, JR.

The new year on which we now begin is a year of testing. Once again our economy is careening down the path of inflation that inexorably leads to recession. At such a time, it is right to reexamine our assumptions, state clearly our goals, and work confidently for the future.

1979 is the international year of the child. Those born this year will graduate in the class of 2000. What they inherit will depend on the courage and vision we pass on to them. Whether Californians in that year are up among the best or stagnating in the continuing aftershocks of obsolete technology and pervasive foreign imports, that depends on us.

Today we see the ethos of our moment dominated by "getting and spending" rather than innovation and risk. The depressing spirit of the age ungratefully feeds off the boldness of the past. Where there should be saving for the future, I see frantic borrowing. Where there should be investment in productive capacity, I see frenetic consumption.

California has been called the great exception. From the mystic aura of the name itself to the conquest of outer space, California has inspired greatness among its many immigrant people. Gold, forests, rich agricultural fields, high technology, universities of excellence, the Pacific horizon, diverse ethnic groups—all these have converged to keep our state a dream for the hundreds of thousands who still cross our borders each year. In the last four years, 1.5 million jobs have been created and the proportion of people over 16 employed in the wage economy has grown from 56 percent to 61 percent, a participation rate matched rarely anywhere in this country or anywhere else in the world. Over 14 million motor vehicles each month set new records in gallons of gasoline consumed and miles driven over our roads. Our 22 million people produce each year more than the combined effort of the billion people who inhabit India, Pakistan, Indonesia, the Philippines, South Korea, Nigeria and Zaire. We have the most advanced technology, the most stringent environmental laws, a strong legal commitment to equality, the highest transfer payments to those who depend on government and the most advanced labor laws.

Yet the mistrust of our public institutions and mere anxiety about our future economy are more the order than the exception. Three quarters of the people do not trust their government. More than half of the eligible citizens of California again decided not to vote in the last election. Why? Why the anti-government mood? I asked this same question four years ago and now I believe I understand. Simply put, the citizens are revolting against a decade of political leaders who righteously spoke against inflation and excessive government spending but who in practice pursued the opposite course.

It is in this fundamental contradiction between what political leaders have said in their anti-inflation and anti-spending speeches and what they have actually done in their fiscal policies that we find the cause of today's political malaise. The ordinary citizen knows that government contributes to inflation and that runaway inflation is as destructive to our social wellbeing as an invading army.

The economists will argue about the fine points but the people know that something is profoundly wrong when 75 percent of government spending decisions are automatically decided by past formulas and not present lawmakers—formulas that ensure that government and its taxes always keep ahead of inflation.

People know that something is wrong when the federal government stimulates inflation and inflation raises the face value of prices, income and property, so that the taxes on each grow higher and higher. This perverse government money machine has created a fiscal dividend for local, state and federal government and allowed all three to expand faster than inflation and faster than real economic growth. These unauthorized dividends are now being cancelled. The tax revolt is being heard.

There is much to learn about the unprecedented primary vote and victory of Proposition 13. Not the least of which is that the established political union and corporate powers are no match for an angry citizenry recoiling against an inflationary threat to their homes and pocketbooks.

While it is true that the tax revolt has increased the privileges of the few, it has without question inspired the hopes of many. Plain working people, the poor, the elderly, those on fixed incomes, those who cannot keep up with each new round of recession, these are the people who are crying out for relief.

But in their name and in the name of misfortune of every kind, false prophets have risen to advocate more and more government spending as the cure—more bureaucratic programs and higher staffing ratios of professional experts. They have told us that billion dollar government increases are really deep cuts from the yet higher levels of spending they demand and that attempts to limit the inflationary growth of government derive not from wisdom but from selfishness. That disciplining government reflects not a care for the future but rather self-absorption. These false prophets, I tell you, can no longer distinguish the white horse of victory from the pale horse of death.

In this decade government at all levels has increased spending faster than the true rate of economic growth; taxes per $100 of income have climbed steadily. The cure for inflation has been administered with a vengeance. Yet most people feel worse, not better, about their government benefactor. The elderly find their fixed incomes eroding in half; those about to retire fear their future pensions will never keep pace. Ten million California workers see their wages rise but not as fast as prices. Those on welfare obtain larger grants but find more expensive groceries.

It is time to get off the treadmill, to challenge the assumption that more government spending automatically leads to better living. The facts prove otherwise. More and more inflationary spending leads to decline abroad and decadence at home. Ultimately

it will unwind the social compact that forms the basis of our society.

Lord Keynes, in whose name many of the false prophets claim to speak, had this to say on the subject:

"By a process of inflation governments can confiscate, secretly and unobserved, an important part of the wealth of their citizens. By this method they not only confiscate, but they confiscate arbitrarily; and, while the process impoverishes many, it actually enriches some. . . . There is no subtler, no surer means of overturning the existing basis of society than to debauch the currency. The process engages all the hidden forces of economic law on the side of destruction, and does it in a manner which not one man in a million is able to diagnose." [1]

Government, no less than the individual, must live within limits. It is time to bring our accounts into balance. Government, as exemplar and teacher, must manifest a self-discipline that spreads across the other institutions in our society, so that we can begin to work for the future, not just consume the present.

I propose that this year the state government lower the amount of taxes it collects per $100 of income to the level of four years ago. This will require a billion dollar tax cut. Such a tax reduction should, on a percentage basis, give the greatest benefit to renters and those at the lower and middle level of the income scale. A flat tax credit combined with an increase in renter assistance will accomplish this goal.

Some might ask, how did the state obtain this billion dollars? Did the state extract it from new wealth or increased production? Was there a vote of the legislature to levy a new tax? No! Quite simply the perverse money machine of inflation is artificially raising income, property, prices, and profits and combining with pre-existing state law to generate a tax windfall. Unearned, unvoted, and undeserved.

Next, I propose that for the first time since World War II, we actually decrease the number of positions in state government. A reduction of 5000 is reasonable and attainable without significant layoffs. It will mean that in 1980 we will operate government with fewer employees than we did in 1977.

I see this as state government, not working less, but becoming more productive. Jobs in government, education, and health constitute a substantial part of the work done in our state. Yet, it is in these fields where productivity is declining. Each year government employment grows. Each year we spend more money on fewer students. Each year we increase dramatically that amount spent on medical care. Are we better governed? Are we better educated? Are we healthier? Perhaps, but not commensurate with the additional dollars and taxes spent on each. The time has come for California to pioneer and increase productivity in these fields. It is a myth that services such as government, teaching, and curing lay fundamentally beyond those processes which have created our modern agriculture, our electronics, and aerospace. Our higher standard of living comes directly from work that uses the latest tools and the most imagination. Unless we improve the way we learn, the way we heal, and the way we govern, it is inevitable that our standard and quality of life will decline.

We are in the midst of an information revolution that draws its center from the computer and communication industries of California. As the power of the human mind expands through the technology of our own state, the challenge will be to use the new tools to expand learning, to prevent disease and make government leaner as it becomes more effective.

[1] "The Economic Consequences of the Peace," J. M. Keynes.

As government makes itself more productive, it must also strip away the roadblocks and the regulatory underbrush that it often mindlessly puts in the path of private citizens. Unneeded licenses and proliferating rules can stifle initiative, especially for small business. Society is more interdependent and our capacity to harm both nature and ourselves is greater than ever. Yet many regulations primarily protect the past, prop up privilege or prevent sensible economic choices.

These are the rules that should be changed in the ongoing self-examination by each department of government. Where economic incentives, instead of rules, can accomplish the goal, they should be tried.

Finally, in order to ensure that we permanently slow the inflationary growth of government, I will support an appropriate constitutional amendment to limit state and local spending. Such measures are difficult to draft but are justified today in order to recapture a sense of the common interest as opposed to the narrow and special interests that combine to push spending beyond what is reasonable.

I will also support the resolution now pending before the legislature calling upon Congress to propose a constitutional amendment to balance the federal budget or to convene a constitutional convention to achieve this goal.

The roller coaster of inflation followed by recession is out of control. In the last 12 years, leaders of both parties have tried in vain to slow its reckless course. At the same time, states compete with each other to extract more and more federal grants that are financed out of the deficits and not the productivity of the nation. It is, therefore, right that these same states join together to demand a constitutional amendment that will serve as the occasion for finally restraining the inflationary spending of the federal government. The nation, no less than the individual states, must eventually balance its books. The excuse that only annual deficits promote full employment is refuted by the continuing decline in productivity and investment which form the only true base of long term employment.

A constitutional convention to propose an amendment to balance the budget is unprecedented, but so is the paralysis that prevents necessary action.

The time has finally come to balance what we spend with what we produce.

To truly achieve this, we must enlist the talent of all the people in our society. This is what I call investment in human capital—an investment we have yet to fully make. Despite the affluence of California, too many still languish in the backwaters of our society.

We encounter each day the paradox of unfilled jobs existing side by side with unemployed or underemployed people. The challenge is to break down the remaining discriminatory barriers and encourage business, labor and government to provide on-the-job training, apprenticeships, and full upward mobility. We can never reach our full capacity unless we liberate the human spirit and enfranchise all the people of our state—whatever their color, their language, their disability, their age or their sex. To more completely achieve this goal, I will support the necessary changes in our Fair Employment Practices Act, to include prohibitions against discrimination based on sexual preference. The diversity of our people can be a cause of hatred and anxiety or it can be a source of strength and continued advancement. The choice is ours.

As we expand the opportunities for those within our borders, we must recognize the affinity that we have with those beyond. No small part of our present wealth or our future possibilities derives from our location on the Pacific rim. The trade and widening exchange with Mexico, with Canada, and with our more distant neighbors in the far east, offer potential still rarely imagined.

After the first Americans and long before most of our ancestors arrived in California, our neighbors from Mexico were naming our cities and dividing our lands. For too long we have ignored Mexico. Unless we understand that California and Mexico are linked by history, geography, families and a common future, we will miss one of the great opportunities of the next decade.

Let us also not neglect the other forms of life and the natural systems on which we all depend. The soil, the sun, and the water make possible our forests and the wood we take from them, as well as the food that our farmers are able to produce. This timeless bounty will endure only if we have proper reverence and respect for our natural systems. The air can become cancerous, the water polluted, and the soil eroded. It is up to us to so manage growth and technology, that we enhance the quality of our environment, not undermine it to the loss of those who will come after us. Many a civilization has fallen with its forests and eroded with its soil.

I said that 1979 was a year of testing—testing whether these people that fill the freeways of California have the vision to prepare for the year 2000. Is Alexander Solzhenitsyn correct when he says that: "A decline in courage may be the most striking feature which an outside observer notices in the west in our days"? Will we make the sacrifices to protect our land and to create the new energy sources that will power our factories? Will we invest in the information revolution and continue to dominate the conquest of outer space? Will we see beyond the last stereotypes and brace our human diversity?

To all of this I must answer with a resounding yes. California will build for the future, not steal from it. And as we do, we will know in our hearts patriotism is not just defending the country of our fathers, but preparing the land of our children.

Senate Joint Resolution No. 2—Relative to a Balanced Federal Budget

LEGISLATIVE COUNSEL'S DIGEST

SJR 2, as introduced, Smith. Balanced federal budget.

Urges the Congress of the United States, either acting by consent of two-thirds of both houses or, upon the application of the legislatures of two-thirds of the several states, to call a constitutional convention to propose an amendment to the United States Constitution to require, with certain exceptions, that the total of all federal appropriations may not exceed the total of all estimated federal revenues in any fiscal year.

This measure would also provide that if the constitutional convention is not limited to the topic of a balanced federal budget, this measure would have no effect and be considered a nullity.

Fiscal committee: no

Whereas, With each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues, so that the public debt now exceeds hundreds of billions of dollars; and

Whereas, The annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

Whereas, Unified budgets do not reflect actual spending because of the exclusion of special outlays which are not included in the budget nor subject to the legal public debt limit; and

Whereas, Knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all federal spending and be in balance; and

Whereas, Believing that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is necessary to bring the fiscal discipline needed to restore financial responsibility; and

Whereas, Under Article V of the Constitution of the United States, amendments to the United States Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments. We believe such action vital; now, therefore, be it

Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully proposes to the Congress of the United States that procedures be instituted in the Congress to add a new Article to the Constitution of the United States, and that the Legislature of the State of California requests the Congress to prepare and submit to the several states a amendment to the Constitution of the United States, requiring in the absence of a national emergency, as defined by a majority of the Congress to include, but not be limited to: (1) a serious threat to national security; (2) a war; (3) a natural disaster; ad (4) a serious condition of unemployment, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and be it further

Resolved, That, alternatively, the Legislature of the State of California makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the United States Constitution requiring in the absence of a national emergency, as defined by a majority of the Congress to include, but not be limited to: (1) a serious threat to national security; (2) a war; (3) a natural disaster; and (4) a serious condition of unemployment, that the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year; and be it further

Resolved, That the Legislature of the State of California conditions this resolution upon the Congress of the United States establishing appropriate restrictions limiting the subject matter of a constitutional convention called pursuant to this resolution to the subject matter of this resolution and, should the Congress of the United States fail to so act, this resolution shall have no effect and be considered a nullity; and be it further

Resolved, That the Legislature of the State of California also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the United States Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the United States Constitution; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of State and presiding officer of each house of the legislature of each of the other states in the United States, to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Clerk of the United States House of Representatives, and to the Secretary of the United States Senate.

