Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.
345 Cannon Building

Joint Economic
To resume hearings on the Consumer Price Index figures, and on inflationary trends.
6226 Dirksen Building

JULY 27

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of inventions developed under Federal contracts.
235 Russell Building

Labor and Human Resources
Business meeting, to mark up S. 1075, to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and doctors, and to provide more education to doctors and health professionals regarding the use of approved drugs; and S. 446, to provide legal protection to the employment rights of handicapped citizens.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To receive testimony from officials of the Harvard University, School of Business on a 6-year review of energy resources.
3110 Dirksen Building

JULY 30

9:15 a.m.
Governmental Affairs
To hold hearings on S. 930, to restrict free Federal employee parking.
3302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

JULY 31

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 663, to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
6226 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

AUGUST 1

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

AUGUST 2

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

SEPTEMBER 12

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.
457 Russell Building

SEPTEMBER 25

11:00 a.m.
Veterans' Affairs
To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.
5110 Dirksen Building

CANCELLATIONS

JULY 20

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on Title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, and the National Endowment for the Humanities; and S. 1429, authorizing funds through fiscal year 1982 for Museum Services.
Room to be announced

JULY 18

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

JULY 24

9:30 a.m.
Labor and Human Resources
To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

SENATE—*Thursday, July 12, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

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

Almighty God, Lord of all life, Ruler above all men and all nations, let not the magnitude nor the gravity of our problems deter us from courageous and creative action. But show us the way through the maze of conflicting forces until we find light and order and well-being for the Nation. May a loyal and disciplined people join the Chief Executive and a wise Congress to concert the best measures for the Nation and the world.

This day and always, may the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord, our strength and our Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 12, 1979.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the ma-

jority leader is recognized for not to exceed 2½ minutes.

THE JOURNAL

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

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

FOOD EXPORTS STRENGTHEN U.S. TRADE BALANCE

Mr. ROBERT C. BYRD. Mr. President, recently the U.S. Department of Agriculture announced that American food exports will be much higher this year than originally predicted. This is good news not only for the agricultural sector, but for the entire economy. Such exports will help to stabilize the dollar abroad, and improve our balance of payments.

The capacity of the United States to produce and export large quantities of essential food supplies is unmatched by any other country in the world. Through both private and public facilities, raw agricultural products have been made available to foreign countries which are not blessed with our abundance.

Both in the area of trade and in the area of assistance, the United States has provided high quality goods and farm technology to other countries. The food for peace program, now celebrating its 25th year, has been particularly important in this regard.

Our food exports have traditionally been the largest positive item in the U.S. balance of trade. Exports in 1978 set an all-time record—nearly $28 billion worth of food was sold abroad. This year the picture looks even better, as total exports of food could reach $35 billion or more.

Worldwide weather problems account for some of the projected increase in food exports. The bumper wheat crop harvested in the United States last year is finding good markets in developed countries, as well as poor nations. Food sales to developed countries such as Japan and the United Kingdom provide a good return for American farmers, and help alleviate shortages in countries hit by bad weather.

In addition, exports to developed countries are a direct counterbalance to the goods we import from them. The drag on our economy caused by large oil imports is reduced as food exports expand.

Competition in world trade has become more pronounced in the last decade. We certainly do not shrink from healthy competition in the marketplace. The United States leads the world in food production and has proved its ability to trade on fair terms for the benefit of all involved. A vigorous food export policy helps insure that we can continue to lead in this area.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 2½ minutes.

THE SENATE BUSINESS

Mr. BAKER. I thank the Chair.

Mr. President, I will use only a part of that time. We have previously notified Members on this side of the aisle to expect a session of the Senate on Saturday. Might I take this opportunity to inquire of my friend and colleague, the distinguished majority leader, if it is still his expectation that the Senate will indeed be in session on Saturday of this week?

Mr. ROBERT C. BYRD. It certainly is. You can tell them to keep their seats warm. I will ask the distinguished minority leader to help me work on a schedule to the extent that we can have plenty of work to do. We have the military construction authorization bill. How long that will be before the Senate, I do not know. It depends upon what happens with the Davis-Bacon proposition.

We have backed up three housing bills. Behind them we have, any time there is a gap, a nomination on the Executive Calendar which can be taken up by a motion, which is not debatable. That nomination might require a rollcall vote and, of course, the nomination will be debatable.

I would prefer to be able to put something in behind the housing bills and ahead of the nominations to give Mr. HUMPHREY a chance to work his problem out with his colleagues.

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

I believe with that information, the earlier advice to the Republican Members still stands; that is, there is a virtual certainty that there will be a session of the Senate on Saturday.

Mr. ROBERT C. BYRD. Yes. I believe that is good advice to give, and I will also give it to my colleagues on this side of the aisle. I hope we can schedule legislation to be taken up during that time.

Mr. BAKER. I hope so. We will work on that today.

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

Mr. ROBERT C. BYRD. Mr. President, I am glad to see my colleague back from his visit to his grandmother who celebrated her 100th birthday. I understand she stood on her feet for 3 hours thanking the well-wishers.

Mr. BAKER. Mr. President, if I could reclaim a few seconds of my time, I would confirm what the majority leader said. My grandmother is 100 years old and 1 day.

They had a reception at the Lambda Chi Alpha fraternity house at the University of Tennessee. She was a housemother there in the 1930's. There were about 500 people there. Arrangements were made to be sure she was not overtaxed. Instead, she stood in line for 3 hours and shook hands.

She is bright and alert, and promised to be present at the celebration of my 100th birthday.

RECOGNITION OF SENATOR EAGLETON

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

SCOWS OF DESPAIR: THE BOAT PEOPLE

Mr. EAGLETON. Mr. President, a few months ago, I took the floor to discuss the tragic state of affairs of Cambodia. At that time, I suggested that if history were any indicator, the suffering in Cambodia was far from over. Today, I am sorry to say that my prediction has come painfully true.

As I speak, the flood of refugees from Indochina continues to swell. The suffering is immense; indeeed, it is almost impossible to imagine how their plight could be any worse. But it is growing worse, as tens of thousands of a gentle race flee from a once-gentle land. Driven by war, famine, and oppression, more than 700,000 ethnic Chinese have left Indochina since South Vietnam fell in 1975. The specter of starvation and the certainty of death goad them onward, and they have nowhere to go but to the sea. These are people, not lemmings—they are driven to the shores not by instinct, but by fear. They fear extermination. They fear heartless, unspeakable cruelties.

As caring, compassionate citizens of the world, we must share their fear. There are eerie and horrible parallels between the flood of refugees from Indochina and the masses of Jews expelled from Germany in the 1930's. The awful memory of the Nazi holocaust still burns in our hearts and minds. If the continuing flow of refugees is keeping a second such unspeakable horror from being visited upon the Earth, we can only pray that the flow will continue.

But what good does it do these refugees to escape persecution in their homeland, only to be herded like beasts onto dilapidated, rancid scows and left to die at sea? What are the odds against their surviving perilous journeys in these ramshackle vessels? Are they any better off than if they had remained at home? Can the sea offer them any real hope, when an estimated 200,000 of their kin and countrymen already have died, victims of storms, piracy, disease, or starvation?

Clearly, we have a moral obligation to offer them hope and to welcome them to our shores. They are not visiting us as chance strangers, after all. We were not necessarily welcome guests when we visited them between 1969 and 1973, leaving their land scarred by bombs and pesticides and their society scarred by death and political upheaval. President Carter recently doubled our refugee quota, raising it from 7,000 to 14,000 a month. This is no token gesture, but neither is it total restitution for the grief and agony our Nation visited on the Indochinese.

In addition to our moral obligation to give a hand to the refugees from Vietnam, we have an American tradition of hope for the disheartened and dispossessed. In New York harbor stands a magnificent, generous woman—the Statue of Liberty, the "Mother of Exiles." Inside the pedestal on which she proudly stands, there is a bronze plaque bearing

a sonnet written by the American poet Emma Lazarus in 1883, shortly before France presented the statue to the United States. Emma Lazarus may not be among the best known of American poets, but the last five thundering lines of her sonnet are familiar to every American school child:

Give me your tired, your poor,
Your huddled masses, yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest tossed to me;
I lift my lamp beside the golden door!

That door stands open to the Indochinese refugees today, and I do not rise to belittle our country's efforts in this hour of need. I do rise, Mr. President, to plead the desperate case of the boat people to our sister nations, many of whom have yet to show the refugees the compassion which is the hallmark of civilized society. The plight of the boat people is not an American problem or a Vietnamese problem or a Cambodian problem. It is a world problem, and all of the nations of the world must solve it.

Unfortunately, many nations of the world are turning their backs. Malaysia, which has 77,000 refugees in its camps, has threatened to shoot at boats landing on its shores and to ship out the refugees already in its camps. Malaysian patrol boats have been towing would-be homesteaders back into international waters—after magnanimously supplying food and fuel to the uninvited guests. Indonesia has employed similar tactics, and Thailand has forced tens of thousands of refugees back across its borders into Cambodia.

Japan, a wealthy industrial nation, to date has issued papers to only three Vietnamese refugees. Not 3,000, Mr. President, not 300, but 3. Japan has agreed to take in 500 boat people, but the Japanese are in a position to play a much larger role than that. The Japanese claim that there is no room for refugees, and that refugees will not fit in with the Japanese society. What a shame it is that a progressive and successful nation like Japan turns its back on these drowning men, women, and children. How ironic it is that, barely three decades after the compassion of a victorious world rescued Japan from desperation, the Japanese themselves seem to have run out of pity.

Of the Asian community, only Hong Kong is allowing permanent residence for the unfortunate boat people. However, even if Malaysia and its neighbors are reluctant to offer permanent homes to the refugees, it is imperative that they drop their closed-door policies and allow temporary refuge. That, perhaps, would allow us time to encourage other Western nations to expand their resettlement efforts and eventually to empty refugee camps in Southeast Asia. For the United States and for other Western countries, it is a difficult time to be confronted with this problem. However, despite a declining economy, rising unemployment, and a national mood of frustration and anxiety, we must continue to help the refugees and encourage the international community to help.

Wide-scale cooperation of all nations is absolutely essential to resolving the plight of the boat people. The United States triggered the chain of events which eventually led to the Vietnamese takeover of Cambodia, and we have accepted the lead role in helping the refugees. Since 1975, we have taken in more than 205,000 refugees, more than any other nation. Under the increased quota, we will be making a home for an additional 168,000 Vietnamese refugees a year. However, we cannot do this job alone.

China has taken 200,000 refugees, which is more than it can absorb. France has done a valiant job of rescuing refugees, even patrolling the waters off Southeast Asia with hospital boats. France has resettled 50,000 refugees. Australia and Canada also rank in the top 5 resettlement nations, with 21,000 and 15,000 respectively. I ask unanimous consent that a list of countries with resettlement figures for each be printed in the RECORD, Mr. President.

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

Resettlement of Indochinese refugees as of June, 15, 1979

United States	205,000
China	200,000
France	50,000
Australia	21,000
Canada	15,000
Germany	3,500
Malaysia	2,000
United Kingdom	1,500
Switzerland	1,500
Belgium	1,200
New Zealand	1,000
Norway	700
Denmark	600
Netherlands	400
Austria	350
Sweden	300
Hong Kong	300
Italy	250
Taiwan	50
Japan	3

Figures do not include 180,000 boat refugees in camps in Southeast Asia nor 150,000 refugees in Thailand.

Figures from the State Department Office of Refugees.

Mr. EAGLETON. Mr. President, these are noble efforts, but they are not enough. We need an international crusade to rescue the long-suffering boat people, and we need it now. Our leadership in this cause is a source of legitimate national pride; the continuing plight of the boat people must be a source of national and international concern. The United Nations will convene a special conference on refugees next month in Geneva, and we can only hope for a rapid consensus leading to meaningful action by the whole community of nations. Anything less, Mr. President, will be too little, too late.

I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 10:30 a.m., and that Senators may speak up to 5 minutes therein.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

BALANCE OF STATE AND FEDERAL AUTHORITY MAINTAINED WITH GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for over 30 years, the United States has been considering the ratification of the Genocide Convention. During that time, the Senate has served as a great forum for debate on the merits and consequences of this treaty's passage. One of the issues repeatedly discussed by this body has been whether or not adoption of the Genocide Convention would alter the relationship between the States and the Federal Government.

Concern has been raised that ratification of the treaty would deprive the States of an area of criminal law, placing it within Federal jurisdiction. It is feared that such a shift would give undue power to the Federal Government, eroding the careful balance between State and Federal authority that was so wisely established at our Nation's inception.

Mr. President, that fear is unfounded.

Nothing in the Convention would preclude the States from prosecuting the acts proscribed by the Convention. In addition, the proposed implementing legislation would clarify that Congress does not intend to move into this field and, while the treaty may supersede any State laws inconsistent with it, at this time there is no evidence that such laws exist.

Concern that the Genocide Convention would increase Federal power may also be laid aside. Ratification of the treaty would add no new power or authority to the Federal Government. The existing power of the Federal Government to assume jurisdiction in these types of cases is further confirmed through the Civil Rights Acts of 1957 and 1964, and the Voting Rights Act of 1965.

With these concerns put aside, I ask my distinguished colleagues to put this long debate to an end. Join with me in support of this most honorable and worthwhile treaty. Let us ratify the Genocide Convention.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

LEAKS OF CLASSIFIED MATERIAL

Mr. GOLDWATER. Mr. President, as actual discussion of SALT II has already begun to take place, with hearings before the Foreign Relations Committee and with hearings to begin this week before the Select Committee on Intelligence and shortly before the Armed Services Committee, I think it is most proper that my colleagues understand the importance of classified information and the absolute necessity of the prevention of any leaks of that material. This country has long suffered under a series of leaks of highly classified material, leaks to leading newspapers mainly on the eastern seaboard, such as the New York Times, the Washington Post, and so forth. While at first the intelligence community was completely mystified by the sources, I must tell my colleagues that the paths are slowly coming together and before long they are bound to join. At that time, we will be able to point out those who have been violating secrecy, violating oaths of office and violating the safety of our Nation, and I hope that time comes soon.

The reason I believe it is opportune to bring this matter up at this time is that I know it is of the deepest concern to the leadership on both sides of the aisle in the Senate, and I hope this is reflected in the House. As the leadership will agree, several meetings have been held on the general subject of secrecy; and while nothing concrete has been reached yet, there is the understanding of all concerned of the absolute need for maintaining secrecy on any material that is under the proper stamp of classification. I know that with the ability of our leadership, as time goes on, methods will be developed that will lay the responsibility of maintaining secrecy entirely on each member and not upon the body as a whole.

I want to be honest with my colleagues and tell them that I am convinced that these leaks are not coming out of the Intelligence Committee or the Armed Services Committee. More and more, the finger is pointing in the direction of the administration, not only this administration, I quickly add, but also other administrations—but this administration, in particular, because it is now wrapped up in selling SALT II. If the finger finally points at the administration, the finger is going to be pointed and pointed with emphasis, followed by legal action. This should serve as necessary warning to anyone in or out of the administration who engaged in little dribbles here and there to various newspapers and media around this country that they are heading for a bucket full of trouble if they do not stop it.

A very interesting article on this subject appeared in the current issue of the Armed Forces Journal, and I ask unanimous consent that it be printed in the RECORD.

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

SALT I LEAKS vs. SALT II LEAKS

(By W. Donald Stewart)

Leaks and techniques of leaks occurring during the development of the SALT I and SALT II agreements are similar in all respects. The Carter Administration and the Nixon Administration desired to have their respective SALT agreements ratified by the US Senate before the Presidential election. In an effort to expedite the finalization of their SALT agreements, each Administration has been inclined to make concessions to the Soviets. These concessions were often not believed to be in the best interest of our national security by certain members of the Senate Armed Services Committee; hence, each side aired its feelings by "leaking" highly classified data to the press to sway public opinion.

Now that we are in the fourth quarter, so to speak, of the Arms Race Superbowl, also more commonly known as the Strategic Arms Limitation Talks (SALT II) agreements, we can expect a rash of leaks until the final whistle blows. Rest assured that there will be one loser—the US public.

My knowledge of and interest in leaks stems from my experience in the Office of the Secretary of Defense as Chief of the Investigation Division, Directorate for Inspection Services. This office investigated major criminal and security matters for the Office of the Secretary of Defense, Office of the Joint Chiefs of Staff, and the Defense Intelligence Agency. From August 1965 until December 1972, while Chief Investigator, I handled 222 leak cases. Even after I left the Directorate for Inspection Services in December 1972 for the position of Inspector General of the newly formed Defense Investigative Service (until my retirement in June 1975), I was recalled to handle certain sensitive leak cases.

WHY SALT LEAKS

We have SALT leaks because we have two principal US groups involved with different objectives. We have the present Administration I shall call the "Vote Getters" and we have the Senate Armed Services Committee which has the responsibility to insure that any SALT treaty signed provides adequate national security. This group I shall call the "Protectors." There are two other minor groups who play a lesser role but cannot be ignored. They are the liberal Senators whom I shall call the "Detractors." They aren't exactly sure what they want, but to me it doesn't appear that the strongest form of national security. This group I shall call the we have the "Extortionists," a group of Senators who are more concerned with their personal interests than they are with our national security interests. Accordingly, the Vote Getters are sometimes pressured into buying their vote to insure ratification of the treaty. However, as far as SALT leaks are concerned, the Detractors and the Extortionists have shown little need to engage in leaks.

TOP SECRETS BECOME WEATHER BULLETINS

Probably the first open sword rattling between the Vote Getters and the Protectors in the SALT II debate appeared in the press on November 30, 1978, when Senator Henry Jackson (D–WA), voiced his discontentment with the developing SALT II agreements. Things may have gone somewhat smoother except for the fact we lost a vital intelligence capability in Iran. As a result we no longer have the ability to closely monitor Soviet adherence to any SALT agreement.

Accordingly, the April 4, 1979 issue of the New York Times evidenced the first act of desperation on part of the Vote Getters. It came in the form of a leak of highly classified data to the effect that the US would be able to monitor Soviet adherence to SALT II agreements through the use of a modified version of the U–2 aircraft, the type Gary Powers flew over the USSR for CIA until he was shot down in 1954. Senator Jake Garn (R–UT) was incensed over this leak and charged in the letter-to-the-editor column of the Washington Post on April 11 that the leak data was made available to the public to create a misimpression of our monitoring capability. (See May 1979 AFJ.) It was obvious that the Protectors were not responsible for the leak, because it served them no purpose. Moreover, that particular area was not the chief concern of the Detractors.

In the typical fourth quarter fashion of the Arms Race Superbowl, we could expect and did receive a counter-leak, obviously this time by one of the Protectors. The leak appeared in the New York Times issue of April 17, to which hip-shooting press secretary Jody Powell quickly and heatedly responded in so many words that Senator Garn was responsible. The Senator denied the accusation, and Jody Powell later backed off his charge.

Let's look at the new leak. It disclosed that CIA Director Stansfield Turner briefed a Senate committee on our Iran intelligence capability loss and stated it would be at lest five years before we could attain a comparable capability to monitor Soviet adherence to the SALT II agreements. Secretary of Defense Harold Brown instantly countered in a Vote Getter rescue effort that we would be able to retain our former capability in a year.

The bottom line is that once again the public is the loser. Now the Soviets know how badly we've been hurt by our Iranian intelligence capability loss, and they also know of the U–2 as our second rate alternative. Top secret information was given out like a public weather bulletin.

SALT I leaks took a slighty different patterm than SALT II leaks. That is, there were continuous leaks from 1968–1972, each time there was to be a SALT I discussion. At the expense of National Security, the Vote Getters made their Top secret point and the Protectors made their Top secret point. On one of the more explosive leaks in 1969, I had occasion to interview Paul Nitze, then our chief SALT I negotiator. His comment was, "I consider the disclosure to be a deliberate leak of information by well-informed sources who indulged in a very dangerous practice for the purpose of placing the Soviet missile warfare capability before the US public." He further advised that the figures disclosed in the news story were very accurate and highly classified.

BEECHER'S 22 INVESTIGATIONS

Probably the greatest SALT leak of all times appeared in a New York Times article by William Beecher on July 23, 1971; it was entitled "US Asks Soviets to Join in Missile Moratorium." The article appeared one day before a scheduled SALT I meeting on July 24 with the Soviets in Helsinki, Finland. President Nixon was absolutely livid, as the article exposed our fall-back position to the Soviets. Let me say bluntly that all hell

broke loose. I was called at home on Saturday morning to begin an investigation.

I had my first meeting with the newly appointed White House "plumber" chiefs, Egil Krogh and David Young. The FBI was also called; however, since I had developed the prime suspect, Dr. William VanCleave, Paul Nitze's top aide, I more or less carried the ball. President Nixon's blind anger toward VanCleave (whom we later proved innocent) was displayed on the now released White House tapes. But VanCleave enjoyed the same reckless public hip shooting from the Nixon Vote Getters that Senator Garn recently did from Jody Powell. VanCleave became a suspect because two days before the Beecher article appeared, Beecher visited VanCleave. Also, VanCleave, like so many top government aides, could not be bothered with security regulations such as "do not reproduce the original," a statement which appeared on a highly sensitive document in his possession and which he nevertheless, chose to reproduce.

Although vindicated of the major crime, he was censured for security violations uncovered during the investigation. The investigation was probably one of the most intensive ever undertaken. Beecher's path for instance, was retraced on a minute-to-minute basis. His past modus operandi was well known to us, and it was of help. His travels led him to Senator Henry "Scoop" Jackson's office. The Senator had been briefed earlier in the week by State Department aides. Naturally, the obvious next step was to interview Senator Jackson. This required White House approval, but it was never obtained.

The last and final SALT I leak that I investigated appeared in the New York Times on March 21, 1973—another article by William Beecher, this one entitled "US Says Soviets Improve ICBMs." Although the SALT I treaty had been signed, this leak was made to show the public we lagged the Soviets in arms and to develop support for the Nixon Vote Getters in their efforts for a larger supplemental appropriation. Actually, neither Defense Secretary Melvin Laird nor his successors knew the Vote Getters were handing out these leaks, because to give the leak more credibility the Vote Getters would raise a storm—and I'd be hurriedly called to investigate again. The most interesting thing about this last leak was that it suddenly occurred to me that on every major leak we had on SALT I, William Beecher was the reporter with all the hard facts. (Other prominent reporters had stories, but as I explained to one later, he and the others just had "crumbs." That reporter demanded to know how I could state that. I said, "Very simply, if you had the hard facts, we would have opened a case on your article." Only then did he realize that he had been part of the Nixon Vote Getters' smoke screen.)

In my final report, I showed how I arrived at the fact that the Nixon Vote Getters were responsible for several contrived leaks.

Being the "favorite son" reporter was not all bad for William Beecher: in April 1973, just one month after the above leak and six months after SALT I ratification, he was appointed Deputy Assistant Secretary of Defense for Public Affairs. Subsequently, he became the Acting Assistant Secretary of Defense for Public Affairs, complete with the car and chauffeur which then went with that position.

Beecher left the Pentagon in May of 1975 and on June 1st he joined the Boston Globe. On July 31, Beecher printed another big leak: "U.S. Believes Israel Has More Than 10 Nuclear Weapons." Although I had already retired, I was called at home by a high Pentagon official and asked where I thought Beecher got his story. I laughed and recall saying, "Where else? You left the fox in the hen house."

The fact that my office had run 22 leak investigations of William Beecher's articles certainly had no bearing on his Pentagon appointment. Therefore, the question naturally arises: after all the SALT II leaks are tabulated, which prominent news reporter will be as lucky as William Beecher?

CAN LEAK CASES BE SOLVED?

Contrary to popular misconception leak cases can be solved. Unfortunately, as far as national security interests are concerned, the cure most often is worse than the illness. By that I mean: in an effort to put the guilty party in jail, we must declassify the classified data involved in order to go to trial. In doing so, foreign enemy intelligence becomes privy to our secrets—that we cannot afford as a rule, and thus must forego prosecution.

Prosecution is not the only form of punitive action. During my tenure, I've seen three flag officers punished—one was transferred, one was requested to retire, and one had his career advancement terminated. A civilian was reduced from GS–18 to GS–15, and others in the civilian ranks and military were administratively disciplined. The most effective tool for Schedule "C" appointees (political appointees) was to neutralize them—excluding them from receiving sensitive documents and from high level conferences. One former high level civilian employee serving as a consultant lost his security clearances. Our best security contributions frequently came from our investigative by-products—such as developing "holes" in our own security operations.

PROSECUTION PROBLEMS

Prosecution was not always thwarted by so-called "grey mail," documents in question which couldn't be declassified. Politics on part of President Nixon, Senate Armed Services Committee chairmen Sen. John Stennis (D-MI), and Justice Department officials late in 1971 and early 1972 and later in 1974 obstructed the possible successful prosecution of Yeoman Charles E. Radford III, Rear Adm. Robert Welander and Admiral Thomas Moorer, then Chairman of the Joint Chiefs of Staff.

Radford admitted stealing highly classified documents from the briefcases of Dr. Henry Kissinger, then head of the National Security Council, and from General Alexander Haig, then a Presidential aide. Admirals Welander and Moorer admitted receiving those documents. But President Nixon couldn't stand the public embarrassment. Sen. Stennis dedicated himself to protecting the military establishment during his 1974 hearings on this matter—known as the Pentagon Spy Case. The Justice Department performed in its typically lethargic manner. No action was ever taken against anyone involved.

Earlier in 1970, the Justice Department failed to take action against an Air Force captain who distributed to the press a secret-sensitive memo on our ABM (Anti-Ballistic Missile) position, prepared by then Secretary of Defense Melvin Laird. The case was turned over to Justice, which accepted it but later allowed Secretary Laird to withdraw it. Laird informed Justice he had made a deal with Tom Wicker of the New York Times that if Wicker returned his copy of the memo in question, no prosecutive action would be taken. Wicker returned the memo, and through it we trapped the suspected Air Force captain. Later, Wicker denied in a memo to Justice that he had ever made such a deal. I received the above data under the Freedom of Information Act. Personally, I believe Wicker. He couldn't have known that we could use the memo to trap the suspect. No action against the suspect was taken.

Another case from which Justice ran was when it was presented with evidence that Elliot Richardson, while Under Secretary of State, has caused top secret data to be leaked to Daniel Ellsberg of Pentagon Papers fame. That data subsequentity turned up in a newspaper story in March of 1970.

The long and short of leak prosecutions is that you can only be prosecuted if you meet the two following criteria:

(1) You cannot be an important person; and

(2) You cannot know an important person.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FORD). Morning business is closed.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having arrived, the Senate will now proceed to the consideration of S. 1319, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1319) to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. I was not seeking recognition, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, does the Senator from Nebraska wish me to yield?

Mr. EXON. Mr. President, I wish to ask unanimous consent for aides to be accorded the privilege of the floor, if it is in order.

Mr. HART. Mr. President, I yield to the Senator from Nebraska for that purpose.

Mr. EXON. Mr. President, I ask unanimous consent that Mr. Jon Oberg and Mr. Bill Hoppner, of my staff, be accorded the privilege of the floor during debate on this bill.

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

Mr. HART. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Armed Services and the Committee on Labor and Human Resources be accorded the privilege of the floor during the consideration of S. 1319:

Mr. Frank Sullivan, Mr. James Smith, Mr. Jack Ticer, Mr. Rhett Dawson, Mr. Ed Kenney, Mr. Ron Lehman, Ms. Phyllis Bacon, Ms. Jeanie Killgore, Mr. Steve Paradise, Mr. Jerry Lindrew, Mr. Mike Goldberg, Mr. Mike Forcey, and Ms. Denise Medlin.

Mr. President, I also ask unanimous consent that Mr. Jim Case, of the staff of Senator MUSKIE, be accorded the privilege of the floor during consideration of S. 1319.

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

Mr. HART. I thank the Chair.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is S. 1319.

Mr. HART. I thank the Chair.

Mr. President, S. 1319, the bill before the Senate, is an annual authorization bill which provides for the construction of new facilities for all of the military services. In addition, authorization is included for the funds necessary to operate, maintain, and repair the 400,000 units of family housing now in the military inventory.

The Department of Defense request for military construction for fiscal year 1980 was $3,721,356,000. When compared to the $4,128,312,000 actually authorized for fiscal year 1979, the request for fiscal year 1980 is more than 20 percent less in real dollar terms than the authorization for the current fiscal year. I shall return to this point in a few moments.

The amount recommended to be authorized by the Armed Services Committee for fiscal year 1980 is $3,728,166,000, just slightly more than the administration's request.

In reviewing the bill, the committee recommended deletion or deferral of many projects where the justification or the urgency was questionable and, based on service-furnished lists of high priority unfunded requirements, additional projects totaling about $100,000,000 have been added, keeping the final bill total near the President's budget number.

Let me highlight a few of the more important issues raised by this bill:

DAVIS-BACON

First of all, the committee has recommended the inclusion of a provision in this bill, section 810, which would waive the provisions of the Davis-Bacon Act as it applies to military construction contracts.

Mr. President, largely on procedural grounds I strongly oppose this provision. I opposed it in subcommittee and in full committee markup sessions. I will not get into details of my reasons for opposing the amendment, but regardless of the pros and cons of the Davis-Bacon Act, this military construction bill is not the proper vehicle to use to rewrite labor law. At the appropriate time I intend to support an amendment to strike section 810 from the bill.

ENERGY

Second, the Subcommittee on Military Construction has continued its heavy emphasis on using military installations as so-called test beds for energy conservation initiatives. The military initiatives range from the mundane—adding insulation and storm windows—to some very exciting, comprehensive "energy show case" bases where attempts are being made to minimize energy usage by examining every aspect of the bases operation.

Last year, we added a provision to the bill requiring that solar energy systems be considered in the design of all new facilities and that, if they could be shown to be cost effective, solar systems would be included in the construction contract. We expect to see the fruits of this provision next year. By the Defense Department's own estimates $30 million in design contracts are now requiring solar systems to be analyzed, and by fiscal year 1981 or 1982 the value of solar systems installed in defense facilities will be $50 to $100 million each year—in an industry that now has total sales of about $200 million.

So, Mr. President, one can readily see the impact that military procurement can have on the development of this new and important energy resource.

This year we have added a rather simple provision, section 807, to allow the use of mass transit vehicles on military bases for administrative purposes—something that was previously precluded by law. The provision requires that the mass transit systems be paid for by the users so that there will be no cost to the taxpayer. However, the potential energy savings are enormous if the provision is applied at the hundreds of large military installations throughout the world.

I invite my colleagues to go to any military installation in their State and ask about their energy conservation program—I think each Member of the Senate would be surprised at the breadth and depth of this effort and the degree to which it is beginning to contribute to the overall energy solution to this country's problem.

CONSTRUCTION IN EUROPE

The committee has continued its emphasis from last year on encouraging our NATO allies to pay an increased share of the capital investment program requirements in Europe. NATO infrastructure funding is up, but projects funded solely by the United States are down sharply. The committee will continue to press for greater participation by our allies to support U.S. forces stationed overseas.

OVERALL CONSTRUCTION AUTHORIZATION LEVEL

I mentioned in my opening comments that the military construction request for fiscal year 1980 was down more than 20 percent from the fiscal year 1979 level. There is a backlog of construction requirements estimated by the Defense Department to total $35 billion. The amount of construction authorized in this bill will not even keep the backlog level—inflation will mean that the backlog will be even bigger next year. In addition, there are significant new requirements for construction in support of MX missile system, an east coast Trident base, Space Shuttle facilities, et cetera. To further compound the problem many permanent facilities built during or shortly after World War II, such as runways, utility systems, ammunition plants, et cetera, are now at or past their expected life and new capital investment is needed in each one of these cases.

The point that I am making is that I am uneasy with the level of authorization in this bill. I have a feeling it should be more. I do not know how much more, but we have asked the Defense Department to look at the "big picture" and systematically develop a level of military construction that is prudent. It is easy to defer capital investment—that is what private industry does when budgets are tight—but at some point private businesses fail if they do not make the necessary capital investment.

And even though, Mr. President, each of us is trying his best to balance the Federal budget, at some point, in this area at least, we may become penny wise and pound foolish.

Mr. President, aside from the Davis-Bacon provision, to which I have referred, I believe this is a good bill which deserves the support of the Senate.

I wish to thank other members of the subcommittee and the full committee, particularly the ranking minority member, the Senator from South Carolina, and I yield at this time to him for opening remarks.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of S. 1319, the fiscal year 1980 military construction authorization request, which provides for military construction programs in the amount of $3.7 billion.

At the outset I would like to call to the attention of the Senate the growing military construction backlog which is now estimated by Defense Department witnesses to be $35 billion.

HUGE CONSTRUCTION BACKLOG

Despite this backlog, the last few military construction budgets have not even kept up with inflation, much less attempted to address this serious problem. Here again we have a situation where the burden of meeting needed military requirements is being put off on future generations when the dollar will be worth less and the need even more acute.

While the committee recognizes fiscal restraints are necessary, it does not make sense to delay, delay, and delay to the point where it will be impossible for some future administration to fund the needed projects. Further, while the committee has added some worthy projects, there are many others which, if funded now, would reduce costs in the long run.

INCREMENTAL PROGRAM NEEDED

Therefore, Mr. President, I urge the administration to conduct a thorough

survey and propose next year an incremental program designed to begin elimination of this huge backlog. If we fail to take this approach, we will witness an even further weakening of U.S. military preparedness in the years ahead.

Mr. President, this bill continues the committee's policy of giving special attention to innovative programs to meet our energy needs. The committee has especially given a boost to solar energy and hopefully the results will be significant for our military forces as well as the public in general.

In other areas, the committee has attempted to reduce construction overseas to a minimum and where possible, enlist the financial assistance of the allied nations in Europe and elsewhere.

SHIPYARD NEEDS DESERVE ATTENTION

In line with these backlog problems the committee has called special attention to the backlog in construction requirements at our public shipyards. The low level of capital investment in these vital yards must be recognized by the administration as a high priority item. Special hearings on this subject will be undertaken by the committee next year.

DAVIS-BACON WAIVER

Mr. President, of special interest in this year's bill is the inclusion of an amendment which waives the provisions of the Davis-Bacon Act of 1931 for the purposes of contracts funded in the United States under this bill. This amendment could save the taxpayer from $70 to $210 million, a sum which could in future years help redress some of the construction backlog. While some oppose outright repeal of Davis-Bacon, this modest approach impacts on only $1.4 billion in this bill, less than 5 percent of the $37 billion in Government-financed construction which falls under the Davis-Bacon laws.

In conclusion, Mr. President, I think the Senate will find this bill fully justifies the spending levels authorized. While I would support a higher level of funding for top priority military construction projects, this legislation is nevertheless vital and deserves prompt and favorable action by the Senate.

Mr. President, I would like to commend the able chairman of the subcommittee (Mr. HART) for the outstanding leadership he has given in handling this bill.

I would also like to highly commend the majority counsel, Mr. Jim Smith, who is a very able staff man and who has done such a fine job for a number of years in military construction work.

In closing, I would also like to commend Mr. Ed Kenney, who has been on the Armed Services Committee staff for over 10 years, and who has done an outstanding job on this bill, as he has on many other pieces of military legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I would like to join my distinguished colleague in adopting the military construction bill. I know it contains a great deal of money, but it is not nearly what is required to meet our military construction requirements, and I am hopeful we can address ourselves in future military construction authorization bills to some of the important projects that are still awash in the backlog that has built up over the years by virtue of the fact that there is a limited military budget.

We have tended to dedicate more of our resources to hardware and research and development than in the authorizations presented annually in the military construction budget.

There is provision in this bill which was adopted by an 11 to 5 majority in the committee which, I think, will result in some savings in military construction and, hopefully, those savings can be applied in the future to important military construction projects that to date have not been funded. I refer, of course, to that provision which waives the applicability of the Davis-Bacon Act to military construction which is, by the way, not an attempt to rewrite the labor law.

It does not alter or address itself to one single word, comma, jot or title of the Davis-Bacon Act except to waive its applicability so far as military construction is concerned.

It is my view that the Armed Services Committee should get the biggest bang for the buck, and I think we do so by the savings which are estimated at between $70 million to $210 million.

I think we can probably go to third reading now. [Laughter.]

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. TOWER. It is just such a good bill that, perhaps, nobody wants to tamper with it.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise to compliment the distinguished subcommittee chairman on his foresight and on his efforts to demonstrate in the military construction authorization budget that there is a future for more energy efficiency in this country and for ultimately renewable energy sources.

I think his efforts in this regard show a leadership role here in the Senate. Three of the projects are at Picatinny Arsenal in New Jersey, my home State, and I think this effort is, in the years to come and will be, recognized more and more as being a leadership role in promoting renewable energy sources.

Mr. President, on another matter, however, the authorization creates some concern on my part in that it does not contain any funds for construction at Fort Dix in New Jersey.

As the chairman of the subcommittee knows, retaining basic training facilities at Fort Dix is an issue of grave concern to the entire Northeast, the Northeast which supplies 20 percent of the volunteer Army, and it is particularly of concern to me because the Secretary of the Army recommended that Fort Dix stay open. He was overruled by the Defense Department.

The chairman of the subcommittee has been accommodating in allowing a number of hearings at which we have, I think, successfully disputed the narrow cost estimates of the Army, and at which we have heard the testimony of the Secretary of the Army who recommended that Fort Dix stay open, and who really perceived the wider responsibility of the Army in making that recommendation.

Mr. President, my intention today is not to offer an amendment because I still believe there are administrative remedies for this situation in changing the path of the Defense Department which it has taken in overruling the Secretary of the Army.

My purpose instead is simply to state that this is an issue which is strongly felt by Members of this body, not only from New Jersey—my distinguished senior colleague, Senator WILLIAMS—but also by Senators from Delaware, Pennsylvania, and New York, and this is a matter we will continue to follow with great interest and with efforts to see that the decision made by the Secretary of the Army will be the one that is finally applicable.