CHANGES IN THE PHILADELPHIA CONGRESSIONAL DELEGATION

Mr. HEINZ. Mr. President, as the 96th Congress convenes, I want to note the presence of two new Members from Philadelphia, Rev. WILLIAM H. GRAY and former State Senator CHARLES DOUGHERTY. Although of different political parties, these two new Representatives typify the strengths of a growing, dynamic city like Philadelphia. Tough, thoughtful, and aggressive are apt characterizations of Congressman GRAY and Congressman DOUGHERTY. I am confident they will serve their city and State well, and I join all Pennsylvanians in welcoming them to the Congress. To further acquaint other Senators with the background and abilities of these two men, Mr. President. I ask that two articles published in the Philadelphia Inquirer, November 9 and November 11, 1978, be printed in the RECORD.

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

[From the Philadelphia Inquirer, Nov. 11, 1978]

THE REVEREND GRAY IS SUDDENLY A POLITICAL FORCE

(By Acel Moore)

To the casual political observer, the victory of the Rev. William H. Gray 3d by a 5 to 1 margin over his Republican opponent, attorney Roland J. Atkins, in Tuesday's general election might seem anticlimatic.

Because the real battle to become congressman-elect from Philadelphia's 2d Congressional District was won last May 16—when Mr. Gray, the 37-year-old pastor of Bright Hope Baptist Church, toppled Rep. Robert N. C. Nix, the 74-year-old, 10-term incumbent in the Democratic primary.

Still, on Tuesday, Mr. Gray did much more than simply trounce his Republican opponent in a heavily Democratic district.

He played a key role—along with state representatives John White Jr. and David P. Richardson—in forming coalitions with white liberals to defeat the Frank Rizzo-backed charter change proposal.

So, Mr. Gray was a winner on all counts Tuesday, and the figures in his district—one of the most ethnically and economically diverse in the city—underscore the growing opinion among the pundits that he has become one of Philadelphia's most powerful politicians.

The charter change went down 13 to 1 in the 2d District, but more importantly, Mr. Gray had the biggest plurality (83 percent) and polled the most votes (127,838) of any congressional candidate in Pennsylvania.

Add to those impressive numbers the fact that, with the defeat of Rep. Joshua Eilberg, none of Philadelphia's four congressmen (Charles Dougherty, who beat Eilberg, and incumbent representatives Raymond Lederer and Michael "Ozzie" Myers) will have more than two-term seniority.

Additionally, of the four, Mr. Gray probably has the closest ties to the Carter administration.

All of these factors will enable Mr. Gray to enter the 96th Congress in January as a freshman with plenty of clout.

Mr. Gray, in the cool, calm manner that has become his trademark, sat casually dressed in a yellow turtleneck sweater in the office of his church at 12th Street and Columbia Avenue Thursday morning.

He was relaxed as he and his secretary, Mrs. Linda Cauthorn, answered a string of phone calls from friends and supporters, congratulating him on his victory.

"The one thing that is significant in Tuesday's election is that we were able to discover that the mutual self-interests of the various ethnic groups are interrelated.

"The challenge now for politicians with vision is to get those groups working together on a national level to solve the problems of massive unemployment, deficiencies in public education and inflation," Mr. Gray said.

During an interview in his office, Mr. Gray was interrupted repeatedly by phone calls. One of those calls was from the speaker of the U.S. House of Representatives, Thomas P. (Tip) O'Neill.

"Yes, Mr. Speaker, I would be interested in serving on any committee that deals with urban problems and international relations," Mr. Gray said into the phone.

After the call, Mr. Gray explained that the Massachusetts Democrat had called to congratulate him and that O'Neill also told him that he had assigned one of his staff to talk to Mr. Gray about committee assignments.

Since his primary victory in May, Mr. Gray has made numerous trips to Washington, including one that occasioned a private session with President Carter.

On other trips, Mr. Gray met with the speaker and other leaders of Congress, including the head of the Black Congressional caucus, Rep. Parren J. Mitchell (D., Md.).

"I plan to be an independent Democrat," said Mr. Gray, characterizing his future role. "I will be much more visible and vocal than my predecessor and will let people know how I stand on various issues."

Mr. Gray said that he plans to commute from Philadelphia to Washington.

"I don't intend to buy a house in the District, nor will I rent an apartment. If I have to stay overnight for crucial sessions and votes I can always stay at my sister's house."

Mr. Gray's sister, Dr. Marian Secundy, is a member of the faculty of Howard University Medical School in Washington.

Mr. Gray also says he intends to spend most Sundays in the pulpit of his church.

It is the church that provided Mr. Gray with his base of strength for his seemingly sudden rise to political prominence.

He is the third-generation Gray to serve as pastor of Bright Hope. His late father, Dr. William H. Gray Jr., and his grandfather, William H. Gray Sr., preceded him.

And Mr. Gray inherited more than his pastoral duties from his father. Political activism was seemingly also part of the estate.

Dr. William H. Gray Jr., former president of Florida A&M University, was also one of Philadelphia's most powerful leaders in the Democratic Party's reform movement under mayors Joseph Clark and Richardson Dilworth.

Mr. Gray took over as pastor of Bright Hope from his father in 1972 and has guided the church to its present position as one of the most influential black Baptist churches in the city. Its 3,000 active members make it second only to the 5,000-member Zion Baptist church, headed by the Rev. Leon Sullivan, founded of the Opportunities Industrialization Center.

Mr. Gray's connections outside of the city include long-standing friendships with UN Ambassador Andrew Young, who, like Mr. Gray, is a Baptist minister; Mrs. Coretta Scott King; Patricia Harris, secretary of the U.S. Department of Housing and Urban Development, and U.S. Rep. Walter Fauntroy (D., Wash., D.C.). All of them came to Philadelphia to campaign on his behalf.

But it is the coalition that formed the backbone of his campaign locally that Mr. Gray boasts most about.

"My support represented a broad cross-section that came from the city's black community. It was from labor, black professionals, and just everyday people in Northwest Philadelphia and Germantown," Mr. Gray said.

Mr. Gray has served on the board of directors of influential civic and non-profit corporations in the city, including the Urban Coalition, Children's Hospital and the Greater Philadelphia Partnership.

"I have worked for many years in the community interest representing my church," said Mr. Gray, who has shown a keen knowledge of the issues of concern in urban Philadelphia.

In the area of housing, Mr. Gray has founded five nonprofit housing corporations, including one that is developing a $4-million senior citizens housing unit in North Philadelphia. Mr. Gray also is the developer of the Philadelphia Mortgage Plan, which is responsible for bank investments of $27 million in inner-city residential mortgages in areas that had been previously red-lined.

One of his strengths as a politician is his ability to be equally at ease in board rooms with the corporate types who populate the upper end of his district in West Mount Airy and Chestnut Hill, and with the community people in the North Philadelphia black ghetto where he grew up.

Mr. Gray, married and the father of three boys, is an individual with diverse interests, and that is reflected by his background. He was a four-letter athlete at Simon Gratz High School who also achieved scholastic honors.

He is a graduate of Franklin and Marshall College and has graduate degrees from both Princeton University and Drew Theological Seminary.

Mr. Gray thinks he is prepared to enter Congress and has done his homework—an issue that his primary opponent Nix concentrated on last May.

Nix, during the bitter primary fight, was quoted as saying: "He won't be able to find the toilet if he is elected to Congress."

"Not only have I found the toilet, but I will be able to find the floor (of the House)" has been Mr. Gray's response.

[From the Philadelphia Inquirer, Nov. 9, 1978]

HE ORGANIZED HIS WAY RIGHT INTO CONGRESS

(By Thomas Ferrick, Jr.)

Some politicians have charisma. Others have a lot of money. Charles Dougherty, Philadelphia's new Republican congressman, has his "phase lines."

Phase lines, for those unfamiliar with Dougherty's style, are an example of the geometric precision—day-by-day, almost minute-by-minute breakdowns—with which the Republican plots his campaigns.

All those phase lines came together Tuesday when Dougherty, a two-term veteran of the State Senate, defeated incumbent U.S. Rep. Joshua Eilberg (D., Pa.) by more than 20,000 votes.

Certainly the phase lines didn't do it all for Dougherty, 41, who won despite a 2-to-1 Democratic registration edge. The federal grand jury that indicted Eilberg last month helped.

But his way of organizing things is an example of what the residents of the 4th Congressional District, which covers all of Northeast Philadelphia, can expect from the man they are sending to Washington.

He is, to begin with, perhaps the most methodical politician in the area—a man who can tell you off the top of his head the exact number of constituent problems he has handled over the last year.

During the campaign, for instance, he assembled in 12 loose-leaf binders an encyclopedia of information about the Fourth District and his opponent (five of the binders were on Eilberg).

"We put together the best campaign any candidate had running for Congress," Dougherty said yesterday with characteristic bluntness.

It is the kind of statement that only a person who has defied the odds three times—and won—can make.

In fact, in his four attempts at public office Dougherty has lost only once—to Eilberg in 1970 when he was trounced by 35,000 votes.

(In that campaign, he spent about $13,000 against the incumbent. This year he raised $130,000.)

How did Charlie Dougherty succeed?

Dougherty himself supplies the answer. "I believe," he said, "that power comes to those who work."

And, Dougherty—a former Marine and Catholic-school teacher—does indeed work. In the State Senate, where he was the only Republican from Philadelphia, he earned the reputation as a man who did his homework and who skillfully succeeded in mastering the legislative process, despite the fact that he was a member of a minority party.

It was in the State Senate that he was stamped with the "conservative" label. It is a title that irks Dougherty but is justified if you study his record on social legislation. He is a vigorous foe of abortion, forced busing and pornography.

But, Dougherty also defies conventional labels. He is, for instance, a strong supporter of organized labor and he is almost a radical, by Pennsylvania Legislature standards, when it comes to supporting innovative programs for delinquents, the mentally ill and the mentally retarded.

Dougherty's politics emerge directly from his personal experiences. He says that his views on dealing with juveniles come from his years as a teacher—first at Northeast Catholic High School and then at Philadelphia Community College and finally as principal at a Catholic reform school for girls.

He says he is sympathetic to unions because he comes from a working-class family. (His father is a retired Teamster.) Likewise, he supports aid for parochial schools and opposes abortion because he is a devout Catholic.

When he graduated in 1959 from St. Joseph's College, where he studied political science, Dougherty joined the Marines because, as he put it, "I liked the discipline and pride." He is a lieutenant colonel in the Marine Corps Reserve.

Dougherty once considered becoming a priest and also toyed with the idea of joining the CIA or the FBI.

Ultimately, however, he decided that politics would be his vocation and he hopes to practice it successfully for a long time to come.

Dougherty is married and has six children. He plans to keep his family in its modest home on Friendship Avenue and commute to and from Washington when Congress is in session.

THE NEED FOR REDUCTIONS IN TAX SPENDING AS PART OF THE BUDGET PROCESS

Mr. KENNEDY. Mr. President, the administration is currently in the home stretch of preparing budget proposals for fiscal year 1980 for submission to Congress. While the precise details of the President's budget are not yet known, a number of indications have emerged that reveal the priorities being established among competing claims for scarce Federal revenues and the drastic reductions that may be in store for health care and other important domestic social programs.

I intend to work in Congress in the months ahead to support the President in his efforts to eliminate unnecessary Government spending and to insure that the anticipated budget deficit is consistent with the Nation's economic and social goals. But I also intend to work to insure that any budget cuts that may be necessary are imposed fairly, so that no group in our society is forced to bear a disproportionate burden of such cuts, and so that reductions in Federal spending reflect the Nation's correct priorities.

Apart from the treatment of individual spending programs, however, there is another aspect of the budget process that reflects a serious omission in the development of the administration's budget. From the information that has become available to the public, it appears that the President and his budget advisers are directing their attention exclusively to cuts in direct Federal spending programs to achieve their target of a $30 billion deficit. The missing ingredient in this budget process is any effort to reduce the massive amount of Federal tax spending.

This approach to the budget is seriously defective. It means that programs involving large amounts of Federal spending have been arbitrarily exempted from budget review and from the threat of budget cuts.

At a time of austerity in Federal spending, it is unfair to concentrate on cuts in direct spending alone, while providing to blank check for all the spending programs contained in the Internal Revenue Code—the tax expenditure programs.

Nothing turns on whether a Federal dollar is spent as a tax subsidy or another form of subsidy. It is a familiar fact that any Federal spending program can be structured either as a direct spending program or as a tax spending program, as demonstrated by the vigorous congressional debate last year between tuition tax credits and direct educational grants as a means of providing increased Federal aid for education.

Federal law now contains almost 100 separate tax expenditure programs, which are listed annually in the tax expenditure budget. Tax expenditures are found in all of the budget categories into which direct spending programs are divided—in some cases, the dollar amount of tax expenditures is equal to, or exceeds, the amount for direct spending programs in the same budget function.

For fiscal year 1980, Federal revenues spent through the tax laws will total approximately $150 billion, while direct expenditures will total approximately $550 billion under the so-called current services budget. Total Federal spending in 1980, therefore—counting both tax spending and direct spending—will reach $700 billion, with tax spending representing over 20 percent of the total.

As a matter of budget policy, therefore, it would be appropriate for any necessary budget cuts to be allocated in a 4-to-1 ratio between direct spending programs and tax spending programs. For example,

to reach the administration's target of a deficit of $30 billion for 1980, it is likely that total spending will have to be reduced by approximately $15 to $20 billion. If the cuts are allocated properly, then $12 to $16 billion of the cuts should come from direct spending programs, and $3 to $4 billion of the cuts should come from tax spending programs. Clearly, direct spending programs should not be required to bear the full brunt of any spending cuts that may be necessary.

Tax expenditures have always had a preferred—but undeserved—position in the budget, because they have an automatic first priority in the allocation of Federal revenues. Direct spending programs compete for the revenues left after all the tax expenditures have been funded. Thus, responsible development of the Federal budget must include an evaluation not only of relative priorities among direct spending programs, but also of the priorities involved in tax expenditure programs.

Unfortunately, there is no evidence that the $150 billion tax expenditure budget is even being given consideration as a source of possible spending cuts by the administration in the preparation of the 1980 budget. Yet, the President's $30 billion deficit figure can be reached as easily by cutting tax expenditures programs as by cutting direct expenditure programs. There is no reason why this large component of the Federal budget should be exempted from examination and from bearing its fair share of the fourthcoming austerity that is likely to be imposed.

The Treasury should be required to justify each dollar spent through the tax expenditure budget with the same degree of precision required of all other agencies in justifying their proposals for direct spending programs. In addition, each item in the tax expenditures budget should be reviewed to determine its priority compared to the direct spending programs in the same budget category that are candidates for budget cuts.

Careful review of the tax expenditure budget is also essential because it is the part of the total Federal budget that is rising the most rapidly and that is most clearly out of control. In the current decade, the number of tax expenditure programs has more than doubled, from 40 to nearly 100. Between 1971 and 1978, the total revenues spent through the tax expenditure budget increased from $51 billion to $112 billion, an increase of 141 percent. By contrast, direct spending climbed from $211 billion to $448 billion in the same period, an increase of "only" 112 percent.

I therefore urge both Congress and the administration, as part of the budget process, to examine the tax expenditure budget with the same care they give to the direct spending portion of the budget. I am confident that such study will reveal spending programs in the tax expenditure list that should be cut before some of the proposed direct spending cuts are made.

To demonstrate this point, I have made a preliminary survey of some of the proposed spending cuts that have received publicity in recent weeks. Then, I have examined tax expenditure programs in the same budget areas. This analysis reveals that often, cuts in tax expenditure items can and should be made before direct spending programs are reduced from present levels. Indeed, reduction or elimination of some of the most wasteful tax expenditures could well free up additional funds for direct spending programs that have higher priority. Clearly, however, cuts contemplated in worthwhile, direct programs could more easily and more equitably be made in tax programs in the same budget category.

First. Nutrition. The administration is reportedly planning to cut $400 to $500 million from the food stamp program, the special milk program for schoolchildren, and the school lunch program.

By comparison, the $1 billion tax spending program that subsidizes lavish meals and martini lunches for corporate executives, doctors, lawyers and other high income business persons will apparently remain untouched. Before Congress makes budget cuts in food stamps and school lunch programs for the poor and middle class, or eliminates the milk program, it ought to cut back this lavish tax subsidy which provides food stamps for the rich.

Last year, the President recommended that the deduction for business meals should be limited to 50 percent of the cost of the meal. Congress did not adopt the President's proposal, but the revenue saved would be more than enough to eliminate the need for the currently proposed cuts in the food stamp, school milk and school lunch programs.

It would be unconscionable for Congress and the administration to continue to provide federally subsidized lunches and alcoholic beverages for high income corporate executives, while cutting back on the basic nutritional needs of the poor and the schoolchildren of the Nation. The President should squarely confront Congress with this situation, and insist that the rich must take a place at the rear of the subsidized lunch line, behind the more deserving families of the Nation.

Second. Health care. There has already been extensive discussion and debate over the level of spending for health care in the direct budget. In recent weeks, the administration has restored some of the needed funds. But many important programs are still scheduled for unacceptable cuts, and I am hopeful that the additional funds will be restored as the budget process develops.

By contrast, the tax expenditures that provide health care largely for a privileged few would remain untouched. In fiscal 1980, tax subsidies for health care will exceed $11 billion. Of this amount, $1.5 billion will go to those with the top 1 percent of incomes in the country—those with over $50,000 income annually.

If we are to have an austere budget on health, the question must be faced as to whether these health subsidies for the rich—provided through tax expenditures—have a higher priority than the direct spending programs slated for drastic cutbacks, especially the programs in the areas of biomedical research and aid to medical schools, where cuts are still planned totaling approximately $500 million.

My own view is that we should move forward now to national health insurance, as the best means of controlling costs and providing adequate health care to all our citizens. But until that goal is achieved, we must make the most efficient use of the Federal funds currently available for health care. Paying 50 percent to 70 percent of the medical bills and private health insurance premiums of the highest income families in the country hardly represents a pressing health priority for the Nation. Revenues should therefore be diverted from these tax expenditure programs in order to held fund higher priority direct health care needs.

Third. Housing. Budget cuts are also being considered for federally subsidized low- and middle-income housing, which will reduce housing units by about 20 percent next year. At the same time, tax expenditures for real estate construction will remain untouched, and will total almost $1.3 billion next year. The direct spending programs benefit low- and middle-income people. But over 75 percent of the tax expenditures for real estate go to the 1 percent of individuals with the highest incomes in the country. It is a distortion of the Nation's housing priorities to reduce Federal spending for low-and middle-income persons, but to continue massive Federal spending in the form of real estate tax subsidies for the over-$50,000 income group.

Even worse, only 6 percent of the tax expenditures for real estate is used to fund low-income housing projects. The remaining 94 percent goes to provide Federal subsidies for luxury apartments, high rise office buildings, motels and similar facilities. Congress would certainly not provide indirect subsidies for these real estate projects, and we should not be subsidizing them through the tax laws. Direct subsidies for low- and middle-income persons should be held at present levels and the necessary budget reductions should come from cuts in real estate tax expenditures.

Fourth. Income security. A number of social security programs are apparently also in jeopardy in order to achieve spending cuts of $500–$600 million. Again, tax expenditure programs in the same budget category would remain untouched.

One of the programs scheduled for elimination is the modest $255 survivor's benefit, which will save $220 million in the 1980 budget. By contrast, a current tax expenditure program will provide almost $10 billion of benefits to survivors of decedents in fiscal 1980. This enormous Federal subsidy is made available through the exemption of tax on the gains in property transferred at death. For the top 1 percent of families, the tax subsidy provides an average survivor's benefit of over $5,000, at a cost of over $6 billion. It makes no budget sense to retain these handsome survivor's benefits for the richest families in the Nation, while slashing the meager $255 direct

subsidy that largely goes to low- and middle-income families.

Another direct program to be cut back is the social security benefit for orphaned students. Under present law, students receive benefits until the age of 21. But the administration would phase this down to age 18, for a budget saving of $169 million. There is also a tax expenditure for orphans in the estate tax, which provides a special deduction that benefits orphans through age 21—but only for the wealthiest 2 percent of families in the country, those with the largest estates. The wealthier the parents, the larger is the Federal tax subsidy for their orphaned children. It makes no sense to provide a Federal tax subsidy for children of the country's wealthiest families until they reach 21, but to cut off orphaned students of low- and middle-income parents when they reach age 18. The tax expenditure program should be reduced or eliminated and the direct social security benefit should be retained at present levels.

Other proposed social security cutbacks would reduce minimum benefits for intermittent workers, place a cap on the maximum benefits that a disabled person can receive, and terminate benefits for mothers of dependent children when those children reach 16. These actions are apparently designed to save approximately $250 million in fiscal year 1980. Tax expenditures for private pension plans are, however, to remain unaffected. The tax subsidy for private pension plans will exceed $15 billion in 1980. Over $3 billion of this amount goes to those with incomes above $50,000 a year. Moreover, annual distributions from these plans can be as much as $90,000 per person, many times the social security benefits that are to be cut back. Surely we should be able to agree that a more likely candidate for a budget cut in the pension area is the $3 billion retirement tax subsidy for the rich, instead of direct social security benefits for low and middle income individuals.

Fifth. Education. In addition to the reduction in social security benefits for students discussed above, the administration is reportedly considering a reduction of $200 million in the basic educational opportunity grants program and a larger amount in the Elementary and Secondary Education Act program. Students in middle income families will be the hardest hit by these proposed cuts.

Yet, tax expenditures for education will exceed $1.1 billion in 1980. Of that amount, the 1 percent of families with incomes over $50,000 will receive over $130 million. In short, elimination of tax spending for students from the country's wealthiest families would permit us to come closer to fulfilling the promise of an affordable quality education for students from middle income families. The Nation's priorities are clear, and the budget should reflect them.

Sixth. Employment. The administration reportedly plans a $1 to 2 billion cut in CETA funds, which translates into a loss of 150,000 jobs under the program.

Two tax expenditure programs exist that are intended to stimulate hiring of the unemployed—the WIN tax credit and the targeted jobs tax credit. These two provisions will cost over $600 million in 1980. But, whereas the CETA revenues translate into real jobs, the tax credits have demonstrably produced only a waste of Federal funds and no increase in real jobs. Terminating the tax credit and using the revenues to prevent cuts in CETA hiring would materially improve the efficiency of Federal expenditures designed to reduce unemployment.

As the above examples show, there is considerable overlap among tax spending programs and direct spending programs. Cuts in either type of program can be made to reach the desired level of Federal spending and the budget deficit.

I do not suggest that it will always be preferable to cut a tax expenditure instead of a direct expenditure program. What is essential, however, is that the administration and Congress should remove their budget blinders and examine the entire range of Federal spending programs. The tax expenditure budget contains numerous areas where spending cuts can be made to reach our budget objectives. Neither Congress nor the administration should accept a budget policy that involves drastic new austerity for direct spending programs, while allowing the same old profligacy to continue for tax spending programs.

AN HISTORIC PRECEDENT IS SET

Mr. MATHIAS. Mr. President, January 15, 1979, will long be remembered as an historic day in the annals of the U.S. Senate—indeed in the history of the United States itself.

As NANCY LANDON KASSEBAUM takes her seat in the U.S. Senate, it marks the beginning of a new era. All of Senator KASSEBAUM's predecessors in this body were first elected or appointed to Congress to fill unexpired terms of Members who resigned or died in office.

Senator Margaret Chase Smith, who served with great distinction in the Senate from 1948 to 1973, was first elected to the House of Representatives to complete the term of her deceased husband. But Mrs. KASSEBAUM has become a Member of this body completely on her own. It is an honor and a pleasure to welcome Mrs. KASSEBAUM to this Chamber today. May her tribe increase.

Public attitudes toward women are changing rapidly. This is reflected in a 1975 Gallup poll which showed that 73 percent of the population would support a woman for President, whereas in 1937, only 31 percent of the population would have. The same Gallup poll indicated that 71 percent of Americans believed the country would be as well, if not better governed, if more women held political office. The stage has been set at the grassroots level and I believe we will soon see more women than ever running for political office and running successfully.

Women's representation has increased in State legislatures by nearly 50 percent since 1972. But women are still waging an uphill fight for equal rights and for equal representation in the higher councils of State.

I am happy to report, however, that this has been a vintage year for women in Maryland.

Maryland is a State that has always respected women. It is, in fact, named after a woman—Henrietta Maria, Princess of France and Queen of England. Our capital is named for Queen Anne. Anne Arundel County is named for Lady Baltimore. St. Mary's County, Caroline County, Queen Anne's County, the town of Princess Anne and My Lady's Manor, all bear witness to Maryland's appreciation of women.

After three centuries of slow but deliberate advance in the recognition of women, Maryland has now followed this course to its logical conclusion. A Maryland woman, Margaret Brent, was the first in America to demand the suffrage. Now, four Maryland women—MARJORIE S. HOLT, GLADYS NOON SPELLMAN, BARBARA A. MIKULSKI, and BEVERLY B. BYRON—are members of the first Maryland delegation in the House of Representatives to be equally representative of men and women.

Just as Jeanette Rankin, the first women ever elected to Congress, was successful in her effort to open the political process to women, I am confident that each woman elected to serve in the 96th Congress will make the road easier for those who follow her.

JUDICIAL REVIEW OF VETERANS' ADMINISTRATION DECISIONS

Mr. CRANSTON. Mr. President, in the last Congress, the Senator from Colorado (Mr. HART) proposed a measure, S. 364, providing for judicial review of final Veterans' Administration decisions and for other changes relating to VA procedures. As I stated on July 19 of last year, in remarks appearing at pages 21673–74 of the daily edition of the RECORD for that date, the Committee on Veterans' Affairs held 5 days of hearings on that legislation. From the testimony received at those hearings, it became apparent that, while S. 364 had served very well to focus needed attention on the complex issues of judicial review, administrative procedure, and attorneys' fees, the need existed for a substitute measure more specifically tailored to VA claims, adjudication, and rulemaking processes and to the circumstances of veterans and survivors with claims before the VA.

By July of last year, it became clear that, in light of the time required to complete the drafting of a new measure, the need for further hearings on it prior to committee action, and the very crowded state of the Senate's legislative calendar, there was insufficient time remaining to address this matter effectively during the 95th Congress. Therefore, with the concurrence of my friend from Colorado (Mr. HART), I proposed that committee staff continue its work on the substitute measure and circulate the draft to all interested parties for their comments and criticisms during the fall of 1978 so that early in this Congress, either Senator HART or I would be able to introduce a new measure.

Also, I agreed to schedule hearings on it and bring it to the committee by May 1, 1979, for disposition.

DRAFT SUBSTITUTE MEASURE CIRCULATED AND HEARINGS SCHEDULED

Mr. President, consistent with these plans, committee staff completed a draft of a substitute measure on December 8, 1978, and circulated it for comments. In a cover letter transmitting the draft legislation, I indicated that the new bill would be introduced early this year.

Subsequently, based on the assumption that the substitute measure would be ready for introduction on the first day of this Congress, I gave informal notice that hearings would be conducted on it on January 30.