Mr. HART. Mr. President, first of all let me thank the Senator from New Jersey for his kind remarks in regard to the efforts of our subcommittee in the area of energy conservation and the development of new energy alternatives. It is an effort the subcommittee has made for the last 2 or 3 years, and I think will prove to be an important one in the years to come, not only to help solve our economic and energy problems, but also to make this country more secure in terms of our dependence on foreign supply.

The Senator from New Jersey is to be commended for his concern about the military presence in New Jersey, particularly at Fort Dix. The Senator did take a leading role in pushing for hearings to explore the issue of closure and phasedown, and I think he deserves a great deal of credit from his constituents for the degree of concern which he has demonstrated.

I also appreciate his willingness to forgo offering an amendment at this time. We have had to resist the pleas from a large number of Senators for specific amendments at a variety of bases around the country. I appreciate the forbearance of the Senator this morning and commend him for his remarks.

Mr. WARNER. Mr. President, I rise in support of section 810 of the military construction authorization bill, a provision to exempt military construction from the application of the Davis-Bacon Act. The Senate Committee on Armed Services considered this matter thoroughly before voting decisively, 11 to 5, on the language of section 810.

In these days of competing interests and conflicting goals, section 810 allows the Senate to reconcile two urgent priorities: the desire for fiscal restraint and the immediate need for military construction.

The Senate Armed Services Committee highlighted the need for additional military construction in its report to the Senate. Indeed, the report notes that there is currently a $35 billion backlog in military construction projects—and it is getting worse. Construction projects

with a high and urgent priority have been delayed again this year because of funding constraints. The further delay of needed projects is costing us in decreased military readiness, in increased operating costs, and, in some cases, it is even threatening the health, safety, and lives of American service men and women.

Antiquated ammunition-handling facilities, substandard medical facilities, and other problems will continue to plague our Armed Forces.

To eliminate this problem entirely would cost $35 billion. Obviously, fiscal responsibility precludes the Senate from acting to totally remedy the situation. But, Mr. President, the Senate can make a start on this backlog by demanding the dollars we are spending are spent effectively. We cannot continue to waste funds while so many urgent projects go unfunded.

The Senate must insure that the $3.7 billion in military construction funds is used efficiently.

The General Accounting Office has indicated that section 810 may reduce the costs of construction by as much as 15 percent, a savings of $210 million this year alone.

Mr. President, if there were some overwhelming need for the Senate to spend these additional millions in higher construction wages, the committee would have acted differently. But this is simply not the case.

As the General Accounting Office confirmed, the economic makeup of the construction industry today and the general effect of other Federal wage laws render Davis-Bacon unnecessary; it is arbitrary in its application and inflationary in its impact. Both conclusions were agreed to by a consensus of editorial writers and documented by the GAO.

The forced application of improperly determined wage rates increased Federal construction costs by hundreds of millions of taxpayers' dollars. In addition, the costs of administering and complying with the Davis-Bacon Act were estimated in the GAO report to exceed $200 million in 1977. These compliance requirements were described as "onerous and nonsensical" by a recent MIT study.

Mr. President, upon review, I must agree with the conclusion of the GAO report, that "the concept of issuing prevailing wages as stated in the act is fundamentally unsound."

I urge the Senate to support the Armed Services Committee in its earnest attempt to provide for the necessary military construction America needs while remaining within fiscally reasonable bounds.

UP AMENDMENT NO. 314

(Purpose: To authorize the Secretary of the Army to convey additional real property of the United States to the Alabama Space Science Exhibit Commission for use as a permanent site for the Alabama space science exhibit)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART), for himself and Mr. HEFLIN, proposes an unprinted amendment numbered 314: On page 49, insert the following after line 13:—

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

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

The amendment is as follows:

On page 49, insert the following after line 13:

ALABAMA SPACE AND ROCKET CENTER

SEC. 811. (a) Section 2 of Public Law 98–276 is amended—

(1) by inserting "(1)" immediately before "A certain tract or parcel of land containing 35.69 acres";

(2) by striking out the period immediately after "Secretary of the Army" and substituting "; and"; and

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

"(2) A certain tract or parcel of land containing approximately 300 acres, less that land occupied by the Department of the Navy on the date of enactment of this paragraph, lying within range 1 west, township 4 south, parts of sections 8 and 9, more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north side of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning. The exact description of such property is to be determined by an accurate survey and approved by the Secretary of the Army.".

(b) Section 3 of Public Law 90–276 is amended by—

(1) inserting "and related educational and recreational purposes" after "instrumentalities"; and

(2) striking "purpose" and substituting "purposes".

Mr. STEWART. Mr. President, let me begin by commending Senator HART and the members of the subcommittee, including the ranking minority member, the Senator from South Carolina (Mr. THURMOND), on the detailed and energetic work which has culminated in the consideration of S. 1319 today.

This amendment, which I propose for myself and my colleague from Alabama (Mr. HEFLIN), would authorize the Secretary of the Army to convey additional acreage to the Alabama Space and Rocket Center at Huntsville to enable expansion of the missile and rocket museum.

Less than 15 years ago, the citizens of Alabama and the State legislature voted to construct a missile and space exhibit in Huntsville, Ala. Over $2.5 million dollars were invested by the city of Huntsville, Madison County and the State of Alabama in the design and construction of the Alabama Space and Rocket Center. In 1968, the Congress of the United States provided property for its location by deeding to the Space Science Exhibit Commission property on Redstone Arsenal. The combined facility serves as a Visitor Information Center for all governmental agencies based in the area. These include: NASA's Marshall Space Flight Center, U.S. Army Materiel Readiness Command, Missile and Munitions Center and School, Corps of Engineers, Ballistic Missile Defense Systems Command, and the Readiness Command Group.

The Alabama Space and Rocket Center has become the largest missile and space museum in the world * * * truly our national rocket museum. It has collected over 1,500 pieces of missile and space hardware valued at over $26 million. The Center also serves as a major repository for the Smithsonian Institution's National Air and Space Museum, having over 300 historical artifacts on loan from that institution.

The State of Alabama has retired the bonds which were used to finance the design and construction of the facility and the Center has been self-sustaining since its opening, operating on nominal admission fees.

The Center has undertaken a 10-year expansion plan which would involve the addition of several new public facilities. They would include an educational complex, a missile and rocket park, a youth science center, an energy information center, a space theater planetarium, a cafeteria, an Earth resources facility, and a large recreational area.

The amendment Senator HEFLIN and I have proposed would not call for a single dime of Federal money. It would simply transfer existing Government property to the Space Center. The expansion proposals would serve to complement the existing Government facilities and provide the taxpayer with a valuable educational effort and a chance to see their dollars put to efficient use.

The House of Representatives, I would point out, has consented to the inclusion of this proposal in its companion bill.

At this time, Mr. President, I yield to the distinguished floor manager of the bill.

Mr. HART. Mr. President, this provision is in the House bill. The Army officially supports it. There is no budget impact, so far as I am able to tell, and I would be inclined to strongly support the proposal of the Senator from Alabama. It seems to make a great deal of sense, and I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, this amendment, I think, is a sound one. I see no objection to it and many benefits that could be derived from it. Therefore, I support it.

Mr. HART. Mr. President, in connection with this matter, I ask unanimous consent to have printed in the RECORD a letter dated June 29, 1979, from the Assistant Secretary of the Army, Mr. Gibbs,

to the chairman of the Senate Armed Services Committee (Mr. STENNIS) on this issue.

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

DEPARTMENT OF THE ARMY,
Washington, D.C., June 29, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 501, 96th Congress, a bill "To authorize the Secretary of the Army to convey additional real property of the United States to the Alabama Space Science Exhibit Commission for use as a permanent site for the Alabama space science exhibit." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of the bill is to authorize the Secretary of the Army to convey to the Alabama Space Science Exhibit Commission additional land for the expansion and further development of public facilities at the Alabama Space and Rocket Center by amending section 2 of Public Law 90–276, approved March 28, 1968 (82 Stat. 68). The additional area proposed for conveyance consists of approximately 300 acres of land at Redstone Arsenal, Madison County, Alabama, less land occupied by the Department of the Navy. The bill provides that the exact description of the property to be conveyed is to be determined by an accurate survey and approved by the Secretary of the Army.

The Department of the Army, on behalf of the Department of Defense, interposes no objection to the proposed bill, subject to the recommendation contained in the following paragraph.

The Department of the Army desires to exclude approximately 6.5 acres of land, required for Army Reserve purposes, from the 300-acre tract to be conveyed under the bill. It is, therefore, recommended that the bill be amended after the word "paragraph" on line 9, page 2, by inserting the following language: "and less approximately 6.5 acres of land required for Army Reserve purposes,".

Approximately 36 acres of land at Redstone Arsenal were initially conveyed to the Alabama Space Science Exhibit Commission under Public Law 90–276, supra. Section 3 of the Act provides that the conveyance is subject to the conditions that the property conveyed shall be used as a permanent site for the Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry, developments of National Aeronautics and Space Administration (NASA), and space-oriented exhibits of other Federal agencies; that if not used for such purpose, all right, title and interest in such property shall revert to the United States; and to such other conditions as the Secretary of the Army may prescribe to protect the interests of the United States.

The Department of the Army, on behalf of the Department of Defense, reported on S. 793, 90th Congress, later enacted as Public Law 90–276. In its report, the Department of the Army stated that, as a general rule, it does not suport the conveyance of property without compensation. However, in view of the pertinent circumstances, reiterated below, enactment of S. 793, 90th Congress, was supported as an exception to that policy.

In 1965, the Legislature of the State of Alabama established the Alabama Space Science Exhibit Commission (2 Ala. Stat. 1044) for the general purpose of providing and operating facilities to display exhibits, in cooperation with the Department of the Army and NASA, of the technological development of military rocket weaponery and space sciences. The Alabama Legislature also authorized the issuance of State bonds in the amount of $1,900,000 to be used for the construction, equipment, and operation of buildings and other facilities for the science exhibit. However, no part of these funds was authorized to be used for the purchase of a site, it having been assumed in the early planning that a site on Redstone Arsenal would be made available by reason of the proposed consolidation of exhibits by Federal and State agencies. The Commission employed a private firm to make a comprehensive evaluation study for the economic development of the overall project. The study, closely coordinated with representatives of Army and NASA, proposed, in brief, that (1) facilities be constructed in yearly increments at a cost upwards of $1,700,000; (2) exhibits will reflect the historical and future development of military weaponry and NASA space technology in cooperation with these agencies; (3) existing public exhibits of Army and NASA will be consolidated in the Exhibit Center; and (4) operation and management of exhibits will be in cooperation with Army and NASA. Benefits expected to accrue to the Federal Government, upon enactment of S. 793, included closure of Army's temporary museum at Redstone, housed in three old air-inflated structures not readily accessible to the public, with anticipated savings of $45,000 annually, and incorporation of NASA's Marshall Space Flight Center display area.

In noting that the Commission was without authority to expend funds for the purchase of land and could not, therefore, acquire land through the General Services Administration, the Army concluded its report by finding that the potential mutual benefits to Federal and State agencies and the public warranted the restricted conveyance of land as proposed in S. 793, 90th Congress.

Construction of the Alabama Space Science Exhibit Center was completed and opened to the public in March 1970. Since that time, it is estimated that the Center has served 1,700,000 visitors from the United States and foreign countries. The Center has become the largest missile and space museum in the world, with a current collection of over 1,500 pieces of missile and space hardware valued at over $26,000,000, and more than 60 active exhibits. The Center also serves as a major repository for the Smithsonian Institution's National Air and Space Museum, having over 300 historical artifacts on loan from the Institution.

The State of Alabama has retired the bonds used to finance design and construction. The Center has been self-sustaining since its opening, operating on nominal admission fees. Funds remaining, after operating expenses are paid each fiscal year, are used to add new exhibits, purchase equipment, and develop educational programs and services for students and teachers.

The circumstances which warranted the earlier conveyance continue to exist. In addition, it is estimated that Army and NASA, by closing their museums, have saved $1.5 million since the Center opened. The Commission plans to expand the Center over the next ten years if S. 501 is enacted. Plans involve the addition of several new public facilities including an Educational Complex, a Missile and Rocket Park, Youth Science Center, Space Theater Planetarium, an Earth Resources Facility and a Recreation Area. The facilities would be available to Federal agencies and to the public, and would provide benefits of training and community relations for the Army. The Recreational Area would serve as a buffer between the Arsenal and Space Center Exhibit activities. The Commission has fully coordinated its Exhibit Center activities with the Army. As previously indicated, Public Law 90–276 provides for compatible use of property obtained from Redstone Arsenal.

The Department of the Army, on behalf of the Department of Defense, does not normally support the disposal of Federal real property at variance with the authority contained in the Federal Property and Administrative Services Act of 1949, as amended. However, in view of the unique circumstances of this case, an exception is warranted.

The fiscal effects of this legislation are not known to the Department of Defense.

This report has been coordinated within the Department of Defense in accordnace with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

ALAN J. GIBBS,
Assistant Secretary of the Army.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 314) of the Senator from Alabama.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 315

(Purpose: To include $6,600,000 for Maxwell Air Force Base, Ala.)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 315:

On page 17, between lines—

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

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 17, between lines 9 and 10, insert the following:

"Maxwell Air Force Base, Alabama, $6,600,000.".

On page 29, line 22, strike out "$370,810,000" and insert in lieu thereof "$377,410,000".

On page 29, line 24, strike out "$480,050,000" and insert in lieu thereof "$486,650,000".

Mr. STEWART. Mr. President, I offer an amendment to include an additional $6.6 million under title III of the Military Construction Authorization Act of 1980. This addition to the construction budget of the Air Force would provide funding for two projects at Maxwell Air Force Base in Montgomery, Ala. One is

the construction of two 80-man visiting quarters there, and the other is the addition and alteration of the base's academic classroom facility.

There is clearly a need for these projects to be carried out, and this is reflected in the strong, bipartisan support which they have engendered. The Air Force firmly maintains that the construction is necessary if Maxwell is to effectively continue its program of advanced officer training and education. The projects have received the enthusiastic endorsement of the entire Alabama congressional delegation. The House Armed Services Committee included full funding for the projects in the Military Construction Authorization Act which it reported to the full House on May 15. Before the Senate Subcommittee on Military Construction and Facilities marked up this legislation, both I and Congressman DICKINSON were in contact with the chairman of the subcommittee, Senator HART, urging that the allocations be included. The subcommittee members, we were told, viewed our request favorably, and did not act specifically against the appropriations. However, in its efforts to stay within the overall budgetary constraints imposed by the administration, the subcommittee was forced to leave out this as well as a number of other items which were included in the House version of the bill.

As I stated, the need for these projects is well-documented. As the Air Training Command's center for professional military education, Maxwell Air Force Base has provided valuable training to several thousand officers at various stages of their military careers. Despite this, and despite the fact that enrollment in courses there has risen during the past decade, investment by the Air Force at Maxwell has been sorrowfully small. Total spending on new construction at the base has amounted to only $7.4 million since 1968; a mere $278,000 has been allocated there over the past 5 years. During the past fiscal year, there was no money in the military construction budget for Maxwell. As a result of this inattention, the facilities at the base, many of which are of World War II vintage, have seriously deteriorated. Most of the buildings there are now in need of either major rehabilitation or replacement.

The Air Training Command, after these years of neglect, recently completed a plan outlining development at Maxwell for the next several years. In its initial stage, the plan calls for the Senior Non-Commissioned Officer's Academy, which is presently located at Gunter Air Force Station, to be transferred to Maxwell. In order for the relocation, which the Air Force has long desired, to occur, additional investments at Maxwell have to be made. Specifically, new visiting quarters need to be constructed, since the noncommissioned officers would move into the facilities currently occupied by personnel taking courses at Maxwell. Moreover, it would be necessary to expand the classroom building, which is already overcrowded, in order to accommodate the additional students and faculty.

Mr. President, I do not think that these basic investments are too much to ask for, when we are talking about maintaining quality education at the base which provides professional training for Air Force personnel from all over the country. As I have pointed out, there is strong, bipartisan support for these efforts to be undertaken, and I urge that funding for the projects be included in this legislation.

I yield once again to the floor manager of this bill, the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, once again I want to express my appreciation to the Senator from Alabama, first of all, for bringing this matter to the attention of the committee, which he did with great vigor over a period of time. He expressed his own personal concerns and that of other Members of the delegation from his own State, and I believe in a very logical and realistic manner. There is no doubt in my mind that the proposal which he suggests here in the form of an amendment has merit. But, as he also recognized, our committee had to operate within the budgetary guidelines essentially put forward by the administration. Dozens of Senators have projects in their own States in military facilities which would require additional expenditures of the same sort that the Senator from Alabama focuses on here at Maxwell Air Force Base. Many of these, if not all of them, have great merit. As I indicated in my opening remarks, if we had considerably more money, were in a different fiscal situation than we are now, almost all of these should be taken care of, and should be taken care of in 1980. Unfortunately, we just cannot do it.

Our committee has to operate given the priority lists provided us by the various services, including the Air Force. Often in that priority list, projects that are near and dear to us, which we feel are very important, and which we have some personal familiarity with, cannot be accommodated. Frankly, Mr. President, that includes projects in my own home State of Colorado.

What the subcommittee and full committee ask is the indulgence of all Senators in trying to help us work out these difficult problems of priorities. In almost all cases Senators have been extremely cooperative and willing to understand the difficulties caused by pressing for proposals of this sort.

I would strongly urge and appreciate the Senator from Alabama withholding on this amendment with the understanding that it is in the House bill, and with the understanding that our conferees will do all that we can to accommodate the concerns of the Senator from Alabama, which we believe to be genuine, again within the boundaries of reasonable fiscal restraint.

Mr. THURMOND. Mr. President, the projects referred to by the distinguished Senator from Alabama are essential projects. However, they are in the House bill. We can assure him that we will give the most careful consideration to them in the conference.

Mr. STEWART. Mr. President, I understand the position of the committee and of the manager of the bill and the ranking minority member with regard to this particular request.

In light of the fact that the House has approved this item and it is in their bill, it obviously merits a request for the recognition of that fact by both Senators here today representing the committee. I trust, based on their statement, that this issue will be given the highest priority in the conference committee.

In consideration of the position of the Senator from Colorado and the Senator from South Carolina, I will at this time withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that Don Zimmerman of Senator JAVITS staff be granted the privileges of the floor during the consideration of this bill.

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

Mr. DOMENICI. Will the Senator from New Jersey yield for a question, Mr. President.

Mr. WILLIAMS. I will be happy to.

Mr. DOMENICI. I have a dialog with Senator HART which will take about 30 seconds. I wonder if the Senator will agree to let us do that and not interfere with his amendment. I am for it, as a matter of record.

Mr. WILLIAMS. It is agreeable with me if I can have unanimous consent to return to this amendment after such dialog is completed.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the dialog which I will engage in with Senator HART be in order and that it precede any reference to the amendment of the Senator from New Jersey and his introduction thereof.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. DOMENICI. I wish to clarify one point in this Military Construction Act. I note that $2.2 million for constructing an interchange on I–70 at Holloman Air Force Base, N. Mex., is contained in the House-passed version of this authorization. Since I have been working on this funding project for some time, I am interested in what the Senate version of the bill contains for this construction project.

Mr. HART. The project which the Senator is discussing was not included in the budget request and consequently was not considered by the Committee on Armed Services. However, as we have discussed, I have looked into the requirement for this project, found it to be valid, and I intend to urge Senate conferees to accept the House language for construction of the I–70 interchange at Hollo-

man. I believe we can reach the goal of authorizing money for this project without having to amend the bill as reported by the Senate Armed Services Committee.

Mr. DOMENICI. Then, am I to understand that the Senator feels reasonably confident that we can be assured that authority for the I–70 interchange will be included in the conference report on the Military Construction Authorization Act?

Mr. HART. That is correct.

Mr. DOMENICI. I thank my distinguished colleague from Colorado for his help on this important project and I know that the residents of the Holloman area will be grateful for the resolution of funding for construction.

Mr. President, I ask unanimous consent that Jim Case of Senator MUSKIE's staff be granted the privileges of the floor.

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

Mr. STENNIS. If the Senator will yield me 1 second on this matter, in response to what the Senator said regarding the short connection with the interchange, what I know about it is favorable to its inclusion and I am proud of the fact that the manager of the bill and others have found merit also. I can assure the Senator that is my position.

Mr. DOMENICI. I thank the chairman of the committee very much for his remarks.

Mr. STENNIS. If the Senator from Colorado will yield to me for one additional statement, I am supporting the bill, of course. This is not a matter of helping him, as he does not need help, but I am on the floor in an expression of interest and will be available at any time the Senator wishes me.

Mr. HART. I thank the Senator.

UP AMENDMENT NO. 316

(Subsequently numbered amendment No. 322)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Senators JAVITS, RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, HART, MOYNIHAN, MELCHER, and LEVIN, proposes an unprinted amendment numbered 316.

On page 49, strike lines 5 through 13.

Mr. WILLIAMS. Mr. President, the amendment I am proposing is on behalf of the following Senators: Senators JAVITS, RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, HART, MOYNIHAN, MELCHER, and LEVIN.

Mr. President, S. 1319, the Military Construction Authorization Act, 1980, was reported by the Committee on the Armed Services with a provision which seriously affects an important program within the jurisdiction of the Committee on Labor and Human Resources. This provision—section 810 of the Military Construction Authorization Act—would waive the application of the Davis-Bacon Act with respect to any construction activity authorized by S. 1319 or any other military construction authorization.

Thus, with one stroke, the Armed Services Committee, which has no jurisdiction over and incomplete understanding of our Nation's labor laws, has eliminated nearly all military construction activity from the Davis-Bacon Act's provisions.

The opponents to the Davis-Bacon Act have attempted to have this body repeal the Davis-Bacon Act in a piecemeal fashion. First, by amendments in the Committee on Banking, Housing, and Urban Affairs to both housing legislation and to the Economic Development Act, attempts which the members of that Banking Committee, in my judgment, very wisely voted down. Failing there, they took their jurisdictional forum shopping to the Armed Services Committee, which acted favorably on their proposal despite the objections of that committee's wise and gracious chairman, the Senator from Mississippi (Mr. STENNIS).

We offer this amendment for two very distinct and very important reasons. The first reason is procedural—the Senate does its business through a committee system. These committees are established and assigned jurisdictional responsibilities, and labor standards legislation is clearly within the jurisdiction of the Committee on Labor and Human Resources, and is not within the jurisdiction of the Committee on Armed Services.

I read from rule 25 of the Standing Rules of the U.S. Senate:

(1) The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise on matters within their respective jurisdictions:

(m)(1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

12. Labor standards and labor statistics.

20. Wages and hours of labor.

The Labor and Human Resources Committee has not had the opportunity to evaluate section 810 of the pending bill or its effects on our Nation's construction industry. And the sponsors of this provision have not even introduced this legislation in bill form so that it could be referred to the appropriate committee for consideration.

I do not believe that the Senate should act favorably and thus approve these procedures. Such approval would invite us to abandon our system of committee jurisdiction and to take an irreversible step toward legislative chaos and, indeed, anarchy, which I believe, we would, in the end, deeply regret.

The second reason that I believe the Senate should delete this destructive provision is because it is entirely devoid of merit.

Mr. President, the Davis-Bacon Act is the most important wage-stabilizing legislation in the construction industry. It requires that Federal construction contractors pay the prevailing wage for labor in the area where the construction is to occur. The Davis-Bacon Act has helped to stabilize the construction industry by discouraging cut-throat competition by unscrupulous contractors who would destroy all labor standards in their attempts to secure construction contracts. The Davis-Bacon Act is a commitment that our Federal building programs will not be undertaken at the expense of the worker on the job. By protecting the prevailing living standards of construction workers, the act assures that competition for Federal construction contracts will not be based on the ability of a contractor to slash wages. Under this law, contractors are, however, free to compete against each other in all of the expected ways within our economy—in efficiency, know-how and skill, but not in how much they can exploit their workers.

To understand the importance of the Davis-Bacon Act, it is necessary to understand some aspects of the construction industry. In this country, the construction industry has always been volatile and intermittent in its business volume, and in the employment opportunities it provides. Over four million workers are attached to the construction labor force. They are employed by about one-half million businesses, and divided into more than 30 crafts and trades. Unlike most other industries, these are not long-term employment relationships: Workers move from job to job and from site to site, rarely forming permanent attachments to a single employer. The intermittent nature of this work diminishes the effect of a sometimes seemingly high wage rate. Unemployment has been persistently higher in this industry than in most other segments of our economy, recently averaging more than 50 percent higher than the national average. Ten percent construction against 6 percent national average.

The potential for destructive wage competition is always present in the construction industry. Because of the relatively high unemployment rate, these workers are particularly vulnerable.

In fact, the 1972 Commission on Government Procurement Study Group No. 2, a group that would likely be more concerned with procurement than worker protection, found that "the wages of construction workers on Government construction would likely be adversely impacted without prevailing wage protection."

Mr. President, the Davis-Bacon Act was enacted in 1931, was part of a trend that began much earlier. Kansas had adopted a prevailing wage statute in 1891. Forty-one States have now adopted "little Davis-Bacon laws," many of them in the 1950's and 1960's. The Davis-Bacon Act was a major force in preventing the complete disintegration of the construction industry in the 1930's. Its importance in preserving labor standards dur-

ing a period of economic decline cannot be understated.

In this regard, it is significant to note that the construction industry housing starts for February were at their lowest level in 2½ years. It is beyond belief that, at a time when many forecasters are predicting a recession, we would seriously entertain the possibility of abolishing one of the major stabilizing influences in the construction industry.

Yet, there are those who would suggest that the construction worker should be sacrificed in the battle against inflation. Section 810 of the pending bill is the instrument by which that sacrifice will be accomplished, even though there is little to suggest that construction wages are a significant cause of inflation.

The annual percentage increases in hourly wage rates over the last 7 years for construction workers has lagged behind the all-industry increases.

Between 1971 and 1977, the construction workers' increases were 5.9 percent per year, compared to the all-industry average of 7.3 percent. Between 1975 and 1977, the gap widened. During that period of time, construction workers' increases were 5.5 percent per year, and the all-industry increases were 7.17 percent. The April 1977–78 wage rise for construction workers was the smallest 12-month increase since 1967.

Under these conditions, it is apparent that the repeal of the Davis-Bacon Act would cause serious economic and social repercussions. It would create havoc in the construction industry, giving rise to a degree of cut-throat competition we have not seen for 50 years.

This provision obviously will not curb inflation. It will not promote stability in the construction industry. It will not result in an appreciable reduction in the Government's construction costs.

In short, Mr. President, the Senate is being asked to buy a pig in a poke. We are being asked by a committee without subject matter jurisdiction to abandon a public policy which has existed and been reaffirmed over and over again since 1931.

A vote for my amendment to strike this dangerous provision from the pending bill is a vote to return to the rational consideration of this important question. A vote for my amendment is a vote against precipitous action by the Senate. A vote for my amendment is a vote of confidence in the Senate committee system, and in our ability, through the committee system, to effectively evaluate the needs of America's construction workers and the construction industry. A vote for my amendment is a vote of confidence in the ability of the Senate to act carefully, and calmly, and with a complete understanding of all the issues and all the ramifications of our actions.

(Mr. HEFLIN assumed the chair.)

Mr. HATCH. Will the Senator yield for a question?

Mr. WILLIAMS. I am happy to yield to the Senator from Utah.

Mr. HATCH. I appreciate the distinguished chairman of the Labor and Human Resources Committee's yielding to me.

Is it not that as of April 27, 1979, I sent a letter to him, in fact, Senator TOWER and I sent a letter to him, where we asked, as cosponsors of S. 29, the Davis-Bacon repeal legislation, to start holding hearings on that particular matter in this Congress?

In other words, almost 3 months ago, we asked him to start holding hearings so that we could be prepared for this type of matter when it came up, rather than coming in and ask that we do what we have asked him to do 3 months ago; is that not true?

Let me be more specific——

Mr. WILLIAMS. My reaction to that earlier request, I know the Senator will recall, was that those who conscientiously feel there should be repeal of Davis-Bacon, or amendment of Davis-Bacon certainly should have the opportunity to be heard. The matter should be considered, and it will be in the Labor and Human Resources Committee.

But it would require that we approach it, as we should all legislative matter, by going to that committee, rather than addressing this subject matter through amendments on other and unrelated bills.

But that was the approach the opponents of Davis-Bacon took—the oblique approach on unrelated legislation. It was done on the housing bill, as I mentioned earlier, and now on military construction. Certainly, I do not sit on the Armed Services Committee, and I do not know how completely that committee dealt in its hearing on this matter. But I do sit on Banking, Housing, and Urban Affairs.

This matter is likely to be coming up as an amendment to the housing bill when it is taken up by the Senate. We did have a hearing on the Davis-Bacon application to the housing bill.

Again, I responded in that committee to the need to address the question, although I knew it was not the most effective, efficient way to approach legislative matters, piecemeal, in the wrong committees.

Mr. HATCH. All I am asking is this. I did not file the amendment in the Military Construction Committee. I had nothing to do with that committee. But, as I recall, we sent a letter dated April 27, 1979, to the Senator, as chairman of the Labor and Human Resources Committee, which says the following:

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., April 27, 1979.

Re S. 29, The Davis-Bacon Repeal Legislation.

Chairman HARRISON A. WILLIAMS,
Labor and Human Resources Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: As I am sure you are aware, Senator Hatch introduced the above-referenced bill, which Senator Tower co-sponsors, on January 15, 1979, the purpose of which is 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.

This 1931 law requires the payment of "prevailing" wages on federally assisted construction projects which are frequently determined by the U.S. Department of Labor to be far in excess of average wages in a given area. Thus, the law effectively prohibits all wage competition. In addition, the many archaic work rules required by that law also have an inflationary impact on the construction industry and the nation's economy as a whole, resulting in the waste of taxpayer dollars, and loss of some needed construction projects and jobs—particularly in lower-income areas.

We believe that this outmoded wage law, although briefly worded, should be repealed for the following reasons:

It was a depression era measure which has long since outlived its usefulness;

It substantially interferes with the working of a free competitive market;

It is inflationary because it results in federal and federally-assisted construction contracts costing more than other construction contracts;

It gives an unfair advantage to union employers over nonunion employers in bidding for government construction contracts;

It impedes entry of minority groups into the construction industry; and

It unnecessarily protects the highest paid skilled workers in our society by legislating standards even though they are fully capable of competing successfully without government intervention.

For these reasons, the Davis-Bacon Act has been subject to attack by prominent economists such as Milton Friedman and Walter Heller, the Council on Wage and Price Stability, the National Association of Minority Contractors, the New York Times, the Chicago Tribune, the U.S. Chamber of Commerce, the Joint Economic Committee, and many other individuals and organizations.

We commend to your immediate attention the GAO report on this subject which was distributed today. GAO strongly recommends repeal of the Act on the grounds that it is no longer needed because of changing economic conditions in the economy and the construction industry, as well as the inflationary impact of several hundred million dollars annually in unnecessary public construction and administrative costs. We are attaching for your review the GAO Report Summary and the transmittal letter to Congress, which clearly set forth the GAO position on this matter.

Under these circumstances, we believe that immediate hearings on S. 29 are warranted before the Labor and Human Resources Committee, which has the subject-matter jurisdiction over this law, and we respectfully request that they be scheduled. We feel it is totally in the public interest to fairly and fully consider the wisdom underscoring this Act, which has not received oversight in many years, so as to make a final Committee determination whether the critics of Davis-Bacon, including our congressional watchdog, the GAO, are correct in their respective evaluations.

We hope you will agree that the time has come to exercise jurisdiction over this serious national concern and to set the record straight. We submit that if the GAO Report is accurate, this statute is more than just a bad one, in these inflation-wracked times, it is intolerable.

Sincerely,

ORRIN G. HATCH,
U.S. Senator.
JOHN TOWER,
U.S. Senator.

THE DAVIS-BACON ACT SHOULD BE REPEALED

The Congress should repeal the act because:

Significant changes in economic conditions, and the economic character of the construction industry since 1931, plus the pas-

sage of other wage laws, make the act unnecessary.

After nearly 50 years, the Department of Labor has not developed an effective program to issue and maintain current and accurate wage determinations; it may be impractical to ever do so.

The act results in unnecessary construction and administrative costs of several hundred million dollars annually (if the construction projects reviewed by GAO are representative) and has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

To the President of the Senate and the Speaker of the House of Representatives.

This is our report to the Congress, "The Davis-Bacon Act Should Be Repealed."

We are recommending that the Congress repeal the Davis-Bacon Act because (1) there have been significant changes in the economy since 1931 which we believe make continuation of the act unnecessary, (2) after nearly 50 years, the Department of Labor has yet to develop an effective program to issue and maintain accurate wage determinations, and it may be impractical to ever do so, and (3) the act is inflationary, and results in unnecessary construction and administrative costs of several hundred million dollars annually.

We are sending copies of this report to the Secretaries of Labor; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; Transportation; and the Treasury; the Administrator, Environmental Protection Agency; the Postmaster General; and the Director, Office of Management and Budget.

ELMER B. STAATS,
Comptroller General
of the United States.

Now, that was the letter we sent. We have not had 1 day of hearings on Davis-Bacon in the Labor and Human Resources Committee, and I am asking a question of my distinguished chairman.

Mr. HART. Will the Senator yield?

Mr. HATCH. Yes.

Mr. HART. We have not had a day of hearing in the Armed Services Committee.

Mr. TOWER. If the Senator will yield, there were questions asked of witnesses on this particular matter, and I would be glad to read that into the RECORD, or will do it subsequently.

So a record has been made in the Armed Services Committee.

Mr. HART. Does the Senator from Texas think that is making a record on an issue of this magnitude?

Mr. HATCH. There is a 50-year record on this issue that goes both ways.

I am not saying we should not have more hearings because I think they could not help but further enlighten everybody in America as to how bad this bill really is.

Mr. WILLIAMS. Will the Senator yield?

Mr. HATCH. The Senator has been very kind.

Could we have a hearing in the Labor and Human Resources Committee and could we have a time when this bill could be brought to the floor and voted up or down?

Mr. WILLIAMS. I will say again to the Senator from Utah what I told him back in April. If we can proceed with the questions about Davis-Bacon in the orderly, legislative way, I would be agreeable. If that forum is to be the Labor and Human Resources Committee, if that is to be the forum selected by opponents of Davis-Bacon, the answer is clearly "yes."

But simultaneously with the April letter and discussions with the Senator from Utah, the opponents of Davis-Bacon were pursuing the Davis-Bacon repealer on other legislation.

It was then being pursued at the Banking, Housing, and Urban Affairs Committee.

Mr. HATCH. But I did not——

Mr. WILLIAMS. I told the Senator then, "If you folks who oppose Davis-Bacon will gather around, and get together and approach this through the Labor Committee, that is the way we will proceed, in the orderly way to hearings."

However, as chairman of the Committee on Labor and Human Resources, if I have to be meeting this issue on many bills, in many other committees, I will have to take my time and apply it to those bills from other committees, as I did with Banking, Housing and Urban Affairs and the Housing Act.

The Senator from Texas stands beside the Senator from Utah, and he knows that is exactly what happened in our other committee.

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

Mr. WILLIAMS. I yield.

Mr. HATCH. I cannot speak for Representatives and other Senators. All I can say is that it was my understanding that we would have hearings on this matter and that we would have it come to the floor and vote up and down on S. 29. All I can say is that, as a result of our conversations, so far as I am concerned, I have been willing to go through our Labor and Human Resources Committee process, so long as we get it out to the floor and vote it up or down.

Considering the makeup of the Senate, I think the odds are heavily against my side winning on Davis-Bacon at this particular point. However, it nevertheless needs to be debated on the floor of the Senate and voted up or down, one way or the other.

I will say this: It is like one of those perennial issues—it will be brought back and brought back and brought back until ultimately the taxpayers of the United States are considered.

The only thing I am asking is that, since I am willing, as a member of the Labor and Human Resources Committee—and I think I have done this thus far—to work within the committee and to work within the committee structure and to work within the hearings and not foment amendments—I cannot speak for my other colleagues and will not even try to—could we get this matter heard and get it on the floor and vote on it up or down?

It does not have to be right away. I am in no big hurry on it. I want to have hearings and an ultimate vote on the floor. I know the distinguished Senator from New Jersey can accommodate on this matter, if he will.

Mr. WILLIAMS. I will reply to that, precisely.

Before doing so, I recall that when we did hear the Davis-Bacon subject in the Banking Committee, the Senator from Utah appeared.

Mr. HATCH. I did testify, yes.

Mr. WILLIAMS. He came over, and it was a day we all remember. I recall the Senator from Utah informing us in our Davis-Bacon housing hearing of the application of prevailing wages to Ballet West, a ballet company.

Mr. HATCH. That is correct, and how it was inapplicable.

Mr. WILLIAMS. And we had to suggest that that was not Davis-Bacon that was being applied in that case.

Mr. HATCH. No, but the concept was the same.

Mr. WILLIAMS. The concept of the prevailing wage. It was a finding that when Ballet West went to perform, with great accomplishment, in New York, the prevailing wages in New York——

Mr. HATCH. That was not the way it was. What happened was that Ballet West had a troop that they paid annually. The Labor Department came in and, with the concept of prevailing wages, demanded that they meet the New York union rates, even though Ballet West was the only company in the area of the mountain west, and they applied the New York prevailing wage rates.

Mr. WILLIAMS. Only while Ballet West was performing within that region.

Mr. HATCH. No.

Mr. WILLIAMS. The New York prevailing wage applied in the State of Utah?

Mr. HATCH. That is right.

Mr. WILLIAMS. I will join the Senator in alarm that that should be the situation.

Mr. HATCH. I was very upset about it. That is how far these types of concepts have pervaded this country and cost the taxpayers billions of dollars.