HEARINGS RESCHEDULED

Mr. President, because the comments on the draft measure were so extensive and helpful, substantial revisions have been necessary and the new bill could not be ready for introduction today. Therefore, introduction is being deferred until next week.

This means that hearings will not be held on January 30. Rather, following introduction of the bill next week, hearings have been rescheduled for February 22, at 9:30 a.m., in room 318 of the Russell Senate Office Building.

Mr. President, as I have previously indicated, I greatly appreciate the strong leadership and commitment that the Senator from Colorado (Mr. HART) has displayed in this important matter and for his most helpful cooperation. I am also extremely pleased that so many organizations and individuals have given such substantial time, effort, and expertise to the issues raised in this legislation.

TRIBUTE TO FORMER SENATOR ROBERT GRIFFIN OF MICHIGAN

Mr. KENNEDY. Mr. President I wish to pay tribute to Senator Robert Griffin, Michigan's former senior Senator and a national Republican leader who is not with us as the 96th Congress convenes. Throughout his distinguished career in this Chamber, Senator Griffin was highly regarded by all his colleagues on both sides of the aisle.

Senator Griffin was only 32 when he was first elected to the House of Representatives in 1956. He was named one of the 10 outstanding young men in America by the U.S. Jaycees in 1960. He won his first full Senate term by nearly 300,000 votes, the largest plurality given a Michigan Republican senatorial candidate in 20 years.

Senator Griffin's political and parliamentary skills and his leadership ability prompted his colleagues to elect him minority whip of the Senate in his first term, in 1969, and he was one of President Ford's most valued counselors on Capitol Hill.

Senator Griffin's record was one of great distinction, especially through his fine work on the Commerce Committee, the Foreign Relations, and the Rules Committee. His continuing efforts on the national student loan program, for example, made it possible for large numbers of students to attend college with the help of low-interest loans repayable after graduation.

Although we differed on a number of issues overthe years, Senator Griffin was always a skillful and extremely well-informed proponent of his views. He was a credit to his party and to the Senate, and I wish him well in the future.

ABOLITION OF THE ELECTORAL COLLEGE

Mr. LEAHY. Mr. President, last summer I testified before the Senate Subcommittee on the Constitution on behalf of the proposed constitutional amendment to abolish the electoral college. I still believe that this amendment is very much needed and today I rejoin my Senate colleagues in cosponsoring this important measure.

The electoral college system and various proportional systems introduced in the 95th session of Congress remove the tally one step from the voter. This leads to a potential distortion of the final total and may permit a candidate who has won the popular vote to lose the election.

Under the direct election method of electing the President, the votes of individual citizens will count directly toward the final total of that particular candidate for the first time in our history. Every vote will be important and will, I believe, strengthen the party system at the local level. It will also be an incentive to increase voter turnout, which has decreased in recent years.

It has been argued that small States will be hurt by the abolition of the electoral college, that they will lose the proportional clout they now command under that system and that emphasis will be placed in any campaign on major States with small States being ignored. I disagree. With every vote counting equally toward the final total, a community the size of Burlington, Vt., will have equal importance to a town that size in New York, Missouri, or California. Thus, it will be equally important for candidates to spend a similar amount of time in small States. To forego these visits might cost them the election.

Therefore, I reaffirm my support of this proposed constitutional amendment and look forward to early passage of the direct election measure in the Senate this session of Congress.

UNIVERSITY OF HARTFORD HOSTS WHITE HOUSE INFLATION FORUM

Mr. RIBICOFF. Mr. President, inflation is the most critical issue facing Congress, the President, and the Nation. America's economic lifeblood and its very security are seriously threatened by soaring prices, a large and longstanding trade deficit, rising taxes, and an inflation rate approaching 10 percent. Inflation, if permitted to continue, will erode important economic gains which have been achieved in recent years.

There are no simple solutions or easy answers. Government alone cannot solve the problem. There must be cooperative action by Government, business, labor, and all sectors of the economy.

Early last month a high-level White House team—Wage and Price Stability Council Chairman Alfred Kahn, Council of Economic Advisers Chairman Charles Schultze, Labor Secretary Ray Marshall, Esther Peterson, the President's special consumer affairs assistant, and Ambassador Robert Strauss—traveled to the campus of the University of Hartford to explain the administration's anti-inflation program. Over 600 Connecticut business, labor, and consumer leaders as well as State and local officials participated in this important forum. Following a 15-minute telephone question-and-answer session with President Carter, there was a candid and useful exchange between the various Connecticut representatives and the administration spokesmen.

The University of Hartford anti-inflation forum was a valuable contribution to the national dialog on this important issue. All sectors of our State's government and economy were able to participate and to exchange their ideas and concerns with the White House officials. I believe my colleagues will be interested in the matters discussed during the Hartford forum, and I ask that a summary of the meeting be printed in the RECORD.

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

WHITE HOUSE FORUM ON INFLATION

INTRODUCTION

On November 8, 1978, a White House Forum on Inflation was held at the University of Hartford's Lincoln Theatre in West Hartford, Connecticut. Cohosted by the University of Hartford and the Greater Hartford Chamber of Commerce, the forum was attended by some 800 people, including invited leaders representing business, labor, education, politics, consumer groups, religious organizations, and the community.

After a welcome by University of Hartford President Stephen Joel Trachtenberg and greetings by Hartford Deputy Mayor Nicholas R. Carbone, Mr. Henry Roberts, Chairman of the Greater Hartford Chamber of Commerce, introduced Robert S. Strauss, Inflation Counselor to President Carter. Mr. Strauss presented the groundrules for the forum: (a) presentations by the four member delegation from Washington; (b) responses from three panels representing labor, business, and consumer groups; (c) a question and answer period; (d) a phone call from President Carter, who would answer questions from three individuals and then offer some remarks.

PANELS

Administration: Robert Strauss, Inflation Counselor to the President; Ray Marshall, Secretary of Labor; Charles Schultze, Chairman, Council of Economic Advisors; Esther Peterson, Special Assistant to the President for Consumer Affairs; Alfred Kahn, Advisor to the President on Inflation and Chairman of the Council on Wage and Price Stability.

Labor: Vinnie Sirabella, President, New Haven Labor Council; John Driscoll, President, Connecticut State Labor Council; Donald Ephlin, Director, Region 9, UAW.

Business: Henry Roberts, Chairman, Connecticut General Insurance Corporation;

Wallace Barnes, Chairman, The Barnes Group; John Flannery, President, State Bank for Savings.

Consumer: James G. Harris, Executive Director, Community Renewal Team of Greater Hartford; Walter Adams, Chairman, Connecticut Senior Citizens Association; Marc Caplan, Executive Director, Connecticut Citizen Action Group.

ADMINISTRATION PANEL

Mr. Schultze: Economic Background on Inflation—Government Actions to Control Inflation:

Mr. Schultze briefly discussed his role as Chairman of the Council of Economic Advisors and then observed that the major single way the federal government affects the economy is by the federal budget.

Mr. Schultze went on to present a history of inflation in the United States over the past ten years. During this period inflation has averaged 6½% in this country, while for our major industrial partners in the world the rate has been slightly higher than 7%. Inflation, then, is a world-wide phenomenon, one with strong underlying momentum.

The problems in this country began a decade ago with excessive stimulation of our economy because the Vietnam War, then heating up, had not been financed with a tax increase. Consequently, the inflation rate rose from two to six percent. Applying brakes to the economy in late 1969 resulted in rapidly rising unemployment and then a recession, with inflation continuing right on through. In 1972–73 a too loose budgetary and fiscal policy compounded the problem, which subsequently worsened further due to a world-wide crop shortage and the quadrupling of oil prices by OPEC. The brakes were applied again, resulting in the worst recession in 40 years, but inflation continued unabated, never dipping below 6%.

We need to deal with two sets of factors, according to Schultze: (a) those which heat up the economy excessively, causing inflationary pressures; (b) the momentum or inertia factor of the wage-price spiral, which tends to continue even after the basic causes of inflation have been removed. Given this history and analysis, a two-part balanced program is necessary to deal with inflation:

1. A set of overall economic policies—fiscal, budgetary, monetary—to address the underlying causes of inflation; and

2. Measures established by the government, and complemented by : program for the private sector, to halt the momentum and break the spiral.

Neither the proper, austere budget and moderately restricted economic policies on the one hand, nor voluntary wage and price restraints on the other, can accomplish the job alone. According to Schultze, we need to combine the two major parts of a balanced program in order to continue moderate economic progress while at the same time unwinding inflation.

The federal government's responsibility in this joint policy will be, among other things, to prevent the rise of inflation out of excessive demand in the economy. This will require an austere federal budget and budget policy, but one consistent with maintaining moderate economic growth on a sustainable basis. However, the country cannot afford a boom, a rapid overheating of the economy.

The new federal budget policy will involve reducing the rate of growth of federal expenditures significantly, reducing the federal budget deficit, and moving towards balancing the budget, all with continued moderate, sustainable economic growth. Specifically, where in 1976 federal spending accounted for 22½% of our gross national product, by 1980 it will drop to 21%, according to President Carter's budget to be proposed to Congress in January. The federal deficit, that was $66 billion, or, 4½% of our GNP, in 1976, will be down to $40 billion (2% of the GNP) in 1979 and $30 billion or less by 1980, amounting to about 1% of the GNP.

(Mr. Schultze had just begun to discuss international economic policy when the meeting was interrupted for President Carter's telephone call.)

Telephone Call from President Carter:

With Mr. Strauss moderating, the President took the first question from John Driscoll, President, Connecticut State Labor Council.

DRISCOLL. The President's program with regard to wages is basically self-monitoring, with employers making sure that compensation is held to 7%, but there doesn't appear to be much of a monitoring process for prices. Why not have some kind of built-in controls on prices, perhaps using Federal income tax to provide management an incentive to hold down prices or a penalty if it fails to do so?

President CARTER. After noting improvements for the people of Hartford and Connecticut in both unemployment and inflation since he took office, Mr. Carter responded that his program is a balanced one. The 7% increase in labor wage standards represents a reduction over previous years, as does the price increase standard of about 5¾% (assuming broad compliance), which is ½% below the average of the past few years. The government will be monitoring some 400 to 500 of the nation's leading businesses and will use any legal means necessary to induce compliance; e.g., the arousal of public interest, the awarding of government contracts (an $85 billion a year proposition), etc. The members of labor will be protected. If they comply with the 7% guidelines, by an income tax reduction proportional to any increase in inflation above 7%. Thus real wages will not fall. Mr. Carter plans to do his share by holding down the federal budget, the federal work force, and federal pay, by cutting the federal deficit to less than half of what it was when he ran for office, and by reducing unnecessary federal regulations. With good cooperation from labor and business, the program and the country will succeed.

The second question came from Edward Bates, Chairman, Connecticut Mutual Life Insurance Company.

BATES. After expressing commitment to the voluntary program, Bates offered that in his belief the success of the program depends a lot upon what the government does in its own area. Noting the President's reference to possible additional legislation, he inquired about those areas that might be under consideration, particularly legislation to control inflationary government spending or to relieve the inflationary cost of legislatively mandated regulation.

President CARTER. While the President felt that it was too early to outline specific legislative proposals, he plans to reduce expenditures through a very tight fiscal budget, the one thing directly under his control. He also plans to build upon recent successes in the deregulation of major industries, such as the airlines, and sees deregulation as inserting a higher degree of competition into the free enterprise system. Another area where legislative efforts are possible to achieve an anti-inflationary end is in hospital cost containment. With regard to taxes, the President will not approve reductions in general income taxes in the future until inflation is under control.

The third question was posed by Mary Heslin, Commissioner of the Department of Consumer Protection, State of Connecticut.

HESLIN. What government actions are planned to assist the consumer in two major areas of concern: (1) increasing food prices; (2) rising health care costs?

President CARTER. Top priority in consumer efforts in 1979 will be to pass hospital cost containment legislation, which has already been approved by the Senate, although blocked by special interest groups in the House and in committees. Arousal of public interest will be helpful with this legislation. State legislation on hospital cost containment has already proven effective, as in Connecticut, or New York, where costs have gone down 6%. With regard to food prices, however, regulation would be a very difficult and, in any case, a mistake. Rather, the market forces on a world-wide basis must determine food prices. However, with bumper crops predicted this year in many areas and food stockpiles fairly high, food prices should be more stable than in the past and not as high in 1979 as they were in 1978.

Turning then to general remarks, Mr. Carter expressed his determination to be tough and persistent in his leadership role in the fight against inflation. He stressed the need for support from leaders in business and industry, from public and elected officials, and from the American people generally, who must be made to realize that through cooperation and effort we can succeed in the battle against inflation.

Return to remarks by Mr. Schultze:

On the international economic front, according to Schultze, the decline of the dollar abroad has significantly worsened inflation in this country. The executive branch, working with the Federal Reserve Board and in cooperation with other governments, particularly those of Japan, Germany, and Switzerland, has taken steps to correct this decline. Believing that the U.S. dollar has sunk in value far below what fundamental economic factors justify, these parties have indicated a readiness to intervene on the foreign exchange markets to correct the excessive depreciation. For its part, the United States government is putting together a "war chest" of some $30 billion in foreign currencies to apply towards the effort. Success in strengthening the dollar abroad will do much towards reducing inflation domestically.

Finally, Schultze considered the alternatives to the balanced, two-pronged, long-run program he had described earlier. On the one hand, very severe fiscal and monetary restraints could be applied by themselves, but the history of the past ten years shows that such a strategy, which was tried in 1969–71 and again in 1974–76, is ineffective. On the other hand, mandatory wage and price controls can be applied, but in a country with perhaps 5 million different commodities and services, they are virtually impossible to administer fully and equitably, as we discovered in 1971–72. While either of these alternatives may produce some short-term results, neither is effective for the long haul. The country's ten-year inflation must be attacked with a program that is politically and economically viable, one characterized by patience and a balanced approach, with government and the private sector cooperation.