Mr. WILLIAMS. I will now have to do a little research in terms of following the appearance of the New Jersey Ballet at the Virginia Festival of Performing Arts in Norfolk, last Friday night. It was a performance, I will say, that was worth the highest wage ever paid in New York. However, I rather doubt that New York wages applied to that excellent company of the New Jersey Ballet when they appeared last Friday night at the Chrysler Auditorium in Norfolk, in a performance that was most gratifying to those who appreciate ballet, and I am sure we all do. The reception was just tremendous and, again, worthy of New York wages. However, I would not support New York wages for performances in Norfolk.

Mr. HATCH. I agree.

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

Mr. WILLIAMS. I yield.

Mr. HART. Mr. President, the fact that we are discussing ballet companies in connection with the armed services military construction bill is the strongest argument I can think of as to why this provision should not be in this bill.

The Senate, in its wisdom, has a committee system. The committees are for the purpose of exploring these issues. The fact that the Senator from Utah and the Senator from New Jersey are now deeply enmeshed in a discussion of the wage rates of ballet companies, in the framework of the Senate military construction authorization bill, is the strongest argument I can think of as to why the amendment of the Senator from New Jersey should be adopted, deleting this provision from this bill.

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

Mr. WILLIAMS. The Senator from Colorado is speaking.

Mr. HART. Just as the Senator from Utah is correct that measures of this importance deserve hearings—and I agree with him on that, and I believe the chairman of the committee also agrees—on the other hand, measures of this importance should not be voted on without hearings, which is exactly what is happening here and happened in the Armed Services Committee.

There were some perfunctory questions, as I recall rendered by a staff member, responded to by middle-level managers——

Mr. TOWER. Senator THURMOND is not a staff member. He is a Member of the Senate.

Mr. HART. The excerpts of the transcript that I saw indicated that the questions were propounded by a staff member. Nevertheless, I think that all of the testimony occupied about 20 minutes, at most, in the deliberations of our committee on this bill, which took literally hours, if not days.

The Senator from Texas well knows that, when we took a vote on this, there were perhaps 5 minutes of discussion on this issue. If that constitutes a record, as I said before, I will eat my hat.

So, just as the Senator from Utah has a legitimate grievance that there should be hearings, I think the Senator from Colorado has a legitimate grievance that there were no hearings.

We are marching off a cliff here, without knowing what we are talking about. The facts that we are going to debate the question of prevailing wage rates for ballet companies in New York, or with New York wage standards, is the argument I am trying to make.

Mr. HATCH. I hardly brought that up, but it is an important point.

Mr. HART. Of course, it is.

Mr. HATCH. If the Federal Government, pursuant to the application of Davis-Bacon, can be so obstreperous and asinine as to try to put prevailing New York union wage rates on a nonprofit ballet company that performs only in the West, can the Senator imagine the billions of dollars it costs us in military construction? That is precisely the point.

Mr. HART. The only thing I can do is imagine it, since I do not know it.

Mr. HATCH. If the Senator does not know it, then perhaps it is time he started to find out about it; and this is one way the august U.S. Senate occasionally brings up these multibillion-dollar boondoggles. That is precisely what Davis-Bacon is, and I think everybody else knows it, including GAO, which just issued a huge report that went into the matter.

I have a question for the distinguished chairman, for whom I have tremendous respect. In case he has not seen it, here is a copy of the report, entitled "The Davis-Bacon Act Should Be Repealed." I hardly think any Senator should not be aware of it, since it has been on the books almost 50 years, come 1981.

I ask this question of my friend and colleague from New Jersey: What I am saying is that I, for one, did testify before the Banking Committee. As to the fact that the Senator from New Jersey thought the Ballet West incident was memorable, I think it was memorable and very important, because it raised the large issue of prevailing wage rates, which are ruining taxpayers all over America—at least, in my humble opinion.

What I am saying is this: I agree, that I would like to have hearings in the Labor and Human Resources Committee. My chairman indicated today that he would hold them. In the past, even though it has now been almost 3 months since I requested them, he said he would hold them. Maybe it would help to stop this piecemeal approach toward Davis-Bacon. If we would go forward with hearings in the committee and if we could have some assurance—and I do not care when, so long as it is in this Congress—that we will bring S. 29 to the floor, debate it fully, and vote up or down, I will agree to a time limit on the debate.

Mr. WILLIAMS. That is what I said in April. The committee with jurisdiction is the proper way to go on such legislative matters.

Mr. HATCH. Will the Senator do that?

Mr. WILLIAMS. If a committee has a bill that is referred, it should be heard but when the same subject matter comes in from other committees, that is not the way.

If the Senator will join me in striking this labor matter from the military construction bill, then we can proceed in the orderly way to do the business of the U.S. Senate.

Mr. HATCH. I will consider joining the Senator from New Jersey. I have to think it over and see what we are agreeing to.

Mr. WILLIAMS. We are about ready to vote.

Mr. HATCH. What are we agreeing to?

Mr. WILLIAMS. To proceed in the regular way on a legislative matter, hearing it in the committee of jurisdiction.

Mr. HATCH. Can we get it to the floor and have a debate?

Mr. WILLIAMS. That is a matter for committee deliberations.

Mr. HATCH. No. We have brought matters to the floor before.

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

Mr. HATCH. I am afraid the distinguished Senator from New Jersey has the floor.

Mr. THURMOND. Mr. President, will the able Senator from New Jersey yield to me a minute or two, so that I may question the Senator from Utah.

Mr. WILLIAMS. I yield.

Mr. THURMOND. I call to the attention of the distinguished Senator from Utah that this does not repeal Davis-Bacon.

Mr. HATCH. I understand that.

Mr. THURMOND. This merely waives it. It waives it and according to Mr. Fliakas' testimony—he testified in the Senate, and I was the one to propound the question to him—it will save from $70 million to $210 million.

Mr. HATCH. In military construction alone.

Mr. THURMOND. On this military construction bill alone.

Mr. HATCH. Who saves that money? Whose money?

Mr. THURMOND. The taxpayers get the benefit of this money. Why should anyone object to the taxpayers saving $70 million to $210 million if we can do it on this bill, and that is what Father Fliakas says. The General Accounting Office, as he has stated, has made a study here. We have recommended it be repealed. They have no interests. That is an arm of Congress. And Mr. Fliakas is with the administration. He recommends that we do this. What is the objection to saving money for the taxpayers?

THE DAVIS-BACON ACT

● Mr. HELMS. Mr. President, I strongly support the proposal to waive the Davis-Bacon Act as it applies to military construction.

The Davis-Bacon Act has been around for a long time—since the 1930's, in fact. I do not dispute that the Davis-Bacon Act was enacted in response to what some people saw as a serious and legitimate need. But times change, Mr. President, and I for one no longer believe that the Davis-Bacon Act serves a useful purpose. In fact, the effects of the Davis-Bacon Act are now detrimental.

Many groups and individuals have spoken out against the Davis-Bacon Act. I would like to bring to the attention of my distinguished colleagues the conclusions of one such group.

In April of this year, the U.S. General Accounting Office published a report entitled "The Davis-Bacon Act Should Be Repealed." The report—dated April 27, 1979—is a result of almost two decades of oversight by GAO. I heartily encourage my colleagues to review it because it details example after example of wasteful Government spending.

In the interest of saving time, I will not discuss each of the reasons cited by GAO in support of repeal of the Davis-Bacon Act. I would, however, like to list each of these reasons. They are as follows:

First. The Davis-Bacon Act is no longer needed;

Second. Significant changes in economic conditions and worker protection laws make the Davis-Bacon Act less relevant;

Third. The Davis-Bacon Act is impractical to administer, resulting in the Department of Labor developing and issuing inaccurate wage determinations;

Fourth. The Davis-Bacon Act has resulted in increased costs for federally financed construction; and finally

Fifth. The Davis-Bacon Act has had an inflationary impact on the economy.

In conclusion, Mr. President, the Davis-Bacon Act should be eliminated whenever, and wherever possible. By waiving its provisions as they apply to the military construction bill, we can test the feasibility of eliminating the prevailing wage rate in one particular type of government construction contract. In addition, and of paramount importance, we can save the taxpayers of this country a substantial amount of money.●

Mr. TOWER. Mr. President, I wish to gain the floor.

Mr. WILLIAMS. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I am, of course, strongly opposed to the effort of the Senator from New Jersey to delete this section from the military construction bill, and I respond to the jurisdictional question by simply noting that this section does not touch one word of the Davis-Bacon Act. It does not repeal it or amend it in any way. It simply does, as the Senator from South Carolina suggests, waive it in terms of military construction. And it is within our jurisdiction to try to save money on military construction.

Now, for years and years and years there have been complaints about Davis-Bacon and the cost of it. There are numerous studies, committee testimony, in the Joint Economic Committee, even of this Congress, which have criticized Davis-Bacon. The Joint Economic Committee has noted that it does discriminate against minorities in employment in the construction business and yet the Labor and Human Resources Committee has not held hearings on it. That is why we are acting. And we have no reasonable expectation really that hearings are going to be held. Given the disposition of that committee a bill will never be reported to the floor probably. That is why we have to resort to this kind of situation.

Now, to satisfy the Senator from New Jersey, Mr. President, I move that S. 1319, a bill to authorize certain construction at military installations and for other purposes, be referred to the Committee on Labor and Human Resources with instructions that the committee report the bill as referred no later than July 25 with such recommendations as the committee may deem appropriate.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. WILLIAMS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 317

(Purpose: To authorize funds for Department of Defense share of upgrading the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas)

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

The PRESIDING OFFICER. Until the motion to refer has been acted upon, further business is not in order.

Mr. TOWER. Mr. President, I ask unanimous consent that the motion to refer be temporarily set aside and that other amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, will the Senator make it specific?

Mr. TOWER. I believe the pending business is the motion by the Senator from Texas to refer S. 1319 to the Committee on Labor and Human Resources for a period of 2 weeks. I am simply asking unanimous consent that that motion be set aside temporarily and that other amendments may proceed ahead of it.

The PRESIDING OFFICER. That motion is pending. There is also an amendment underlying that motion.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey also be set aside temporarily, reserving the rights of the Senator from New Jersey and the Senator from Texas.

The PRESIDING OFFICER. Without objection, that will be the order, and the amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 317.

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

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

The amendment is as follows:

On page 21, line 19 and 20, insert the following:

DEPARTMENT OF DEFENSE SHARE FOR WATER POLLUTION CONTROL FACILITIES

SEC. 305. There is authorized to be appropriated, in accordance with section 808 of this Act, the sum of $2,400,000 for the Department of Defense share for the upgrading of the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas.

On page 29, line 22, strike out "$370,810,000" and insert in lieu thereof "$373,210,000".

On page 29, line 24, strike out "$480,050,000" and insert in lieu thereof "$482,450,000".

On page 48, line 20, insert "on or" after "enacted".

Mr. BUMPERS. Mr. President, the military construction authorization bill, S. 1319, as reported by the Senate Armed Services Committee, includes an amendment, which allows the Department of Defense to make the contribution required by the Environmental Protection Agency for the construction of waste treatment facilities serving military installations. However, a specific authorization is necessary before DOD can use funds for this purpose.

My amendment would provide the authorization for the Air Force to pay its share of the costs of construction of a new waste treatment facility in Jacksonville, Ark., which is the location of the Little Rock Air Force Base.

Normally, EPA would grant the city of Jacksonville 75 percent of the construction cost, and the city would raise the other 25 percent. However, pursuant to section 202 of the Federal Water Pollution Control Act of 1972, EPA issued regulations (Program Guidance Memorandum PG–62) which require all Federal facilities being served within a project to pay their fair share of the cost allocable to the project, in this instance, the new waste treatment facility. EPA has determined that the Little Rock Air Force Base will receive about 25 percent of the benefit from the new facility, and has therefore told the city of Jacksonville that it will only give them 50 percent of the construction cost, and the balance will have to be raised by them and the Little Rock Air Force Base. Specifically, the cost break down is as follows: $9.5 million total cost; $2.0 million city of Jacksonville; $2.4 million Little Rock Air Force Base; and $5.1 million EPA.

Normally, this would be a perfectly suitable method of financing, but in this instance the city of Jacksonville has a contract with the Air Force, executed in 1962, the effect of which is that it may not be renegotiated, nor may the Federal Government be called upon to pay more than is provided under the contract.

And the Air Force has taken the position that it cannot comply with its own guidelines and contribute to the cost of this project. So Jacksonville finds itself in the position of not being able to raise its share and the Air Force base share both. Obviously, if the present waste treatment system fails, the Air Force base could not be served, and this is precisely what is going to happen unless the city of Jacksonville gets help.

Although increased costs of construction are one of the primary reasons this should be accomplished at the earliest possible time, there are many other pressing reasons. The Jacksonville waste treatment facility is among the top 15 percent of Arkansas pollution problems in terms of severity of the pollution. Ac-

cording to EPA, toxic material is now being discharged from the facility. In addition, there has been no change in the level of treatment since 1960, and although the facility qualifies for at least secondary treatment, it only has the capacity for primary treatment. There are instances of sewage overflow, and the facility is presently in violation of State regulations.

EPA has committed its share of funds to this project, and the Jacksonville City Council is prepared to vote a bond issue to provide its share. Both are waiting, and have been waiting for more than 2 years, for the Air Force to commit its share.

Mr. President, my amendment would authorize the Air Force to pay its share in fiscal year 1980. All requirements for step I, determination of the most cost effective plan, have been met. The project has been ready to go to step II, initiation of the engineering design, since early 1976. But now the project is at a standstill and has been for more than 2 years.

The Environmental Protection Agency's section 201, construction grants program, has been recommended by the President, the House, and the Senate HUD and Independent Agencies Subcommittee to be cut by $400 million. The argument for this cut is that EPA is estimated to have an unobligated balance of anywhere from $3 to $4.6 billion at the end of fiscal year 1979. Often a project's development is slower than the schedule of appropriations and the funds are not spent as rapidly as anticipated.

This is not the case with the city of Jacksonville. EPA construction grant funds have not been spent because a cost-sharing agreement with the Little Rock Air Force Base has not been reached.

Mr. President, this is a community in a catch-22 situation, a community which has done everything it knows how to work out this problem, a community which has been unable to move the bureaucracy by a single degree.

I respectfully request the U.S. Senate to give Jacksonville, Ark., the relief it so desperately needs.

Mr. President, I have discussed this amendment with the distinguished chairman of the Military Construction Subcommittee, and I believe the amendment will be acceptable. It is very simple and equitable. It allows a city which serves this Little Rock Air Force Base some relief in order to provide waste treatment facilities from which the Air Force will derive substantial benefit.

Mr. HART. Mr. President, the Senator from Arkansas is correct. The bill before the Senate does provide general authority for the Department of Defense to make contributions in concert with the Environmental Protection Agency for the construction of waste treatment facilities serving military installations. There is no authorization for that to be carried out with respect to the specific installation that the Senator from Arkansas refers to and is concerned about.

I am perfectly willing, as the manager of this bill, to take this proposal to conference. It is not in the House bill. I think it is a matter we can take up with the House. It has legitimate reasons for inclusion.

Mr. THURMOND. Mr. President, this proposal has some merit, and I think it would be well to have it in conference and to consider it carefully there. In order for that to be done, we would have to adopt it here. Therefore, I will not object, so that it can be considered in conference.

Mr. BUMPERS. I thank both distinguished floor managers.

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

The amendment was agreed to.

Mr. BUMPERS. Mr. President, I would like to ask my friend, the distinguished chairman of the subcommittee a few questions about the bill. I am quite concerned about the language in the military construction bill providing that "no funds authorized to be appropriated by this or any other act shall be obligated or expended for the purpose of the realignment of the Strategic Air Command's (SAC) Loring AFB." I want to be certain that this language has no implications so far as the Blytheville AFB is concerned; that is, that this language is not a signal to the Air Force to close Blytheville, or any other SAC base.

Mr. HART. I can assure the distinguished Senator from Arkansas that the language he has quoted does not affect and will not result in the closing of Blytheville Air Force Base. The committee's provision in section 809 to preclude the realinement of Loring Air Force Base has absolutely no connection to Blytheville Air Force Base. In fact, the committee's intention, as expressed in the report language concerning strategic basing, is that there be no further consideration of closing any SAC base until the future of our strategic systems is sorted out. It is my view and, I think, that of the committee that the Air Force had better quit studying SAC base realinements until they know where they are going to base their strategic systems.

Mr. BUMPERS. I am pleased to learn that the committee has in essence put a freeze on any SAC base realinements for the time being. I know the people in Blytheville will be greatly relieved to learn that their Air Force base is not to be on any realinement list. You can imagine the concern and turmoil that have existed in that community. It seems that the base has lived under a base closure cloud for years.

Blytheville Air Force Base has many distinct advantages. First, the geographic location of Blytheville Air Force Base, near the center of our country, gives its strategic forces an excellent operational flexibility in both readily available uncongested airspace as well as a close proximity to many other bases whose missions are essential to the smooth functioning of the Strategic Air Command. A prime example of this is the fact that the current bomber and tanker mission at Blytheville is considered essential in one important aspect because of Blytheville-based tanker support for the refueling requirements of various tactical fighter installations in the southeastern United States. The nearness of Blytheville to these tactical fighter installations provides for more economical air refueling support to those forces, while keeping the tankers positioned to support the bomber force.

Second. Blytheville Air Force Base allows bomber aircraft to be located sufficiently close to primary targets for effective utilization.

Third. Blytheville Air Force Base is capable of supporting increases in its overall mission with its existing physical plant and facilities which are in good condition.

Fourth. Blytheville Air Force Base has been demonstrated to be one of the least costly bases to operate when it is compared to Strategic Air Command installations of similar size and mission in other parts of the country.

Fifth. Blytheville Air Force Base has favorable climatic conditions with a mean temperature at 60 degrees compared to a 30 degree mean at Loring. Also, average annual snowfall at Blytheville is 8 inches compared to 114 inches of annual snow at Loring. This translates to a utility cost per square foot at Blytheville 50 percent less than the same costs at Loring.

These five advantages are but a few of the benefits of keeping Blytheville Air Force Base at full strength. From a purely strategic standpoint, it should also be noted that Blytheville is situated so that an additional 10 minutes of warning time is gained in case of attack when compared with the warning time available to bases situated in the northernmost reaches of the continent. Blytheville's inland location also affords it a distinct advantage in the event of a so-called "depressed trajectory" attack from submarines off our coasts.

Mr. President, may I ask one further question of the distinguished manager of the bill? Why did the committee require the Defense Department to do a study of strategic basing requirements?

Mr. HART. I would be pleased to respond to my good friend. During deliberations on this bill and on the recent round of base realinement decisions, it became very apparent to the committee that the Defense Department has not taken a hard look at the future requirements for the basing of strategic systems. At a time when the Defense Department is considering first, a new strategic tanker; second, a new cruise missile carrier; third, a long-range verision of the FB–111; fourth, a replacement for the B–52; fifth, the possible air mobile basing of ICBM's—although that option now appears to have been discarded for the time being—and sixth, the deployment of air launched cruise missiles, they are proposing to close a SAC base. The committee was unable to get any cogent responses to questions on future basing of these systems. It seems to me and to the committee that now—on the eve of the SALT debate—is not the time to be dismantling a SAC base. The committee,

therefore, added language prohibiting the closure of Loring Air Force Base and directing the study of future SAC basing.

The advantages of Blytheville Air Force Base which you have outlined certainly demonstrate the value of this base to the Strategic Air Command and our strategic systems.

I understand the Senator's concerns very well. I have the same concerns with bases in Colorado. While I do feel that there are potential economies in base realinements in some places, I am nevertheless persuaded that the present Air Force SAC bases should be retained.

Mr. MUSKIE. Mr. President, I would like to address the military construction authorization bill which the Committee on Armed Services has reported. I support the bill from a budgetary standpoint. I oppose the provision within the bill that waives the requirements of the Davis-Bacon Act in regard to military construction activities.

Regarding the cost implications of the bill, it proposes an authorization level of $3.7 billion in budget authority. Fiscal year 1980 outlays resulting from the bill are approximately $1 billion. Both of these amounts represent slight reductions from the levels of the administration's request.

Mr. President, this military construction authorization, if appropriated at the levels discussed here, fits within the assumptions contained in the national defense targets of the budget resolution.

I extend my congratulations to my friend, the chairman of the Military Construction Authorization Subcommittee and the distinguished Senator from Colorado, Mr. HART. He has devoted a great deal of effort to this important legislation in order that our military facilities satisfy the military and housing needs of our Active and Reserve Forces. He has brought a military construction bill before the Senate that is fiscally responsible from the standpoint of the first budget resolution for fiscal year 1980. He serves as a valued member of the Budget Committee, and I thank him for his support in that regard.

STATEMENT ON LORING

Mr. President, the military construction authorization bill contains the funding necessary to assure that adequate facilities are available for military housing and military operational needs. I have stated that the bill is consistent with assumptions regarding the first budget resolution.

There are many significant provisions covered in the bill and I would like to address one that has a profound impact on the strategic capabilities and flexibilities of our forces and the economic viability of northeast Maine. I am referring to section 809 of the bill that prohibits the proposed realinement of Loring Air Force Base.

In March 1976, the Air Force initially announced the decision to realine the base. In March of this year, the Air Force announced that it had reconfirmed its earlier position and that the base strength would be reduced by 83 percent and Loring would become a forward operating base. Since the March 1976 announcement, I have probed continually for an answer from the Air Force as to the grounds for such a decision. Unfortunately, no answer has ever been forthcoming that can stand up to objective analysis of all aspects of the realinement.

In discussions with top Department of Defense officials and in detailed evaluations of the Air Force environmental impact study and other so-called Air Force justification documents regarding the realinement, the case against Loring has never been remotely made.

Mr. President, Loring Air Force Base is crucial to the operational effectiveness of our strategic and tactical forces. It is impossible to imagine why the Air Force would propose to phase down the base which is the most ideal SAC base from the standpoint of supporting logistics operations to European and Middle-East contingencies and supporting possible strategic operations aimed at Soviet targets.

Loring is 200 miles closer to these locations than other SAC bases located in the United States and I do not believe that we can afford to relinquish this advantage. Further, it seems military unwise to realine the base prior to decisions affecting future strategic options associated with the cruise missile program, the potential follow-on bomber program to the B–52, and air defense basing alternatives to counteract potential Soviet backfire capabilities.

Mr. President, I feel very deeply that the Air Force decision to reduce Loring Air Force Base is unsound, inconsistent with our national interest and an economic injustice to the people of northern Maine.

I have not come to my position lightly. I recognize that base realinements can be necessary actions if we are to have an effective structure for our national defense. I have demonstrated in the past that I can accept reductions in my own State where the case can be made that reductions are necessary in the national interest.

I do not believe, and the people of Maine do not believe, that our basing strategy ought to be dominated by economic factors. We are interested in an effective, efficient defense structure. But, in the process of developing a sound defense structure, there is room to consider other Federal priorities.

Environmental policies, local economic impact, and regional equity are all important Federal policies that should come in to play. I am sure there are those in the Department of Defense who resent the application of many or all of these concerns. Nevertheless, it is one of the responsibilities of Defense officials to assure that the broader social and economic policies of our country are respected, even as we pursue the critical goal of providing for the defense of our country.

In the case of the realinement of Loring, two specific directives require the Department of Defense to examine the broader implications of the realinement. Section 612 of the Military Construction Authorization Act of 1976 and its successor statute, and a directive from President Carter in the spring of 1978, require the Department of Defense to consider the economic implications of a realinement at Loring.

I will not speak at length today on the economic consequences of the Air Force proposal. I will state that it would be devastating. Estimates indicate that unemployment in the Loring area could reach 23 percent; there would be a loss of 30 percent of the area's total personal income and at least a 20-percent loss in retail sales. The alleged savings of approximately $13.5 million a year claimed by the Air Force for the first years of a Loring phase-down would be offset by an estimated $100 million cost to other Federal agencies over the initial 5-year period. So, contrary to the stated position of the DOD, there are no savings associated with Loring phase-down. The Government would pay and it would pay heavily.

Therefore, Mr. President, for both national security reasons and economic reasons, I strenuously oppose the Air Force's decision on Loring. I stated most of the basic points of my position in a letter to President Carter, dated May 23 of this year. I ask unanimous consent that the letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., May 23, 1979.

Hon. JIMMY CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Since you and I last discussed Loring Air Force Base two important events have occurred: (1) the Secretary of Defense announced a decision for a phased reduction of the base; and (2) the Senate Armed Services Committee held a hearing to evaluate the proposed reduction of Loring.

As to the latter, the Committee members present at the hearing and myself were impressed that the Air Force could not justify its decision. We were amazed by the admission that they had not performed the thorough analysis necessary to meet the terms of your commitment of the requirements of law under Title 10, U.S. Code, Section 2687, Base Closings and Realignments.

The inadequacy of the Air Force rationale in the Loring decision was again revealed at the Armed Services Committee hearing. The reduction of Loring jeopardizes a valuable strategic asset (to preserve support operations elsewhere), places a devastating burden on the people of the area for cost savings which, at best, are marginal to the DOD, and under the only complete analysis available imposes costs of approximately $100 million on the Federal Government. Some of the significant information provided at the hearing supporting these views included the following:

(1) Testimony that Loring is the prime U.S. base for refueling aircraft for NATO and Middle East contingencies. Further, because Loring is 200 miles closer to key Soviet targets than other U.S. SAC bases, it offers range and target flexibilities for multiple

strategic options. These advantages are particularly significant when considering options for future bomber/cruise missile missions and the force limitations established by the proposed SALT II treaty.

(2) Rebuttal of Air Force testimony that Loring's vulnerability to the Soviet SLBM threat is significant since 9 of 11 SAC bases closer than Loring to the SLBM threat will be recipients of aircraft from Loring.

(3) An independent estimate that 5-year socio-economic costs to non-DOD Federal agencies as a result of the Loring proposal may exceed $100 million while the Air Force estimates these costs at only $25 million. No attempt has been made to resolve the wide disparity in these estimates, the sum of which exceeds projected DOD cost savings for many years.

(4) A failure by the DOD to comply with Title 10, U.S. Code, Section 2687, Base Closings and Realignments, which requires that the Secretary of Defense submit estimates of fiscal, local economic, and other consequences of proposed closures or realignments.

(5) A refusal by many non-DOD agencies to quantify the costs anticipated because of the Loring action.

(6) Suppression of a letter from the Regional Director, Region 1, of the Small Business Administration which states that the proposed Loring action would devastate Aroostook County in Maine and that "SBA's support of retention of Loring as a major facility would be the single most important action that we (SBA) would take in the state of Maine for years to come."

All the information suggests the Loring decision is unwise from a military perspective and unsound from an economic one. There is no military case for phasing down. For these reasons, I believe our national interests dictate the continuation of the base in a fully operational bomber/tanker status.

With warm regards.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

Mr. MUSKIE. Mr. President, I would like to state my support of the position of the Armed Services Committee and of the military construction bill before us. The committee held hearings. It listened to the arguments on both sides of the issue. It reached the only logical conclusion that could be reached. The committee's report accompanying the bill states that it "has become convinced that there are cogent strategic reasons not to dismantle this installation (Loring)."

I believe the committee should be congratulated for making its decision. The adoption of the Loring provision enables the Congress to accept its proper role, whereby, in conjunction with the executive branch, decisions are made regarding military missions and priorities. These types of decisions are rightly those of the Congress. The decision sets a precedent—but it is a precedent with which I am in total agreement. Ordinarily, I support the Department of Defense in the process of determining the U.S. base structure. However, the strategic and tactical logistics mission advantages provided to our forces by Loring Air Force Base cannot be overlooked—and discarded. For this reason, I congratulate Senators STENNIS and TOWER for the full committee, and Senators HART and THURMOND for the Military Construction Authorization Subcommittee, for their decision to prohibit the closing of Loring and to preclude the loss of a very valuable asset of our strategic capability.

In conclusion, I would like to ask the distinguished chairman of the Military Construction Subcommittee a few questions regarding the committee's position on the Loring matter, to make certain the intent of the provision is clearly understood.

The language of the Loring provision refers to the March 1979 Air Force decision and then states that no funds authorized to be appropriated in the Military Construction Act or any other act shall be obligated or expended for the purpose of realining Loring Air Force Base.

First, is it not true that the mention of the March decision is to merely refer to a point in time when a decision had been announced on Loring—and that the intent of the Loring provision is to prohibit the realinement of the base?

Mr. HART. My colleague is correct on both points. I will state that the purpose of the Loring provision is to prohibit the realinement of that base. The committee was very concerned about strategic implications associated with Loring and, until such time as critical decisions are made about future strategic alternatives for our forces, the committee believed it would be impractical to realine Loring.

Mr. MUSKIE. I thank my good friend for his eloquent explanation of the Loring provision and the excellent job he has done on this military construction authorization bill.

Mr. HART. I thank my colleague.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MODIFICATION OF MOTION TO REFER

Mr. TOWER. Mr. President, I amend my motion to read July 26 in lieu of July 25.

The PRESIDING OFFICER. The motion is so modified.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I ask for the yeas and nays on my motion.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

Mr. TOWER. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia (Mr. TALMADGE) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—35

Armstrong	Exon	Percy
Bellmon	Garn	Pressler
Boren	Hatch	Roth
Boschwitz	Hatfield	Schmitt
Byrd, Harry F., Jr.	Hayakawa	Simpson
	Helms	Stevenson
Chiles	Humphrey	Stone
Cochran	Jepsen	Thurmond
Cohen	Kassebaum	Tower
Dole	Laxalt	Wallop
Domenici	Lugar	Warner
Durenberger	McClure	Young

NAYS—63

Baker	Hart	Muskie
Baucus	Heflin	Nelson
Bayh	Heinz	Nunn
Bentsen	Hollings	Packwood
Biden	Huddleston	Pell
Bradley	Inouye	Proxmire
Bumpers	Jackson	Pryor
Burdick	Javits	Randolph
Byrd, Robert C.	Johnston	Ribicoff
Cannon	Kennedy	Riegle
Chafee	Leahy	Sarbanes
Church	Levin	Sasser
Cranston	Long	Schweiker
Culver	Magnuson	Stafford
Danforth	Mathias	Stennis
DeConcini	Matsunaga	Stevens
Durkin	McGovern	Stewart
Eagleton	Melcher	Tsongas
Ford	Metzenbaum	Weicker
Glenn	Morgan	Williams
Gravel	Moynihan	Zorinsky

NOT VOTING—2

Goldwater	Talmadge

So the motion was rejected.

Mr. ROBERT C. BYRD. Mr. President, I merely take the floor at this time to see if we might be able to reach some agreement on the Williams amendment as to time. The distinguished Senator from Texas is seeking recognition. Will he have a response?

Mr. TOWER. If I may have——

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

The PRESIDING OFFICER. Let there be order in the Senate.

Mr. TOWER. I am not prepared at this time to agree to controlled time. The distinguished chairman of the Human Resources Committee has complained that there had been no opportunity by the Human Resources Committee to hold hearings on this measure, and my motion was to give the Human Resources Committee that opportunity, and then we could have gone ahead with other business today.

However, the Human Resources Committee chairman and other members of that committee have rejected jurisdiction of it at this point. Therefore, we

probably should go ahead and debate the matter on its merits at this point because I have a great deal of material that I will put into the RECORD that I would not have done had there been hearings held on the matter.

I thought that was the orderly way to dispose of it, to give the Human Resource Committee the opportunity they sought. They have decided to reject that opportunity. Therefore, I think there is a great need that we debate this issue before we act on it.

Therefore, I am not in position to agree to controlled time.

Mr. ROBERT C. BYRD. May I say to the distingiushed Senator from Texas one reason why this was rejected was that the vote came when I was off the floor negotiating with the chairman of the Human Resources Committee. The Senator from Colorado was off the floor, and we were discussing the very thing the Senator is talking about, possibly reaching an agreement that would send it there but with a time agreement when it came back.

But nobody was here to protect us. Now, I have never let that happen. I would never let that happen. If the opposition was off the floor, I never took advantage of the opposition to see that a vote occurred. I have never done that. I have tried to protect the opposition, whether it be on the minorty side or on this side.

But on this occasion, I was sitting in my office discussing this very matter. Bang, the bells rang, and I said, "That's a rollcall vote." I come out, and I find the Senate voting the matter up or down.

Any Senator might have wished to move to table. We were trying to reach an agreement whereby the Senator might have his matter sent to the committee. This military construction authorization bill cannot wait forever. There are appropriation bills backed up behind it. We have an August holiday coming up. That is one reason why I voted against this motion.

I want to be protected while I am off the floor. I always see that the other side is protected. Nobody has to have that written in blood. But this matter of just calling for a vote when everybody is off the floor is a little bit unfair, in my judgment, and that is not the game I play.

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

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I had no desire to leave the Senator from West Virginia, or anybody, for that matter, unprotected. The Senator from New Jersey, perhaps I misunderstood him, but I thought he had indicated to me that no agreement could be arrived at because of certain undertakings I was not prepared to make, and therefore I thought the ball game was over.

Mr. ROBERT C. BYRD. He had come back to me, and we were discussing the matter.

Mr. TOWER. I had misunderstood the Senator from New Jersey. I simply asked for the yeas and nays; nobody sought to speak on the matter.

Mr. ROBERT C. BYRD. And nobody put in a quorum.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I interject these remarks not to try to assert one point of view or the other, but rather to say it was my understanding when I left the floor of the Senate a few minutes ago that the negotiations undertaken had failed. That was my understanding, and I went to the caucus room to participate in the SALT hearings.

I am frankly distressed that it appears now that negotiations were underway at the time, and we might have worked this out. Frankly, I would like to see it worked out so we can address mil-con as one matter and Davis-Bacon as a free, separate package.

I did not know this vote was going to occur. I am sure the Senator from Texas was in good faith in believing that the negotiations had been ended, just as I thought they had been ended. But it seems to me if there is still a remaining chance that we can arrive at a unanimous-consent arrangement to find a way to deal with this in an orderly fashion, we should try to do it. There is no irreparable damage done. I understand the distress of the majority leader, but I would hope we could see if we can work out an arrangement either to refer mil-con for a time, or find a way to split the Davis-Bacon aspect out of it, so we can deal with that at some future time as a separate measure. I am willing to participate in such negotiations, if that would be helpful, but I do not like there to be any inference that anything was done in bad faith.

Mr. TOWER. Mr. President——

Mr. ROBERT C. BYRD. I will yield in a moment. I am as much a peacemaker as anybody, when it comes to that, may I say to the distinguished minority leader, and I have as much patience as aynone has, I think. But I do not believe it is kosher, just because one thinks negotiations have broken down, to take advantage of the opportunity when the opponents of the motion are off the floor, and let the vote occur. I would certainly have thought it would have been common courtesy to put in a quorum call and alert the others that a vote was about to occur.

That having been said, I made a proposal to the distinguished Senator from New Jersey. I do not know whether he was about to accept it or not, but I had proposed that we send the matter to the committee and that it be referred back by a certain date—the date the Senator from Texas suggested was all right with me—provided we could get a time agreement when it came back, so the thing would not be around the Senate for several days, because this authorization measure ought to be passed before we go out for August, because when we come back we still have the appropriation bill backed up behind it, and we have the second concurrent budget resolution to be passed by September 15; so this ought to be disposed of in a day or so.

That was the proposal I had just made to the Senator from New Jersey. Whether he was prepared to accept it or not, he can say for himself, but there was still room for negotiation.

Mr. TOWER. Mr. President, if the Senator will yield——

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I had already said I would agree to a controlled time when the matter was reported back to the Senate, and a reasonable controlled time. I am as anxious as anyone to see the military construction bill passed.

There were about six Democratic Senators on the floor at the time I requested the vote, most of whom I thought were opposed to the motion. Perhaps I was remiss in not putting in a quorum call. I did not set the time for the vote. It is something that just happened. But as the majority leader knows, I had already said before the vote that I would agree to controlled time, and that I would not take any initiative other than this one on Davis-Bacon in the interim period between the time this was referred to the Human Resources Committee and the time it came back. But that is the only undertaking I can make.

Mr. ROBERT C. BYRD. All right. Does the Senator from New Jersey wish to comment?

Mr. WILLIAMS. Mr. President, we have honestly tried to work this out so that we could find a way to deal with the military construction bill without this Davis-Bacon provision—so that that would be handled separately, but obviously we cannot go through all of the complex discussions that have been held over the last 3 hours, and we are at a point now where we are faced with a very limited time to consider this in committee, with many other things to consider before the committee within the next 2 weeks.

I joined the majority leader in not voting for this motion to refer. I have spent considerable time in saying that Davis-Bacon ought to be referred to the Human Resources Committee, and now I have voted against sending it there, but it was being sent for a limited reason: Not because it was part of military construction, which I say it should not be part of, but because it was sought to be referred for too short a time for our meaningful consideration.

The Senator from New York (Mr. JAVITS), who was the ranking minority member on our Subcommittee on Labor, when we had it, and I could confer further, perhaps we could see whether we could do justice to the limited subject matter of the Tower amendment to the pending military construction bill within that short time, and with other understandings that might be part of that. Maybe we could do that within 5 minutes.

Mr. ROBERT C. BYRD. Will the Senator do that?

Mr. WILLIAMS. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. NELSON. Mr. President, I ask unanimous consent that privilege of the floor be granted to my legislative aide, Peter Connolly, during the consideration of and during all votes on S. 1064 and S. 1149.

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

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

Mr. EXON. Mr. President, this is in the interest of saving time that I think will be meaningful, because I am hopeful that the latest round of negotiations and renegotiations, and renegotiations of negotiations, will be fruitful in the next few moments.

Since 10:30 this morning, as those of us who have been here know, we have been on S. 1319. Since that time, there has been laying on the desk an amendment I was going to offer. But with the agreement that has been worked out, I will withhold offering that amendment until toward the end of this month. Then I suspect that the bill in question will be coming up once again.

I wish at this time, just as a matter of explanation, to briefly make these remarks in the RECORD with regard to the amendment which I am offering.

It is a very simple amendment. It merely says that it would raise the threshold of applicability of the Davis-Bacon Act from $2,000 to $50,000.

Mr. President, this act has been at a $2,000 level since way back in 1935.

While I certainly am not for total repeal of the Davis-Bacon Act, I think those of us who have studied it recognize that there are some legitimate complaints that have been made against that act.

If the amendment that I intend to offer at the end of the month is finally adopted, we would reduce significantly the amount of paperwork for Davis-Bacon compliance. In fact, it could cut by half the amount of paperwork that is involved because the research that we have done indicates that almost half of the total jobs that have been authorized and previously qualified for under Davis-Bacon would be eliminated if we would simply raise this limit.

To those who are concerned about raising this limit, that it might affect unfairly the wage scales in a certain area, I would suggest that it would not, because even if this amendment is adopted by the Senate when it is offered, 95 percent plus of all the moneys that we still spend on all our construction involving Federal funds would come under the Davis-Bacon Act as in the past.

Mr. President, what my amendment would do would be to eliminate about half of the contracts that presently are and in the past have been out under this act, giving the smaller, independent businessmen a chance to bid—successfully, it is hoped—on many of these contracts, and simply modernize Davis-Bacon.

Some opposition has been expressed to this, but I hope that when it comes to a vote, all of us will recognize, regardless of how we feel about Davis-Bacon in toto, that somewhere along the line it must be modernized.

The main complaint about Davis-Bacon, I think, has come about because of the poor administration of this act over the years, by both Democratic and Republican administrations. I hope this administration will hear us loud and clear, with the actions we are taking in the U.S. Senate today, that it is about time the Department of Labor did a much better job than it has done in the past on the wage survey rates. Even the Department of Labor indicates that it has done a poor job on this in the past.

I hope that after all our deliberations and the many votes that undoubtedly we will have on this bill in the next few weeks or the next few months, and perhaps next year, we will remember that we can eliminate most of the problems that involve Davis-Bacon at the present time if we simply will raise the amount of the contracts covered under Davis-Bacon, on one hand, and, even more important, see to it that there is much better administration of the bill by the Department of Labor.

UP AMENDMENT 318

(Purpose: To delay the proposed closure or realinement of Fort Indiantown Gap, Annville, Pennsylvania, and New Cumberland Army Depot, New Cumberland, Pennsylvania, until after the Secretary of the Army has conducted an economic impact study)

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

The PRESIDING OFFICER. This amendment is not in order because of the pending amendment by the Senator from New Jersey.

Mr. HEINZ. Mr. President, I ask unanimous consent that my amendment be considered in order at this time, so that we can expedite the business of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 318.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

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

Mr. HEINZ. I yield.

Mr. HART. Will the Senator send the floor manager a copy, or can one be provided?

Mr. HEINZ. I apologize to the Senator.

Mr. President, this is the same amendment I discussed with the managers of the bill a few minutes ago.

Mr. President, my amendment to S. 1319, the military construction authorization, would prohibit the relocation of some 2,000 positions at Fort Indiantown Gap and New Cumberland Army Depot, until the Secretary of the Army has conducted a study of the impact on the local economy of this relocation and the Three Mile Island nuclear plant accident.

The announcement of the realinements were made on March 28, the same day that the accident at the Metropolitan Edison Three Mile Island nuclear plant occurred. That accident has had a serious adverse effect on central Pennsylvania, the same region impacted by the two base realinements. The difficulties the region is experiencing are made all the more difficult by the unprecedented nature of the nuclear accident and the uncertainties it creates for the future.

We simply do not yet know what this disaster is going to mean for the region's economy. We do know, however, that relocating the personnel at these bases will be an additional severe blow to the economy, adding further to the region's burdens.

I have written Army Secretary Alexander requesting him to conduct an in-depth economic impact analysis of the combined effect of the base realinements and the nuclear accident on the region. That study, which Jack Watson of the President's staff estimated would take 6 to 7 months, will provide the administration the necessary guidance as to what action to take with respect to Indiantown Gap and New Cumberland Army Depot. To relocate those personnel without this detailed study would be a real blow to the people of that part of my State, already burdened by Three Mile Island.

My amendment would simply prohibit the implementation of the realinements until completion of the study. At that point, if the administration chose, it could proceed with them. If it did so, however, it would be with full knowledge of the economic consequences, knowledge we currently lack.

I believe this amendment is an important part of our efforts to help the citizens in the area around Three Mile Island to recover from the economic effects of what happened there last March, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent the text of my June 21, 1976 letter to Secretary Alexander be included in the RECORD at this point.

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

WASHINGTON, D.C.,
June 21, 1979.

HON. CLIFFORD ALEXANDER,
Secretary of the Army,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: As you know, I and other Members of the Pennsylvania Delegationtion have met with your assistant Secretary to discuss the proposed transfer and

elimination of some 1621 jobs at Indiantown Gap and New Cumberland, Pennsylvania.

At that meeting, Assistant Secretary Gibbs advised us of the results of Army studies with regard to the economic impact on the area, as well as on the comparative economic advantages to the Department of Defense. Moreover, the Assistant Secretary was kind enough to offer to review any additional economic statistics which Members had which we felt were relevant.

It came as a surprise to the Assistant Secretary, however, when he was advised that the Army's announcement was made on the same morning as the accident at Three Mile Island. Clearly, the resulting economic impact from the Three Mile Island was not a part of the Army's study for the proposed realignment. Nor, at the same time, do we in the Delegation, nor does the Governor, have the capacity to provide you accurate projections of the economic impact over the coming year.

Given the Army's ability to gauge economic adjustment factors, I believe that your agency would be well suited to undertake such an analysis. Without question, no recommendation on Fort Indiantown Gap or New Cumberland can be complete without an in-depth analysis of the combined effects of the accident at Three Mile Island with the Army proposals for the central area of Pennsylvania. To propose any major move without a clear understanding of the total impact would be unreasonable, as such a proposal might well serve to aggravate existing fears and concerns for the economic health and viability of the communities surrounding Three Mile Island, New Cumberland Army Depot, and Fort Indiantown Gap.

Consequently, I would very much appreciate your full review of the situation, including an economic impact analysis which takes into account the Three Mile Island accident. In this way, both the Army and the Congress would have full opportunity to balance the effects of your recommendations before taking any action.

Sincerely,

JOHN HEINZ,
U.S. Senate.

Mr. HEINZ. The situation, very simply, is that on the very day that we had a nuclear accident at Three Mile Island, some decisions were taken in the U.S. Department of Defense that would impact directly on the economy of the area by relocating certain military activities from Fort Indiantown Gap and New Cumberland Army Depot to other army installations.

I do not seek to undo those decisions by the Department of Defense. However, I do seek to delay them until the study that I have discussed with the White House—and which I understand the Secretary of the Army is in the process of undertaking—is completed. This may be a matter of some months. It is not the intention of this Senator to foreclose a decision that might be based on the completion of that study at some future date. Obviously, if this amendment is not accepted, it will be an open and shut issue.

I hope the amendment will be accepted.

The PRESIDING OFFICER (Mr. EXON). The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, the subcommittee and the full committee have resisted strenuously efforts by various Senators to make adjustments or changes or to attempt legislatively to block efforts by the Defense Department to consolidate and realine bases.

The case which the Senator from Pennsylvania cites is an extraordinary one, having to do with circumstances that have nothing to do with the question of the realinement of those bases.

Under those circumstances, and since the amendment does not attempt in any way to prejudice or prejudge the ultimate outcome of the question of closure or realinement, it seems that the committee would be prepared to accept the amendment at this time, take it to conference, and discuss it with the House conferees.

Mr. THURMOND. Mr. President, for the reasons stated by the distinguished Senator from Colorado, and in view of the special circumstances that have existed in the State of Pennsylvania with regard to the Three Mile Island situation, I am willing to go along with the amendment.

Mr. HEINZ. Mr. President, I thank the managers of the bill, the distinguished Senator from Colorado and the distinguished Senator from South Carolina, for their understanding of this matter. I appreciate their support.

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

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The Chair recognizes the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, on my amendment just adopted by the Senate I neglected to send a corrected copy of the amendment to the desk. I ask unanimous consent that the technically correct copy of the amendment be sent to the desk and be considered as the amendment that was adopted.

Mr. HART. Mr. President, reserving the right to object, do I understand the corrections will not subsequently change the amendment?

Mr. HEINZ. The Senator is entirely correct. I conferred with the Senator's staff. Indeed, were I not to make this correction, we would not have voted on the amendment that the Senator originally agreed to.

Mr. TOWER. Does the Senator understand that?

Mr. HART. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 49, after line 13 insert the following new section:

SEC. . No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middleton, Pennsylvania.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I believe that I am correct in stating, based on my conversations with the distinguished manager of the bill (Mr. HART), that all amendments to the bill, so far as we know, have been disposed of with the exception of the pending amendment by Mr. WILLIAMS to strike section 810, and an amendment by Mr. EXON.

If that be the case, I am about to propound a unanimous-consent request that is based on consultations with——

Mr. TOWER. Everybody.

Mr. ROBERT C. BYRD. Everybody, but specifically the minority leader, the manager of the bill (Mr. HART), the ranking Republican manager (Mr. THURMOND), the chairman of the Labor and Human Resources Committee (Mr. WILLIAMS), the ranking Republican member of that committee (Mr. JAVITS), Mr. TOWER, the chairman of the Armed Services Committee (Mr. STENNIS), Mr. EXON, and others if I have left them out.

Mr. President, the request is as follows:

I ask unanimous consent that the military construction authorization bill be referred to the Committee on Labor and Human Resources, to be reported out as referred no later than the close of business July 26, 1978;

Provided further, that the majority leader be authorized, after consultations with the distinguished minority leader, to call up the bill between July 30 and August 1, inclusive of both dates;

Provided further, that the pending amendment at that time would be the amendment to strike section 810;

Provided further, that the only other amendment permitted would be that of Mr. EXON, the identity of which we are all familiar with, and any amendment to that amendment which is germane to that amendment;

Provided further, that there be a time limitation on the bill, when it is called up, of 2 hours, to be equally divided between Mr. HART and Mr. THURMOND, and that there be 1 hour on any amendment; that there be 30 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate by the Chair; and

That the agreement as to the division and control of time be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object——

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I yield to the minority

leader for a reservation of the right to object.

Mr. BAKER. I thank the Chair, and I thank the majority leader.

Mr. ROBERT C. BYRD. The Senator has the floor on reservation.

Mr. BAKER. I reserve the right to object only for the purpose of advising the majority leader that the request as he has propounded it conforms to the request as we have submitted it to Members on this side. I see the distinguished manager of the bill on our side is here, and the distinguished ranking minority member of the Armed Services Committee is here, and other Senators as well. I know of no objection to this formulation, and I have none. I wish only to reserve to advise the majority leader of that.

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

Mr. HART. Mr. President, reserving the right to object, it is my understanding that under the request of the distinguished majority leader, all business that has transpired to this point on the bill will be, in effect, preserved when the bill is reported back by the Labor Committee; and further, that any other amendments except those which are contained in the order would not be in order.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HART. I thank the majority leader.

Mr. THURMOND. Mr. President, the request that has been made pursuant to the agreement of the parties meets my approval, and I go along with it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

The Chair hearing none, it is so ordered.

The text of the agreement follows:

Ordered, That S. 1319 (Order No. 226), a bill to authorize certain construction at military installations, and for other purposes, be referred to the Committee on Labor and Human Resources with instructions that it be reported out as referred, including all amendments agreed to, no later than the close of business on July 26, 1979.

Ordered further, That the Majority Leader be authorized on July 30th or 31st, or August 1st, to call up said bill, with the pending amendment by the Senator from New Jersey (Mr. Williams) to be the pending question, and with no other amendments in order, except an amendment by the Senator from Nebraska (Mr. Exon) and any germane amendment thereto.

Ordered further, That debate on any amendment be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Colorado (Mr. Hart) and the Senator from South Carolina (Mr. Thurmond): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

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

Mr. ROBERT C. BYRD. I yield to the Senator from Colorado.

Mr. HART. Mr. President, I thank the majority leader and the minority leader for their efforts in a very difficult situation. I think they have both acted very wisely and very helpfully, and I thank them both.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Colorado.

Mr. BAKER. I thank the Senator as well.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate now proceed to the consideration of matters under the order previously entered.

REAUTHORIZATION OF FEDERAL INSURANCE ADMINISTRATION INSURANCE PROGRAMS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 903, which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar Order No. 155, a bill (S. 903) to extend the crime insurance and riot reinsurance programs under title XII of the National Housing Act, the national flood insurance program under the National Flood Insurance Act of 1968, to authorize appropriations for studies under the National Flood Insurance Act of 1968 for the fiscal years 1980 and 1981, and for other purposes,

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 1201 of the National Housing Act is amended—

(1) by striking out in subsection (b)(1), "September 30, 1980" and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out, in subsection (b)(1)(A), "September 30, 1983" and inserting in lieu thereof "September 30, 1984".

SEC. 2. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof September 30, 1981".

(c) Section 1376(c) of such Act is amended by striking out "and not to exceed $114,000,000 for the fiscal year 1979" and inserting in lieu thereof the following: "not to exceed $114,000,000 for the fiscal year 1979, and not to exceed $74,000,000 for the fiscal year 1980".

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

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

Mr. STEWART. Yes.

UNANIMOUS CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on this measure there be a time limitation as follows:

A one-half hour time limitation on the bill, to be equally divided between the Senator from Alabama (Mr. STEWART) and the Senator from Utah (Mr. GARN);

That there be a time limitation on any amendment thereto of 10 minutes, a time limitation on any debatable motion, appeal, or point of order of 10 minutes; and

That the agreement be in the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, with respect to the next bill which follows on after the disposition of the pending bill, or Calendar Order No. 169, the rural housing bill, I ask unanimous consent that the following agreement be in order:

That there be 1½ hours on the bill, to be equally divided between Mr. MORGAN and Mr. GARN;

That there be 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, point of order, or appeal; and

That the agreement be in the usual form.

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

Mr. ROBERT C. BYRD. I further ask unanimous consent, in the case of both bills, Calendar Order No. 155 and Calendar Order No. 169, that following the third reading of the measures, they be put aside temporarily until such time as the third housing bill, Calendar Order No. 176, has been called up and is in the amendment stage, and that no call for the regular order bring either of those two bills back before the Senate until such time as the third measure is before the Senate, and only then for the purposes of incorporating them into that bill, as amended.

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

Mr. ROBERT C. BYRD. I believe that concludes my request, and I thank the minority leader and all Senators.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

STATEMENT OF SENATOR STEWART

Mr. STEWART. Mr. President, S. 903, is a bill to extend the crime insurance and riot reinsurance program under title XII of the National Housing Act, the national flood insurance program under the National Flood Insurance Act of 1968, to authorize appropriations for studies under the National Flood Insurance Act of 1968 for the fiscal years 1980 and 1981, and for other purposes.

S. 903 was reported favorably to the Senate by the Committee on Banking, Housing, and Urban Affairs on May 15. The bill is a simple extension and reauthorization measure. It is similar to the bill submitted by the administration in order to continue the programs conducted by the Federal Insurance Administration.

S. 903, as recommended by the Committee on Banking, Housing, and Urban Affairs would extend the National Flood Insurance and the crime insurance and riot reinsurance programs for 1 year, and in addition, would authorize ap-

propriations for necessary flood studies not to exceed $74 million in fiscal year 1980. This is the amount requested by the administration.

In recommending committee adoption of S. 903, I indicated that I believed passage of this measure is necessary at this time in order to insure that the proper oversight hearings on these programs can be conducted during the coming year and that subsequent legislative deliberations can be held in an orderly manner. Reauthorization for an additional year will, I believe, eliminate the possibility that the Senate would be faced with the necessity for passing a short-term extension for the programs, or making last minute decisions because the programs are expiring.

I understand that on several previous occasions, delays in enacting authority for the insurance programs resulted in panic buttons being pressed all across the country because existing insurance arrangements were threatened with unexpected termination.

We all know that neither the private insurance industry, nor the Federal Insurance Administration, can operate effectively on uncertainty, delay, or short-term extensions.

We cannot, this year particularly, permit the flood insurance program to be jeopardized. The crime insurance program is just now beginning a critical test; I believe we should permit the demonstration to be carried out and the results evaluated in a systematic way, rather than force the results by untimely scheduling.

The riot reinsurance program and the related FAIR plan property insurance program need a lot of study. Failure to act this year would mean that study, interpretation, and legislative deliberation could be straitjacketed by the calendar.

Mr. President, at this time I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the distinguished Senator. I have no comments at this point.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 310

(Purpose: To transfer position of Federal Insurance Administrator to the Federal Emergency Management Agency. Transfers Level IV position on executive pay scale from Department of Housing and Urban Development to Federal Emergency Management Agency)

Mr. STEWART. Mr. President, I have two technical amendments to offer. These amendments would simply transfer the position of the administrator of the national flood insurance program now lodged in the Department of Housing and Urban Development to the newly created Federal Insurance Administration.

This has been discussed with Mr. Macy, designated nominee of FEMA and he desires that this transfer be made at this time.

These are technical amendments, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection. it is so ordered.

Mr. STEWART. Mr. President, I send the amendments to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 319.

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

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

The amendment is as follows:

On page 3, after line 22, insert the following:

Section 1105(a) of the Urban Property Protection and Reinsurance Act of 1968 (Title XI of Housing and Urban Development Act of 1968) is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency."

On page 3, after line 22, insert the following:

Section 5313 of Title V United States Code is amended by striking, at paragraph "(91)" the words "Department of Housing and Urban Development" and substituting in lieu thereof the words "Federal Emergency Management Agency."

Mr. STEWART. Mr. President, my statement indicated the purpose of the amendment. I yield to my colleague.

Mr. GARN. Mr. President, the bill before the Senate—S. 903—does two things. It is a simple 1-year extension of the Federal flood insurance, crime insurance and riot reinsurance programs. These programs are presently authorized through September 30, 1980, and the bill would extend the authorizations until September 30, 1981. Further, the bill would authorize appropriations of $74 million in fiscal year 1980 for flood insurance mapping studies, an ongoing process to determine actuarial premium rates for flood insurance.

While I am supporting S. 903, I wish to reiterate briefly the concerns about the bill which I expressed during its consideration by the Committee on Banking, Housing, and Urban Affairs in May of this year. It should be made clear that extending these programs does not represent any conclusion by the Banking Committee or by the Senate that all of these programs should be continued indefinitely, or that they should not be modified. Unfortunatley, no hearings have been held on S. 903; as a result, detailed evaluation of the operations of the programs must be deferred.

In that regard, my willingness to support the bill has been and continues to be dependent upon an undertaking by the Subcommittee on Insurance to conduct meaningful oversight hearings on the present operations of the programs. At that time the subcommittee will have an opportunity to assure itself that the programs are operating in accordance with congressional intent, and to evaluate the question of whether the riot reinsurance and crime insurance pograms should be continued.

It should be remembered that the Federal riot reinsurance and crime insurance programs were created as temporary programs to address the insurance needs of urban areas in the wake of riots which occurred in the late 1960's. The laws creating these two programs contain a provision requiring the submission to Congress of a plan for the "liquidation and termination" of the programs.

Thus, it is clear that Congress has a responsibility to judge periodically whether the programs should be continued or, on the other hand, whether the private insurance and reinsurance markets are in a position to provide the needed insurance coverages. I should emphasize that I have not reached any conclusions on these questions, but I believe that Congress has a continuing responsibility to ask the questions.

This is of course true of any Government program, but it is particularly true in this case. The Federal Insurance Administration, which administers the insurance programs, was combined into a new Agency, the Federal Emergency Management Agency (FEMA) earlier this year. However, the administration has been unable or unwilling to appoint a Director of FEMA, even though it has reportedly been seeking to do so since last year. Under these circumstances, it may have been more prudent for the Senate to withhold the extension of these programs until the administration discloses who is going to be in charge of the Agency.

Mr. President, the taxpayers of this country are demanding—as they should demand—that Congress stop enacting and extending Federal programs on a bare showing that somebody thinks that they are a good idea. It is incumbent upon the Senate to respond to the public's expectations by carefully examining existing programs, and I urge the members of the Banking Committee to do just that in its oversight of the Federal insurance programs.

Mr. STEWART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. Mr. President, I yield back the time of the minority on this particular amendment.

The PRESIDING OFFICER. Does the Senator from Alabama yield back the remainder of his time on the amendment?

Mr. STEWART. Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Are there further amendments?

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

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 320

(Purpose: To require a study of the impact of the national flood insurance program on well developed flood hazard areas)

Mr. HUDDLESTON. Mr. President, on behalf of myself, Senator FORD and Senator STEWART I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 320.

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

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

The amendment is as follows:

At the end of the bill add the following:

SEC. 3. The Director of Federal Emergency Management Administration, in consultation with the Appalachian Regional Commission, the United States Army Corps of Engineers, and other appropriate agencies, shall carry out a study to identify (1) the extent to which individual political jurisdictions have significant concentrations of population, businesses, and commercial and public facilities within special flood hazard areas under the national flood insurance program but have a limited availability of alternative sites for construction and development, and (2) the impact of the national flood insurance program on property values, the tax base, and economic activity in such jurisdictions, and shall report not later than March 1, 1980, to the Congress on the special problems of such jurisdictions and alternative means of meeting any problems identified. The alternative means considered shall include but not be limited to technical assistance, long-term subsidized interest rate loans, and development of alternative building sites.

Mr. HUDDLESTON. Mr. President, I believe that many of the objectives of the flood insurance program are desirable, perhaps even necessary. A system that insures against disaster losses is certainly preferable to one of waiting for a calamity and then for Federal grants and loans.

Even so, however, I think we are all aware of the many problems that have plagued the flood insurance program and of the rather harsh repercussions which result when a community either will not or cannot meet the requirements for participation in the program.

Indeed, I understand that the committee has reported the straight 1-year extension of the existing law in order to provide additional time to examine in detail this somewhat complicated and controversial program.

The amendment I am offering today goes to the heart of a problem which continues to plague the program—how to deal with those areas, such as the very mountainous ones in the Appalachian region of my State, where much of existing development is within the 100-year flood plain; where alternative development sites are expensive, limited, inconvenient or simply unavailable and where the flood insurance program as it currently exists can practically bring to a standstill expansion and development within an area and depress the property values therein.

It is a very simple matter to say that one should build outside the flood plain. Certainly one "should" build outside the flood plain, but the realities and practicalities are something else. We are talking about communities which already exist—homes and businesses that represent investments and roots—homes and businesses that were built in many cases long before there was any such thing as a flood area designation.

Yet, we have come into these areas and said, "Either you do not build in the flood plain or you build with protection," a requirement which can be costly, if not practically impossible.

Furthermore, we have said, "If you do not accede to our requirements, then funding for expansion and growth of your community will be severely limited."

This might be an acceptable approach if these communities were not well established ones or if they had ready options. But in many mountainous areas, that is not the case. In those areas, there is often no alternative site outside the flood plain, no financing for a move even if one were feasible and no inclination to abandon home and resources.

In a number of areas, including my State, the situation is compounded by the fact that our most abundant energy supply—coal—comes from these regions. Development of that energy means additional people, additional businesses and expansion, all of which exacerbate already-existing pressures in the area.

The bottom line question is what restrictions, what limitations we can fairly and reasonably impose upon such communities—what economic burdens we can expect them to bear, principally because of the accident or happenstance of their location.

Consequently, this amendment seeks to provide us with an assessment of the extent of the problem and some initial recommendations for consideration—an assessment and recommendations that could, I hope, form the base for committee hearings and consideration of this special matter.

Mountainous areas as well as developed areas within the flood plain are scattered throughout our Nation, but the problems they pose for the flood insurance programs are ones that need to be addressed, not ignored. I would hope that this amendment could provide the groundwork for addressing those problems.

The amendment calls for a study of these special situations where much of a developed community lives within the special flood hazard area and alternative developable land is limited or nonexistent. It also requires a report by March 31, 1980 on both the impact of the flood insurance program on these areas and recommendations for meeting the problems which exist because of their special situation.

Mr. GARN. Mr. President, several community leaders in Utah have informed me that the flood insurance regulations imposed on many Utah areas are inappropriate for the type of flooding problems which might occur in those communities. In such areas where the flood level would be very low, and the designated flood hazard area covers a large portion of the community, they believe that the communities are required to comply with essentially the same regulations as major flooding areas. I understand that the same problem exists in other Western States.

As a matter of fact, at one point when I was mayor of Salt Lake City, as large as that city is, almost the entire city was included in the flood plain, even up on the high bench levels, and we were fortunately able to get rid of the 1875 map they were using to determine the flood plain and make it more realistic.

But in our smaller communities, it does become a real problem.

So my question to the distinguished Senator from Kentucky is, Would the study contemplated by your amendment include an analysis of this type of problem?

Mr. HUDDLESTON. I would certainly anticipate that it would.

That is the kind of problem, regardless of its cause, that ought to be included in the study, and we should have some recommendations on it.

Mr. GARN. Under the amendment, would it be appropriate for local officials to submit information to the Federal Insurance Administration concerning the economic effects of the flood insurance regulations, and for that information to be considered in the study?

Mr. HUDDLESTON. I would think it would not only be appropriate, but necessary, for those conducting the study to include information about economic geographic and other related factors from local officials. I believe that is where they ought to start with the study.

Mr. GARN. I would agree with the Senator. But what is logical, sometimes is not taken into consideration by Federal agencies.

So with that clarification, that these type studies would be contemplated, where the area includes much of a community and where local officials certainly would be welcome to submit their economic data on the effect it has in their community, and that be taken into consideration, I have no objection to the amendment.

Mr. STEWART. Mr. President, I commend the Senator from Kentucky for offering the amendment.

I, too, have similar problems in my State, particularly in the southeastern part of the State along the gulf coast.

I have joined with him in sponsoring this amendment. In line with what the Senator from Utah asked in his questions, I would hope that our people could take advantage of this opportunity.

I have no objection to the amendment whatsoever.

Mr. HUDDLESTON. I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. I yield back the remainder of the time for the minority.

Mr. HUDDLESTON. I yield back my time.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment (UP No. 320) was agreed to.

The PRESIDING OFFICER. Are there any further amendments?

Mr. STEWART. I understand, Mr. President, that is all the amendments. With that understanding, I would yield back the remainder of my time.

Mr. GARN. I yield back the minority time.

The PRESIDING OFFICER. All time has been yielded back.

FEDERAL INSURANCE PROGRAMS: THE IMPORTANCE OF FLOOD INSURANCE

Mr. ROBERT C. BYRD. Mr. President, I commend the chairman of the Insurance Subcommittee of the Banking Committee, Senator STEWART, for his management of the Federal insurance programs reauthorization bill. Senator GARN did a commendable job managing for the minority. The ranking minority subcommittee member, Senator LUGAR, has also done a fine job in connection with this bill.

Particularly important to me and to the people of West Virginia is the extension of the flood insurance program. The 11-year-old program has done much to reduce the losses suffered by people driven from their homes and businesses because of floods. The bill extends flood insurance for 1 year. During that time, the Banking Committee will carry out thorough oversight hearings on the program and make legislative recommendations to improve it.

One addition to the program is authorized by this bill; $74 million for the mapping of flood plains. Once detailed maps of flood plains are available, a new system of premiums designed to keep the insurance system on a sound footing can be put into effect. Particular care will be paid to mountainous regions where flooding is more difficult to predict.

I again commend the managers for their work on this measure and thank all Senators involved.

The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

RURAL HOUSING AMENDMENTS OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1064, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 1064) to amend and extend title V of the Housing Act of 1949.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, line 11, strike "1981" and insert "1980";

On page 2, line 13, strike "1981" and insert "1980";

On page 2, line 20, strike "1981" and insert "1980";

On page 3, beginning with line 8, insert the following:

(1) by inserting "and" after "clause," at the end of clause (A);

On page 3, line 10, strike "(1)" and insert "(2)";

On page 3, line 12, strike "(2)" and insert "(3)";

So as to make the bill read:

S. 1064

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 "Rural Housing Amendments of 1979".

EXTENSIONS AND AUTHORIZATIONS

SEC. 2. (a) Section 513(b) of the Housing Act of 1949 is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(b) Section 513(c) of such Act is amended by inserting after "September 30, 1979" the following: ", and not to exceed $30,000,000 for the fiscal year ending September 30, 1980".

(c) Section 515(b)(5) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(d) Section 517(a)(1) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(e) Section 523(f) of such Act is amended—

(1) by inserting in the first sentence after "any such fiscal year," the following: "and there are authorized to be appropriated not in excess of $7,500,000 for the fiscal year ending September 30, 1980,"; and

(2) by striking out "1979" in the second sentence and inserting in lieu thereof "1980".

(f) Section 523(g) of such Act is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(g) The second sentence of section 525(c) of such Act is amended by striking out "for the fiscal year ending September 30, 1979," and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

REFINANCING

SEC. 3. Section 501(a)(4) of the Housing Act of 1949 is amended—

(1) by inserting "and" after "clause," at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

ASSISTANCE ALLOCATION

SEC. 4. Title V of the Housing Act of 1949 is amended by adding at the end thereof the following:

"ALLOCATION

"SEC. 529. Notwithstanding any other provision of law, the Secretary shall assure when providing assistance for housing under this title that, in each fiscal year, at least 30 per centum of the eligible households assisted have incomes below 50 per centum of the national median income, and no more than 15 per centum of the eligible households assisted shall have incomes above 80 per centum of the national median income.".

COMPENSATION FOR DEFECTS PROGRAM

SEC. 5. Section 509(c) of the Housing Act of 1949 is amended by striking out the word "eighteen" the second and fourth places it appears and inserting in lieu thereof the word "thirty-six".

PROPERTY DISPOSITION

SEC. 6. Section 510(e) of the Housing Act of 1949 is amended—

(1) by inserting, ", to repair and rehabilitate such property," after "United States therein"; and

(2) by inserting before the semicolon at the end thereof the following: "; except that the Secretary may not sell or otherwise dispose of such property unless (1) the property meets the plans and specifications established for that type of housing by the Secretary under section 506(a) of this title, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for purposes of habitation".

FARM LABOR HOUSING

SEC. 7. (a) Section 516 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe. Such housing shall be located in a safe and sanitary environment with adequate recreation area.".

(b) Section 516(c)(1) of such Act is amended by inserting before the semicolon at the end thereof the following: "; except that in no case may the monthly rental exceed 25 per centum of one-twelfth of the tenant's annual income unless the applicant is receiving assistance under section 521(a)(2)(A) of this title (or has been denied such assistance after making a good faith effort to obtain it) or the tenant is receiving assistance under section 8 of the United States Housing Act of 1937".

PREPAYMENT—LOW-INCOME CHARACTER

SEC. 8. (a) The Congress declares that it has been its intent since the enactment of sections 514 and 515 of the Housing Act of 1949 that prepayments or refinancing under section 502(b) of such Act should not operate in a manner which will deprive low- and moderate-income occupants, or potential low- and moderate-income occupants, of rural rental or farm labor housing financed under such sections, of their right to continue residency in that housing upon reasonable terms and conditions.

(b) Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(c) When enforcing the provisions of subsection (b)(3) of this section with respect to any loan under section 514 or 515, including any loan made or insured before the date of enactment of this subsection, or when approving the repayment of any such loan before the time when it was originally

scheduled to be repaid, the Secretary shall take appropriate action to require the borrower and any successors in interest (1) to continue to use the housing for its original purposes during the remainder of the original repayment schedule, and (2) to give assurance that no person occupying the housing shall be required to vacate because of early repayment. The preceding sentence does not apply where the Secretary determines that there is no longer a need for such housing.".

TECHNICAL ASSISTANCE

SEC. 9. Section 523(b) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and".

RENTAL ASSISTANCE

SEC. 10. (a) The first sentence of section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "public and private nonprofit owners" and inserting in lieu thereof "the owners"; and

(2) by inserting a comma before "congregate".

(b) Section 521(a) of the Housing Act of 1949 is amended—

(1) by striking out, in paragraph (1)(H), "of loans made" and inserting in lieu thereof "of new loans made in any year"; and

(2) by striking out the second sentence of paragraph (2)(A) and inserting in lieu thereof the following: "Such assistance may be for up to 100 per centum of the units in any farm labor, cooperative, or other rental project assisted under this section. In approving such projects, the Secretary shall give priority to projects in which assistance is provided to 40 per centum or less of the units contained in the project.".

Mr. STEWART. Mr. President, I ask unanimous consent that the following aides have the privilege of the floor during the debate on S. 1149, the Housing and Community Development Amendment of 1979: Albert Eisenberg, David Yudin, Frank Shafroth, Steven Rohde, Flip Morris, Charlesetta Griffin, Michele Turcotte, Stephen Paradise, Gerald Lindrew, Michael Goldberg Deniese Medlin, Philip Corwin, Judith Davison of Senator SARBANE's staff, Ken McClean, Bob Malahoff, Phil Sampson, Jessalie Barlow, Tony Clough, and Howard Mennell.

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

Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The pending business before the Senate is S. 1064.

The question is on agreeing to the first committee amendment.

Does the Senator wish all committee amendments to be considered en bloc?

Mr. MORGAN. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. MORGAN. Mr. President, this bill was reported favorably by the Committee on Banking, Housing and Urban Affairs on May 15 of this year, following a markup on May 10 and a hearing on May 4, during which testimony was received from the Administrator of the Farmers Home Administration, the Assistant Secretary for Housing of the Department of Housing and Urban Development, and representatives of organizations which have broad experience with rural housing programs.

The committee bill would extend and provide appropriations authority for the basic housing programs conducted by the Farmers Home Administration, and would make nine substantive changes in rural housing programs.

The committee bill is similar to the bill submitted by the administration in terms of spending authority. It differs from the administration bill chiefly in restricting spending to 1 year, instead of providing authority for 2 years, as requested by the administration.

The Congressional Budget Office estimates that the bill would provide authorization for $84 million in loans and $66½ million in spending authority for rural housing grants.

The bill would continue the authority requested by the administration for a rural homeownership assistance program.

CBO estimates that outlays for these rural housing programs will amount to $140 million in fiscal year 1980, and that the long-run budget authority authorized will total just over $1 billion.

In addition to extending and reauthorizing the homeownership and rental assistance programs, the farm labor housing program, the very low-income repair program, and several other valuable rural housing programs, all of which are explained in the committee report in more detail, the bill would make several important changes in the Farmers Home programs.

Section 4 would direct the Secretary of Agriculture to target more funds for housing assistance to lower income families.

Section 7 would aid the Nation's farmworkers, one of the lowest income groups in the Nation, by extending the 25 percent maximum rent rule used in other housing programs to farmworker housing projects. This section also would authorize grants to construct housing appropriate for seasonal occupancy in order to improve the frequently appalling living conditions these essential workers find themselves in.

Mr. President, I have toured some of this housing in my own State, and I know the need for the improvements we are talking about.

Section 8 of the bill would clarify congressional intent regarding the obligation of sponsors of rural rental housing to maintain projects financed with FmHA loans for persons of low- and moderate-income. This provision was adopted by the committee out of a concern that the shortage of decent housing and increasing property values in rural areas is increasing financial pressure to convert FmHA-aided rental housing now serving lower income persons to higher income rentals. The committee received information indicating that during the past 3 years there has been a significant increase in the number of owners of FmHA financed projects who have prepayed or refinanced their loans.

Such action, the committee believes, could result in a significant reduction in the number of rental units available to lower income persons in rural areas, the very persons this program was intended to help; in the tragic displacement of elderly and lower income families from apartments that were intended for their use; and an increased costs to the Federal Treasury for providing rental housing assistance in our smaller communities. Section 8 of the committee bill would clarify congressional intent that prepayment or refinancing of FmHA loans should not result in eliminating housing that has been financed to provide shelter for elderly and lower income persons in rural areas, and require the Secretary of Agriculture to take appropriate action to insure that such housing will remain available for the purpose intended by the law.

In addition to making these changes, the committee bill also would improve the farmers home property disposition programs, its home refinancing authority, its program of technical assistance and several other programs.

Mr. President, I am aware that there is substantial concern about section 8 of the bill, the prepayment provision. I share a good deal of this concern. For the problem that the provision attempts to resolve is a difficult and complex issue. It involves the interests and well being of low- and moderate-income rural residents and of builders and investors who have, expanded housing opportunities in rural America and are continuing to. It also vitally affects the rental program of the Farmers Home Administration. And, in addition, it affects all of us as taxpayers.

I have in recent days received a considerable amount of new information about the prepayment issue. I have, as a result, reviewed the provision. I have come to share some of the views of those who believe the provision can be improved.

I understand that several of my colleagues wish to speak to the prepayment issue with a view toward amending it.

I would be most happy to hear additional discussion of the provision and to entertain any proposals which may improve the committee bill.

While I have, after reviewing the sub-

ject, come to believe that some change may be necessary to provide for a better balancing of the various interests affected by the provision, I will, as manager of the bill, hold my mind open to the suggestions that my colleagues may wish to make.

I indicated in my remarks that I have received additional information concerning the provision in the bill which would require borrowers to continue to use the housing for its original purpose "during the remainder of the original prepayment schedule".

While we did not receive many comments on this provision before the committee's markup of the bill, we have since then.

The information we are receiving indicates that there is considerable concern that the amendment could significantly reduce the production of rental housing in rural areas. Many builders and many investors have stated that a restriction on prepayment for a period as long as 50 years which is normally the period of the loan could in effect dry up investor interest in rural housing. A number of my colleagues have also expressed concern about the possible impact of the amendment on the production of housing.

While our original estimate did not support the view that the amendment would drag production to a standstill, more recent information has raised more doubts in my mind about the potential impact. I sought from the Department of Agriculture and from the Department of Housing more information to assess the potential impact. The answers indicate that we really do not know what the impact would be for sure. The rural rental housing program is still too new to provide much information. Moreover, the rapidly changing economic climate raises even greater questions.

Rental housing production in the Nation is at an all-time low. In our smaller communities, the need for rental housing is increasing as never before. Recent economic changes cloud the future of housing production, particularly the production of rental housing.

I would not want to see a sharp reduction in rural rental housing production at this time.