Mr. Marshall: Explanation of the Administration's Anti-Inflation Program—Wage/Price Standards, Wage Insurance Program:

Emphasizing again the need for government and private sector cooperation, Mr. Marshall went on to explain the private sector component of the program, which is built on several principles:

1. an equitable system which applies to wages and prices both;

2. provision for a low-wage exemption for workers earning less than $4 an hour, along with the real wage insurance program in the event that inflation exceeds 7%;

3. a plan which will provide a flexible al-

ternative to the short-term and ultimately self-defeating controls or recession.

The proposed program is flexible (and so subject to evolution as we learn more about how inflationary pressures and their remedies work in the economy); it is simple (in order to promote understanding of and cooperation with it); and it is long-run, designed to address basic causes rather than symptoms of inflationary pressures.

The numerical wage and price standards suggested for the program are necessary as a guide for concerted, coherent action among all sectors and as yardsticks for evaluation and monitoring if equity is to be maintained. The 7% standard for wages and fringes, which applies to the *average* wage increase for specific employee groups but not necessarily to each individual, is intended for all classes of workers—blue collar and white collar and managerial people, whether in government or private industry. The two exceptions are low-wage exemptions for workers earning $4.00 per hour or less, and wage increases under contracts already signed. The 7% standard can accommodate a cost-of-living factor, evaluated at 6%, which is the rate to be used in contracts with cost-of-living clauses. The price standard—½% below the average increase for 1976 and 1977—likewise applies to the average price of products produced by individual firms, but not the price of individual products. Where a firm cannot meet the standard, a profit margin test will be needed.

The two standards, applied together, should produce a deceleration in inflation. However, given some slippage due to contracts and cost increases already in the pipeline, the theoretical ideal of 5¾% for next year will actually be in the neighborhood of 6 to 6½% if the program is successful. If the program fails to hold inflation under 7%, workers, who may be under a long-term contract, will be protected by the tax refund provisions of the real wage insurance proposal.

Incentives to compliance with the proposed balanced program include, first of all, its reasonableness. Furthermore the Council on Wage and Price Stability will monitor the economy and, in particular, will work closely with the nation's 500 largest companies to assist in the interpretation and application of the standards. The government will encourage compliance in three major ways:

1. by undertaking specific administrative action where there is statutory authority to deal with particular inflationary situations;

2. by focusing and harnessing public attention through various means such as public hearings;

3. by channeling procurement, as a major purchaser of goods and services, to those firms which comply with standards.

Mr. Kahn: Goals of the Administrations' Anti-Inflation Program:

After reiterating the alternatives to the President's program—deep recession or mandatory controls—and further explaining the problems with them, Mr. Kahn set forth the nature of his job. His mission is to rove across the whole geography of government regulatory policy, specifically, and government economic policy, generally, and to call attention to whatever imposes unreasonable and unnecessary burdens on the economy. He will attempt to identify policies that prevent the competitive market from functioning freely; that shelter and create monopoly; that protect and subsidize special interest groups at the expense of the general populace; that interfere with economic progress and growth. And looking at the other side of the coin, he will seek ways to create incentives, improve productivity, and increase economic growth.

In particular, Kahn plans to look hard at those sectors of the economy that have borne with the greatest weight on the consumer:

With regard to food, for example, while bad weather and subsequent price rises based on scarcity are outside of control, there is an enormous range of government policies that can have a positive effect: (1) price supports; (2) acreage limitations; (3) restrictions on imports. There is room for much creativity in the area of income support for farmers, for example, or in increasing the efficiency of food distibution through a reform of the restrictions on entering into trucking.

With regard to housing, there is work to be done cooperatively with unions and contractors to study land form restrictions and building codes, to consider ways of shifting property taxes from improved to unimproved land, to find ways of reversing the declining productivity of the past few years.

With regard to energy and utility bills, while we can't control OPEC or the price of oil, there are internal policies we can pursue that will help, like eliminating the declining block-rate system which provides rewards for consuming more where there is no justification in cost for it, or reducing time of use pricing to reward people for conserving at those times when the costs are high.

And with regard to medical costs, there are some ridiculous methods of pricing and delivering medical care and much work to be done in this area.

Mr. Kahn expressed confidence that we can do what needs doing without turning away the human face of government, without sacrificing the necessary protections of consumers, of workers on the job, of the environment. However, it will be a long-term job, but one at which we can and must succeed because the alternatives are unacceptable.

Ms. Peterson: Consumers' Response to Inflation:

The bottom line in all these concerns, according to Ms. Peterson, is the consumer. Inflation is the biggest fraud there is. It concentrates on the necessities of life and threatens the dignity of the elderly and the poor.

The President's program is designed to reach into the areas of food, health and medical care, housing, and energy. We must be aware as consumers that, for example, 60% of the food dollar is in trucking and other non-farm costs, and that a major part of the inflation in health care is due to third party costs. Clearly, there is room for progress, Peterson feels such as will be achieved if hospital cost containment legislation passes in the next session of Congress.

Regardless, though, of the measures taken in the larger arena by the government and the private sector to stop inflation, individuals and families must become more prudent consumers. Ms. Peterson then indicated pamphlets containing tips and information for consumers which had been included in the folders distributed to the audience. Such information, she felt, would provide ideas to help people cope with inflation while we are all working on the problem.

LABOR PANEL RESPONSES

John Driscoll, President, Connecticut State Labor Council:

Speaking for the A.F.L.-C.I.O. which he represents, Driscoll expressed doubts about the workability of the program. Noting that Connecticut workers have lost 5% in real wages over the past ten years, he maintained that requested wage increases are necessary to keep pace with the rise in living costs and that it is not wages that drive up prices. The emphasis in the plan is too exclusively on wages, in Driscoll's view; it does not address: corporate profits; increases in corporate dividends; increase in executives' compensation; or speculative capital gains, as result, for example, from speculation in real estate.

If Congress cooperates with legislation, and they may not, wages would be held down but price increases would still lead to the demand for mandatory controls. It would be better, Driscoll believes, to have full control of all incomes across the board from the start.

Donald Ephlin, Director, Region 9, United Auto Workers:

The UAW, according to Ephlin, supports the President's goal, although many aspects of the program are not yet clear. By the time the UAW's large contracts need to be renewed—about a year—the program will have had ample chance to prove if it is workable and equitable.

Mr. Ephlin pointed out that the UAW backs increased productivity through new technology and innovation (a goal of the program), observing that gains in productivity should benefit the workers and the stockholders, and should result in lower prices for the consumer. He went on to endorse the concept of real wage insurance, although suggesting that the lower earning level be increased to $5.25 an hour.

Vinnie Siribella, President, New Haven Labor Council:

The President's program, in Siribella's view, is fundamentally unjust to working people. It provides no guarantee for reducing inflation. It makes no catch-up provision for wages which have been behind. It doesn't consider executives' prerogatives to supplement their salaries with stock options. It permits profits to rise while labor's share continues to slide, since productivity gains benefit owners, not workers or consumers. It does not control foreign import prices. And it allows firms to circumvent the spirit of the plan while adhering to the letter by making slight cosmetic changes in products in order to label them new and raise prices above the standards.

Prices and wages can be controlled only by controlling the profit-making decisions of the major corporations, a principle incorporated in the A.F.L.-C.I.O. recommendations. The President's program is going to be too loosely administered for labor to have confidence in it or to back it at the bargaining table. There are no guarantees that the sacrifices of American workers will result in stabilizing the country's inflationary problem.

BUSINESS PANEL RESPONSES

Henry Roberts, Chairman, Greater Hartford Chamber of Commerce, and Chairman of the Board, Connecticut General Insurance Corporation:

The business panel's position, which Roberts believed to be consistent with the thinking of the Hartford area business community generally, could be found in a brief written statement (attached) available following the meeting.

Mr. Roberts did go on, though, to observe that in the panel's view programs designed to control wages and prices, whether voluntary or mandatory, have failed to deal constructively with inflation. Nevertheless, the panel felt that the President's program of wage and price constraints would have value for a limited time in support of more fundamental actions by the White House, Congress, and the Federal Reserve, and they intended to be supportive.

Wallace Barnes, Chairman, The Barnes Group:

After indicating his support and what he believed would be the support of business for the program, Mr. Barnes attacked mandatory controls as having a dismal record, as being costly and unfair and difficult to administer. They do violence to the free market system, building distortions in wages and prices and killing incentive for constructive, voluntary action.

Voluntary action to accomplish a well-

defined public purpose can be much more effective, Barnes felt, pointing to the vigor and success of such phenomena as Consumerisms, the Environmental Movement, and the Civil Rights Movement.

With the government leading the way, as the President has declared it would, voluntary support from the private sector should work long enough to break the wage-price spiral, giving the government enough time to adopt the necessary monetary policies and spending and regulatory restraints. Once equilibrium is restored after a period of atonement, the free market system with its checks and balances based on supply and demand will be the best permanent controller of inflation.

John Flannery, President, State Bank for Savings:

Rather than wage and price guidelines, Mr. Flannery preferred to comment on the recent rise in the discount rate and the dollar support program. These he saw as well-reasoned, courageous, and appropriate actions to bring the government's resources to bear on inflation, albeit directed primarily at the international money market and the dollar question. Particularly encouraging were the coordination between the Administration and the Federal Reserve Board, despite questions this might raise about the continuing independence of the Board, and Chairman Schultze's indication that the "war chest" is being expanded.

Mr. Flannery did voice concern, though, about the continuing effectiveness of this tactic when its results on domestic credit markets, particularly housing and consumer lending, are felt. He also wondered about the commitment to the program under more adverse conditions than exist presently. The first step, then, must be followed with decisive, imaginative action to reduce the federal deficit, despite the political difficulty of reducing programs or curtailing services. Otherwise, there is a real risk of continued inflation, higher interest rates, and dislocations in credit markets.

Henry Roberts: Summary of the Business Panel's Position:

Business will support the President's program, but more vigorous government actions must be taken than have been to date, and tighter constraints on programs are essential. If business can help in that area, it stands ready.

CONSUMER PANEL RESPONSES

Walter Adams, Chairman, Connecticut Senior Citizens Association:

In view of the prepared statements of his two co-panelists, Mr. Adams simply posed a few questions: (1) How will the President's anti-inflation policy affect the elderly and those on fixed incomes? (2) Will it benefit them, and when will it start to benefit them? (3) Will there be an escalator clause put into Social Security? The questions, Mr. Adams was informed, would be answered after his panel's presentations.

James Harris, Executive Director, Community Renewal Team of Greater Hartford:

Echoing Ms. Peterson, Harris noted that the consumers are the only ones who cannot pass on the burden of inflation to anyone else; they must bear it themselves. Turning then to those on fixed incomes, he explained that these Americans are affected more than any other group by price increases, such as those in food costs. Connecticut welfare grants are based on the 1974 index, and persons on fixed incomes, unlike middle-income people, cannot "buy down"; they are already surviving on essential foods such as rice, beans, grains, etc. Yet the price of these foods, as well as of luxuries like steak, is rising.

Presently, New England imports 85% of all its foods from outside the region, which aggravates high prices because of trucking costs, middlemen, etc. Harris feels we must turn to more small farming in the Northeast, especially since the key to a nutritional diet (and some avoidance of health care costs) is fresh fruit, vegetables, and whole grains. Small programs have been tried in the area, but a concentrated effort, supported by federal and state government, must be mounted to encourage small farming in the region, and Harris asked if there were government programs to encourage New Englanders to grow their own products.

Marc Caplan, Executive Director, Connecticut Citizen Action Group:

After indicating his support for much of the program as it had been outlined, Mr. Caplan focused his remarks on where the average American family feels the impact of inflation. Four of five American families spend 70% of after-tax income on four basic necessities—food, fuel, housing, and health care—and these are the areas that have been skyrocketing, with food up 18%, energy up 15%, mortgage interest rates up 18%, and hospital costs up 9% in the first half of this year alone. Caplan then turned to discuss three areas where myth might be overriding fact:

On the question of regulations . . . the kind of de-regulation in airlines and trucking that the administration is talking about is certainly worth supporting. But health, safety, and pollution regulations, the costs for which increase the cost of living from one-half to one percent, are another matter. Even with a 20% reduction in these kinds of regulations (and the concomitant, significant curtailments in health and safety programs), we would be getting only one-tenth of one percen savings in inflation. Yet it is estimated that 90% of cancer is caused by environmental factors. Clearly, we must look with discrimination at the different kinds of regulations.

On the question of wages . . . in attempting to keep pace with inflation, wages have been part of the problem, but it is a myth that they are the cause. In health, for example, it is doctors' fees, not nurses' and hospital workers' wages, that have been outstripping inflation. The share of the consumer's dollars going to labor has actually been dropping in such areas as hospital charges and housing construction. The alleged effect of wages on inflation must be examined critically.

On the question of economic competition . . . Mr. Caplan supports de-regulation efforts and agrees with the need for competition and the free market, but he is concerned about the anti-competitive practices of concentrations of economic power in some areas, e.g., food (flour, grains, etc.), energy (with big oil even buying up coal, uranium, and the other energy sources). He wonders what vigorous anti-trust action the administration will pursue to prevent massive concentrations of economic power, especially in the four key areas for consumers.