Nor do I want to see rural rental housing opportunities for low- and moderate-income families reduced simply because owners of projects financed by FmHA find that it is in their economic interest to pay off the loans and to convert these apartments to condominium or higher income rentals.

It is not easy to strike a balance between the objectives of maintaining production and maintaining rural rental housing for low- and moderate-income persons.

But, in reviewing this matter, I have come to the conclusion that an amendment to the committee bill is needed.

I, therefore, am introducing an amendment to limit the period during which the Secretary of Agriculture would oversee early repayments under the section 515 program to 15 years. This, I believe, is a reasonable compromise from the requirement of the committee bill.

UP AMENDMENT NO. 321

(Purpose: To modify the prepayment provision)

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 321.

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

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

The amendment is as follows:

On page 6, line 18, strike out "remainder of the original repayment schedule" and insert in lieu thereof "15-year period beginning on the date the loan is made or insured".

On page 6, line 20, before "because of early repayment" insert "prior to the close of such 15-year period".

Mr. MORGAN. Mr. President, I move that the amendment be adopted.

Mr. President, I yield the floor at this time.

Mr. GARN. Mr. President, the housing and development problems of rural America are serious. There are countless small communities and millions of families which desperately need the assistance provided in S. 1064, the Rural Housing Amendments of 1979, which we have before us. This legislation authorizes for fiscal year 1980 important rural housing programs administered by the Farmers Home Administration. I commend Senator MORGAN, chairman of the Rural Housing Subcommittee, for his leadership in putting this legislation together.

I am basically in support of the provisions of S. 1064 which for the most part represent increases over previous years' funding levels. We have a long way to go in meeting the needs of our rural citizens, and while it contains increases, I still feel this bill is a reasonable measure keeping with our efforts to hold down Federal spending.

However, I have one problem with this legislation. During markup the Banking Committee adopted as section 8 the prepayment low-income character provision. Upon further consideration and discussions with Senator MORGAN, I have decided that this provision will so seriously hamper the future development of section 514 and section 515 housing that I will support the amendment offered by Senator MORGAN and propose one of my own. Senator MORGAN and I have reached an agreement that these two amendments are a more reasonable provision than contained in S. 1064 regarding prepayment or refinancing of projects built under the section 514 and section 515 programs of the Housing Act of 1949.

Our amendments would apply to the relatively small section 514 farm labor housing program, and it would be primarily directed at preserving the highly successful section 515 rural rental housing program. This program provides loans to nonprofit limited-profit and profitmaking organizations and individuals who are developing low-rent housing for low- and moderate-income persons and the elderly.

Let me speak first to Senator MORGAN's amendment which deals with a provision which is currently contained in the bill, which I believe is unreasonable and inequitable. It would provide that with respect to prepayment or refinancing of any loan under the section 514 or 515 programs, the borrower or any new purchaser would be required to maintain the housing for low- and moderate-income persons for the entire term of the loan, which is up to 50 years. In addition, the provision appears to be intended to apply retroactively to all projects which have already been developed under these programs.

Mr. President, the "50-year lock-in" provision, as it has been called, seems to me particularly unwarranted and onerous. I understand the intent of the supporters of this provision which is to maintain low- and moderate-income housing for its intended beneficiaries for as long a term as possible. But what this provision will actually do is to eliminate any possible incentive for the private developer or private investor to participate in these programs. And I think that the unintended result of this "50-year" provision—which does not exist in any other low- and moderate-income housing program—would be a significant loss in the available housing for low- and moderate-income families and the elderly because the private developer would be excluded from the program.

It is a fact that although the institutional nonprofit groups are given priority in funding under the section 515 program, the largest percentage of loans under the program—well over one-half in 1978—are given to profit-motivated sponsors. If private sponsors were virtually excluded under this program, I do not believe that nonprofit sponsors would be able to fill the gap.

I believe that it is important to maintain some incentive to allow the private developer—both large and small—to remain in this program. This program was developed to provide needed housing in smaller communities where conventional financing is not available. In fact, a "credit elsewhere" provision is included in the Housing Act of 1949 which provides that loans should be refinanced whenever it is determined that this can be done through private sources on reasonable terms and conditions.

I do not oppose a congressional determination at this time which provides that the program should be operated so that prepayment or refinancing does not result in the elimination of low- and moderate-income housing for a reasonable period of time. But I think that the solution contained in this bill is a classic case of legislative overkill. First, we have no statistical or objective evidence from the Farmers Home Administration which shows that when these projects are refinanced or prepaid, the existing tenants are displaced. In fact, all of the evidence that I have seen indicates that in most instances the projects remain within the program and continue to serve the low- and moderate-income occupants. The

Farmers Home Administration has been unable to provide documentation which demonstrates the scope and nature of this alleged problem.

Second, just a few years ago, the Farmers Home Administration developed provisions which made syndication of this type of project feasible. Now, this provision would eliminate this form of investment in these projects because no investor would want to lock up his money for a term of 50 years. The tax advantage in this type of project looks toward a maximum term of about 10 years for this type of project.

Finally, let me say a few words about my amendment which addresses the retroactive provision in this bill which I find particularly shocking and unconscionable. The program has always mandated prepayment or refinancing if private sources of financing become available. The section 515 program has been operated in this manner since its enactment. Now, this bill seeks to change the rules for existing players in the middle of the game. It seems hard to believe that Congress in 1979 would choose to tell the Secretary of Agriculture that this program—which has been in existence since 1962—has operated improperly and that it has always been the intent of Congress—although never before expressed—since the enactment of section 515 that prepayments and refinancing not operate to deprive low- and moderate-income people of rural rental housing.

I believe that retention of the retroactive provision—which I understand is opposed by the Department of Agriculture—would result in extensive litigation by borrowers and investors under this program since all current loan agreements contain the clear mandate which authorizes refinancing through private credit sources.

Mr. President, these amendments would offer a reasonable compromise which would assure that low- and moderate-income housing remains available for its intended beneficiaries for a reasonable term and would encourage continued private sector investment in this program. The amendments would provide that when approving any prepayment or refinancing of a loan, the housing would be maintained as low- and moderate-income housing for a period of 15 years from the date of obligation of the loan. These amendments would retain the concept already in the bill that this provision would not apply if the Secretary determined that there was no longer a need for such housing and would also waive the provision if Federal or other subsidy funds were no longer provided. My amendment would apply only to those loans made or insured subsequent to the date of enactment of this bill.

I urge my colleagues to accept these amendments which will assure that the section 515 program will continue to provide decent shelter for our needy rural citizens.

Mr. MORGAN. Mr. President, a parliamentary inquiry. Is the pending matter the amendment I sent forward?

The PRESIDING OFFICER. The Senator is correct.

Mr. MORGAN. For the present time I will withhold my remarks to the Senator until we consider the amendment of the Senator from Utah, so I ask that we act on the pending amendment——

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from North Carolina.

Is all time yielded back on the amendment?

Mr. MORGAN. I yield to the Senator from Alabama.

Mr. STEWART. I ask the Senator to yield for some questions at this time, Mr. President.

Mr. MORGAN. I would be happy to yield, Mr. President.

Is the Senator directing his questions to me or to the Senator from Utah?

Mr. STEWART. It is my understanding. Mr. President, and if I am not correct please correct me, that the matter before the body at this time is the amendment of the Senator from North Carolina to the bill; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEWART. My concern about the provision in the amendment is what effect it will have basically on those people who stand to benefit from the program the Federal Government is financing.

I do not know how many projects have been converted since the program got underway. I have no understanding, or I have an understanding from people very much interested in the program that they do not have any facts or information about that.

What my concern would be, and I want to have this established for the RECORD, is if these projects are converted at the end of the 15-year period of time that you contemplate what would be the effect of that as far as the residents and people who are low-income people in rural areas—what would be the result of that conversion?

Mr. MORGAN. Well, first of all, I assume the Senator understands my amendment speaks only to future loans.

Mr. STEWART. I understand.

Mr. MORGAN. The effect is it would provide them some additional protection from what they have at the present time.

Let me see if I can give to the Senator an illustration. Under the present law as it exists today there are no prohibitions against a borrower paying off a loan and thus once he pays it off there are no obligations that run with the property, so he is free to do what he wants to do with the property.

Let us assume there is a market in a small town in North Carolina which, speaking particularly of a given area I have been through, there is a market in a small town for some low-income rental housing, and there is a very special need for it there.

Some investor decides he is willing to invest his money in some low-income housing provided he can obtain some money, some low-interest money, from Farmers Home.

So he goes and utilizes the resources of Farmers Home low-interest money and builds some low-income rental housing, and the tenants move in.

Mr. STEWART. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Let me finish my description.

The tenants then move in and, of course, they are probably subsidized under section 8, but either because of the improved economic conditions in that area or the demand for a greater rental property the investor decides he will pay off the Farmers Home loan and evict the low-income tenants and rent it to someone who will be able to pay a higher rent. That is a possibility under the present law. While it has not happened to any great degree, the evidence before our committee—and there was not much evidence—indicated it may very well become a real problem because, for instance, out of 4,400 loans that were made in the last 4 years—and I do not know how many have been made in the 15 years in which the program has been in existence—only 400 have been paid off. But there was some evidence submitted to us by the National Law Project Group, as I recall, and I do not have the record before me, which indicated that in three given areas, in three different projects, the problem had become very real, and low-income renters were either evicted or almost evicted.

So what we did in our committee based upon that small bit of information was that we added to the bill that it had to maintain its own status for the whole term of the loan regardless of whether it was paid off or not, which sounded pretty reasonable to me.

But now, as we studied the problem, we found out there are more problems involved than just the possibility that low-income renters may be evicted. Investors may very well stop investing and, for that reason, I think a 15-year limitation or restriction on them now is certainly better than what we have. It would serve notice upon the investors that from this stage forward at least you are going to have to maintain the character of the property for at least 15 years.

I think we can also say—I will say—on the floor of the Senate that we expect to pursue this matter in our committee with a great deal of vigor later on. But I just simply do not feel, in light of all the information we now have, that we would be wise to tie up investors' property for 50 years on the basis of the meager evidence we have before us.

So, to answer the Senator's question, I think they would be far better off than they are today. I think if the Senator will bear with me for a minute, I can give him the total number of loans and the prepayments.

For instance, in 1966 there were 81 loans made under this program, and only 3 repayments.

In 1967, there were 110 loans and only 2 repayments.

In 1968, 297 loans and no repayments. That is essentially the record on down

until about 1975, when there were 1,153 loans and 36 repayments—some increase, but not a great deal.

In 1976, there were 1,539 loans, and 54 repayments. But in 1977, the number of repayments jumped to 111, and in 1978, 104.

So I think in the last 4 years the increase has been sufficient to warrant Congress in doing something, but we just simply do not have enough information as to how it would affect the overall program to go through with a 50-year restriction.

Mr. STEWART. Mr. President, let me ask the Senator a couple of questions, just for the RECORD and for clarification.

Is it not true that those people who are investors in this program get the benefit of low interest rates, or at least lower than conventional market rates, for participating in the program? Is that not correct?

Mr. MORGAN. Yes. That is the incentive for it.

Mr. STEWART. An additional incentive that they also have, and I am not as clear as I might be on this matter, but an additional incentive they might have is a change in the tax law that took place sometime in 1977 as a result of a law passed by Congress. Is that not correct?

Mr. MORGAN. A tax indulgence, I guess it is called.

Mr. STEWART. Because those matters caused me to have some concerns about this particular program, I agree with the Senator that he is making the provisions of the law as they now stand better than what they have been, but it is my understanding that the House committee, which held hearings on this same matter, set the 50-year cap, in effect, a period of time during which they had to hold the title for its use as originally intended.

The Senator is seeking to place this at a 15-year level. Is his reason for doing that and offering this amendment—and frankly I want to support the amendment, because I do not want to drive the private investor out of the program, but I want to make sure that these concerns are satisfied—is the Senator's effort to do that an effort to keep private investors interested in the program, and keep the program going on from that standpoint?

Mr. MORGAN. The Senator states it exactly correctly. I do not understand all about tax shelters, but I do know and I think everyone knows that one of the reasons many investors get involved in this sort of thing is for the tax shelter. We also know that without that, there might not be the incentive for them to build this kind of rental housing. So I think that is what we are trying to do, is keep the private investor in this kind of low-income rental property until we in the Senate can have time to have some hearings and try to ascertain what effect a 50-year restriction or limitation would have on it.

Mr. STEWART. I assume, because of the differences in the House bill, with the Senate bill as the Senator is now proposing to amend it, this will be a matter that will be taken up in conference; is that not correct?

Mr. MORGAN. It certainly will have to be taken up in the conference, because the House, as the Senator has stated, provides for 50 years, and if my amendment is adopted the Senate bill will provide for 15 years.

Mr. STEWART. I would respectfully request of the Senator two things, and I am certain he is going to do this, because it is a matter of concern to me and I am sure to him, because there are public policy questions involved.

Because of the problem of possible conversion and eviction of elderly and low-income people, I would hope we would have this matter addressed not only in conference, but within the Senator's subcommittee and within the Banking Committee itself, because apparently the conversions are on the rise. Apparently this will become more of a problem, and there is a tremendous amount of money being invested by the Federal Government in it.

I thank the Senator for his responses to my questions.

Mr. MORGAN. I can assure my colleague that we will, and I might say that a number of suggestions have been made, which we will be taking up.

Mr. President, unless someone else wishes to speak, I ask for action on my amendment.

The PRESIDING OFFICER. Is all remaining time on the amendment yielded back?

Mr. MORGAN. I did not realize there was a time limitation, but I do yield back my remaining time.

The PRESIDING OFFICER. Does the Senator from Utah yield back the remainder of his time?

Mr. GARN. I yield back the minority time.

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

The amendment was agreed to.

UP AMENDMENT NO. 322

(Purpose: To remove retroactive application prepayment requirements in rural housing programs)

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

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) offers an unprinted amendment numbered 322:

On page 6, line 12, strike ", including any loan made"——

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

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

The amendment is as follows:

On page 6, line 12, strike ", including any loan made or insured before" and insert "after".

Mr. GARN. Mr. President, this amendment is very simple. I have already explained it, and will only repeat that it would exclude the retroactive provision, which has been in effect since 1962. I think whether in this case or any other type of contract with the Government anyone goes into, the Government should expect that the contracting party will exercise good faith and credibility, and follow through on it.

So I will just simply say the effect of the amendment would be, in concert with that of the Senator from North Carolina, that the provisions would apply from the date of the enactment of the act, and not be retroactive all the way back to 1962.

Mr. MORGAN. Mr. President, if I may make a few comments on the amendment, while I think there may be questions we would want to ask for the RECORD, first of all, let me say that as a lawyer I have some very real problems with enacting any kind of legislation that changes or varies the terms of a contract that is already in existence.

In other words, many of these loans are by investors who have utilized these loans in the years past, and did so with the knowledge and understanding, if they bothered to check into it, that they could be paid off as they have been in the past, without restrictive limitations placed on them.

While I think there have been substantial arguments presented pro and con as to the constitutionality of such legislation, I doubt the wisdom of doing it or the rightness of doing it, although I really suspect that constitutionally it could be done.

The problem is not all that great, to be that concerned about, because, as I have listed them, there have been only about 400 paid off in all. There are possibly some other ways that we can deal with this subject, if considered adequately by the committee. For instance, I had suggested to me this afternoon by some of my friends representing the Rural Housing Coalition, a group that I think has made tremendous contributions in rural housing, and I think also the Housing Assistance Council, that what we might possibly do is encourage Farmers Home to refinance a project in the event an investor wanted to sell it.

In other words, if the investor wanted to sell it to someone else, we ought to encourage Farmers Home to refinance it in order to keep that housing available for low-income people.

But that in itself presents a problem which the Farmers Home Administration does not particularly like, and I think it has that authority now, that it might encourage that sort of thing, that it might encourage profit taking. There are also a number of other objections.

For that reason, after considering it with my staff and others, we thought perhaps we should not write anything into the bill that would mandate or require Farmers Home to do that sort of thing without at least having to consider it in the full committee.

I think what we are doing here is today offering to the low-income renters some immediate protection without varying the terms of contracts which are already in existence, which I find repugnant to my way of thinking.

I wonder if my colleague would allow me to ask him a couple of questions for the record?

Mr. GARN. Certainly.

Mr. MORGAN. Am I correct in understanding that the Farmers Home loans in question are direct loans from the Federal Government to the owners of the property?

Mr. GARN. That is my understanding.

Mr. MORGAN. Does the Senator believe that a developer who borrows Federal funds to build houses for low- and moderate-income people should feel some kind of responsibility to maintain such housing for a significant period of time?

Mr. GARN. Yes, I certainly do.

Mr. MORGAN. I assumed so by the Senator's support of the amendment. The question of time we have agreed upon today is 15 years, but we will look into that matter.

I have another question: Am I correct in understanding that at the present time if an owner of a Farmers Home-financed project prepays the mortgage on the project, he can raise rents or even evict tenants or convert the housing to a different use if he desires?

Mr. GARN. That is correct. So the low- and moderate-income people at this time have no protection. What the bill did was to go to 50 years, which is quite another extreme, and the 15 years gives them immediate protection.

Mr. MORGAN. What the Senator and I are trying to do is to recognize, really, these bad aspects of it, and trying to provide some protection immediately for them in the future, giving us time to look further into the matter.

Mr. GARN. That is correct.

Mr. MORGAN. I thank my distinguished colleague.

I yield to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New Jersey is recognized.

Mr. WILLIAMS. I would like to be further enlightened on what is involved here. I do commend the manager of the bill and the ranking member for the work they have done on this legislation. In this particular area, perhaps, my understanding is not as complete as I would like it to be. I have a table in my hand which shows that there are what I consider to be a fairly significant number of loans that are prepaid. Last year, in 1978, there were 104. In 1978, new loans were 1,466 and loans prepaid were 104.

I just wonder if Senators who are more knowledgeable can give me some appreciation of what is basically the nature or the makeup of the tenants in this housing and then, after a prepayment, who are the new tenants in this housing, if there are new tenants.

Mr. MORGAN. I would say to my distinguished colleague with regard to who the new tenants are we really do not know, because there has been so very little experience. The record of the hearings in this matter indicated that one of the housing groups submitted to us a report which talked about three particular projects. If I remember my facts correctly, in one of the projects, after it was paid off, the tenants were evicted. That was in Ohio.

There was another project, if my recollection serves me correctly, perhaps in Wisconsin, where part of the tenants were evicted, or at least in one of the other two projects, but then wiser heads prevailed and the owners of the property realized what was happening to the low-income tenants and they did not evict any more. They let the tenants stay in the status they were in.

I would say candidly to my colleague that I suspect if we do not do something, which I think we have already done, eventually there would be other problems. For instance, let us say IBM comes into my hometown with a new industry. There is a lot of demand for new housing and rents go up. I would expect that the low-income tenants would find themselves evicted and some high-income tenants would be replacing them. That is why I am very much concerned about the problem and why we put the provision into the bill to begin with.

Mr. WILLIAMS. I share the concerns of the distinguished Senator from North Carolina. With the knowledge that between 35 and 40 percent of this assisted rental housing is occupied by elderly families, that even sharpens my concern, because we know so clearly the problems of rental housing for older people on reduced incomes. There is just not available vacant housing for them. If they are to lose the opportunity which was given to them when this program was created, which was to serve people of this income level, if they lose their housing, it really is defeating the objective we wrote into this law. Somebody is going to be making a considerable profit at the expense of the lower-income people we thought we were serving by creating this program. That is my concern.

Mr. MORGAN. I certainly share the Senator's concern. I realize, and I know the Senator does, too, there is really not a greater need in this country today, in my opinion, than for decent housing for low-income people and for the elderly. I can say to the Senator that I am going to do everything in my power to make sure that those investors who utilize the advantages that we offer to them by low interest loans maintain the character of these units just as long as I think it is possible to do without destroying the program.

I say to the Senator I had no hesitation putting this provision into the bill when it came out of our committee, because the three projects submitted to us were just so telling with regard to the need for it. But I must say in all candor I have been approached by people from all over the country, builders and investors, but particularly one or two in my home State, who I know have always had the public interest at heart. They tell me that there is a point beyond which you cannot go without killing the goose, so to speak.

As we go into this matter in the future I can assure the Senator that we will take evidence. I, for one, favor maintaining the character of it as long as we can and, at the same time, having some incentive for investors to build.

Mr. WILLIAMS. I hope I am way off on this, but I understood that the thrust of this amendment would be to eliminate all loans that are out there now from this provision of maintaining, prospectively, the nature of the tenancy in the housing.

Mr. MORGAN. That is exactly what it would do. That is the law now, however. What I am saying is that I question, first of all, whether we ought to, even with good motive, alter the terms of existing agreements or contracts between the investors and the Farmers Home.

Second, there is a substantial question as to the constitutionality, as to whether or not we can do it.

Third, I think there may be other alternate ways that we can do it without getting the Farmers Home Administration involved in years of litigation.

It is now July, and what I am really saying is that the problem has just arisen. It is not of the magnitude that I think would require us to get involved in that kind of litigation, and we shall go into it next year.

Mr. WILLIAMS. I see the Senator from Utah wants to respond and I am happy to listen.

I thank the Senator from North Carolina.

Mr. GARN. Mr. President, let me make two points. First of all, the Senator from North Carolina has pointed out that, right now, the situation the Senator from New Jersey described does exist. This is not a retroactive feature. It is really just to keep the law as it is. This is not a change.

Second, my understanding is that, the way the law is written now, by putting in the 15 years, if somebody in an existing building does refinance it, it triggers the 15 years. They can do it once, but then it has to stay that way for 15 years.

In any event, the basic principle, I think, that the Senator from North Carolina and I have talked about it, do we go back, even if there have been some abuses—and there have—and impose this on contracts, many of them that have been in existence since 1972? We have a lot of information that has come in that a lot of these developers would simply default. They would suddenly, when they have gone in it, they are in it for 5, 10, 15 years, and they are going to have their money now locked up for 50 years, they would walk away from it. That certainly does not serve the poor- or moderate-income people very well.

I agree with Senator MORGAN that we need to do something about it. On future loans, put in 15 years so that, at a minimum, they have to keep them. Then we could study the time. Maybe it should be lengthened. But 50 years is entirely too long. On many retroactive contracts that now have been in over a period of 16 or 17 years, it would be unfair.

The Senator would not want to be in something for a number of years and have the Government change the rules and say, sorry, suddenly, you are locked into this for another 33 years.

Mr. WILLIAMS. I can see that would be a problem. Thinking it through,

though, developers went into this program for the advantage of a reduced rate of financing, and with the purpose of making housing available to lower-income people. If they did this in the full spirit of what we are trying to do with this program, they have to realize that there should be a considerable period that this housing should be available at rents that lower-income people can afford.

Mr. GARN. I think people usually go by what the law says. I do not know how they anticipate that, 16 years later, we would impose 50 years on them. The Department of Agriculture opposes the retroactive feature, because they fear a lot of lawsuits in that area.

I understand what the Senator is saying, but I also feel the poor- and moderate-income groups would not be well served by making it retroactive, because I think we would have a lot of defaults and a considerable number of losses.

Mr. PROXMIRE. Will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. PROXMIRE. I have a letter from the GAO dated January 16 of this year. Let me read some sentences, then I want to ask the Senator some questions:

> We have, therefore, looked in some detail at the policies and procedures governing section 8 and have, during the course of our investigation, observed what appears to be a serious and very costly problem in the way this program is administered. This problem could immensely reduce the effectiveness and increase the costs of housing assistance by allowing private investors who own and operate section 8 housing to sell their projects or convert them to condominiums in as little as 5 years.

I understand the Senator from North Carolina and the Senator from Utah have agreed on a 15-year compromise rather than 5 or 50. What concerns me is that the pending amendment by the Senator from Utah, I understand, would make this retroactive and, therefore, would qualify some units immediately if they had been in operation——

Mr. GARN. No, my amendment would make it not retroactive.

Mr. PROXMIRE. Would knock out retroactivity?

Mr. GARN. That is correct. It would start with new loans.

Mr. PROXMIRE. So the effect of the Senator's amendment, then, would be to reduce the cost of the program?

Let me put the question a different way: Would the Senator's amendment permit builders or owners of the units to convert at once under some circumstances?

Mr. GARN. Let me read from Farmers Home Administration regulations under loan agreement. Now, as to the current law, this improves it for those people, because the current law requires that they refinance.

Mr. PROXMIRE. I know it improves it. This whole bill improves it. The amendment of the Senator from Utah and the Senator from North Carolina does improve it. What concerns me is that what the Senator from North Carolina has done, as it stands, without the amendment by the Senator from Utah, would improve it more than the Senator from Utah would.

Mr. GARN. If at any time it appears to the Government that the partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purposes.

What we have had since 1962 is directions that, as soon as you can get more favorable terms, get out of the Government loan program, get private financing and do it. Then we pass something out of committee which says you have to keep the 50 years and make it retroactive.

That is a tremendous turnabout on the part of Government, to go from one extreme, encouraging to refinance, then to go to another area and say we are going to change the law and you cannot refinance until the whole first loan is expired, as long as 50 years.

I am saying that principle, Mr. President, is wrong, whether it is applied to this or not. When people go into a contract in good faith, even if it was wrong, even if the Government should not have had that kind of policy, do not go back and lock people in that way. We shall have defaults, we shall harm the poor more than we are getting improvement, considerable improvement, over the present situation.

Mr. PROXMIRE. That is right, but my concern is that this would permit immediate sale under certain circumstances. Is that correct or not?

Mr. GARN. That is true at this time.

Mr. PROXMIRE. I understand it is true at this time, yes, but it would not be true if we simply enact the provisions of the amendment as the Senator from North Carolina is offering it. It is a compromise to what the committee reported, the 50-year proposal, which has been compromised to 15 years. I understand that. But then, in turn, to permit immediate disposal, which is what the Garn amendment would do under some circumstances, it seems to me, greatly reduces the force and benefit of the Morgan amendment.

Maybe I am unfair. I would like to get the opinion of the Senator from North Carolina.

Mr. MORGAN. I think I have to say to the Senator that it would change, to some degree, or diminish the effect of my amendment. But it would not diminish or change the present law.

Mr. PROXMIRE. I understand that.

Mr. MORGAN. I follow what the Senator is saying, but I just do not think the problem is great enough for us to get involved with the business of changing existing contracts and risking litigation without going into further hearings.

For instance, in North Carolina, there were seven payoffs. Four of them were required under the terms of the contract; that is, where the Government itself required them to pay off. One of them was for settling up the estate, which I think we would say was a legitimate reason. In another one, the Farmers Home had pressured them for reports, so they got tired of Government redtape and paid them off. But out of the seven, five were legitimate payoffs, either prompted by the Government or settling the estate.

What I am really saying is that I really do not think the problem is serious enough for us to go back and make it retroactive without at least having an opportunity to have hearings and consider this aspect of it in committee.

Mr. PROXMIRE. Can the staff give us any information on how serious this problem would be if the Garn amendment is accepted, what effect that might have on the cost of the program, because the GAO letter goes on to say:

> This would likely result in the displacement of low- and moderate-income tenants and is in marked contrast to the much longer service which can be expected from a program such as conventional public housing which should serve subsidized tenants for at least 40 years at much lower costs.

The Senator is modifying the committee amendment to reduce it from 50 to 15 years.

My question is, how substantial is it, in fact, if we have that information, that the Garn amendment is increasing costs and displacing tenants; is there any way to estimate that?

Mr. GARN. If the Senator will yield, I cannot answer the Senators' question in specific numbers. I do not know. But I do know and I must repeat, we will have defaults and find people that just walk away.

I cannot quantify how many people that hurts. I do not know, if people just walk away, how much that costs the Government, how many people are displaced in that manner.

But there is a principle here I must insist on, whether it applies to this or something else.

We do not have much credibility in this body, or in the Congress. The President has a low rating. Ours is lower.

I think one of the reasons is that we do not keep our word. I just think from a principle standpoint, it is incredible that we passed a law in 1962 and 17 years later, that maybe we made a mistake in 1962.

I was not here, I did not vote for it. The Senator was. But that is neither here nor there.

Maybe a mistake was made at that time. I was not a part of it. But to correct it retroactively, and people that decided to invest in something in good faith and then suddenly tell them we are changing all the rules, are contracts not valid anymore? Are we like the superstars in sports that decide they are more valuable now and will not honor the rest of the contract?

I think it is a terribly important principle and that now Congress should start keeping its word.

But I cannot answer about tradeoffs, lawsuits——

Mr. PROXMIRE. Was there any record of this in the hearings or the markups?

Mr. MORGAN. That is exactly what I say to the Senator, the record was very meager. It consisted of a report from the housing law project, which brought to our attention that three particular proj-

ects were converting and causing problems.

Now, it appeared such an apparent injustice to us that we moved forward with it.

What we should have done is have some hearings and serve notice to everybody concerned.

But with regard to the specific question as to what it is going to cost in dollars and cents, I think we could say it is not anything except the inflationary rate.

For instance, if an investor pays off his project, then to get that many housing units available, we would have to make that loan to someone else and add some inflationary cost to it.

But it would cost in housing available for low-income people.

Mr. PROXMIRE. That is right. That is the principal concern.

Mr. MORGAN. But I say, I do not think the cost is so urgent that it cannot wait until we have hearings and consider it.

Mr. PROXMIRE. Would the Senator, as chairman of the subcommittee, expect to have hearings on this in some foreseeable future?

Mr. MORGAN. I say to my chairman, immediately. I would have already had them, because I am very much concerned about it, had I realized all these would come to light.

Mr. PROXMIRE. And he might be able to act on this this year, or next year?

Mr. MORGAN. Or early next year.

Mr. GARN. If the Senator will yield, the House version of this has the 50-year and retroactive in it. So this is not decided. There is a conference committee that will have to be conducted.

So there is still opportunity to press the Senator's point of view there.

But the reason I bring this up again is that Senator MORGAN and I both agree this is something that needs hearings. It is certainly far better, what we are doing, than what exists at the present time. I cannot see there would be a great deal of harm, in any event, in the time we hold hearings, and if we decide a longer number of years is necessary.

I will be very candid, though, no hearings could convince me on the retroactive feature. It is a basic feature that applies to my political philosophy, that we do not change in many ways. When I tell somebody something, I will stick by it, whether I like it or not. I think that is particularly important for Government and Government officials, to be willing to keep their word.

But we will hold hearings.

Mr. WILLIAMS. I would like to make an observation. We must remember the owners got into this program knowing it was for the tenancy of low- and middle-income people. So when we talk about the morality of the situation of changing a contract, there is a morality mandate on those who got the low-interest loan to create housing for the low- and moderate-income people.

Mr. GARN. The Senator is correct except it ignores the fact of the legislative language I read to him, of the Government telling them they should refinance as soon as possible and——

Mr. WILLIAMS. I did not hear that reading.

Mr. GARN. It was left open. Then Senator MORGAN said, I think, that five, or four, out of seven, were forced by Farmers Home Administration to refinance, that they should go get normal financing, "You don't need this, get out."

We have gone from that situation, and that is where it is—when you can get out, we want you out.

It is a situation to make it one extreme to another. Our amendments are middle ground.

Mr. WILLIAMS. All right, they can get out of the loan—I did not hear the reading.

Mr. GARN. It does not tell them to get out, but to refinance.

Mr. WILLIAMS. With whom?

Mr. GARN. With commercial.

Mr. WILLIAMS. At market?

Mr. GARN. With private loans.

Mr. WILLIAMS. I hope the hearings will develop what the devil the Farmers Home was trying to promote, displacement housing for——

Mr. GARN. That is what the Senator Morgan said in his——

Mr. WILLIAMS. Is that what they are doing?

Mr. GARN. Yes. To spread the money further, to get it back to do other projects.

Mr. WILLIAMS. But in the process, releasing that housing from the tenancy of low- and moderate-income people?

Mr. GARN. Yes. That is the policy now.

Mr. WILLIAMS. That should be part of the hearings.

Mr. GARN. It certainly should.

Mr. WILLIAMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. I yield back all my time.

Mr. GARN. I yield back all my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

So the amendment (UP No. 322) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I yield to the Senator from Massachusetts.

UP AMENDMENT NO. 323

(Purpose: To revise the definition of rural areas)

Mr. TSONGAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 323.

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

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

The amendment is as follows:

At the end of the bill, add the following new section:

DEFINITION OF RURAL AREA

SEC. 11. Section 520 of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary may waive the requirement contained in clause (3) (A) of the preceding sentence in the case of any open country, place, town, township, village, or city eligible for assistance under section 119 of the Housing and Community Development Act of 1974 or other Federal program targeted to areas of distress, upon application showing the rural character, need for low income housing, lack of mortgage credit, and lack of sufficient funding from other Federal housing programs.".

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 minutes in support of his amendment.

Mr. TSONGAS. Mr. President, I thank the Chair.

I will not take much time, since I understand this amendment is noncontroversial and has been agreed to.

Mr. President, there is a unique problem with Farmers Home housing loan eligibility in my State that has left the citizens of a rural community without access to these FmHA programs. I am proposing an amendment to correct this situation.

The town of Adams has a population of 11,000. It lies inside the Pittsfield SMSA, but Adams is a rural community with open space and no definable downtown. It meets the distress factors of title I of the Housing and Community Development Act—the UDAG program—but it has received very limited HUD assistance. Adams needs low-income housing and mortgage credit which is hard to obtain. Its residents are not eligible for FmHA rural housing loans because under present law a town that is part of an SMSA must have a population under 10,000 to qualify.

In last year's housing bill, the Senate included a provision to make communities with population up to 20,000 inside an SMSA eligible for FmHA assistance. This did not prevail in conference, but the conferees directed "that FmHA is expected to interpret section 520 of the Housing Act of 1949 in a manner that would benefit residents of local communities and not administratively restrict their access to FmHA assistance." The conference report—House Report 95–1792—went on to state that—

In defining the terms "rural" and "rural areas," the FmHA is instructed to use the latest official U.S. Census data, except where the community presents more recent and reliable population counts.

Farmers Home officials continue to deny Adams residents access to FmHA loans because the population figures are over the 10,000 mark by 1,000.

I do not want to open a Pandora's box by changing eligibility requirements because, in probably 99 percent of the cases, the limited funding available to Farmers Home reaches the communities for which it is intended. But I do not think Congress intended that obviously rural communities like Adams, which meet distress factors but happen also to be in-

side an SMSA, be denied access to Farmers Home housing loans.

Therefore, Mr. President, I am proposing that the Secretary of the Department of Agriculture may grant a waiver to allow participation in the housing loan programs in very specific cases. A community of under 20,000 population but inside an SMSA would have to meet strict criteria of, first, eligibility under Federal programs targeted to areas of distress, such as UDAG or EDA; second, rural in character; third, a need for low-income housing; fourth, lack of mortgage credit for lower income families; and, fifth, lack of sufficient funding from other Federal housing programs. This amendment would adequately restrict the waiver to communities like Adams which find themselves entangled in a technicality that effectively denies their access to both urban and rural housing programs.

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

Mr. MORGAN. Mr. President, I understand the intent of the distinguished Senator from Massachusetts.

I have talked with my staff and with my colleagues on the committee, and we think his solution is entirely appropriate, and we are willing to accept the amendment.

I point out, however, that it is not the intent of Farmers Home to open the door to every community that wants to come in; but where there is a distress situation, as here, we think it is entirely appropriate to do it. We are willing to accept the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. TSONGAS. Mr. President, it is not my intent, either to open up eligibility. I appreciate the Senator's acceptance of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I yield to the distinguished Senator from Arizona (Mr. DECONCINI).

UP AMENDMENT NO. 324

(Purpose: To increase the ceiling amounts under section 504(a) for loans and loan-grant combinations from $5,000 to $7,500)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposed an unprinted amendment numbered 324.

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

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

The amendment is as follows:

Delete the second sentence of section 504 (a) of the Housing Act of 1949 and insert in lieu thereof the following:

"No assistance shall be extended to any one individual under this subsection in the form of a grant in excess of $5000, and no assistance shall be extended to any one individual under this subsection in the form of a loan or a combined loan and grant in excess of $7500.".

Mr. DECONCINI. Mr. President, my amendment will modify section 504(a) of the Housing Act of 1949. Section 504 authorizes loans, grants, and loan-grant combinations for very low-income individuals to allow them to repair or improve their residences to make them safe, decent, and sanitary.

Mr. President, the 504 program has helped many low-income families to make their dwellings livable by removing health hazards not only to the occupants, but to the community as well. However, home improvement and home repair are not immune from inflationary pressures and the present $5,000 ceiling now serves to restrict the use of the program in many instances. My amendment would increase that ceiling to $7,500 for loans and loan-grant combinations. I would like to stress that while the amendment increases the loan and loan-grant ceilings, it does not increase the authorizations for the program.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing several actual cases provided by the city of Casa Grande, Ariz., which demonstrate the need to increase the ceilings on the 504 program.

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

Case No. 1:	
Electrical	$1,766
Plumbing	1,440
Heating	1,650
Roofing	1,434
Insulation and weather-proofing	1,162
Total	7,462
Case No. 2:	
Electrical	1,671
Plumbing	2,160
Heating	1,440
Roofing	1,350
Insulation and weather-proofing	818
Total	7,439
Case No. 3:	
Electrical	1,273
Plumbing	2,068
Heating	1,290
Roofing	642
Insulation and weather-proofing	883
Total	6,156
Case No. 4:	
Electrical	1,500
Plumbing	1,740
Heating	1,128
Roofing	738
Insulation and weather-proofing	1,337
Total	6,443

Mr. DECONCINI. Mr. President, I point out that these costs are not incurred in the construction of new dwellings; these expenditures are necessary, in certain cases, in order for low-income individuals to make their homes safe and free from health hazards.

Mr. President, by increasing the ceilings on section 504 loans and loan-grant combinations from $5,000 to $7,500, we will be providing a more realistic and effective program for our State and local governments to administer without having to increase the authorization ceiling for these programs. The strain on 504 program funds is usually felt in the grants-only part of the program. Under my amendment, the $5,000 limit on grants-only is retained, thus insuring the continued maximum participation by those in dire need of assistance.

Since this $5,000 ceiling on section 504 loans was established, construction costs have escalated an average of 36 percent nationwide. It would seem unfair to preclude program participation by sticking to a ceiling which, in many cases, is unrealistic in these inflationary times. I would urge my colleagues to support this amendment.

Mr. President, I yield back the remainder of my time.

Mr. MORGAN. Mr. President, this is a badly needed amendment. Quite frankly, I would have proposed it if the Senator had not.

Seventy-five hundred dollars is not much to repair a house. I think we all recognize that inflation has made this amount much, much smaller than it used to be, and it is time to increase it.

One thing we need to do in rural America—and I hope we will be able to do more of it—is to conserve our existing housing stock; and I think the Senator's amendment would be beneficial in doing this. On behalf of the committee, we are willing to accept this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Arizona.

The amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 325

(Purpose: To modify the allocation requirement)

Mr. MORGAN. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Alaska (Mr. GRAVEL), who is busy with other Senate business at the present time, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr.

MORGAN) for Mr. GRAVEL proposes an unprinted amendment numbered 325.

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

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

The amendment is as follows:

On page 3, line 24, after "income" insert ", except that the percentage requirements of this section shall apply to State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary".

Mr. GRAVEL. Mr. President, I express my gratitude to the Senator from North Carolina for the services he rendered in offering my amendment while I was not present in the Chamber.

Mr. President, section 4 of the bill contains a provision relating to allocation of housing assistance. It is an effort on the part of the Rural Housing Subcommittee to insure that Federal assistance under the Farmers Home Administration is delivered to the most needy citizens. It would direct the Secretary of Agriculture to target assistance so that 30 percent of all households assisted under the programs had incomes below 50 percent of the national median income, and no more than 15 percent of all households assisted had incomes over 80 percent of the national median.

While I have no qualms with addressing the issue of targeting, this provision as written creates a problem for high income areas such as Alaska, Hawaii, and Guam.

Currently, Farmers Home adjusts the national median income figures to take into account the prevailing higher incomes in these areas. However, section 4 makes no mention of the need to allow the Farmers Home Administration to continue to make such adjustments.

My amendment provides that the Secretary shall target assistance as outlined above, except that the Secretary shall apply State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary.

The intent of the amendment is to allow the Secretary of Agriculture to continue to make adjustments for high-income areas. Currently, the national median income for Farmers Home low-income programs is $11,200. For Hawaii and Guam, the Agency adjusts this figure to $13,700 and for Alaska, the figure is $16,800. Under the moderate-income programs, the national median income is $15,600. For Hawaii and Guam, the limit is $18,500 and for Alaska the limit is $23,400.

Mr. President, last year Alaska finally received a full-fledged State Office of the Farmers Home Administration. Since that time interest in the program has soared and the Alaska office has performed admirably under the leadership of Mr. Jack Roderick, our State director. Adoption of this amendment will allow the good work of the Farmers Home Administration to continue and will insure the program is sensitive to the unique situation in areas such as Alaska.

Mr. President, this amendment was prepared in consultation with the staff of the subcommittee and it is my understanding that it is acceptable to the managers of the bill.

Mr. MORGAN. Mr. President, my staff and I, along with the ranking minority member, the distinguished Senator from Utah, have reviewed the amendment, and we have no objection to it.

The crux of the amendment has to do with income limitations. The State of Alaska and the State of Hawaii have some particular income problems because of the bill, and this provides the Farmers Home Administration an opportunity to offer some relief there. We are willing to accept the amendment.

Mr. GARN. Mr. President, I am willing to accept the amendment.

Mr. MORGAN. We yield back our time.

Mr. GARN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. MORGAN. Mr. President, it is my understanding, and I inquire of the Chair if I am correct, that as to this bill that concludes all the amendments and it is my understanding that this bill will be set aside for third reading until the major housing bill is considered. Is that correct?

Mr. GARN. Mr. President, if the Senator will withhold that, there is possibly another amendment. I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 326

(Purpose: To reduce authorization for certain programs under Title V of the Housing Act of 1949 for fiscal year 1980)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 326.

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

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

The amendment is as follows:

On page 2, line 8, delete "$30,000,000" and insert in lieu thereof "$25,000,000".

On page 2, line 17, delete "$7,500,000" and insert in lieu thereof "$5,000,000".

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 30 minutes in support of his amendment.

Mr. HELMS. The Senator from North Carolina will not take nearly that much time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. At the outset, let me say there are not two Members of the Senate for whom I have greater respect and affection than the managers of the bill, my distinguished friend from North Carolina (Mr. MORGAN) and my good friend from Utah (Mr. GARN).

Nevertheless, I feel obliged to offer an amendment to this bill for reasons which I shall state. This is another case in which we are presented with a piece of legislation which would authorize or appropriate more funds than the administration says it can spend wisely. It authorizes the expenditure of deficit dollars borrowed against future generations to fuel the fires of our present inflation.

Mr. President, there are so many pieces of legislation which I would enjoy supporting but which I must oppose, because if we do not get inflation under control this Nation faces dire consequences.

I realize not much money is involved, as we regard money in Washington, D.C., but it is the principle involved. I made up my mind a long time ago that, to the best of my ability, I am going to try to reduce appropriations as much as I could in every instance that occurs.

So I offer this amendment not in any disrespect whatsoever for my good friends who are managing this bill—and I do it with a certain hesitancy, because this is the kind of program which has great appeal—but under the circumstances I feel obliged to try to reduce the proposed amount to be spent to what the administration has proposed and, thereby, save $5 million in one instance and $2.5 million in another.

As I say, this is not a great deal of money as we view money in Washington, D.C., because we are spending other folks' money. We are spending the money of the taxpayers. Just to be consistent I offer this amendment in good faith.

I reserve the remainder of my time.

Mr. MORGAN. Mr. President, I am as concerned about deficit financing as any Member of this Senate, and I suspect I have voted against as many appropriations in terms of dollars and cents as most Members of the Senate. But because we are involved with, we do have, deficit spending in this country, does not mean that there are not programs that deserve some priority.

This program, I think, is one of those programs that definitely should be considered as deserving priority.

There is not a greater need in this country today than the need for housing, not only in the urban areas but just as importantly and certainly in rural America for rural Americans there is nothing more important than rural housing.

For that reason I hope the Senate will not accept this amendment and will see fit to reject it, because the Farmers Home Administration, in my opinion, has the best record of any Federal agency in the country for delivering services to the people of this country.

If we have to delete some funds let us delete them from some of those programs that are wasteful. But I daresay there are not many people in the country who would not agree with me that the Farmers Home Administration gets more for its money than any other agency, and provides more services for the people.

So I hope we will reject this amendment. It would eliminate only $7.5 million, which is a lot of money if you think of it in terms of a balanced program, which our committee has brought forward unanimously to the Senate, it is not all that meaningful.

So I hope the Senate will reject it. I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I am not quite prepared to yield back my time.

This is not a comfortable situation in which this Senator from North Carolina finds himself. Bob Morgan has been my friend for more than a quarter of a century. We agree far more than we disagree, but this is a matter of trying to maintain some concept of consistency in terms of trying to achieve a balanced budget.

It is all we talk about when we go home, and with all due respect to my friend, the argument just presented is precisely the argument that every Senator makes—perhaps not as eloquently as my friend has just done, but precisely the argument that every Senator makes—when he wants to nudge an appropriation or an authorization up to bust the budget.

So it is with great reluctance and great regret that I must stand by my amendment. I suppose we ought to have the yeas and nays, Mr. President, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. HELMS. Now, Mr. President, I am willing to yield back the remainder of my time.

Mr. MORGAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. LEVIN). All remaining time having been yielded back, the question is on agreeing to the amendment (No. UP-326) of the Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania, (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 15, nays 77, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—15

Armstrong	Hayakawa	Proxmire
Bellmon	Helms	Roth
Byrd, Harry F., Jr.	Humphrey	Tower
	Kassebaum	Zorinsky
Exon	Laxalt	
Hatch	McClure	

NAYS—77

Baucus	Garn	Muskie
Bayh	Glenn	Nelson
Bentsen	Gravel	Nunn
Biden	Hart	Packwood
Boren	Hatfield	Pell
Boschwitz	Heflin	Percy
Bradley	Hollings	Pressler
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Riegle
Cannon	Javits	Sarbanes
Chafee	Jepsen	Sasser
Chiles	Johnston	Schmitt
Church	Kennedy	Schweiker
Cochran	Leahy	Simpson
Cohen	Levin	Stevens
Cranston	Long	Stevenson
Culver	Lugar	Stewart
Danforth	Magnuson	Stone
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Domenici	McGovern	Tsongas
Durenberger	Melcher	Warner
Durkin	Metzenbaum	Weicker
Eagleton	Morgan	Williams
Ford	Moynihan	

NOT VOTING—8

Baker	Ribicoff	Wallop
Goldwater	Stafford	Young
Heinz	Stennis	

So Mr. HELMS' amendment (No. UP-326) was rejected.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MORGAN. Mr. President, we have just completed the rural housing authorization bill. I thank my distinguished colleague and members of the committee for their assistance in bringing this to the floor of the Senate, especially the staff, Bob Malakoff of the Housing staff.

Also, Mr. President, I express my appreciation to rural America and to the Housing Assistance Council and to the National Law Project for their interest and assistance in rural housing. I think these three organizations have done an outstanding job. I wish the record to reflect it.

I thank the Chair.

APPOINTMENT OF SUBSTITUTE CONFEREE ON H.R. 3173

Mr. CHURCH. Mr. President, I ask unanimous consent that Senator PELL of Rhode Island be named as a conferee on H.R. 3173, the International Security Assistance Act of 1979, in lieu of Senator BIDEN of Delaware.

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

ARMS CONTROL DISARMAMENT ACT AMENDMENTS OF 1979

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2774.

The PRESIDING OFFICER (Mr. LEVIN) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 2774) to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CHURCH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CHURCH, Mr. PELL, Mr. MCGOVERN, Mr. GLENN, Mr. JAVITS, Mr. PERCY, and Mr. HELMS, conferees on the part of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

The PRESIDING OFFICER. Under a previous order of the Senate, the Senate will now proceed to the consideration of S. 1149, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 1149) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

The Senate proceeded to consider the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. ARMSTRONG will be calling up an amendment to the pending measure and that there will be a rollcall vote thereon yet today.

I propose the following unanimous-consent agreement, which has been cleared with the minority. It has been cleared with the manager of the bill, also:

That there be 4 hours on the bill, equally divided between Mr. WILLIAMS and Mr. GARN; that there be 1 hour, equally divided, on any amendment in the first degree; 2 hours, equally divided, on an amendment by Mr. PROXMIRE; 1 hour, equally divided, on an amendment by Mr. JAVITS which has to do with UDAG; 1 hour, equally divided, on each of two amendments by Mr. HELMS on Soul City; 1 hour equally divided cn an amendment by Mr. GARN, having to do with Davis-Bacon, on which there shall be no tabling motion; 30 minutes on any second degree amendment; 20 minutes on any debatable motion, appeal or point of order if such a point of order is submitted to the Senate for discussion; that the agreement be in the usual form; and that a vote on passage occur no later than 7 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1149 (Order No. 176), a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes, debate on any amendment in the first degree (except an amendment by the Senator from Wisconsin (Mr. Proxmire) reducing authorization, on which there shall be 2 hours, an amendment by the Senator from New York (Mr. Javits) UDAG, on which there shall be one hour, two amendments by the Senator from North Carolina (Mr. Helms) Soul City, on which there shall be one hour each and one amendment by the Senator from Utah (Mr. Garn) Davis-Bacon on which there shall be one hour and which shall not be subjected to a motion to table), shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled by the Senator from New Jersey (Mr. Williams) and the minority leader or his designee: Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That the vote on final passage of said bill shall occur no later than 7:00 p.m., Friday, July 13, 1979.

Mr. ROBERT C. BYRD. Mr. President, I thank the manager of the bill and I thank the minority manager, Mr. WILLIAMS and Mr. GARN respectively.

Let me say to the Members, if Mr. ARMSTRONG calls up his amendment, there will be a vote on that amendment tonight. If he is present, we can get the yeas and nays ordered as soon as he calls up the amendment.

The PRESIDING OFFICER. Who yields?

Mr. ROBERT C. BYRD. Mr. President. I yield the floor.

Mr. WILLIAMS. Mr. President, I yield myself such time as I may need.

Mr. President, on May 15, 1979, the Committee on Banking, Housing, and Urban Affairs reported a clean bill, S. 1149, the Housing and Community Development Amendments of 1979, following 4 days of hearings by the Subcommittee on Housing and Urban Affairs, and 2 days of full committee markup. The legislation reauthorizes and revises programs essential to the improvement of housing conditions for low- and moderate-income people, the advancement of homeownership opportunities for the broad spectrum of Americans, and the development of sound economies and wholesome social environments in communities both large and small. In accomplishing its purpose, the legislation fully reflects a desire of Congress and the public for thoughtful, prudent Federal spending during an era of enormous inflationary pressures.

Mr. President, allow me to review briefly the major features of the bill.

It would provide new authorizations for the section 312 rehabilitation loan program, the section 701 comprehensive planning program, and the urban development action grant program. For the first time, specifically defined pockets of poverty in cities now ineligible for the UDAG program would be allowed to compete for up to 20 percent of the program's funds.

Assisted housing programs—that is, section 8, public housing, and Indian housing—would receive funding sufficient to reserve an additional 300,000 new, substantially rehabilitated and existing housing units. New authorizations have also been provided for public housing operating subsidies and HUD's troubled multifamily projects program. Moreover, the legislation targets section 8 assistance more to lower income families by reducing the program's eligibility ceiling from 80 percent of median area income to 70 percent.

Under S. 1149, the insurance authorities of the Federal Housing Administration have been extended, mortgage limits have been increased for single and multifamily FHA programs in order to reflect the rising development costs of housing, and a number of important modifications have been made in FHA programs to assure their proper availability to those seeking to purchase a home. A new graduated payment mortgage program has been created aimed at wage earning, young, or first-time home buyers, and the section 235 homeownership assistance program has been revised to make it more useful in alleviating the problems of displacement that can accompany urban revitalization. I am particularly pleased that the bill contains a 3-year reauthorization of the section 202 program of housing for elderly and handicapped people. The money provided for this program will enable it to maintain the current reservation level.

Finally, the bill creates new exemptions for Federal reporting and disclosure requirements under the Interstate Land Sales Full Disclosure Act.

Mr. President, as I noted earlier, this is a truly lean bill in comparison with recent years. A number of programs have received sizable reductions from current activity levels, or have received only minimal increases. For example, the section 312 rehabilitation loan program would experience a 47-percent cut from its fiscal year 1979 authorization. The section 701 comprehensive planning program would receive an authorization 30 percent lower than that for fiscal year 1979. Assisted housing programs would accept a 25-percent reduction from the number of additional units that would be reserved in fiscal year 1979, according to HUD projections. This cutback entails budget authority $6 billion less than we would need for fiscal year 1980 to assist the number of units HUD estimates it will place under reservation this year. Operating subsidies for public housing would experience only a 2-percent raise from its fiscal year 1979 authorization.

The only real departure from this pattern of restraint is the urban development action grant program, which would receive an additional authorization of $275 million to accommodate the new eligibility of pockets of poverty, and to respond more fully to the heavy demands placed on the program by currently eligible communities.

Mr. President, I am concerned that the reduced funding levels for a variety of programs will cause us to fall far short of meeting needs we know to exist. However, what disturbs me most deeply is that there will be an attempt to cut back the bill's funding still further in the area of assisted housing. This proposal can have no beneficial impact on inflation or on the 1980 budget deficit. It would, though, deny decent, affordable housing to 60,000 or more people who have no choice but to turn to their Government for housing assistance. Ironically, the amendment could actually contribute to inflation conditions in the rental housing market by encouraging more instability in housing production, and by undercutting efforts to relieve a critical shortage of rental housing. In my view, the amendment is extreme and unnecessary, and I am hopeful that the Senate will recognize it as such.

Mr. President, the committee bill is a reasonable bill. It is a responsible bill. I believe that it makes a serious effort to address the pressing and urgent housing needs of citizens who, without its benefits, would not otherwise be able to attain a decent place to live at a rent they can afford. I urge its approval.

Mr. President, I yield to my good friend, the distinguished Senator from Utah, the ranking member of this committee.

Mr. GARN. I thank the distinguished chairman.

Mr. President, today the Senate will consider S. 1149, the Housing and Community Development Amendments of 1979. This legislation for the most part is a modest proposal for fiscal year 1980. The Banking Committee is not recommending any major, expensive initiatives in the housing and community development programs, rather S. 1149 includes numerous refinements to ongoing HUD programs. I believe the committee has failed to show fiscal restraint, though, in setting the 1980 authorization level for assisted housing programs and will speak about that shortly.

First, though, let me comment on several aspects of this legislation of particular interest.

An important provision of S. 1149 concerns the allocation of housing assistance. I was pleased that the committee adopted my amendment to assure that a State will maintain its fair share of housing assistance and to increase local flexibility in administering housing assistance plans.

This means that a State or its communities cannot lose any of its "fair share" of funds through reallocation to another State unless the HUD Secretary explicitly finds that other areas of the State cannot use the funds within the fiscal year.

The provision also directs the Secretary to provide an expedited procedure for review of amendments to housing assistance plans so a community can update its housing plan as necessary to reflect local needs and conditions. Furthermore, changes to the HUD funded allocation mix between different types of housing units would be allowed to reflect the updated housing assistance plan. This expedited review procedure for housing funds while assuring that housing assistance plans continue to reflect the requirements of the act.

I am particularly pleased that this bill includes an expansion of the existing HUD section 245, graduated payments program. This means that HUD will be able to reduce the downpayment requirements, increase maximum mortgage limits, and provide more alternatives for repayment graduations. This is particularly important, because housing costs are escalating at such a rate that many families, particularly in the $15,000 to $24,000 annual income range, are being priced out of the homeownership market. Here the Federal Government is providing another alternative for potential home buyers without any Federal subsidy. I personally feel this will be most helpful to young, first-time home buyers.

There are several other important provisions of S. 1149. First, the 1-year extensions of authority for all FHA insurance programs with the one exception of the 3-year authorization for the sec tion 202, elderly and handicapped housing programs; second, the increases in maximum mortgage limits for both single and multifamily mortgage insurance programs to bring them more in line with today's housing production costs; third, changes in cumbersome reporting requirements of the Interstate Land Sales Act; fourth, the adoption of the "pockets of poverty program" under the urban development action grant program; and, fifth, independent funding for the Neighborhood Reinvestment Corporation.

I would like to explain, however, before I yield the floor, that I do intend to offer an amendment to exempt neighborhood-based nonprofit rehabilitation activities from the journeyman-apprentice work rule requirements under the Davis-Bacon Act. This is essentially the same amendment I sponsored during committee markup which was defeated by one vote.

It is no secret to any of my colleagues that I supported an amendment in committee to exempt all housing and community development activities from the requirements of the Davis-Bacon Act. However, the amendment I will offer today is a very limited proposal not addressing this general issue.

I want to explain that this is a very narrowly defined amendment. I will go into greater detail about the amendment as we consider it, but let me stress it has very narrow application only to rehabilitation activities undertaken by neighborhood-based nonprofit groups. These are basically what is referred to as "sweet equity" projects and I urge all of you to be open minded as to the merits of the narrow exemption when we get to the issue.

This is where people are working in their own homes to help rehabilitate them. Davis-Bacon has caused some problems in work rules. So not only will the amendment apply very narrowly to certain specified subsidized housing, but goes to deal with neighborhood self-help projects. It will not apply to the situation of prevailing wage rates, only to work rules.

This was brought up last year and I did not push the amendment and was promised hearings. They were held. The amendment lost by one vote.

I want to emphasize that it has nothing to do with the overall battle of Davis-Bacon, prevailing wage rates, the military construction bill, or overall repeal.

So I would like to put the Senate on notice that tomorrow I will be bringing up that amendment.

Before I sit down, I want to comment on the very serious subject of spending levels as reflected in the Banking Committee's recommendations for the basic Federal housing assistance program. S. 1149 does not reflect a firm commitment on the part of the Senate Banking Committee to restrain increases in federal spending. I want to restate today what was said in the additional views concerning spending levels filed with the committee report by Senators TOWER, LUGAR, ARMSTRONG, KASSEBAUM, and myself.

First, the bill increases budget authority for section 8 and public housing subsidies—the primary Federal housing assistance programs—to $32.2 billion, more than was included in the first concurrent resolution on the budget which just passed the Senate.

The administration recommended that Congress approve $27 billion in budget authority for these programs. In defending this recommendation, Housing and Urban Development Secretary Patricia Harris told the Banking Committee:

> It is exemplary for the government to show restraint in its spending . . . I believe it is acceptable, conscionable, justifiable and defensible for the President to present a budget that proposes 300,000 units of housing . . . in Section 8. It protects the future pipeline, and it demonstrates a willingness to have a restrained budget even in the area of assisted housing.

The administration has sound reasons for concluding that $27 billion in budget authority for this program is adequate. First, since 1940, Congress has approved $209,766,592,000 in so far unspent budget authority for assisted housing programs. In other words, the Government is already obligated to spend nearly $210 billion on housing assistance, not including the $30.4 billion in additional spending authority contained in this legislation.

Second, Congress has not been lax in providing housing for the needy. In the past 4 years, Congress has appropriated some $9.7 billion for federally assisted housing projects, and has authorized $102 billion to be spent on this program. The appropriated funds since 1940 have been used to provide housing for 3.1 million American families.

Third, if Congress in the future continues to approve the level of funding contained within this legislation, outlays for section 8 and other housing subsidy programs will double in 4 years.

For these and other reasons, Congress should act now to restrain unwarranted funding increases in the section 8 program.

Finally, let me comment that some proponents of large housing authorizations argue that any cutbacks would "balance the budget on the backs of the poor." This is just not true.

The way these housing programs operate any new authorization represents an increase of housing assistance for the poor. Even if this bill contained no budget authority for these programs, which I am not recommending, the 3.1 million families now assisted would continue to get subsidies and in increasing amounts which allow for inflation. All of the authorization for these programs represents long-term subsidy commitments to house more of the poor. Thus even if the committee had adopted the $25.8 billion amount provided in the first resolution on the budget, this bill would still help hundreds of thousands additional low-income families.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, since World War II the United States has shifted from a predominantly renter society to an ownership one. In 1940, 43.6 percent of all American households owned their own houses. By 1975, the percentage of American households owning their homes had jumped to 64.6 percent.

This substantial realization of the American dream for a large percentage of our Nation was a credit to us as a Nation. We had accomplished something which few other world nations had done—a sharing in the good life through homeownership for vast numbers of people.

The rental side of the housing market during the same 30-year period plummeted. In 1940, 56 percent of all housing was renter occupied. By 1975, that figure stood at 35.4 percent. Yet it was during this same time period that Americans became a highly mobile people, moving from place to place, frequently in pursuit of job opportunities.

So the ownership of a home and the American dream became separable concepts over time. Owning a home became a hedge against inflation, while at the same time contributing at least one element toward that inflation.

As he became savvy about the real estate market and concerned for his financial security, the middle and upper income American began investing in residential real estate.

As columnist Neal Peirce has noted of this phenomenon:

> The problem with this gravy train is that a lot of Americans—the poor, many senior citizens, and young people—aren't and can't get aboard.

It is these very people who depend on rental housing—not as an investment hedge against inflation—but as their basic shelter.

There are some significant features of our renter population. Female-headed households predominate among renters. One in six of all rental housing is black occupied, a significantly large ratio based on their 10 percent showing of all American households.

Yet when we look at the rental housing market, there is a severe decline in the volume of rentals coming on the market. The national rental market is now the tightest it has ever been since World War II.

The pulse takers of the housing scene report a continuing drop in the number of so-called unsubsidized rental units started for construction. Advance Mortgage Corp., one such pulse taker, noted in its March quarterly report:

Last year's (1978) starts of conventional (unsubsidized) rental units were the second lowest in 20 years (1975 was lower).

This year they should be a quarter to a third lower still. We estimate there were 220,000 to 250,000 starts of conventional rentals in 1978. This year we expect 150,000 to 200,000.

Rental housing, in the words of former HUD Secretary Robert Weaver, has become an endangered species. And its decline has exerted untold hardship on those least able to deal with escalating rents and limited availability. These are the Americans with limited assets who lack the reliability of an income to sustain them in housing.

There are persuasive reasons for the decline in developer interest in rental housing. Rental housing construction is now perceived as a high risk due to its limited return on investment, the overriding threat of rent control, and uncontrollable costs of utilities, operations, and maintenance.

Those now owning rental buildings are converting them to condominiums and cooperatives at an unprecedented rate. In 1978, 100,000 units were converted. An estimated 130,000 more will be converted by the end of this year. And they will be selling at inflationary prices well beyond the reach of low- and moderate-income people, many of whom were former tenants of the buildings.

So the smart money is finding other safer, more lucrative investments.

But where does that leave the mother with several small children? Or the senior citizen on a fixed income? Or the young couple beginning their working careers but lacking the downpayment and monthly income necessary to purchase? It leaves them out in the cold.

While vacancy levels of rental housing drop, further squeezing their housing options, the demand for rental housing continues unabated. Housing experts estimate that female-headed households under age 65 with two or more persons will need 416,000 additional units of rental housing in 1980; over 1,300,000 units during the decade of the 1980's; and by the 1990's they will have become the single largest renter household category.

All this leads me to believe there is a responsibility to address this need which must be met by the Government. The HUD budget request for fiscal year 1980, which begins October 1 of this year, proposes a modest, yet attainable, production level of "up to 300,000" units of rental housing.

This is the lowest production level of rental housing which HUD has requested in the past 10 years, with the exception of 1974, when the Nixon administration imposed a "freeze" on housing.

There are some who argue that as upwardly mobile renters move up and out, the rental housing they left behind becomes available to lower income people. This "filter down" theory of housing may have worked in the past, but in today's inflated housing market, the rents escalate out of reach of the poor; the buildings convert to condominiums; or the buildings have aged and been depreciated to the point where they are razed or converted for another use. The rental housing stock, thus, experiences a net decline, by attrition and a decline in production while the need for such housing increases through new family formations.

In 1968, the Nation set for itself a 10-year goal of meeting the housing needs of low- and moderate-income families. That goal consisted of an assisted housing production level of 600,000 units per year for the decade 1968–78, with a large segment of these to be rental.

Sadly, we have fallen significantly short of that goal of 6 million units in 10 years. Since 1969, 2.2 million units of HUD-assisted lower income housing have been built; 1.7 million of that figure were rental units.

The figures showing HUD assisted housing production speak for themselves:

HUD subsidized production 1969–79

	Total production (starts plus rehab. begun) (Units)	Multi-family rental	Percent of total production		Total production (starts plus rehab. begun) (Units)	Multi-family rental	Percent of total production
1969	166,950	151,900	90.9	1976	51,130	43,170	84.4
1970	276,790	196,470	70.9	TQ	26,110	21,820	83.5
1971	397,400	247,220	62.2	1977	130,030	125,420	96.4
1972	338,190	213,250	63.0	1978	181,440	161,000	88.7
1973	234,170	165,250	71.8	1979	298,950	269,200	90.0
1974	90,520	75,410	83.3				
1975	46,540	41,460	89.0	Total	2,238,220	1,714,570	[1] 76.6

[1] Of 10-year total.

Source: HUD Annual Housing Survey.

Yet, during the same time period, a healthy level of single-family nonassisted housing production has been maintained.

The production of that housing was greased by a number of indirect subsidies created by the Government. The Federal Housing Administration and the Veterans' Administration have enabled many Americans over the years to become homeowners by insuring conventional mortgages and providing low down payments.

Once in his new home, the happy homeowner found the Federal tax code to be a boon to him. He found that he could deduct from his Federal income taxes his mortgage interest payments and his property tax payments. When he went to sell his home the capital gain he realized upon sale could be deferred from his Federal income tax for up to 18 months. And if he was over 55 and sold his home, up to $100,000 of that capital gain was totally exempt from Federal income taxation.

All of these indirect subsidies to middle-income Americans add up to a sizable figure. In 1979, for example, the forgone Federal revenue for mortgage interest deductions totaled $5.1 billion; the property tax deductions totaled $5.5 billion; the deferral of capital gains and the exemption for those over age 55 approached $2 billion for a grand total of $12.6 billion. When the Government comes to the aid of lower income Americans, the rubric need not change to that of welfare subsidies.

The Senate Banking Committee in reviewing the HUD proposed level of assisted housing production for fiscal 1980 wanted to assure that HUD's "up to 300,000 units" became a solid 300,000 figure. So they used a more realistic estimate of the inflation rate than HUD has used and specifically spelled out that 300,000 low- and moderate-income housing units would in fact be produced by HUD. They assured that this would happen by authorizing $1.2 billion for fiscal year 1980.

The Senate Banking Committee's Housing and Community Development Act of 1979 is now being debated. Members of the Senate should find little difficulty in supporting this authorization bill in light of promises already made to the Nation's poor which remain to be fulfilled.

The young mother with children, the elderly, and the young working couple—all on limited incomes—are entitled to share with other Americans in the Federal housing largesse.

Taken in the context of the other

housing incentives provided middle and upper income Americans, this authorization level of $1.2 billion is a small, but absolutely essential responsibility which we, as a nation, must fulfill. Moreover, it is a wise investment.

The have-nots at the bottom of the income ladder in the United States have little other housing choice but to look to their Government for a helping hand.

Mr. GARN. I yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. I appreciate the yielding of the Senator from Utah. I also appreciate the forebearance of the floor managers in permitting me to offer this tonight and accommodating my schedule in that way. In return, it is my intention to be brief in my explanation of it.

UP AMENDMENT NO. 327

(Purpose: To assure the low-income character of public housing)

Mr. ARMSTRONG. Mr. President, at this time I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 327.

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

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

The amendment is as follows:

On page 7, strike out lines 10 through 17 and insert in lieu thereof the following:

(b)(1) Section 8(a) and section 8(b)(2) of such Act are amended by striking out "lower-income" and inserting in lieu thereof "very low-income".

(2) Section 8(c)(4) of such Act is amended by striking out "lower income" and inserting in lieu thereof "very low-income".

(3) Section 8(c)(7) of such Act is repealed.

(4) Section 8(f) of such Act is amended by striking out paragraph (1).

(5) Section 8(f)(2) is amended by inserting "or $12,000, whichever is less," between "area," and "as".

(6) The amendments made by this subsection do not affect the elegibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing which is subject to an annual contributions contract on the effective date of this section.

Mr. ARMSTRONG. Mr. President, the purpose of this amendment is simply to limit the rental subsidies under the section 8 housing program to the neediest portion of the public.

Under current law, low-income families could be ignored while middle-income wage earners receive rent subsidies.

I am sure a majority of the Members of the Senate would agree this would be most unwise. Yet it could happen, and to a limited extent is already happening, unless the law is amended in the way I have suggested.

Under current eligibility standards, more than 30 million families qualify for rent subsidies according to the CBO. Obviously, it is not the intention of the committee, nor, I am sure, of the Senate, to fund a program on this scale. As a matter of fact, the pending authorization, which is above the administration's recommendation, funds only a very small percentage of the estimated total.

So in order to restrict the program to a realistic total and at the same time to assure the limited funds available will be used for those most in need, it is the purpose of my amendment to limit it to families of income of no more than 50 percent of the median, or $12,000 per year, whichever is less, in any geographic area.

I would stress that the amendment grandfathers in those persons who are already receiving subsidy under this program.

I think the justice of this and the merit of the amendment is very simple. First, from the standpoint of the equity of the needy, we are saying it is wrong to tax the poor in order to pay a subsidy to those who are better off.

So this simply says it is the lower half of the income families that will receive payments under the section 8 program.

On the general taxpayer grounds that somehow we ought to focus this and bring a degree of efficiency to the program, I think it is also appealing.

Mr. President, I am hopeful the amendment will be approved and then we can move on to the balance of the bill. With that, I yield, if I may reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, this amendment was offered during markup in committee. I felt obliged to oppose it then. I have not changed my mind and must oppose it now.

First, I know the distinguished Senator from Colorado has circularized Members with a "Dear Colleague" letter, and as I read it, I believe there could be a misunderstanding about the people who are really receiving assistance under this housing program.

I would like to read just a part of the Senator's letter that went out as a "Dear Colleague" letter:

As things now stand, low-income families could be ignored while middle and upper-income wage earners receive rent subsidies.

Well, that certainly is not the case. The program has operated for an eligibility group who are at or below 80 percent of median area income.

The bill before us reduces that to 70 percent and the experience has been that prevailing numbers of people receiving assistance under this effort are at 50 percent or below median income.

I do not disagree with the goal of housing assistance programs that primarily serve low-income persons. Adequate and successful low-income housing programs have been among my highest priorities as a Member of the Senate. And now, as chairman of the subcommittee with responsibility for Federal housing programs, I take my charge to work for decent housing for all Americans with utmost seriousness.

My opposition to the Senator's amendment is not based on a desire to support a program targeted to "middle and upper income families," which the Senator charged is the current structure of the section 8 program in his "Dear Colleague" letter. In fact, I take strong exception to this characterization of the section 8 program. The program does allow participation by families with incomes of up to 80 percent of the median area income. However, 93 percent of assisted tenants are already below 50 percent of median area income. The overall national average for section 8 housing is 28 percent of median area income.

We should also put into prospective the Senator's claim that 30 million families are eligible for the program. In absolute numbers this may be true. However, there is a great difference between income eligibility and need. Many of these individuals, despite their low income, have been able to find decent shelter, and do not pay excessive rents. For all practical purposes, these people have no need to seek assistance.

So it is clear that the program does serve primarily low-income people; it is a low-income housing program. The limits of the program are broad, useful and purposeful. The limitation of 70 percent of median income adopted in committee serves to focus the program on the target population, without eliminating the flexibility of the program to assure its own fiscal integrity.

The ability to have a spread of incomes in this program helps produce a larger tenant contribution to total costs. thereby reducing the Federal subsidy, and contributing to the long-range stability of the program.

In fact, in response to CBO criticism that the program's long-term budget authority may not be sufficient to cover the full cost of subsidy contracts, HUD has moved to assure a more balanced income mix in its projects by proposing regulations to direct project managers to work toward an income mix averaging 40 percent of median area income. This is a responsible, prudent step by HUD that can help keep this program strong, and effective as a source of low-income shelter.

I believe that a failure to make this move could have left HUD open to the charge of jeopardizing the fiscal future of the program.

Yet, Mr. President, a Senator who might be very quick to point out any financial problems with a program of this nature, comes in with an amendment that could harm the program's ability to protect its own strength. To deny HUD the power to mandate a reasonable income mix that both focuses on low-income tenants, and maintains the program's integrity seems to me inconsistent with the Senator's stated goal of both controlling the ultimate program costs and assuring that available funds are used for the truly needy.

Another point to note about the Senator's amendment is the $12,000 annual income limitation, which would apply even if that figure constituted less than 50 percent of an area's median income.

This provision is particularly discriminatory to lower income people who live in high-cost, high-income communities.

The concept of low income is to an extent a relative concept—especially with regard to housing. Housing is simply more expensive in more expensive communities.

In Anchorage, Alaska, where the

median income is today $25,000, this amendment would soon begin to make people at 50 percent of area median ineligible for section 8. As inflation continues, this problem would quickly spread to other high-cost cities, such as Washington, D.C., and Honolulu.

There is just so much money that is available under this program. If they are low-income people, very low, at the very bottom, that means it is more expensive in terms of authorizations and appropriations.

The way it has been working out, with the flexibility that is there, while most are below 50 percent, in certain situations there are those who are above 50 percent; under present law up, to 80. Under new law, it will be up to 70. But they can make it possible for the project to succeed.

Also, let me point out that the average annual tenant incomes under section 8, newly constructed, and rehabilitated units, in 1977, was $4,476; for existing units, $3,938; for public housing, $4,656.

I use these figures to show that this program does reach not the middle-income people of this country but the low-income people. It is already serving the poor and the needy.

While we have this 70 percent figures, it is to give flexibility, so that in certain situations the housing will not flounder. To have a few who are over 50 percent up to 70 percent, I think, also serves a very useful social arrangement of people, so that we will not be ghettoizing and persisting in seeing that the desperately very poor are the only people who ever see each other.

Mr. PROXMIRE. Mr. President, will the Senator from Colorado yield?

The PRESIDING OFFICER (Mr. CHURCH). The Senator from Colorado has the floor.

Mr. ARMSTRONG. If I may, I would like to yield to the distinguished Senator from Wisconsin and then the Senator from Utah.

Mr. PROXMIRE. Mr. President, I strongly support this amendment. It is a good amendment. It was considered carefully by the Committee on Banking, Housing, and Urban Affairs and failed by a single vote. It makes sense because it concentrates our help with the people who need it the most.

There are 18 million people, as I understand it, who would be eligible with a 50-percent cutoff on median income. Those people would be helped under the Armstrong amendment.

Most of those people do not get assisted housing now, the overwhelming majority. Eighty-five percent or ninety percent are not assisted. They are left out. Meanwhile, we assist people who have more funds, who are more affluent, more able, and that simply does not make sense.

There is no way that this country, in the next few years, is going to be able to provide all the housing we would like to provide. I wish we could; all of us wish we could. But the resources of this country are not enough. The cost would be in the tens of billions, perhaps the hundreds of billions, to try to do that. We have to make a cutoff.

The position of the Senator from Colorado is that we should help those who need the help most. As long as the overwhelming majority of the very poor do not get help, does it make sense for us to provide assistance for those who really do not need as much?

The committee bill would provide, as I understand it—as the Senator from New Jersey stated earlier this evening—eligibility for those with 70 percent of median income, which would mean that families with incomes of $10,000 or $11,000 a year would be eligible. But the Senator from Colorado would reduce that to families with incomes of $7,500 or less. They are the people who need the help.