Finally, Caplan commented on what can be done in Connecticut—farm markets, cooperatives, expansion of the recently enacted farm-preservation bill to insure a stable food supply. Vigorous efforts are needed, too, in containing insurance fees and hospital costs (the Hospital Cost Commission is making some progress, although slowed by too much political pressure). And along the lines suggested by Mr. Kahn, the utilities industry in the state must look carefully at projections and real energy conservation programs.

ADMINISTRATION PANEL'S RESPONSE TO QUESTIONS

Ms. PETERSON. Consumers in general, but the aged especially, are hurt by inflation, Peterson agreed, but felt that some help was available through food stamps and other programs. Even such devices as the inflation-fighting pamphlet included in the attendees' folders can help people cope and get the most for their dollars. Of course, the best answer for older people will be to cut the rate of inflation. In the interim, Peterson sees real value in consumers' self-help programs—buying clubs, gardening, and so forth.

Mr. SCHULTZE. Referring to a point made by both the labor and consumer panels, Schultze agreed that inflation has not been caused by wages. In fact, there are few villains totally inside our borders. However, all of us—government, business, labor—in trying to keep up or catch up, play a role in perpetuating inflation. Yet the wage-price spiral hasn't worked, as neither profit margins nor real wages have gone up over the past ten years. The way to catch up is not through higher prices or wages but through a reduced rate of inflation.

The plight of the poor and the aged, which it has been suggested is the most acute with respect to inflation, likewise can be addressed best by a reduction in inflation. In a time when government revenues are in some jeopardy (e.g., Proposition 13, etc.), that is the best way to increase the real incomes of the poor and aged without increasing government expenditures.

Finally, there are those areas which require the major share of consumers' incomes, especially for low income groups, and in which inflation is felt most keenly: food, energy, housing, hospital care. Yet, 60% of the price of food is in the industrial economy—processing, wholesaling, retailing, transportation. And 50 to 70% of the cost of energy is attributable, not to the price of raw energy forms, but to the industrial sector which processes and delivers it. A similar case can be made in housing. In other words, the major areas of cost in these necessities are susceptible to the President's program; wage and price standards apply. As for those areas where they do not—farm prices, OPEC rates, etc.—special measures can in many cases be applied, but a lowered rate of inflation is the best way to reduce the pressures that lead to higher prices in these areas outside of our control.

To sum up, wages are not the cause of inflation, but wages and prices, government, business, and labor, are all part of the cure.

* * * * *

Mr. Schultze's remarks concluded the formal program. Mr. Kahn then turned the floor over to President Trachtenberg to accept questions from the audience.

TRIBUTE TO FORMER SENATOR FLOYD HASKELL OF COLORADO

Mr. KENNEDY. Mr. President, I would like to pay tribute to a close friend and one of our most distinguished colleagues, Senator Floyd Haskell of Colorado, who is not returning to the Senate. His fine record of service here and the extraordinarily high quality of his work will be remembered well by all of us who knew him and respected his leadership.

With his departure the Senate has lost one of its few real experts on energy. His great ability in this area, especially on the many complex questions involving oil shale made him an undeniable asset in the Senate. He was the floor manager of the Coal Conversion Act, which is designed to accelerate the conversion by the United States to coal as a source of energy. He was the author of the first successful solar energy program to pass the Senate. He was also the creator of the Office of Energy Information in the new Department of Energy. As a result of these and many other efforts, Senator

Haskell played an outstanding role in the Nation's evolving energy policy.

Senator Haskell also worked hard to achieve a coexistence between the need to unearth new energy resources and the equally important need to protect the environment. He was the author of three major wilderness bills. He rewrote the authorizing legislation for the Bureau of Land Management. He was also a pioneer in recent years. Few, if any, Members protect communities affected by energy development.

As a champion of small business, Senator Haskell helped to lead the effort to preserve the Senate Small Business Committee and to give it jurisdiction to report legislation of its own. He also deserves great praise for his authorship of the jobs tax credit legislation in 1977, which has provided major benefits to small business.

Senator Haskell was also a leader in tax reform, and as a member of the Finance Committee he was responsible for many of the most important initiatives in recent years. Few, if any Members of the Senate had a more sophisticated or detailed grasp of the complexities of the Internal Revenue Code than Senator Haskell. He used his skill wisely and effectively for the lasting benefit of the Senate and the average American taxpayer, and we shall miss his leadership in the years to come.

FAIR TRADE OR FREE TRADE?

Mr. HEINZ. Mr. President, I bring to the attention of my colleagues an interesting article by Robert M. Kaus that appeared in the Washington Monthly shortly after the 95th Congress adjourned. In this article, titled "Getting Tough on Trade," Mr. Kaus explodes some of the popular myths about trade policy currently being perpetuated by the Carter Administration. He points out quite accurately the tendency of many in the administration to label anyone who disagrees with them on trade issues as rabid protectionists, regardless of the facts of the situation; and he clearly demonstrates with numerous examples the degree to which the United States is taken advantage of by the protectionist policies of our trading partners. In fact, what Mr. Kaus is saying is that free trade itself is a myth, made so not by our policies but by those of our trading partners. Thus the question for policymakers is not how to maintain free trade, but whether unfree trade will also be unfair, whether we will continue to permit others to take advantage of us and our economy without firm action. This is a thoughtful provocative discussion, which I hope all Senators will read. Mr. President, I ask that the article be printed in the RECORD.

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

GETTING TOUGH ON TRADE

(by Robert M. Kaus)

Few eyebrows were raised in the last few months when the financial leaders of the free world delivered stern warnings to the United States about its economic policies. If the U.S. wanted monetary stability, they said, we should put our own house in order. It was *our* balance of trade that was billions in the red, and *our* currency that was sinking to new lows on world money markets. At the annual convention of the International Monetary Fund, President Carter asked the assembled leaders to be patient—his own "reputation as a leader" was committed to erasing our shameful trade deficit.

We are so used to foreign accusations against the U.S., and so used to agreeing with them, that these latest criticisms probably had a great deal of credibility. Were they justified? Foreign trade and the U.S. deficit have become big issues in Washington. It is important to examine honestly how we got into our current mess, looking especially at the role played by some of the countries that are so quick to remind us of our duties to the free trade system.

Let's start with Japan—the nation that has profited most from the relative openness of the American market. After World War II, Japan's rebuilding effort was guided by a pervasive fear of a trade deficit. The twin principles of Japanese trade policy during this period were free trade abroad (for Japanese exports), and protectionism at home (to avoid foreign competition). Protectionist devices that the most ardent labor "fair trader" wouldn't dare propose in America today—you name them, the Japanese used them. Their economy was sealed off from foreign investment (although for part of the period Japanese investment in the U.S. was *encouraged* by our tax laws). High tariffs were only the first line of Japan's defense against foreign goods—they were backed up by a comprehensive scheme of important quotas and enforced by a protection-minded government bureaucracy, the Ministry of International Trade (MITI)—or the "Ministry of One-way Trade" as it came to be known in foreign business circles. From 1945 to 1965, the Japanese were the renegades of the free trade world.

In 1955 the United States sponsored Japan's official entry into the free trade brotherhood—a membership in GATT (General Agreement on Tariffs and Trade). Only in the mid-60s however, did Japan begin to lower the official trade barriers, encouraged by a booming business of exports to other nations' markets. The tariffs began to fall during the Kennedy Round reductions of 1968. But although Japan's balance of trade had turned favorably in 1965, Japan kept its quota system largely intact until the early 70s. It wasn't until late in this decade that Japan dropped quotas specifically designed to combat America's strength as an exporter in high technology items like computers.

Eliminating all these tariffs and quotas was a great thing—unfortunately it didn't necessarily mean that Japan's market (second largest of non-communist nations) was open to the world. For the contribution of the Japanese to the science of protectionism wasn't in the field of tariffs and quotas. Those hoary devices are highly visible, and in economic circles, pretty disreputable. The Japanese had discovered a far more potent weapon: bureaucracy. If tariffs are easy to argue against, safety standards are not. And so American manufacturers attempting to unload appliances in Japan would be told—so sorry—but the cords were the wrong size. And the motors, too, were unsuited to Japan's peculiar climatic conditions. American pharmaceutical manufacturers discovered that prohibitive new health regulations just happened to spring up in the very product lines where they had a competitive edge.

Indeed, in Japan the "partnership of government and business" that so many American politicians visualize achieved reality. When a non-Japanese manufacturer sought a safety certification for an inexpensive electrical appliance, his application might be routed down to a lower level bureaucrat in MITI whose other activities included looking after the welfare of the Japanese appliance industry. "Because the approval authority is not independent of the ministry concerned," note James Abegglen and Thomas Hout in the current issue of *Foreign Affairs*, "there is substantial room for mistrust and misunderstanding." In other words, it's not rare that the bureaucrat would delay the certification of an import long enough to let the Japanese manufacturers come out with a competing model. Similarly, importers might find that their customers quietly had been given "administrative guidance" to "buy Japanese."

Today, even skeptical U.S. observers believe that many top officers in the Japanese government sincerely want to remove these bureaucratic obstacles. The problem these officials face is getting this message accepted in the ranks of protection-minded lower level bureaucrats and in the more industry-oriented ministries. "Those guys are very insulated, closely tied to the interests they regulate and there is not much improvement," noted one American expert. "It is going to be an extraordinarily slow process." When U.S. manufacturers last year achieved a breakthrough in the production of phosphate fertilizers, MITI responded with an unwritten and unpublished series of administrative "requests" to local consumers that limited U.S. imports dramatically.

Or consider the recent experience of one American entrepreneur, T. R. Cataldo of Micro-Lert Systems International. Cataldo has invented an electric device—a reverse "beeper"—that can be worn around the neck of those who, like epileptics or likely heart attack victims, may need emergency medical assistance. When help is needed, the wearer simply squeezes the device, and it sends out a signal calling a pre-arranged group of doctors or relatives. Cataldo's brainchild has tremendous potential for saving lives and eliminating the need for expensive institutional care. Late last year, on a trip to Japan, Cataldo decided to talk with the Japanese Ministry of Post and Telecommunications about marketing his product. Very interesting, a succession of ministers told him—there was nothing like it in Japan. But approval, unfortunately, would be difficult. Had Mr. Cataldo thought of manufacturing his device in Japan? It would be so much easier to get the product approved if it was licensed to a Japanese producer.

Cataldo had come face-to-face with the so-called "public policy" sector of Japanese industry—a government-run series of utilities and enterprises where "buy Japanese" is an explicit credo rather than a clandestine bureaucratic campaign. The frank public statements to this effect by the head of Japan's telecommunication industry have been a considerable embarrassment to the Fukuda government's attempt to convey a "free trade" image.

It would be unfair, of course, to give the Japanese all the credit for perfecting the bureaucratic hassle as a way to preach free trade but practice protectionism. Most European nations have fostered the art as well. France is notorious for its ingenious restrictions on the import of pharmaceuticals. In Italy, tariff barriers to popular U.S. imports of corduroy and denim aren't insurmountable, but there is a little paperwork needed. The importer must prepare nine copies of an import authorization form and complete (in triplicate) a technical certificate giving the material's fiber and dye content, weight, and so on. These forms then go to an imports office in Rome. After approval there, they go to the Ministry of Finance. After approval there. . . .

OUR BARRIERS ARE VISIBLE

Nevertheless, you are thinking, the United States blocks some imports too. You are right. But consider the following:

The barriers to foreign trade in the U.S. in the postwar era largely took the form of tariffs or negotiated import restraints. So-called "non-tariff barriers"—subsidies for exports, restrictive safety standards, import licenses, burdensome paperwork requirements—are generally conceded to have been much greater in other nations. The 1968–73 Kennedy Round of GATT negotiations successfully lowered tariff barriers dramatically but it deferred action on most nontariff barriers. The result was arguably to benefit the trade surpluses of those nations who relied on the invisible bureaucratic methods of protectionism.

The U.S., Japan, and the European Common Market (EEC) all protect their agricultural sectors, to some degree, from foreign competition. Section 22 of the Agriculture Act of 1923, for example, broadly allows the U.S. to limit imports which "interfere" with programs of the Department of Agriculture, Needless to say, there are plenty of those programs, and the provision has been invoked to protect several U.S. industries—notably dairy and sugar. But the protectionist shields of Japan and the EEC are far less selective, and have a greater restrictive impact on trade than our law. Nevertheless, in both Europe and Japan, the U.S. is repeatedly told that the political clout of local farmers makes broad agricultural liberalization "nonnegotiable."

Like other countries, the U.S. has a "buy domestic" policy of government procurement. But there's a key difference. The American policy is explicit, written in a statute, and the preferential margin is fixed by law. Foreign suppliers are notified of all bids and specifications. The winning bid is published. The advantage accorded any American firm may be readily discovered. In contrast, the discriminatory policies of other countries (again, including the Common Market and Japan) don't incorporate this "due process." Often, U.S. firms aren't told when bids are taken or specifications change. The impact of this *sub rosa* discrimination is much more difficult to measure than our above-board policy.

In the three decades after World War II, the U.S. generally kept its markets open to Japanese products. European nations, in contrast, were quick to abandon free trade principles and erect barriers against Japanese competition. As a result, goods that Japan could have sold in Europe have been diverted to this country. In 1972, Japan claimed only 3.6 percent of total European imports, but 16.3 percent of goods imported to the U.S.

How did all this come to pass? Free-traders in the United States, particularly those involved in ongoing negotiations, portray the situation as a complex one in which each nation has its own dirty hands, and in which the common interest of all is served by a carefully orchestrated, mutual lowering of barriers. Confrontation is to be avoided; above all, no nation should blame any other nation for having played the balance of trade game to its advantage. The whole process is somewhat like a California sensitivity session during the mellow 60s—interdependent, "nonconfrontational," "nonjudgmental."

The big picture view misses is the distorting role of anti-communism in U.S. trade policy after World War II. In 1945 America saw its primary mission in the Far East as the reconstruction of Japan as a stable and prosperous ally. The main goal of our relationship was not a favorable balance of trade with Japan, but a mutual security treaty. It seems crazy now, but in 1962, when the Japanese resurgence was essentially complete, President Kennedy still gave as a central objective of our free trade policy "the need for new markets for Japan and the developing countries." These strategic, rather than economic, objectives dominated our European policy as well. As a rich strong nation, we could afford to look the other way if other nations chiseled a bit behind the rhetoric of free trade—if it helped their economies, so much the better. We adopted a lofty, principled view of international commerce—and even if others didn't play the game by the rules, by golly we would.

This lofty view began to be increasingly unrealistic about 15 years ago, as America's economic dominance waned, and multinational corporations spread advanced industrial techniques around the world. But our complacency was reinforced by a more sophisticated moralism among economists. Many postwar economists just couldn't understand why other countries would want to play the protectionist game. After all, economic theory proved that by denying itself the benefit of cheap foreign goods, a nation which erected trade barriers would only hurt its own interests—even if its trading partners refrained from retaliation. The theory assumed of course that all nations start from a position of full employment—but postwar economists were confident that this could be achieved by the new, sophisticated techniques of deficit spending and monetary control. Looking back on thirty years of chronic unemployment, it's harder to scoff at the foreign politicians who, heedless of economic theory, tried to protect local jobs by keeping exports high and imports low.

In 1973, with the floating of international exchange rates, economic strategists came up with new reasons to discount the impact of foreign protectionism. Any nation that tried to block our imports, it was theorized, would quickly pay the price—as its trade surplus grew, its currency would appreciate and our exports would become cheaper and more competitive. We could stick to our principles and wait for this monetary retribution—or maybe even hasten it by "talking down the dollar," as Treasury Secretary Blumenthal did last year. But in the real world, foreign trade barriers, rather than falling before the threat of dollar devaluation, played a role in frustrating Blumenthal's strategy. If other governments are determined to keep us out of their markets, we won't increase sales no matter how big the bargains we offer. The dollar has been falling for a year and a half; its decline has yet to dramatically boost U.S. exports—and this failure has only sent the dollar down further.

REDNECKS

We are now paying the price, in our massive deficits, for our high-minded view of free trade. The first step towards improving the situation is what it has always been—to realize that the battle for world trade is a grubby fight for goods and jobs, not a spiritual struggle to maintain free trade purity, and that, after sacrificing economic advantage in the name of anti-communism, we have entered the fight late. In short, we should know when we're screwed and not be afraid to screw back in order to stop it.

Yet the lofty view persists. While researching this article, I called up one former State Department official, and asked him if he agreed that the U.S. had allowed itself to get the short end of the stick in trade negotiations. He termed the suggestion "protectionist," and added, "you can get a lot of rednecks to say that, but you can't get anybody *responsible* to say it."

He is more or less right. The near-universal attitude among the international trade intelligentsia is that any attempt to dramatize the ways in which American exports are unfairly blocked is an attempt to promote a narrow-minded protectionism generally associated with the AFL–CIO. Responsible people may know when they're being had, but they would never be seen angry in public, lest they be mistaken for rednecks or disciples of George Meany. To date, the favorite negotiating tactic of the Carter administration and Special Trade Representative Robert Strauss is to achieve freer trade by using the specter of rabid American protectionism as a club with which to threaten the leaders of foreign nations. "Give us equal access to your markets," Strauss implies, "or we won't be able to hold off the crazies in Congress who want to block all imports." American senators traveling to Japan are encouraged to exaggerate the protectionist threat, and every foreign concession is welcomed with a carefully staged sigh of relief—"Let's hope that keeps Congress happy for a while."

What's missing from this scenario is any attempt to generate popular support for the view that free trade is good, but that it's about time that American businessmen received the same treatment in other nations that foreign businessmen generally get over here. Instead, Strauss' office fears that any public outpouring of dissatisfaction will play into the hands of those who don't want free trade at all. In doing so, the administration has deprived itself of one of its most powerful bargaining weapons—the power of public opinion.

The problem was illustrated during the recent trip of a U.S. trade aide to Japan. Strauss wanted to present a set of demands to the Japanese government, but he did not want to provoke a confrontation. So, it was decided to send a low-level official, and General Counsel Richard Rivers got the nod. His conservative personal style was expected to contribute to the nonconfrontational air of the meetings.

But Strauss' advisers had miscalculated the Japanese awareness of trade politics. Rivers' demands leaked to the Tokyo press before his arrival, and this, coupled with negotiations in Washington and the American announcement of planned troop withdrawals from East Asia, turned the low-level mission into a "sensational media event." Rivers' calm presentations were portrayed as aggressive and demanding. By the time he met with Prime Minister Fukuda, the Japanese head of state could introduce him, only half-jokingly, as "the most famous man in Japan."

The point of this incident is not that Strauss' office bungled the mission, but that trade policy is a matter of intense public debate in Japan. The force of the resulting public opinion is one source of Japanese strength in trade negotiations—one reason that they can label some concessions "nonnegotiable." The debate has hardly started over here—how many Americans have heard of the Japanese counterpart of Richard Rivers? And the administration is doing little to stir up public sentiment in support of its policies—preferring to whisper its views to foreign leaders. But a little public righteousness—against foreign barriers to our trade, rather than against "cheap imports"—might be a powerful weapon at the GATT talks.

While we have been petrified by the possibility of a public confrontation with other nations, we haven't been able to use effectively our greatest weapon for breaking down barriers abroad: denial of the vast American market. At any point over the last two decades the aggressive use of this threat might have been extremely effective in bringing down both hidden and visible barriers to our exports. But as long as retaliation is only something that protectionists recommend, the threat isn't very credible.

Effective retaliation need not be heavy-handed. For example, Underwriter's Laboratories, the private American concern that certifies the safety of electrical appliances, has an army of inspectors in Japan, efficiently approving Japanese goods for American export in the comfort of Japanese factories. Japanese safety inspectors, on the other hand, don't make house calls; U.S. manufacturers must still go through the costly process of hiring Japanese agents and send-

ing prototype models to Japan for testing. It wouldn't be difficult for the American government to impose similarly cumbersome requirements on Japanese goods until they gave us the same courtesies we now give them.

These alternatives will be unavailable to any administration as long as it concedes the "hard line" in trade matters to the protectionists. What would be the effect if Robert Strauss stood up and said, "if you don't give us fair treatment, not only will the Congress recommend retaliation—damn it, I'm going to recommend retaliation." How much better would things be now if something like that had been done 15 years ago?

American government policies don't deserve all the blame for our trade decline. Our businessmen had their own lofty view. All too often they preferred to accommodate foreign trade barriers by building plants abroad rather than engaging in the messy task of beating down the barriers from the outside, or hustling American-made goods in spite of those obstacles. Still, it's the government's job to channel the energies of American business in directions consistent with the national welfare. If multinational companies don't care where they make their money, the Departments of State and Treasury should.

Free trade remains a desirable goal—the economists are right when they say it allows international specialization that in the long run will benefit all nations. It is not, however, a self-enforcing mechanism, and we can't afford to sit back and congratulate ourselves on our economic wisdom while our trading partners profitably beat the system. That's how we got into the current mess. To start undoing the damage, we should admit—honestly and publicly—that we can no longer play the free trade game all alone. If free trade is to work, we must be willing to use our economic muscle to ensure that our openness to foreign competition is reciprocated.

TRIBUTE TO FORMER SENATOR WILLIAM HATHAWAY OF MAINE

Mr. KENNEDY. Mr. President, I would like to pay tribute to my close friend and former colleague, Senator William Hathaway of Maine. During his 6 years of outstanding service in the Senate, Senator Hathaway demonstrated a profound concern for the people of Maine and for all Americans.

Senator Hathaway and I served together and worked together on the Human Resources Committee for the past 6 years, and no Member of this body had a better record or was a stronger supporter of the interests of the working man and woman than Senator Hathaway.

He was one of the workhorses of the Senate, with over 200 bills and amendments to his credit enacted into law, an outstanding record for any Senator in a single term.

On the Human Resources Committee, Senator Hathaway was also an effective leader on issues like jobs and health care. On jobs, he worked hard to protect the shoe and textile workers of Maine from the rising tide of imports. He was also a leader in the successful effort to enact the 200-mile fishing limit for the Nation, which has done so much to protect the jobs of the fishermen of his State.

On health care, he was an extremely effective Member of the Senate on the problems of rural areas, especially those with critical shortages of doctors and facilities. He was a leader in the development of the Regional Medical Program Act, the Emergency Medical Services Act, and the Rural Health Clinics Act—all of which have helped to bring better quality health care to the people of Maine and to many other States.

In other major areas as well, Senator Hathaway also made important contributions. As a member of the Finance Committee, he had the best tax reform record of any member of that committee. Again and again, in the committee and on the Senate floor, he was willing to stand up for the average taxpayer, insisting on a fair share of tax relief for the ordinary citizens who have to pay the bill, opposing new loopholes for special interest groups and those rich enough to hire lobbyists to crowd the hearing rooms of Congress.

And on the Senate Small Business Committee as well, Senator Hathaway has been an effective leader, seeking to end the paperwork burdens of excessive Government regulation, insisting that small business get its fair share of Federal contracts, listening to the small business men and women of Maine, making sure that their voices were heard in both Congress and the executive branch of Government.

And finally, as a member of the Senate Intelligence Committee, Senator Hathaway was one of the most important and influential Senators in investigating the CIA, ending its abuses, and requiring its budget to meet the same strict standards of review applicable to every other agency.

But most of all, Senator Hathaway was a decent and compassionate Senator. He never forgot his roots in Maine, and he never forgot the people he represented—the ordinary citizen, the average voter, the men and women throughout the State who needed someone to speak for them and serve them in the Senate. They have lost an outstanding public servant, and all of us will miss him.

TAIWAN

Mr. GARN. Mr. President, as all the world knows, President Carter's Christmas present to the people of Taiwan was the breaking of diplomatic relations and the announcement of his intention to abrogate the Mutual Defense Treaty between the United States and the Republic of China. This action is of doubtful legality, and even more doubtful wisdom. The timing alone, while the Congress was out of session, was an insult to the Congress, and to the people and Government of Taiwan. Even members of the President's own party have criticized his timing; this is not a partisan matter.

The January 15 issue of U.S. News and World Report contains a pro and con debate between Senator GEORGE MCGOVERN and myself over some of the issues involved in this opening to Peking, and I ask that the debate be printed in the RECORD.

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

PRO AND CON—ENDING TAIWAN TREATY—IS IT LEGAL?

YES—"THE PRESIDENT HAS THE CLEAR AUTHORITY UNDER THE CONSTITUTION

(Interview with Senator George McGovern)

Q. Senator McGovern, why do you think President Carter was acting legally in ending the defense treaty with Taiwan?

A. I think the President has the clear authority under the Constitution to decide on recognition of a government. Constitutionally, he is the government's chief foreign-policy maker. And when he decided to recognize Peking as the legitimate government of China, one could argue this act alone voided any other treaty we had with Taiwan—including the mutual-defense treaty.

There was no argument between Taiwan and the mainland about whether there are one or two Chinas. The only question between them was: Where was the government of China located—on the island of Taiwan in Taipei or on the mainland of China in Peking?

The Carter administration made the judgment that the government, in fact, is in Peking. That judgment follows the doctrine enunciated in the Shanghai Communique signed by former President Nixon in 1972. So I think President Carter can defend his actions on legal grounds.

Q. Does that mean that he can legally abrogate any treaty—including NATO—without consulting the Senate?

A. I suppose that is an open question. But in the case of the Taiwan pact, there was no breaking or abrogation of the treaty. There was a clause that gave either side the authority to terminate it on one year's notice. So the President acted as the treaty itself permitted. Also, we should remember that the purpose of the constitutional draftsmen in requiring Senate ratification of treaties was to make it hard to enter foreign commitments, not necessarily to end them. So if either the President or the Senate can prevent the creation of a treaty, it is logical to expect that just one of the two also ought to be able to bring the treaty to an end.

Q. Did President Carter have a special obligation to consult with Congress in view of a resolution adopted by the Senate in 1977 calling on him to do so?

A. I think he did have this obligation, even if the resolution did not make it compulsory. While I agree with what he did, I disagree with how he did it.

I think he will be able to make it stick, but the President would have been much better advised to consult closely with Congress before he took this step. It was a clear-cut political error. The administration was looking for a diplomatic victory, but it is going to pay for it in terms of lost confidence on Capitol Hill. There will be sharp attacks on the administration, an aggravation of tensions between Congress and the White House.

Q. Will Congress enact a law that would require the President in the future to obtain Senate consent before ending treaties?

A. It is possible that the kind of sentiment we are seeing in Congress over the President's Taiwan actions will be turned into law. This is a setback in terms of the President's standing with Congress and his capacity to work harmoniously with the Congress. He would have been much better advised to take time to prepare the Congress, to prepare the government on Taiwan, to prepare public opinion for the abrupt change in American policy. I don't understand the rush.

Most of my colleagues in the Senate say that normalization of relations with Peking and termination of the defense treaty with Taiwan were inevitable sooner or later, but they expected time for consultation. But the step itself was virtually assured in 1972 when President Nixon went to China.