I know it would be nice if we could have a diversification of income in these projects. It helps in some ways. But the important thing is to put the money where it is most needed. We have limited resources, and the Senator from Colorado is right to provide those resources where they should be targeted.

Mr. ARMSTRONG. I appreciate the Senator's statement, and I am complimented by his support.

Mr. President, I now yield to the distinguished Senator from Utah (Mr. GARN).

Mr. GARN. I thank the distinguished Senator.

Mr. President, I support the amendment. I supported it when the Senator from Colorado offered it during the Senate Banking Committee markup of the housing and community development bill. In fact, it was supported by the distinguished chairman of the committee, who has just spoken, as well by all six members of the minority.

The amendment has broad-based support. It deserves the support of the Senate. The amendment targets Federal housing subsidies to those Americans who truly need help. According to the Department of Housing and Urban Development, some 6 million American families live in "substandard housing." Yet, some 30 million American families qualify for Federal housing assistance under the section 8 program.

Doing a better job of targeting assistance to those who need is simply commonsense. And I am convinced that is what the majority of American taxpayers want. As the Senator from Colorado noted, each unit of section 8 rental assistance costs, during the life of the housing contract, between $46,000 and $151,000.

In view of this steep fiscal commitment we make on behalf of taxpayers, it is commonsense to make sure that a family with moderate income is not provided housing while many lower income families are not assisted.

The amendment is reasonable. In fact, it simply puts into law what is now common practice at the Department of Housing and Urban Development.

Mr. President, I would like to bring up another point. I am a little surprised at the opposition of the distinguished chairman of the subcommittee, because I have before me a newsletter of the National Low Income Housing Coalition, dated July 11, yesterday. Former Senator Edward Brooke is now chairperson of that organization. The president is Cushing N. Dolbeare, a distinguished fighter for low-income housing, who has appeared before our committee for years. They support this amendment. I quote from the newsletter:

> On the other hand, given the far more urgent needs of very low income people, and the diminishing number of units provided each year, we believe that the relatively small number of units becoming available should be limited to the lowest fourth of the population.
>
> Thus, the proposal is a timely one, and should be enacted.

I repeat: The National Low Income Housing Coalition is in favor of this amendment. They represent a good number of people of low income around this country. Former Senator Brooke preceded me as ranking minority member of the Banking Committee. No one would ever question his desire to have low-income housing. During the 5 years I served with him, he fought for low-income housing. Mrs. Dolbeare certainly has been in the same position. I think our colleagues should be aware that they support the amendment of the distinguished Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield to the Senator from Alabama.

Mr. STEWART. Mr. President, I would like to raise two points, just to substantiate the argument raised by the Senator from New Jersey a moment ago in opposition to this amendment.

It sounds good to talk about targeting funds for the lower income people, but with the number of units that we have authorized under the housing legislation, some 250,000, if you decrease or lower the targeting rate and get lower income people in that housing, what you do is increase the cost of the housing.

The Senator indicated a moment ago that he did not have the figures, but we will be expected to make annual outlays of $15 million to $25 million. So unless you get those moneys, you will have less housing for the poor as a result of this amendment because the subsidy is going to be greater.

I have another concern, as a representative of a Southern State. We have a substantial number of poor in our State and our part of the country, as well as in the Southwest, and I think the Senators from the Southwest should think about this. If we lower the targeted area, I am afraid that there will be less people who fit into the category. The people in the South or the Southwest, where there are a disproportionately large number of low-income people, will be adversely affected by the amendment offered by the distinguished Senator from Colorado.

When you lower the targeted figure and take into consideration the fact that our median income is lower than that in other sections of the country, you are excluding, in effect, a large number of people.

If this amendment is adopted, I think it will penalize our section of the country with regard to this type of housing and will have an effect opposite that which the people in our part of the country want in connection with this project.

Another thing that should be taken into consideration is that this goes

against the grain of the policies that are attempted to be followed by HUD in other housing programs and in section 8 housing. In most low-income projects under the section 8 program, they attempt to have an income mix. This goes against that and certainly causes these projects, which are in some difficulty today—and that information was brought before the committee—to be placed in even more difficulty.

If we are talking about the program itself, I do not see how that has any good effect so far as the low-income people are concerned.

For those reasons, I offered the amendment to modify the amendment of the Senator from Colorado, raised it from a 50-percent target to a 70-percent target in the committee. That gives us, as has been pointed out, some 18 million people rather than 30 million and is a reduction. It is a more reasonable reduction, I think, for the reasons I have offered previously.

I urge my colleagues to take into consideration these arguments and to vote against the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator yield me 2 minutes?

Mr. GARN. Mr. Armstrong controls the time.

Mr. ARMSTRONG. I am pleased to yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. LEVIN. I thank the Senator from Colorado and the Senator from Idaho for taking the chair momentarily so I may ask this question if I might of the sponsor of the amendment.

Would this amendment, if it is adopted, apply to any person presently in existing low-income housing? Is it retroactive in any way?

Mr. ARMSTRONG. No. The amendment clearly grandfathers in specifically those who are in the subsidy program.

Mr. LEVIN. What would be the effective date of the amendment?

Mr. ARMSTRONG. If the Senator will withhold a moment, let me check that detail.

Mr. LEVIN. All right.

Mr. ARMSTRONG. Mr. President, the amendments, under this section, are spelled out in section (6) of the amendment itself and let me quote it. It is spelled out clearly:

(6) The amendments made by this subsection do not affect the eligibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing which is subject to an annual contributions contract on the effective date of this section.

So we are talking clearly about people only in the future. Anyone who is presently under the program is fully protected as to his rights and would not be preempted.

Mr. LEVIN. I thank the Senator.

Mr. WILLIAMS. Mr. President, I simply wish to say that I heard the support for this amendment from Members here who have a record that can be applauded for prudence in budgeting the public's money.

I hope that it is recognized that the more people who come under the section 8 program who are of the very lowest income now, the higher our subsidy authorization will be.

So I hope if this should be the law, and there are shortfalls out there, when the time comes to make it up through authorizations and appropriations, we can look to the distinguished chairman of our committee and to the distinguished ranking minority member to be there when the figures need to go up on the authorizations.

It is true, philosophically, that I wish to see all of those of the lowest income housed, but we work with the numbers that are arrived at through a very elaborate process of budgeting around here.

With that in mind, what we have here with 70 percent of the median income that is in the bill, is an opportunity for a few people of somewhat higher income to get into this housing. They will be paying a higher rent, and that will take some relief from any obligation on the part of Congress to supply subsidies.

Mr. GARN. Mr. President, will the Senator yield for a response to his statement?

Mr. WILLIAMS. I yield.

Mr. GARN. That is the nicest way I have ever been called a conservative. I appreciate what the Senator said.

But my whole philosophy in all of these subsidized programs, welfare and unemployment is that what we do not do as nearly as good a job as we should for the truly needy, for the elderly, for the physically and mentally handicapped, and those who cannot take care of themselves.

We spread most programs so wide and so far to so many people who are not in need of help that we deprive the truly needy and the truly poor.

I just wanted to say yes, that I wish to help these truly needy much more and if as a result of this it requires more dollars to do that so be it.

I do not think it will, if we applied that philosophy across the board and kicked off a lot of people who really could take care of themselves, if they wanted to, and helped these truly needy categories.

Mr. ARMSTRONG. Mr. President, I am nearly ready to yield back my time. But in view of what has been said, I think I should clarify a couple issues and I think at this time, also, I should ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. LEVIN). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, simply to trace the legislative history of this, the present act does provide that people who earn up to 80 percent of the median income are eligible relative to this program. In committee, as our friend Mr. STEWART pointed out, that was reduced to 70 percent. However, even under that reduction some 25 million Americans would qualify for rent subsidies.

All my amendment does is say let us limit this to people who are below 50 percent of the median income or $12,000, whichever is less.

Now, this in itself is an extraordinarily generous program. Under my amendment, if it is enacted, at least 15 million American families would still be eligible for housing assistance which I take to be a vastly larger number than we presently intend to fund. There are 15 million eligible under my amendment. Yet we are talking here about 300,000 units.

So the question is if we are only going to fund 300,000 of either 15 million, under my amendment, or 25 million under the bill as it now reads, or 30 million under the present law, the question is who should these favored 300,000 be?

It seems to me that as a matter of commonsense and best expenditure of funds as well as justice to the truly needy we should target a very limited program to those who are most in need.

My amendment, by the way, implements the present practice of the Department of HUD. Ninety-three percent of families now receiving section 8 rental subsidies earn less than $9,000, and I am advised that at the present time there are less than 700 families receiving subsidy under this program who earn more than $11,000 per year.

If that is true, you may wonder why do we need an amendment such as I am today proposing because it really implements the present practice? The reason is simple, that is, at this moment the section 8 program is under review and HUD is considering regulations which would increase the units made available with incomes between 50 and 80 percent; in other words, HUD itself has administratively been doing what is contemplated by my amendment and is now planning to move into the middle- and upper-income subsidy bracket.

In view of the fact we have funds for relatively speaking a handful of recipients in very great need, in view of the fact this is a year of budget stringency, it is scarcely wise to take the step at this time.

When we fulfill the need for 15 million, 5 million, or 10 million, we can always come back to make the program more generous.

It seems to me at this moment this is a modest step toward focusing the use of scarce resources.

Mr. STEWART. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am happy to yield.

Mr. STEWART. Mr. President, I wish to clarify one thing. The Senator is talking about the figure of $12,000 in the bill as median income, or the area of median income, which is less.

Mr. ARMSTRONG. Whichever is less.

Mr. STEWART. In conjunction with that, let me point out what I did not do clearly enough for those people representing areas which have, perhaps, a disproportionate share of the poor.

What you are doing with this particular situation if you target less of that group to fit into the median income, if

that is less than $12,000 in your areas, you are cutting out people who should be eligible for this program. I am not talking about the near-poor, I am talking about the working poor, the people who pay taxes in some of the poor areas of our country, and I think those who represent those areas need to take a look at this particular amendment from that standpoint.

I do not argue with the fact that we ought to target the moneys we spend in housing for those who need it. But we are talking about the median income and we are talking about a median income in some parts of the country that is far less than $12,000 a year, and when we are talking about by targeting 50 percent of that, we are cutting out some people in some areas of the country, particularly in my part of the country, who are in desperate need of the program. I think those who represent those areas should take a look at that amendment from that standpoint, and I suggest they do.

Mr. ARMSTRONG. Unless others are prepared to speak, I am prepared to bring this to a vote. Before I do that, let me point out that $12,000 is nearly twice the Government standard for a nonfarm family of four; $12,000 approximates the national median income—it is a bit less, and nobody argues that $12,000 is a lavish amount to live on. But the question is whether or not we should subsidize the housing of people in the $12,000, $15,000, $18,000 bracket while we are unable to subsidize people in the $5,000, $6,000, and $8,000 bracket. So it is not a question of absolute need, but relative need.

Mr. NUNN. Mr. President, could I ask the Senator from Alabama a question?

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I might ask for the Senator from Colorado's attention also because I am looking for information here.

The Senator from Alabama makes a point that some who represent some areas of the South, where there is disproportionate share of the poor people in the country, should be alerted to the dangers of the amendment.

I ask the Senator from Alabama is he saying if the median income in the South is $14,000 a year under the Armstrong amendment 50 percent of that would be $7,000 and $7,000 is less than $12,000, and, therefore, the people in a family of four that makes $8,000 would not be eligible under the Armstrong amendment? Is that what the Senator is saying?

Mr. STEWART. With all due respect, I prefer to go the other way. I would say if you have a median income of $7,000, which is less than $12,000, and you take 50 percent of that, under this program then you have some people who might, perhaps, be or should be eligible for the program or above that. He uses the $12,000 figure in explaining his amendment. But what we are talking about is a $12,000 figure or a median income that is less than that.

Mr. NUNN. I thought 50 percent was applied before you decided which is the lesser figure, not after you decided it. Which is it?

Mr. ARMSTRONG. Mr. President, I think we are getting wrapped around something extraneous. There are two limitations. One is 50 percent of the median income within the geographic area. In other words, median incomes in Georgia are not compared to median incomes in Colorado or New York or someplace else. That is the present law. In other words, median income per capita is within the standard area set up by the Department of Labor. The $12,000 limit is a separate limit, but it would not have the effect the Senator states.

Mr. NUNN. I understand that. Let me just give the Senator a hypothetical example. If the median income was $14,000 in the State of Georgia, what then would be the eligibility criteria if this amendment passes? Would it be $7,000?

Mr. ARMSTRONG. I will say to the Senator at the present time the median income computations are made, as I understand it, on the basis of the standard metropolitan statistical area rather than State-by-State. But if you would state the Atlanta SMSA, I would say at the present time the limitation is based on whatever your median income is in Atlanta based on 80 percent of whatever that is. My amendment says that would be 50 percent.

Mr. NUNN. I am giving you a hypothetical. Assuming median income in Atlanta is, the SMSA is, $14,000, what then would be the eligibility limit of a family living in this area? Would it be 50 percent of that or $7,000?

Mr. ARMSTRONG. If I understand the Senator's question correctly, that is correct, $7,000 in the circumstances he described. The justice of that is, in my opinion, that otherwise we would have families in the $10,000, $11,000, $12,000, $15,000 bracket getting subsidies which would not be available to the lower-income families. That is precisely the purpose of my amendment, which is to direct the subsidy to the poorest, neediest segment.

Mr. NUNN. What I am puzzled about, though, if I could continue to have some time, is let us assume the median income hypothetically in Colorado is $14,000, and let us assume the median income in the State of Georgia is $10,000.

It seems to me under your amendment in Colorado a family earning $14,000 would be eligible, a family earning $7,000 would be eligible, because that would be half of $14,000 in Colorado, whereas in Georgia a family earning $14,000 would not be eligible, while a family earning $5,000 would be.

It seems maybe that is the point the Senator from Alabama is making, that the higher your median income is, the higher income family is eligible.

The poor in the area, it seems to me, the more poor people, are excluded. How is it fair, and this is my question, for a family in Colorado that has a higher median income I am sure, that earns $7,000, has a family of four being eligible, whereas a family which earns under my example $6,000 in Georgia would not be eligible?

Mr. ARMSTRONG. I think the situation the Senator has described is exactly the circumstances that prevail at the present time because at the present time, just as under my amendment, the percentage limitation based on the median-income is applied on a metropolitan-area-by-metropolitan-area basis.

If the concern which the Senator is raising is whether or not the amendment tends to favor high-income areas over low-income areas, I think the purpose of my judgment is to direct money to low-income families wherever they may be. It could easily be argued that geographically my amendment favors precisely those sections of the country which have the larger concentration of lower income families.

Mr. NUNN. It seems to me it favors low-income families in high- and median-income areas.

Mr. ARMSTRONG. Well, the purpose of it——

Mr. NUNN. But it discriminates against low-income families in low- and median-income areas.

Mr. ARMSTRONG. I think not. But the main issue, so far as I am concerned, is not that anyway. That is a question which, it seems to me, in a program of this type is beside the point. The real issue is should we be subsidizing relatively prosperous, relatively more affluent, families when we are unable to fulfill the needs in the lower income brackets?

Mr. NUNN. But why would not the Senator let the $12,000 figure be applied across the Nation to help the lower median-income families?

Mr. ARMSTRONG. Is the Senator suggesting that as an alternative proposal?

Mr. NUNN. I am not on the committee and I would not want to amend it myself that way. Of course, you are the experts and you know how this would affect the overall program. I do not understand how it is fair for a family making $6,000 in the State of Georgia to not be eligible whereas a family making $7,000 in a higher median area would be eligible. I understand what the Senator is saying that that already is the way the law applies, because it is tied to median incomes, and you just raise the figure to 80 percent. But I am just asking the question of those who are expert whether that is fair at all.

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

Mr. NUNN. I do not have the floor.

Mr. WILLIAMS. I yielded to the Senator from Georgia. I do not know how much time is remaining here.

The PRESIDING OFFICER. The Senator has 10½ minutes.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that DeAna Hamilton of Senator HUDDLESTON's staff have the privileges of the floor for the remainder of the evening.

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

Mr. SARBANES. Mr. President, the rationale behind using the percentage figure against median income is that you have, or the rough rationale is that you have, differneces in cost of living that are reflected in housing costs and other things. This is one effort to try to, although you get a different absolute figure,

sort of accommodate roughly the same sort of people in different areas. That is a rough approximation, and it can lead to the situation which the Senator from Georgia is describing in which a family of $9,000 in one area is eligible and not in another. You know, they have to be somewhat lower in another area.

The really important point that this colloquy is developing though, which the Senator from Alabama has underscored and which, I think, everyone has to keep in mind in thinking about the amendment offered by the Senator from Colorado, is that amendment has been offered with a great deal of emphasis on this $12,000 figure.

Everyone is thinking of himself, and how does that affect my area, and who is under $12,000, and is that a reasonable sort of figure for us to be working with?

Then you stress that this is a subsidy program and a section 8 program, and should we not get it down? But that is not what the amendment says. What the amendment says is $12,000 or 50 percent of median income, whichever is lower.

The only areas in this country that have a median income twice $12,000, so that the $12,000 figure would have any applicability, would be Alaska and perhaps the Washington, D.C., area.

What we are talking about is 50 percent of the median income. If the median income is $13,000, we are cutting eligibility down under this program, by this amendment, to $6,500. So when you think about this program, you have to be thinking about people making under $6,500. As soon as you start doing that, you have to think about two things: What about the working poor the Senator from Alabama was talking about, who in my view ought to be able to get into this program, and what about the mix in this section 8 housing, where you are trying to get some reasonable mix so you get some families in there who can provide leadership, set examples, and so forth, and you do not have the whole thing just stacked in such a way that you are taking everybody right off the bottom 10 percentile of the income, which then gives you problems in putting together a housing development or project that will really work?

The next thing you know, you have gone out and done this thing, and everyone looks at it and says, "Look at it, it is in a terrible condition, it is not working," and so forth.

That is the kind of complications you get into. What everyone ought to realize is that this $12,000 figure is virtually irrelevant, and the real point is being made by the Senator from Alabama, when he puts his finger on the fact that what this will do is cut eligibility down to 50 percent of the median income in your area.

Now, median is half of the families, and 50 percent of that will put you to the very bottom 25 percent.

Mr. NUNN. If we would just simply change it from whichever is less to whichever is more, we would be directing the amendment to what is the common perception. If we say 50 percent of the median income or $12,000, whichever is more, we would be covering the $12,000 families.

I do not know whether the appropriate figure is $12,000 or $10,000, but it seems to me that when we throw that figure in, we throw in the whole question of whether we ought to be considering median income at all.

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

Mr. NUNN. I do not know the answer, but it seems to me the question ought to be answered. Why throw $12,000 figure in at all, if we are tying it to median income? One or the other should not be in there, is seems to me.

I yield the floor. That is my question.

The PRESIDING OFFICER (Mr. TSONGAS). Who yields time? The Senator from New Jersey has 5 minutes and 5 seconds. The Senator from Colorado has 15 minutes.

Mr. SCHMITT. Will the Senator from New Jersey yield to me?

Mr. ARMSTRONG. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes and 56 seconds.

Mr. ARMSTRONG. I am pleased to yield to the Senator from New Mexico.

Mr. SCHMITT. I appreciate that, because I do not think we are going to use up all the time, but I am afraid I am probably going to oppose the amendment. But I would like to get some thoughts clarified first.

If there is anyone on the Banking Committee more concerned about waste and abuse in public housing than I, I do not know who it might be. But I am concerned that an amendment of this kind, in the absence of a number of other actions such as tax reduction for the lower middle class or the entire country, for that matter, but particularly for the lower middle class economic group, taking an action of this kind, in the absence of other actions, becomes punitive.

The Senator from Georgia can say it ought to be reduced to this or that figure for this reason or that reason, but I am very much concerned about the level to which we lower the limit for eligibility for public housing.

I know that in New Mexico one of the most common complaints that I get from my constituents, particularly those in the lower middle class economic group, is that there is nothing for them. Inflation is eating them alive, they are paying extraordinarily high taxes for their income level, both adult members of the family are working, and there are no Government services they are eligible for, and so on.

This Congress has got to take a much more extended look at that problem, but I am afraid this particular amendment, without that extended look, literally becomes punitive against that particular group.

I appreciate the Senator from Colorado yielding on his time for that kind of comment. It is not that I am not sympathetic with his goal; I just do not know how to get there without hurting this particular group in excess of what they deserve.

Mr. ARMSTRONG. Mr. President, I am glad the Senator from New Mexico has raised this concern. I believe I can satisfy him. I can assure him that this entire issue has been subject to a great deal of study, and I believe every single question raised during the course of this debate has been discussed at some length in committee.

The question of whether or not we ought to have a mixture of income groups in public housing, for example, has been the subject of a survey which analyzed 37 housing projects; and the conclusion, basically, was that the income-mixing concept did not have a lot of validity. That is paraphrasing a lengthy report, but that is the conclusion I drew.

We are not suggesting in this amendment that future housing subsidies under section 8 go to only a handful of people in a very narrow range of income families. We are saying, through this amendment, that 15 million American families could qualify. I do not think Congress will fund any such number, but we could under this amendment.

What I am suggesting is that we should, in all fairness, narrow the range so that we would not have people in the 69th or 70th percentile of median income in the country or geographic area collecting money where people in the 25th percentile are not able to get any help.

We are only funding 1 percent. We are going to reduce to only slightly under 25 million the number of families eligible. My amendment says, in all fairness, that we should not be taxing people in the lower half of the income sector within the community to provide the rent subsidies to people in the upper half.

The real control on this, ultimately, is in the individual project, but I think we ought to target this more precisely.

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

Mr. ARMSTRONG. I will be happy to yield in a moment. I want to make one additional point.

You can say this is punitive, you can say it goes too far, but what I am trying to improve is the present practice and the present program. There are only 700 families, I am advised, with incomes above $11,000 who are getting subsidies, but there is now a subsidy regulation being considered to begin on a larger scale to pay housing subsidies to those families between the 50th and the 80th income percentile. I would suggest that when there is a huge unfilled need in the lower half, and where we are facing budgetary restraints, we ought to think a little on this.

I am happy to yield to the Senator from Maryland.

Mr. SARBANES. I do not understand the Senator's assertion that the lower half of those in this income scale would be paying taxes in order to pay subsidies to people in the upper half of the income scale. Will the Senator explain that?

Mr. ARMSTRONG. Yes, I will be happy to. At the present time, it is perfectly possible for someone with a family of four with an income up to $17,000 a year to qualify for a subsidy under this program. In your State and mine there are many families who do not get subsidies, who are paying taxes into the

general treasury, who earn $10,000, $12,000, $13,000, or $18,000, who do not get any subsidy.

So just in principle we have a situation where a lot of taxpayers, in fact, the vast majority, who earn less than $17,000 a year are paying taxes to support a program that benefits those.

I am not saying that there are no chances where people at the 80th percentile should not be the beneficiaries of some kind of Government program, but I want to say it is inappropriate in this particular case.

Mr. SARBANES. Let me restate my question. As I understand it, under existing law, if your income is more than 80 percent of the median income, you are ineligible. Is that correct?

Mr. ARMSTRONG. That is correct, if you are 78 or 79 percent.

Mr. SARBANES. But half of the people are above the median income. The other half of the people are below the median income. The half of the people who are below the median income, if they are above 80 percent of the median income, are also ineligible.

It seems to me by definition you cannot have people in the bottom half paying for people in the top half of the income scale because the people in the top half of the income scale are excluded automatically. Median income means that 50 percent are above that income.

The only statement that the Senator has made that I am taking issue with, and I understand the thrust of where he wants to go with this amendment, is the assertion that there is a situation now where those from the bottom half of the income scale can be paying for subsidies to go to people in the top half of the income scale. By definition, the people in the top half of the income scale, all of whom are above the median income, are excluded to begin with.

Then we get into an argument of which people in the lower half of the income scale ought to be able to participlate in this program. Is it going to be those at 80 percent of the median income? Is it going to be those at 70 percent of the median income, which is what the committee has brought out in this bill, which represents a partial response by the committee to some of the points which the Senator from Colorado is making?

Those points were made in the committee and there was some response to them. I do not contend that some of the points the Senator is making are not without merit. We have responded to some of them. But I am speaking about 50 percent as the median income. The Senator is referring to the bottom half of the income scale by definition, so there is no way that people in the bottom half of the income scale can be paying to subsidize people in the top half. On the argument about who is in this program, it is those in the bottom half of the income scale.

Mr. ARMSTRONG. Let me point out that the national average income now is $17,600 for a family of four. In many areas of the country there are geographic areas where the regional median income obviously is well above $17,000. So if we take 80 percent of an above-average median income in a particular standard metropolitan statistical area, we quickly arrive at a situation where a family above the national median could receive subsidy under section 8.

However, that is not really the issue. The statistics can be bent around a lot of different ways. The fact of the matter is should we target this program, relatively speaking, to the poorest of the poor, or should we target it to somebody else? My amendment suggests it should go to the poor people, and on that basis I believe it will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. PERCY. Will the Senator yield?

Mr. TSONGAS. Mr. President, I am very sympathetic to the remarks made by my colleague from Colorado. I am sure that none of the Members of the Senate fails to recognize the fact that resources for the section 8 program are too limited to meet the needs of all low-income people. I am certain that we would all like to find a way to serve the needs of the very low income people.

However, I am not sure that the issue is really one that can be addressed by an arbitrary reduction in eiligibility. Right now the law provides section 8 eligibility to people at or below 80 percent of the median. Yet the administration tells us that 93 percent of all people served under this program are at or below 50 percent of the median. In fact they tell us that the average income of clients in this program is 28 percent of the median.

The committee bill has called for a reduction to 70 percent of the median. We have no assessment of the impact of this change. Now we are being asked to take 50 percent of the median, again with no assessment of the impact of this change.

I would suggest that before we set an arbitrary reduction figure, we need to carefully analyze the issue with greater care.

My point is, that the present eligibility level does not relate to the reality of the clients HUD is serving. Maybe this is not the way to get at the issue. Maybe it is. But I would urge the Senate to withhold any changes in this limit until we can receive a better clarification of the problem.

The PRESIDING OFFICER. The Senator from Colorado has 5 minutes remaining.

Mr. ARMSTRONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislation clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Mississippi (Mr. STENNIS) and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 34, nays 55, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—34

Armstrong	Garn	Percy
Belmon	Hatch	Proxmire
Boschwitz	Hayakawa	Roth
Byrd, Harry F., Jr.	Helms	Schweiker
	Humphrey	Simpson
Chafee	Jepsen	Stone
Church	Kassebaum	Talmadge
Cohen	Laxalt	Thurmond
Danforth	Levin	Tower
Dole	Lugar	Warner
Domenici	McClure	Zorinsky
Exon	Packwood	

NAYS—55

Baucus	Gravel	Morgan
Bayh	Hart	Moynihan
Bentsen	Hatfield	Muskie
Biden	Heflin	Nelson
Boren	Hollings	Nunn
Bradley	Huddleston	Pell
Bumpers	Inouye	Pressler
Burdick	Jackson	Pryor
Byrd, Robert C.	Javits	Randolph
Cannon	Johnston	Riegle
Cochran	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Culver	Long	Schmitt
DeConcini	Magnuson	Stevens
Durenberger	Mathias	Stewart
Durkin	Matsunaga	Tsongas
Eagleton	McGovern	Williams
Ford	Melcher	
Glenn	Metzenbaum	

NOT VOTING—11

Baker	Ribicoff	Wallop
Chiles	Stafford	Weicker
Goldwater	Stennis	Young
Heinz	Stevenson	

So Mr. ARMSTRONG's amendment (UP No. 327) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, there will be no more rollcall votes today.

I have some other information they may be interested in.

S. 344—THE NEED TO REPAIR THE FAILURE OF THE HIGHWAY BILLBOARD CONTROL LAW

Mr. STAFFORD. Mr. President, the Subcommittee on Transportation of the Committee on Environment and Public Works will hold hearings on Tuesday, July 17, and Wednesday, July 18, to consider my bill S. 344. This is legislation that will add greater flexibility to the

Federal highway billboard control law, giving the States the option of dropping out of the program. These hearings will begin at 10 a.m. each day, and Tuesday's hearing will be in 4200 Dirksen and Wednesday's hearing will be in 1114 Dirksen.

Mr. President, this is an important issue. I think it is most interesting that the only group now supporting the perpetuation of the present billboard law is the billboard industry itself. The reason: The law has become nothing more than a billboard protection law.

As a clear sign of this, the Journal of the American Planning Association magazine, in its April 1977 issue, carried an article entitled: "Billboard Control Under the Highway Beautification Act—A Failure of Land Use Controls."

I ask unanimous consent that this article be printed at this point in the RECORD.

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

BILLBOARD CONTROL UNDER THE HIGHWAY BEAUTIFICATION ACT—A FAILURE OF LAND USE CONTROLS

(By Charles F. Floyd)

Perhaps no environmental or land-use issue evoked more discussion and debate during the 1950s and 1960s than did aesthetics and sign control. This movement culminated in the Highway Beautification Act of 1965 which promised to control:

"The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the interstate system and primary system . . . in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty."

In practice, however, the Act has largely been a failure, achieving little toward the accomplishment of the stated Congressional goals. Crippling amendments, problems arising from reliance upon the use of eminent domain rather than the police power to remove nonconforming signs, "loopholes" in the designation of commercial and industrial zones, the exemption of on-premise signs, a lack of national standards, and general indifference among former supporters have been the main causes of the Act's ineffectiveness.

THE BONUS ACT

Local governments have been attempting to control billboards since these eyesores became prevalent around the turn of the century.[1]

A strong push for national billboard legislation came after the beginning of the interstate highway system in 1956. Two years later Congress passed the so-called "Bonus Act," which encouraged individual states to develop control measures consistent with national standards by offering a federal-aid highway bonus payment in the amount of one-half of one percent of the cost of interstate highway construction projects. The Act prohibited most off-premise signs along the interstate system and provided some control of on-premise signs.[2] Later amendments exempted from control those segments of the interstate system which traversed (1) areas that had been either zoned commercial or industrial within the boundaries of incorporated municipalities as of September 1959, or areas in which the state had clearly established land use as industrial or commercial as of that date, and (2) older rights-of-way incorporated into the interstate system.[3]

Footnotes at end of article.

Twenty-five states, located mostly in the Northeast, the Midwest, and along the Pacific Coast, passed enabling acts and entered into bonus agreements before the expiration of the program on June 30, 1965 (Johnson 1970). The Bonus Law did not specify the method to be used in effecting the required outdoor advertising controls. Only three states utilized the power of eminent domain to eliminate nonconforming signs; seven states combined compensation for certain existing signs along with police power controls; the remainder relied solely upon the police power. Six of these states had their laws tested in the courts and all were upheld with the exception of Georgia's. In an opinion which is widely quoted because it is so in variance with prevailing legal opinion in other states, the Georgia Supreme Court declared the law unconstitutional because it did not provide compensation in the acquisition of nonconforming signs.[4]

Even though it was the first attempt to develop national advertising control legislation, the Bonus Act has been much more successful in achieving its stated objectives than has the 1965 Beautification Act. The primary reasons for the Bonus Act's success were:

It provided for definite national standards.

The freeze date on the designation of new commercial and industrial zones kept these areas from proliferating to an extent that would undermine the purposes of the Act.

An alternative to the passage of the Highway Beautification Act would have been to amend the Bonus Act to make outdoor advertising control along the interstate system mandatory for all of the states and to eliminate some of the Bonus Act's loopholes. In retrospect, there is little question that this approach would have been far more effective in controlling billboards than the one actually adopted in the 1965 Act.

THE HIGHWAY BEAUTIFICATION ACT

The year 1965 marked the passage of the Highway Beautification Act, sometimes called the Ladybird Johnson Bill but more accurately described as the Billboard Protection and Compensation Act. The Act was conceived with lofty intentions—to make billboard control mandatory in all the states and to extend control to the primary system (most US-numbered and some state-numbered highways). What emerged offers a classic case of a powerful industry gutting environmental legislation. On the positive side, billboard control was made mandatory (a state would lose 10 percent of its federal-aid highway funds unless it complied with the Act), and regulation was extended to the primary system.[5] The costs, however, both in monetary and other terms, were enormous.

First, *all* areas zoned for commercial and industrial use, including "unzoned commercial and industrial areas," were exempted from any but the most minimal controls. The exemption is much too broad, lumping research parks and rural areas that happen to be zoned for possible future commercial development with ugly commercial strips. The practical effect of the provision has been to allow billboards in commercial areas where they are totally inharmonious, and also in areas which are almost totally rural in character.

Second, on-premise signs, those signs that identify a place of business, were exempted from any controls. The result has been huge gas station signs towering above the landscape at almost every interchange and the unchecked spread of sign clutter along our highways.

The most devastating triumph of the billboard lobby, however, was the provision making payment of compensation mandatory for the removal of all noncomforming signs. As will be shown, this forced compensation feature, combined with meager appropriations for the program, has meant that very few signboards have actually been removed under the Act.

THE HIGHWAY BEAUTIFICATION ACT IN PRACTICE

How effective has Title I of the Highway Beautification Act of 1965 been in (1) controlling the erection of new billboards and (2) removing billboards that are nonconforming? The record indicates that the Act has been ineffective in both respects.

CONTROL OF NEW BILLBOARDS

Size and spacing standards. The Highway Beautification Act required that each state enter into an agreement with the Secretary of Commerce (later Secretary of Transportation) to "provide effective control of outdoor advertising," including size and spacing requirements for billboards permitted in commercial and industrial areas. The Secretary was not allowed to set national standards for size and spacing limitations, however, but was to accept what was "customary" in each state.

In an attempt to set a basis for the negotiations with the states, and to assist in developing the required cost estimate for Congress, the Bureau of Public Roads developed draft standards for directional and official signs, a draft definition of unzoned commercial and industrial areas and draft criteria for the size, spacing, and lighting of signs permitted in commercial or industrial zones. Following the publishing of these criteria in the Federal Register, a series of public hearings was held in each state (Federal Register 1966).

The proposed standards were opposed within both the billboard industry and Congress because they would have established some restrictions on the sign companies' activities. The regulations set a maximum size limitation of 300 square feet—400 square feet if the sign was located more than 150 feet from the edge of the right-of-way. Billboards were also required to be set back 25 feet from the right-of-way, and a maximum of six signs per mile was established. No signs were to be allowed within 2000 feet of an entrance or exit ramp for an interchange or rest area, in effect creating a "blocked out zone" for approximately one and one-half miles at each interchange as a safety feature.

As a result of the opposition that developed during the hearings, when these proposed guidelines were presented to Congress in January 1967 they had been watered down considerably. The maximum size had been increased to 650 square feet with no setback requirement, while the maximum number of signs per mile had been increased to twenty-one.

Even these reduced standards met considerable opposition from the billboard lobby and its supporters in Congress, and the proposed standards were vigorously attacked during the hearings on the Beautification Act that were held by both Houses in 1967. The primary questions at issue were what constituted "customary use," and how much right the Secretary had to set any type of minimum standards. The Federal Highway Administrator testified that:

"We received a lot of testimony on what constitutes 'customary use,' and as you might suspect, it was certainly not unanimous in its presentation. We finally wound up with, for example, a size proposal of 650 feet. Just as a matter of interest, *this size is larger than all but 1.85 percent of existing signs*" (U.S. Congress, House, 1967, p. 961). (Emphasis added.)

Finally, in a May 24 letter to Representa-

tive Kluczynski, Chairman of the Subcommittee on Roads of the House Public Works Committee, Transportation Secretary Boyd abandoned the proposed standards, and stated that "subject to supporting evidence, state determination of customary use will be accepted with respect to size, lighting, and spacing of signs" (U.S. Congress, Senate, 1967). Essentially, this was defined to encompass almost everything the sign companies wanted. F. C. Turner, Federal Highway Administrator, later wrote to Congressman Wright, then also Chairman of the Commission on Highway Beautification, that:

"The Federal Highway Administration, in cooperation with the Outdoor Advertising Association of America, Inc., developed a model agreement which could be utilized by any state during the negotiation process" (Commission on Highway Beautification 1973).

This "model agreement" set a maximum size limitation of 1,200 square feet that was adopted by thirty-two states. The square footage is equal to the floor area of a medium-sized three bedroom house and is approximately twice the size of the largest billboards normally erected along the interstate system. George McInturff of the Outdoor Advertising Association of America later testified:

"That size limit is the outer limit of what is used by the industry in major urban areas within the United States. . . . I doubt greatly that more than one sign out of 2,000 now erected, or erected since those controls were established, even approaches that 1,200 square feet." [6]

"Customary spacing" in the guidelines, and in most of the states, was defined as every 500 feet on the interstate system, every 300 feet on the primary system, and every 100 feet on the primary system within municipalities. The billboard industry favored the spacing requirements since they prevent a competitor from erecting another sign close enough to block an unobstructed view out of an existing billboard. Under the spacing requirements it is possible to have 10.5 billboard sites per mile on each side of the road along an interstate highway, a total of 21 sites on both sides. Since two faces are permitted at each site, 42 billboards per mile are allowed along any portion of the interstate system that is zoned commercial or industrial. On the primary system, the comparable figures are 35 sites and 70 faces per mile. Within municipalities the allowable sites reach the somewhat absurd level of 106 per mile with 212 possible sign faces. If each of these signs were of the maximum allowable size (1200 square feet per site), the total area of the sign faces would be equal to approximately three football fields for each mile of roadway (Commission on Highway Beautification 1974).[7] (Table 1 illustrates the difference between proposed and final regulations under the Highway Beautification Act).