Q. Would you support such legislation requiring Senate consent for the termination of treaties in the future?

A. I would favor extensive consultation with the Senate by the President, but I don't know that I would vote for a law requiring it or attempting to define what consultation entails in particular cases. I think President Carter and his associates made a mistake in not taking into account the long, peculiar, unique relationship we've had with Taiwan. And I think there should have been detailed and close-in consultation with the Congress.

Q. Do you believe that the administration should have gotten from Peking specific assurances of Taiwan's continued security?

A. It's conceivable that they could have gotten more out of Peking than they did. Regardless of the communiqué, we should continue to stress that all nations ought to have access to the waters between Taiwan and the mainland, and that we would look with the most serious kind of concern on any threat to Taiwan's security. We should underscore our conviction that the wishes of the people on Taiwan should be taken into account.

From the standpoint of Taiwan's security, however, it is very important that the Peking government was willing to go ahead with normalization despite our declared intent to continue supplying arms to Taiwan and to continue commercial and cultural relations with the people on that island. Vice Premier Teng has also made separate assurances that they plan to achieve reunification by peaceful means. So it is not accurate to charge that we are normalizing relations entirely on Peking's terms. Significant concessions were made.

Q. In the absence of an explicit understanding concerning Taiwan's future security, do you expect the Chinese Communists to try to seize the island?

A. No. In the near future, at least, they won't have the military capability to take on Taiwan's very formidable and modern military establishment.

What I fault is the hasty and ill-prepared way in which the decision was handled—the crude diplomacy and the bad politics. I myself have favored for about 25 years that we recognize Peking. What the President has done is to bring American foreign policy into line with the realities we all know are there: that Peking is the government of China, and that the 2 million Chinese refugees on Taiwan are not going to regain control of the mainland. The President made a realistic judgment that in our own interest we ought to recognize Peking.

NO—"A TREATY IS A LAW, AND THE PRESIDENT CANNOT REPEAL A LAW BY HIMSELF

(Interview with Senator E. J. (Jake) Garn)

Q. Senator Garn, why do you claim President Carter's termination of the mutual-defense treaty with Taiwan is illegal?

A. The Constitution clearly says ratification of any treaty requires the advice and consent of the Senate, and that this must be by a two-thirds majority vote. In 1954, the Taiwan treaty was ratified through this procedure. It is my belief that the same process must be followed to end a treaty. After all, a treaty is a law, and the President cannot repeal a law by himself. To do so would violate the Constitution.

Q. But isn't the Constitution silent about the procedure for ending treaties?

A. The Constitution is not specific, although it certainly involves the Senate in the treaty process. This treaty refers to "parties" who are required to act to terminate it, but it does not specify who those "parties" are—whether the President or Congress, or both. There are many cases that show a "party" to a treaty isn't just the President. It is the government, which includes the President and the Congress, or in this case the Senate.

Q. Why didn't the Senate challenge the Chief Executive on earlier occasions when he nullified treaties unilaterally?

A. As I understand it, there was a congressional role in every case where a treaty has been abrogated. This is the first time in our history an American government has renounced a treaty with an ally without any real cause or benefit.

Consider this: If Ronald Reagan became President in 1980, how would Carter feel if Reagan simply said he had decided to abrogate the Panama Canal treaties or the NATO pact? The attitude of Carter and his allies would be entirely different.

Q. Are you as concerned about the moral implications of the President's action as the legal impact?

A. Absolutely. I don't object to recognition of Red China, with its 900 million people. But the President has done it at the expense of 17 million Chinese on Taiwan.

Far beyond the issue of Taiwan's security is the moral credibility of the United States. I think this calls into question the basic integrity of the U.S. in the area of foreign policy.

The moral issues which concern our credibility with our friends and allies are more serious and have far graver ramifications for the future of this country.

Q. How valid is the White House argument that no agreement could have been reached with Peking if Carter had been required to consult formally and openly with Congress?

A. I believe the kind of agreement he made could not have been completed, because I believe it fails to recognize real American and Taiwanese interests. Every concession was made by us. No concessions were made by the Red Chinese. And we held all the chips.

Q. Do you believe that Congress would have insisted upon specific language to protect Taiwan's security as a condition of any recognition of Peking?

A. The Senate, I suspect, would have insisted upon a two-China policy, continuing our recognition of Nationalist China. But even if I'm wrong on that, I believe we would, at the least, have insisted on a mutual-defense treaty with Taiwan.

Q. In the past, many conservatives have argued—as in the case of Angola and arms for Turkey—that it's dangerous for Congress to restrict the President's authority to conduct foreign policy. Don't your present demands amount to the same thing?

A. Not at all. This is much different from arms sales. Here we're talking about a legally binding treaty. I agree that Congress in the day-to-day conduct of foreign policy has been getting too involved. But the distinction in this case is that we are dealing with a treaty approved by the U.S. Senate. The Senate's role in this aspect of foreign policy is required by the Constitution.

Q. Hasn't the administration implicitly guaranteed the future security of Taiwan by assuring it a continued supply of American arms?

A. We've not yet spelled out exactly what those arms sales are going to be.

And even if we sell them a good amount of arms, that certainly won't guarantee them the security they have under a defense pact with the U.S.

Q. Do you think Carter damaged his relations with Congress by acting as he did?

A. There is a damaging perception here that the timing of this announcement was deliberate, that he hastened to achieve an agreement, that it was more important to achieve an agreement for his own political purposes than for what the agreement represented. That's why he was willing to make so many concessions to get it quickly. There was no hurry on the part of the Chinese. The hurry was on our side.

Q. Why was the President in such a hurry?

A. It is widely charged that the President is so interested in political credit, doing things dramatically and rapidly, that the obtaining of an agreement becomes more important than the substance of it.

I think that's why he did it while we were out of session, just before Christmas, when there could be no organized effort against him.

Q. Do you accept the argument that by normalizing relations with Peking, the United States gains greater leverage in dealing with the Soviet Union?

A. No. As a matter of fact, I think the timing has hurt our relations with the Soviet Union, and specifically in the SALT talks. I think the Russians took advantage of this, when agreement had nearly been reached, to make further demands.

And so I believe the result will be that the Carter administrations will make further concessions in SALT, as it has in all of these other negotiations in foreign relations, to get an agreement even if it's to the detriment of the United States.

NANCY LANDON KASSEBAUM

Mr. DOLE. Mr. President, the Senator from Kansas wishes to comment upon his new colleague, the distinguished Senator from Kansas, NANCY LANDON KASSEBAUM.

We bring from the State of Kansas an outstanding lady.

Mr. President, this afternoon, we have witnessed another of those historic moments which have so distinguished this Chamber in the annals of self-government. We have welcomed to our ranks a new colleague, who I predict will earn the warm admiration of her peers as she has won the hearts and minds of her fellow Kansans.

Now much has been made of Senator KASSEBAUM's status as a woman—the first to be elected to the Senate entirely in her own right, the first sent to the Senate from Kansas, the only female Senator in this 96th Congress. It is not surprising that she has been in the limelight during these first few days in Washington. For her election to this body marks an important milestone in the continuing evolution of women in public life.

But, of course, NANCY KASSEBAUM is more than a woman. First and foremost, she is a Kansan. She hails from a proud lineage of service to the people of my State. I am conscious today of a torch being passed, as the Landon family launches the newest chapter in an honored tradition of effective and compassionate leadership.

I might add, part of the proudest moment in the life of Alf Landon was the swearing in of his daughter in Topeka, Kans. He may not have done it as well in 1936, but in 1978 the Landon name was most successful in my State.

So I just say, Mr. President, that we certainly welcome this distinguished colleague. This Senator looks forward, as I know other Senators on both sides of the aisle look forward, to working with our new colleague.

It just seems to me that we are all privileged to have an opportunity to serve with NANCY LANDON KASSEBAUM.

NANCY is her own woman. Her independence and her tenacity are matched only by her intelligence and integrity. As

one who has strongly supported her political drives, I am extremely pleased to see her take her seat in the Senate. Her brand of political moderation makes her a welcome addition to the Republican Party and this Congress. Her fresh and original perspective will contribute significantly to our deliberations. For NANCY KASSEBAUM brings to our work a mind that is penetrating as well as thoughtful, and a compassion that does not exclude Government efficiency from its criteria of needs.

The Senator has enunciated clearly her belief that Government should be sensitive to individual need. It should also be sane in spending to meet those needs. These twin principles form the heart and soul of her creative republicanism. It is a philosophy which this old chamber should embrace without reservation.

For now, let me say simply that I look forward to working with Senator KASSEBAUM. I know that I speak for my colleagues when I say welcome aboard. The challenges you face are great. But so are the talents and insights you bring to your new position. In meeting and surmounting those challenges, you confirm the political faith of millions of Americans that women can take their rightful place in society's decisionmaking process. In this room where history is written with every vote taken, every debate decided, you will make history by your very presence.

It is a presence we warmly welcome.

TRIBUTE TO FORMER SENATOR THOMAS McINTYRE OF NEW HAMPSHIRE

Mr. KENNEDY. Mr. President, the absence of Senator Thomas McIntyre of New Hampshire from this chamber in the 96th Congress will be a source of great regret to all of us who served with him and worked with him.

Senator McIntyre and I both came to the Senate in 1962, and we worked closely together for 16 years. In his many years of outstanding service, he earned a solid reputation for his skillful work on national defense. As a member of the Armed Services Committee, he presided in Congress over the cutting edge of America's military strength, the research and development budget so vital to maintain our Nation's future power. And his long experience on the Banking Committee made him a leader on economic issues important to both New Hampshire and the Nation. He was widely known in Congress as the father of the NOW account, one of the most remarkable banking innovations for the benefit of the consumer in many years.

Through his work on the Senate Small Business Committee, Senator McIntyre helped to launch the drive for regulatory reform in Congress. As much as any other single factor, it was Senator McIntyre's investigative hearings that made all of us in Congress understand the crushing burden of Government paperwork, especially on small business.

In many other areas, he was also an effective Senator. He was a pioneer on solar energy, and worked hard to develop a responsible energy policy for the benefit of both New England and the Nation.

Throughout his service, Senator McIntyre was an outstanding Member of the Senate, and we shall miss his friendship and leadership in the years to come.

RECESS TO THURSDAY, JANUARY 18, 1979

Mr. ROBERT C. BYRD. Mr. President, I move the Senate stand in recess until the hour of 12 o'clock meridian on Thursday next.

The motion was agreed to; and at 1:58 p.m. the Senate recessed until Thursday, January 18, 1979, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

ALASKA THE REAL ECONOMICS OF THE ALASKA NATIONAL INTEREST LANDS

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 15, 1979

● Mr. FISHER. Mr. Speaker, last May the House of Representatives passed by a resounding vote the Alaska National Interest Lands Conservation Act, H.R. 39. I was a strong supporter of that legislation. Like so many of my colleagues, I was dismayed that the Senate was never given a chance to act upon it.

For the benefit of new Members and others who may have missed them, I would like to reiterate the remarks I made last spring on this subject. The President's action on December 1 to assure protection of these lands was commendable, but it does not alter the need for legislation.

As I said last spring, the Alaska National Interest Lands Conservation Act is without doubt one of the major pieces of conservation and land use legislation in the history of the Republic. When the bill becomes law, it will rank in national importance with the Homestead Act of more than a century ago, the establishment of the first national park at Yellowstone in the 1870's, the Reclamation Act of 1902, and other historic and far-reaching laws.

As I said then, I approach the bill from a background and perspective which is probably unique among House Members. I lived and worked in Alaska for several years when I was younger, took part in numerous resource surveys and studies pertaining to Alaska, worked for Senator Ernest Gruening when he was Governor of the territory of Alaska, was a close friend and neighbor in Juneau of Senator Bob Bartlett who was the first senior Senator from Alaska and before that for a long time a delegate in the House, and over the years have followed the fortunes of Alaska and written a good deal about it. I have hunted deer on Admiralty Island, gone fishing out from Homer in Cook Inlet, made studies of the agricultural potential in the Matanuska Valley, hiked in Mount McKinley National Park, spent some days on the Yukon River in a small boat, and even panned for gold out from Fairbanks as a weekend activity. I took some part in the statehood movement, have participated in the annual Alaska science conferences, lectured at the University of Alaska, and supervised many research projects having to do with Alaskan resources.

I cite these personal experiences simply to make clear that I do have a unique background and perspective on this bill. Out of this experience I want to make two principal points.

"LOCK-UP" OF ALASKA

First, with regard to the "lock-up" of resources particularly mineral resources, that some Members think this bill will entail, I simply want to remind you that what Congress locks up Congress can unlock. The key turns both ways in the lock and Congress holds the key. As a result of resources investigations, in which I have participated in other parts of the country, I can say that this charge against resource conservation and protection legislation is a familiar charge. Naturally, private developers will want the maximum of free access to land, water, minerals and other resources. Within some framework of orderly development procedures, they want license to go ahead, and this is understandable. Citizens more generally, whether in Alaska or in other States, have a divided interest: they want cheaper agriculture, timber, fish, minerals, and other products, and they also want the benefit of outdoor recreation, sport fishing and hunting, and wilderness. The two interests frequently conflict and compromises or balances have to be struck.

In my view, a good compromise and balance is achieved in H.R. 39. Around 56 percent of the enormous land area of Alaska will be available for development; these are the 105 million acres of State land plus 44 million acres of Native corporation land, once these acres have been selected. In addition there are 82 million acres of land that would remain under the jurisdiction of the Bureau of Land Management, appropriate parts of which in the normal course will be open for grazing, timber cutting, and other uses. Furthermore, most of the national forest land, some 24 million acres will be subject to appropriate timber harvesting. Hardrock mining under this bill will continue to be eligible on 70 percent or more of the lands with some mineral potential which remains outside the conservation system.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.