TABLE 1.—GUIDELINES FOR SIZE AND SPACING AGREEMENTS IN COMMERCIAL AND INDUSTRIAL AREAS

	Highway Beautification Act			Highway Beautification Act		
	Proposed in Federal Register, Jan. 28, 1966	Proposed in report to Congress, Jan. 10, 1967	Final guidelines	Proposed in Federal Register, Jan. 28, 1966	Proposed in report to Congress, Jan. 10, 1967	Final guidelines
Maximum size	300 s ft[2], 400 s ft[2] if located more than 150 ft from right-of-way.	650 s ft[2]	1,200 s ft.[2]			
Maximum height from ground	30 ft.	None	None.			
Setback from right-of-way	25 ft.	None	None.			
Maximum number per mile on:						
Interstate	6	21	42.			
Primary-rural	6	21	70.			
Primary-cities	6	21	212.			
Allowable square footage per mile:						
Interstate				2,400	13,650	25,200.
Primary-rural				2,400	13,650	42,000.
Primary-cities				2,400	13,650	127,200.
"Blocked-out" zone from interchange				2,000 ft.	2,000 ft.	500 ft outside municipality; none within municipality.
Number of firms needed to qualify as "Unzoned commercial and industrial area"				2	2	1.

Source: Federal Register, Jan. 28, 1966, Senate Document No. 6, 90th Congress, 1st session, Highway Beautification Commission, Hearings, 1974, pp. 413–419.

Commercial and industrial zones. Since the size and spacing requirements contained in most of the agreements amount to virtually no control of outdoor advertising, the designation of commercial and industrial areas becomes all important. Unfortunately, local zoning authorities often do not place great importance on providing an uncluttered view for the interstate motorist. The real or imagined benefits to be derived for local businesses through billboard advertising usually assumes a much greater priority. In practice, therefore, many local communities, and particularly rural counties have attempted to circumvent the Highway Beautification Act by zoning long stretches of rural highways as commercial and industrial areas. The absence of any requirement that such areas actually contain commercial or industrial land uses, and the Congressional insistence that state and local zoning actions be accepted for the purposes of the Act, makes this provision perhaps the largest loophole in the entire Highway Beautification Act.

"Anticipatory" commercial and industrial zones. Under generally accepted planning techniques lands are zoned not just for the present, but also for anticipated development some years into the future. Because there is no requirement in the Beautification Act that restricts billboards to areas of actual commercial or industrial land use, this practice results in signboards being allowed in vast areas of rural countryside. For example, on Interstate 85 in Gwinnett County near Atlanta an industrial zone extends approximately four miles beyond the currently developed industrial area. In this four miles there are fifty-one billboard sites, only four of which are actually located near any type of commercial or industrial land use.

Footnotes at end of article.

"False" commercial and industrial zones. Many states or local communities have classified areas as commercial and industrial zones that fail to qualify for this designation under any accepted land use standards. Consequently, it is difficult to reach any conclusion other than the obvious one that they were zoned primarily to allow billboards. In some cases, strips along the entire length of rural highways have been zoned solely for this purpose. Other rural counties have designated large areas on either side of interchanges as commercial zones, even though such activities are confined almost exclusively to the areas immediately adjacent to the interchange. Still others have classified strips along interstate highways as agricultural-commercial zones, in which billboards are almost the only permitted commercial use. Several states passed legislation to comply with the Highway Beautification Act that zoned vast areas as commercial or industrial. The most obvious was Wyoming, which zoned all lands outside of municipalities within 660 feet of the rights-of-way of interstate and primary highways as commercial (U.S. Congress, House, 1967, p. 1005). South Dakota zoned all land within 660 feet of interstate and primary highways up to fifteen miles from municipal limits as commercial (Commission on Highway Beautification 1973, pp. 644–645). Georgia zoned similar areas from two to eight miles from municipal limits, varying with municipal population size.[8]

These flagrant examples of false commercial and industrial zoning were not accepted by the U.S. Department of Transportation. Even though the Highway Beautification Act gives the states full authority to zone commercial and industrial for the purposes of the Act, the Federal Highway Administration has taken the position that zoning created primarily to permit outdoor advertising structures will not be recognized (U.S. Department of Transportation 1975).

Unzoned commercial and industrial areas. The designation of "unzoned commercial and industrial areas" is another gigantic loophole permitting billboards in predominantly rural areas. The U.S. Department of Transportation initially proposed that at least two businesses be located in such an area to qualify it as commercial (Federal Register 1966). On the other hand, much of the billboard industry took the position that billboards should be allowed in any area that *might* be suitable for commercial and industrial development, even though there were no such firms there at all. In the definition that was finally accepted, even the most obscure commercial or industrial use will serve to permit signs. For example, small family businesses that happen to back up to an interstate highway—and that in many cases cannot even readily be seen from the highway—will permit the erection of several large billboards. Ironically, junkyards in rural areas that are screened and controlled under the Highway Beautification Act have also served as the justification for permitting billboards.

Four of the states, California, Hawaii, Oregon, and Colorado, do not allow signs in unzoned commercial and industrial areas, while another four, New Hampshire, Massachusetts, Washington, and Vermont, require a minimum of two or three activities to qualify. (Vermont has since prohibited all billboards advertising within the state). The remainder of the states, except South Dakota, require only one activity and allow signs within 400 to 1000 feet (Commission on Highway Beautification 1974).

The ingenuity shown by some advertising companies to get a foot into this loophole are fascinating. In Georgia one property owner erected a small shed in a rural area and put up a sign designating it as a warehouse. A large billboard was erected next to

this "warehouse" and the outdoor advertising firm then applied for a permit based on the area's being an unzoned industrial area. In South Carolina, a large national advertising company helped set up a small radio repair shop in a residence that happened to be located near Interstate 95, and then used this "business" as justification to erect several large billboards.

The case of South Dakota. The Federal Highway Administration refused to accept the South Dakota law which zoned vast areas as commercial, and Secretary of Transportation Volpe invoked the ten percent penalty in federal-aid highway funds. The Secretary's determination that South Dakota was not providing "effective control," as called for under the Act, was challenged in federal district court, but the action was upheld. The court found that the State had:

"Zoned commercial corridors through the State corresponding to the federally assisted highway systems, affording the State virtually no protection from outdoor advertising and subjecting the Interstate traveler to an array of billboards in the midst of an area obviously agricultural. For example, under the South Dakota law, on Interstate 90, crossing the State east to west, there would be only two short segments from one border to the other in which billboards would not be permitted. Each of these excepted segments would have been approximately two miles long. The Secretary reasonably concluded that these provisions were obviously inconsistent with the Act's purpose."[9]

Although South Dakota did pass new legislation and sign an agreement with the Secretary of Transportation (who returned the withheld federal-aid highway funds), this did not end South Dakota's efforts to circumvent the Highway Beautification Act. Local communities passed zoning ordinances designating large areas along interstate and primary highways as commercial, and these zoning determinations were accepted for purposes of the Highway Beautification Act by the State.

For example, Lyman County, with a population of approximately four thousand people, passed a zoning ordinance in 1975. Despite the fact that the county's population had been declining since 1910, and only slightly over two hundred persons were employed in wholesale and retail trade within the entire county, 29 of the 52 miles of I-90 within the county, comprising approximately 2,200 acres, was zoned for commercial use. These commercial zones were 300 feet wide on each side of the highway and sometimes extended more than three miles from any access to the interstate at an interchange. The town of Lyman, which had a population of approximately fifty and not a single commercial enterprise, zoned four miles of I-90 as commercial (Fifth District Planning and Development Commission 1976).

After the billboard industry successfully challenged the state's new law on the grounds of improper delegation of power, South Dakota passed still another act.[10] This act was a blatant attempt to not only circumvent the intent of the Highway Beautification Act but to use it to protect and enrich the billboard industry.[11] Among its provisions were:

"Direction signs," which are allowed in all types of areas, were defined to include billboards.

Local government control of outdoor advertising was pre-empted and local ability to require removal of any type of nonconforming signs through amortization under the police power was eliminated.

Depreciation of the sign coud not be taken into account in determining compensation.

All nonconforming billboards could be "repaired or replaced by a sign of substantially the same kind," in effect giving all these signs eternal life.

The state was required to secure negative easements rather than use traditional zoning powers to control the erection of new signs.

In addition, the unzoned commercial and industrial area was defined to include:

All land on both sides of the road within one mile in either direction of the property boundaries of any commercial or industrial activity.

All land within one thousand feet of the right-of-way that is traversed by a railroad.

"All pockets of land" lying between zoned or unzoned commercial and industrial areas which are not more than one thousand feet apart.

"All other unzoned lands, *or zoned lands without regard to zoning classfication*," as determined by any board of county commissioners. (Emphasis added.)

Determining that the South Dakota law "failed to provide for effective control of outdoor advertising," Secretary of Transportation Brock Adams invoked an approximate $4.5 million penalty on the State in November 1978.[12] He also reserved ten percent of the State's current allocation, pending possible revision of the South Dakota law by March 31, 1979. South Dakota has appealed this decision to the courts.

The 660 foot control zone. Framers of the 1958 Bonus Law felt that some limit of control was necessary, and for somewhat obscure reasons this was set at 660 feet (⅛ mile) from the edge of the right-of-way. These limits were continued in the Highway Beautification Act of 1965. The billboard industry responded in predictable fashion to this loophole by creating the phenomena of the "jumbo" sign. There are very large billboards, usually 1200 to 2500 square feet in size, but sometimes even larger. By 1973 the states estimated that there were nearly five thousand of these jumbos located just beyond the 660 foot control limit (Commission on Highway Beautification 1974). Several thousand more were erected before state laws were changed to comply with a 1974 amendment to the Highway Beautification Act which extended the control zone to the limit of visibility. The cost of removing the existing jumbos is now estimated at $77 million.[13]

REMOVAL OF NONCONFORMING SIGNS

Communities have traditionally eliminated nonconforming signs through amortization under the police power (Floyd and Shedd 1979, Chapter 4; Dobrow 1975; Travers 1974; and Williams 1974–75, Chap. 116). Almost all of the "Bonus" states used this method, but Congress decided upon compensation in the Highway Beautification Act, supposedly because control was being extended to the primary system (Floyd 1979).

In 1972 the Secretary of Transportation made a determination that Vermont's policy of not paying compensation for the removal of nonconforming billboards did not constitute "effective control" under the meaning of the Highway Beautification Act. The State challenged this mandatory compensation provision on the basis that (1) such action was not authorized under a proper construction of the Act, and (2) the provision violated the Tenth Amendment to the Federal Constitution. The court ruled against Vermont, and the State agreed to pay compensation.[14]

Congress made compensation mandatory for the removal of nonconforming signs, declared in a 1968 amendment that no signs are required to be removed unless the federal share of compensation is available, but has since failed to appropriate the funds necessary to complete the program within any reasonable time. In May 1971 Secretary Volpe attended ceremonies in Shreveport, Maine, marking the removal of the first sign purchased under the Highway Beautification Act. The outdoor advertising company was awarded $6,000 in compensation for this sign which had a town property tax valuation of some $820 (U.S. Congress, Senate, 1974). This event occurred nearly a year after the "final compliance date" of July 1, 1979, that was originally set in the Highway Beautification Act for the removal of all nonconforming signs.

Approximately 91,650 nonconforming signs had been removed under the Highway Beautification Act as of March 31, 1978; this is 30 percent of all nonconforming signs. Expenditures on the outdoor advertising control program, including administrative expenses, totaled $107.5 million through June 30, 1978 (Floyd and Shedd 1979, pp. 124–127).

State sign removal programs have varied widely, with some of the states removing all or almost all nonconforming signs, while others have removed few, if any. Eleven states had acquired less than 10 percent of their total nonconforming signs while only fourteen had purchased more than 50 percent.

The Federal Highway Administration estimates the total cost of removing signs made nonconforming by the Highway Beautification Act at approximately $515 million.[15] This represents a considerable underestimation, however, since the figure was derived by employing an average acquisition cost per signboard based on past experience, and the remaining signs are acknowledged to have a much greater average value than those removed during the early part of the program. The General Accounting Office estimates the removal cost at $823 million (Comptroller General 1978). Even if the lower FHWA cost estimate is correct, at the current level of appropriations the sign removal program could not be completed in less than 110 years.

Most public projects are planned so as to maximize the benefit-to-cost ratio; the billboard removal program has been designed to minimize the benefit-to-cost ratio. In 1976 amendments Congress directed that the first priority for removal be signs voluntarily offered by the billboard companies, while other nonconforming signs along heavily traveled rural highways will be the last removed. This strategy has resulted in the very limited funds that have been appropriated for highway beautification being dissipated to little benefit except to the outdoor advertising firms.

The program has been further weakened by another amendment contained in the 1976 Federal Highway Act. In addition to directing the states to retain nonconforming rural signboards giving directional information until the end of the program, the amendments also allowed the states to keep these billboards permanently where their removal might cause "economic hardship."[16] This provision has the potential of completely halting the removal of rural signs.

Still not satisfied, the billboard industry is lobbying hard to further amend the Act to permit "private directional signs" in all rural areas. This euphemism describes any billboard that contains directional information, a definition that covers an estimated 80 percent of existing signboards. Only a few hours and a few gallons of paint are needed to change the others. Needless to say, the proposed amendment would almost completely gut what still remains of the billboard control program.

1978 AMENDMENTS

In response to requests from the outdoor advertising industry, the Act was amended in 1978 to require that compensation be paid whenever a nonconforming sign is removed under any state or local land-use control, environmental, or zoning law.[17] Previously, compensation was required only where signs were removed because of the Act; it was not required where signs were removed because they were nonconforming under other state conservation or environmental laws, or under local comprehensive zoning

Footnotes at end of article.

ordinances. The amendment represents an unprecedented limitation on local zoning authorities and a victory by the industry in its longstanding campaign to deny state and local governments the traditional right to remove nonconforming signs through the use of the police power.

This Congressional action comes at a time when the principle of compensation through an amortization period has met with increasing acceptance in the courts (Floyd and Shedd 1979, Chap. 4; Dubrow 1975; and Environmental Law Review 1976.) In a major challenge by the sign industry, the amortization provision in Denver's sign ordinance was upheld by the Tenth Circuit Court of Appeals.[18] Other examples of amortization period held to be reasonable include the six and one-half years allowed for removal of all advertising signs in the Catskill and Adirondack Parks of New York,[19] the three year amortization period provided prior to mandatory removal of billboards in the Village of Minnetonka's residential communities,[20] the ten month period allowed for removal of billboards in Boothbay, Maine,[21] and the two year period enacted by Doraville, Georgia, provided before removal of signs within five hundred feet of an expressway.[22]

BILLBOARD CONTROL UNDER THE HIGHWAY BEAUTIFICATION ACT: AN ASSESSMENT

Billboard control under the Highway Beautification Act has largely been a failure, both in removing nonconforming signs and in preventing the spread of billboard clutter to much of the rural countryside. In particular:

The requirement that size, spacing, and lighting would be in accordance with "customary use" has meant that for all practical purposes there are no restrictions on billboards in the areas that are designated as commercial and industrial zones.

These ineffective regulations have tended to shield the billboard industry from more effective regulation at the state or local level.

The designation of commercial and industrial zones has been so loose that local or state governments desiring to circumvent the Act can do so with almost complete impunity.

The designation of "unzoned commercial and industrial areas" is so loosely defined that even very obscure commercial or industrial uses will permit billboards.

Only a relatively small number of nonconforming billboards have actually been removed, and at the present level of funding the program could not be complete is less than 110 years.

Ineffective regulations have permitted billboard companies to continually rebuild and refurbish nonconforming signs, in effect, to give them eternal life. Allowing the billboard companies to rebuild their signs continually has meant that the cost of acquisition continues to rise rather than to decline as was stated Congressional intent.

The mandatory compensation provision has hindered the use of the police power to remove signs at the state and local level.

Adequate alternative motorist information systems have not been provided.

This gloomy assessment of the program's effectiveness is shared by many observers, including the General Accounting Office, which recently completed a study of the Highway Beautification Act (Comptroller General 1978). That study concluded:

"The program as it is now structured may not achieve the overall objective of preserving natural beauty along the highways. A general lack of support for the program, the legal complexities that may result between States and sign owners, the numerous exemptions granted under the law, and the differences in State and local rules all appear to hamper achieving the aesthetic results of sign removal. . . . It appears that the objectives of the Highway Beautification Act will not be accomplished in the near future."

Senator Robert T. Stafford (R-Vt.), one of the Act's strongest supporters over many years, recently evaluated the billboard control program in discussing the 1978 amendments (Congressional Record 1978):

"This program is only a small part of the total Federal-aid scheme but, in my opinion, is one which functions the least well, raises more controversy, and provides fewer benefits than any other program element.

"It seems to me that we have succeeded in tying the hands of those States, such as my own, which want to move aggressively to clear highways of billboards. At the same time we have achieved very little in States which are less interested in the scenic value of their roads. We are fostering the worst of two worlds. And at the funding levels provided by Congress since the program began in 1965 it is evident that the program has little support from its creators. . . . In some instances it seems as if *the Beautification Act has been turned around and now promotes rather than discourages billboards... I want my colleagues to consider the possibility that repeal of the highway beautification experiment may ultimately prove to be the only way to further the goals originally sought.*" (Emphasis added.)

STEPS TOWARD AN EFFECTIVE BILLBOARD CONTROL PROGRAM

What are some realistic ways that the Highway Beautification Act could be amended so as to become more effective?

CONTROL OF NEW BILLBOARDS

The proliferation of billboards in commercial and industrial zones that are actually primarily rural is the greatest loophole in the Highway Beautification Act.

This loophole could be eliminated by:

Initiating a freeze on the designation of additional commercial and industrial zones similar to that in the Bonus Act.

Redefining "unzoned commercial and industrial areas" to limit this designation to areas of significant commercial and industrial activity.

Requiring that billboards be located near actual commercial or industrial uses. This would eliminate the problem of anticipatory or false commercial and industrial zones.

Some control of on-premise sign is also necessary to eliminate obvious abuses such as the huge signs that tower over the landscape near interchanges. These regulations would not need to be complex; only size and height limitations are essential.

The size and spacing limitations for billboards in commercial and industrial areas should also be reassessed. The present requirements are so broad that they provide no real limitation on outdoor advertisers and serve merely to shield the industry from effective local regulation. The requirements should either be revised so as to be effective or else be eliminated.

Alternative motorist information services should be provided. A first step would be to establish "logo" information signing on all rural freeways. These signs, which are located on the right-of-way, display panels showing brand names, trademarks, and names of business establishments. Separate blue panels are erected in advance of interchanges for gas, food, lodging, and camping facilities (U.S. Department of Transportation 1974). Firms near the interchange and meeting certain criteria can furnish panels containing a brand name logo or other type of name identification to be placed on these panels. A few states, notably Virginia and Oregon, have made extensive use of the logo signs, and a number of other states have begun similar programs. After years of experimentation there are no longer valid reasons to delay implementation of such a program.

REMOVAL OF NONCONFORMING SIGNS

The principle of mandatory compensation for the removal of nonconforming signs under the Highway Beautification Act appears to be firmly established, and it is unlikely that Congress would be willing to eliminate this provision. Even so, the removal program could be made much more realistic and effective. First, rules and regulations regarding the replacement, repair, and refurbishment of nonconforming signs should be revised so that these signs would actually depreciate as the years advance. This is consistent with generally accepted practices regarding nonconforming uses and would make it possible to eliminate these signs over a reasonable period of time.

Second, the monies that are available for sign removal should be utilized for maximum benefit rather than frittered away as is current practice. Nonconforming signs on the heavily traveled interstate system should be completely removed before any funds are expended on the primary system. Exceptions to this rule could be made for especially scenic roads, but the program should definitely involve removal of all nonconforming signs on a particular stretch of highway. Partial removals leave little discernible visual improvement for the average motorist.

These steps would make it possible to conduct a meaningful billboard removal program within a reasonable period of time. Obviously, this is not being achieved under the current program.

BILLBOARD CONTROL: THE FORGOTTEN ENVIRONMENTAL ISSUE

The outdoor advertising industry has been able to dismember the Highway Beautification Act almost unimpeded in recent years and reduce it to near total ineffectiveness because the Act has been virtually abandoned by environmentalists. Even though billboard control was one of the first important environmental issues, it now is seemingly out of vogue with these groups.

Effective billboard control can still be achieved under the Highway Beautification Act if significant public support can be mobilized in support of extensive amendments and vigorous administration. Otherwise, perhaps it would be preferable to acknowledge failure as Senator Stafford suggests, and repeal the Act.

In his proposed budget for fiscal year 1980 President Carter has recommended that funds be discontinued for the Highway Beautification program. On February 6th, Senator Robert Stafford, the program's greatest supporter in the Congress, introduced a bill to repeal the mandatory provisions of the act. The Senator explained that "The purposes this act was intended to achieve have been to a large degree perverted. The act has become more a protection for billboards than the cause for their removal." Senator Stafford was attacked as a "rabble-rouser" by an official of the Outdoor Advertising Association of America, who praised the act as "a worthy endeavor that should continue." Hearings on the bill are scheduled for this summer.

FOOTNOTES

[1] For a review of these local efforts see Floyd and Shedd (1979); Travers (1975a, 1975b); and Williams (1974–1975, Chapter 11, 120–127).

[2] Federal Aid Highway Act of 1958, 23 U.S.C. Sec. 131.

[3] Public Law 86–342 (1959).

[4] The flavor of the Court's opinion can be gathered from the following excerpt:

"We believe this matter is important enough to justify the following observations. Private

property is the antithesis of Socialism or Communism. Indeed, it is an insuperable barrier to the establishment of either collective system of government. Too often, as in this case, the desire of the average citizen to secure the blessings of a good thing like beautification of our highways, and their safety blinds them to a consideration of the property owner's rights to be saved from harm by even the government. The thoughtless, the irresponsible, and the misguided will likely say that this court has blocked the effort to beautify and render our highways safer. But the actual truth is that we have only protected constitutional rights by condemning the unconstitutional method to attain such desirable ends, and to emphasize that there is a perfect constitutional way which must be employed for that purpose. . . . *State Highway Department v. Branch*, 222 Ga. 770, 152 S.E. 2d 372 (1966)."

[5] 23 U.S.C. Sec. 131.

[6] Testimony given before a public hearing to consider a challenge to the constitutionality of the State College Borough, Pennsylvania. Sign Ordinance 888 (March 13, 1978).

[7] For a review of legal issues concerning the Highway Beautification Act see Cunningham (1973).

[8] Georgia Laws, 1967 Session, No. 271.

[9] *State of South Dakota v. Volpe*, 353 F. Supp. 335 (S.D. S.D. 1973).

[10] *Hogen v. South Dakota State Board of Transportation*, 245 N.W. 2d 493 (1976).

[11] House Bill No. 786, 52d Sess., Legislature of the State of South Dakota (April 1, 1977).

[12] Final Determination and Order by Secretary of Transportation Brock Adams, November 9, 1978.

[13] Letter from G. B. Saunders, Chief, Real Property Acquisition Division, Federal Highway Administration (June 17, 1977).

[14] *State of Vermont v. Brinegar*, 379 F. Supp. 606 (D.C. Vt. 1974).

[15] Saunders letter, *op. cit.*

[16] 23 U.S.C. Sec. 131(o).

[17] Public Law 95-599, Nov. 6, 1978. 92 Statues at Large 2689.

[18] *Art Neon Co. v. The City and County of Denver*, 448 F. 2d 118 (10th Cir. 1973) *cert. denied* 417 U.S. (1974).

[19] *Modjeska Sign Studios, Inc. v. Berle*, 402 N.Y.S. 2d 359, 373 N.E. 2d 255 (N.Y. Ct. of App. 1977).

[20] *Naegele Outdoor Advertising Company of Minnesota v. Village of Minnetonka*, 281 Minn. 492, 162 N.W. 2d 206, 213, (Minn. Sup. Ct. 1968).

[21] *Inhabitants of the Town of Boothbay and State of Maine v. National Advertising Company*, 347 A2d 419 (Sup. Judicial Ct. of Me. 1975).

[22] *City of Doraville v. Turner Communications Corporation*, 236 Ga. 385, 223 S. E. 2d 798 (Ga. Sup. Ct. 1976).

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DR. DONALD KENNEDY

Mr. NELSON. Mr. President, one of this Government's most capable and dedicated public servants, Dr. Donald Kennedy, decided to return to private life after serving as Commissioner of the Food and Drug Administration (FDA) for 2 years.

During his tenure at FDA, Dr. Kennedy and his staff has shown an uncanny willingness and ability to tackle issues of great public concern such as saccharin, nitrites, and DES, and made significant progress on drug regulation reform. In a period of only 2 short years, Dr. Kennedy raised both the status of and morale within the beleaguered FDA.

Dr. Kennedy's dynamic and farsighted leadership has drawn praise from all parties, consumers as well as industry representatives, who are subject to FDA regulatory functions. The following article in the June 28 issue of the Washington Post is one of numerous articles recounting Dr. Kennedy's many accomplishments.

I ask unanimous consent that this article be printed in the RECORD.

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

KENNEDY'S KIND FAREWELL TO FDA

(By Marian Burros)

Often departing government officials take potshots at the bureaucracy. But Dr. Donald Kennedy, commissioner of the Food and Drug Administration for a little over two years, leaves office tomorrow generally satisfied with every branch of the government.

His only real complaints are reserved for those who criticize the system. In light of his victories in the past 10 days, Kennedy may have a point.

On Friday, Kennedy is expected to sign an order banning the use of DES (diethylstilbestrol) in animal feed. It will have taken seven years and one botched attempt by the agency to ban the hormone. This time Kennedy made sure it was done right.

Some daughters of women who used DES during pregnancy have suffered a rare form of vaginal cancer; and some male offspring have suffered testicular abnormalities.

Last week the Supreme Court gave the FDA the authority it sought to ban Laetrile as a cancer drug.

On Monday of this week, the Office of Technology Assessment, an arm of Congress, confirmed FDA's position that antibiotics used in animal feed as a growth promoter may be making human bacteria more resistant to the drugs.

That same day FDA issued its final regulations for labeling yellow No. 5 artificial coloring, also known as tartrazine. Many people are allergic to it, but have been unable to determine if it is used in a particular product since the presence of artificial colors is listed on labels generically. Beginning in June 1980, all drugs that contain the color will have to list its presence on the label, as "yellow No. 5 and tartrazine." By July 1981, foods containing the color also will have to list its presence.

Kennedy, the first non-physician to head the agency, admits that the bureaucracy works slowly, but he has come to appreciate it even more than he did during the beginning of his tenure. In December 1977, he said that he was "occasionally frustrated by their tendency to want to keep a very close hold on their own operations." In an interview earlier this month he conceded that "the bureaucracy is a pretty damn good institution. If I have one wish, it would be that the kind of respect that used to be attached to it will be reattached."

The current attack on the bureaucracy is the only thing he found frustrating about his job. "It's sort of trendy to criticize the bureaucracy. Politicians run against the bureaucracy and are getting votes for it. If that goes on, people who go in for public service are going to decide not to do that. I think the people who are criticizing will be very disappointed that what they have run out of town has to be reinvented."

Kennedy said the slow pace of the government results because "this society goes to a lot of pain to make sure that somebody can't get taken to the cleaners because they don't have a chance to be heard on an issue."

The former Stanford University professor of biology, who gets high marks on his performance from almost everyone, regrets that he did not stay on the job for the four years he had said were necessary to accomplish anything. So does Michael Jacobson, director of the Center for Science in the Public Interest and a sharp critic of the two previous FDA commissioners.

Said Jacobson: "Kennedy is bright, candid, articulate and approachable. His best marks are in the area of explaining to people why the tests using huge doses of chemicals to evaluate food additives are appropriate and valid. I think he fought very hard and very eloquently on saccharin being outlawed.

"When he leaves, presumably the bureaucracy will reassert itself. The real disappointment is he was here two years instead of four. His problems on nitrite and saccharin lie not with him but with Congress and the tremendous pressure industry is putting on Congress."

Kennedy, however leaves office with positive feelings about Congress, industry and consumers.

He is "encouraged by the considerable difference I see in the congressional attitude now" toward some sort of a ban on saccharin and the one he saw when he first testified a little over two years ago. "Then there was unambiguous, unallayed outrage. Now the line is quite different and each report shows that FDA has acted correctly." But Kennedy said he was "actually impressed with how fair" his treatment by Congress has been.

Congress returns the compliment. Said Chris Hitt, a member of the Senate Nutrition Subcommittee staff, "Kennedy brought to the FDA an authority and credibility that had been missing for years. It's a shame he's leaving. You have to think in five-year blocks around here to achieve something."

(While waiting for Congress to do something about saccharin, Kennedy advises parents either to be "very cautious about allowing their children to drink saccharin-sweetened drinks or to ban them outright.")

Kennedy described the pressure put on him by special-interest groups as "reasonably intensive, but not outrageously aggressive." He is not quite so generous, however, in his appraisal of the performance of the Calorie Control Council, an association of diet soft drink and food processors, which produced a media blitz to keep saccharin from being banned. "I thought it was very much counter to the public interest. I was a little astounded at the amount of money being spent," he said.

"I didn't like it very much. One of the aspects of the Calorie Control Council's campaign that troubled me was their use of newspaper ads with tear-out clips to be mailed to FDA, which saturated our hearing clerk's comment-receiving system, and their numerous harassing Freedom of Information requests. They were taking advantage of a public-access statute."

Though he agrees "there is not a good balance" between public interest and special interests, "the public interest groups are learning and are getting stronger. They make up in diligence and often in ingenuity what they lack in financial support. They give a good account of themselves.

"Federal agencies ought to be helping them to give a good account of themselves," he said and mentioned the proposals to help public interest groups participate in government decisions by paying attorneys' fees, etc.

Kennedy's only serious complaint about his agency has to do with research facilities. "Our research labs and facilities are in 15 different buildings just in Washington. Half of our people spend just an outrageous amount of time commuting back and forth. The Bureau of Food labs are in spaces not even designed as labs. We are not going to meet even reasonable safety standards within a year or two. We desperately need to get modern lab space. If something isn't done, I am troubled about the quality of protection for the American people."

Otherwise, Kennedy, who returns to Stanford University as provost, thinks things are going along reasonably well. The fast-food companies seem to be willing to use nutrition labeling on their products, he said. The proposal to label alcoholic beverages with a limited ingredient statement is "going along reasonably well" and changes in food labeling will be under way before he leaves office.

Kennedy is certain that a suitable format can be found for putting nutrition information on food labels. "The world must be full of people who can make understandable formats. After all, we can all find our way around international airports. We ought to be able to do as well for the food we eat as the roads we drive on."

His greatest success, however, he feels is not in the food area but in the introduction of new legislation for comprehensive drug reform. It also is, he said, his greatest failure. The legislation has not been passed.

Overall, Kennedy said he has enjoyed his job enormously and wouldn't mind coming back some day.

As Secretary of Health, Education, and Welfare?

"Oh! Some day in the wild distant future it might be an interesting job," he said with a big smile.

THE WITHDRAWAL OF PUBLIC LANDS

Mr. STEVENS. Mr. President, there is a great controversy raging in this Congress regarding the recent actions by the Carter administration to withdraw nearly 125 million acres of public lands from uses under the public land laws. It is my position that Congress has the constitutional authority and duty to act to insure that final disposition of public lands in Alaska is rationally and reasonably decided.

In making the withdrawals in December, the President stated that these withdrawals were made only to allow Congress the time to act. I vehemently disagree with the President that these withdrawals were necessary because adequate protection under existing withdrawals at the time were adequate.

Nevertheless, it is important that Congress act to provide for rational and reasonable land use planning on these lands. A recent editorial by the Arizona Republic indicates the importance of sound legislation. That editorial points out that the same environmental extremists who fought for years to prevent the development of the North Slope and the construction of the Alaska pipelines are making unreasonable demand is for wilderness and other restrictive classifications on Alaska's public lands. It is important that Congress view this issue in a sound and reasonable manner. It is our duty and responsibility to insure that America's public lands are managed properly.

Mr. President, I ask unanimous consent that the editorial entitled "Ban on Development," be printed in the RECORD.

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

BAN ON DEVELOPMENT

Despite intense lobbying by conservationists and the Carter administration, a bill to put 102 million acres of Alaska off limits to development failed to get through Congress earlier this year.

Now, the administration has done what Congress balked at doing—and then some. Using the authority granted him under a section of the Bureau of Land Management Organic Act, Secretary of the Interior Cecil Andrus has set aside 110 million acres for three years.

And President Carter has nailed down 56 million of those acres by designating 17 areas as national monuments under the Antiquities Act of 1906.

We quite agree that parts of Alaska should be preserved so that our grandchildren and their grandchildren can see that our nation once wasn't all paved over.

However, 110 million acres do seem excessive.

That's almost a third of Alaska. It's an area larger than California. With a stroke of his pen, Andrus has doubled the size of the national Wild Life Refuge and the National Park systems.

And, on top of this, the act granting statehood of Alaska provides that 44 million acres be set aside for the Eskimos, Aleuts and Indians.

The Alaskan wilderness is a place of great natural beauty, and therefore a valuable natural resources, but the state has other resources, too, and they must be tapped for the future prosperity of the nation.

The conservationists fought for years to prevent the development of the North Slope and the construction of the Alaska pipeline. Fortunately, they lost the fight. Had they won, the nation's dependence on foreign oil would be even greater than now, and the dollar even shakier.

They are celebrating a great victory now, but the administration's actions will come up for review by the next Congress. We hope Congress decides that it's not necessary or advisable to bar quite so much land from development.

We enjoy a primeval forest as much as the next man—but 110 million acres?

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 3363, an act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ZABLOCKI, Mr. FASCELL, Mr. SOLARZ, Mr. PEASE, Mr. MICA, Mr. BARNES, Mr. GRAY, Mr. BOWEN, Mr. BROOMFIELD, Mr. DERWINSKI, Mr. BUCHANAN, and Mr. PRITCHARD were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also annonced that the Speaker has signed the following enrolled bill:

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 1:06 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central In-

telligence Agency Retirement and Disability System, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. BURLISON, Mr. ZABLOCKI, Mr. MINETA, Mr. ROBINSON, and Mr. WHITEHURST, and for consideration of differences with the Senate on intelligence-related activities, Mr. PRICE, Mr. ICHORD, and Mr. BOB WILSON were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service;

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code; and

H.J. Res. 353. A joint resolution congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance".

At 5:09 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

HOUSE BILLS REFERRED

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

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service; to the Committee on Governmental Affairs.

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code; to the Committee on Governmental Affairs.

HOUSE BILL PLACED ON THE CALENDAR

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

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 4388. An act making appropriations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-242).

By Mr. GRAVEL, from the Committee on Finance, without amendment:

S. Res. 188. A resolution relating to transitional rules for tax exempt mortgage bonds (Rept. No. 96-243).

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

Special Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-244).

By Mr. SASSER, from the Committee on Governmental Affairs, with an amendment:

S. 221. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people (Rept. No. 96-245).

By Mr. EAGLETON, from the Committee on Appropriations, with amendments:

H.R. 4387. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-246).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

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

Samuel B. Nemirow, of Virginia, to be Assistant Secretary of Commerce for Maritime Affairs.

Tyrone Brown, of the District of Columbia, to be a Member of the Federal Communications Commission.

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting:

Geoffrey Cowan, of California;
Kathleen Nolan, of California;
Paul S. Friedlander, of Washington;
Howard A. White, of New York;
Michael R. Kelley, of Virginia;
Michael A. Gammino, Jr., of Rhode Island; and
Jose A. Rivera, of New York.

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

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON FINANCE, FROM APR. 1, TO JUNE 30, 1979

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
Senator Roth:									
Egypt	Egyptian pounds	210.00	300.00					210.09	300.00
Israel	Israeli pounds	3,276.00	150.00	10,065.66	453.00			13,341.66	603.00
Saudi Arabia	Riyals	724.20	213.00		282.40			724.20	495.40
Total			663.00		735.40				1,398.40

June 28, 1979.

RUSSELL B. LONG,
Chairman, Committee on Finance.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1979

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency [1]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency [1]	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency [1]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency [1]
Senator Pete V. Domenici, Mexico	Peso	1,412.50	62.09					1,412.50	62.09
Louis H. Gallegos: Mexico	Peso	1,512.50	67.22					1,512.50	67.22
Total			129.31						129.31

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$129.31
Appropriated funds: Transportation	673.64
Total	802.95

June 21, 1979.

JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FCREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON FOREIGN RELATIONS, FROM APRIL 13 TO APRIL 23, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Church:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Jacob K. Javits:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Joseph R. Biden, Jr.:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	60,685	279.37					60,685	279.37
Senator Paul Sarbanes:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Edward Zorinsky:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
William B. Bader:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Albert A. Lakeland, Jr.:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	66,198	305.22					66,198	305.22
William J. Barnds:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	57,005	309.00					67,005	309.00
Joanne Novins:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	62,623	289.00					62,623	289.00
Cleve Corlett:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	55,955	257.19					55,955	257.19
Marcy Krause:									
P.R.C.	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Delegation expenses:									
P.R.C.	Yuan						2,231.50		2,231.50
Japan	Yen						3,345.51		3,345.51
Total			7,518.78				5,577.01		13,095.79

Note: Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502B of the Mutual Security Act of 1954, as amended by sec. 22 of Public Law 95-384, and S. Res. 179, agreed to May 25, 1977.

June 28, 1979.

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APRIL 1 AND JUNE 30, 1979

Name and continent	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator John Chafee: Europe									2,008.78
Donald J. Planty: Europe									1,495.02
Total									3,503.80

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN MAY 24 AND JUNE 5, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator Lawton Chiles:									
Italy	Lire	128,400	150.00					128,400	150.00
Israel	Pound	6,942	287.57					6,942	287.57
Jordan	Dinar	19.80	64.71					19.800	64.71
Egypt	Pound	157.50	225.00					157.700	225.00
Saudi Arabia	Riyal	195.55	58.37					195.55	58.37
Airline ticket from Washington, D.C. to Rome, Italy, and return.					964.00				964.00
Less reimbursement by personal check for expenditures of a personal nature.									−45.00
Richard L. Collins:									
Italy	Lire	128,400	150.00					128,400	150.00
Israel	Pound	6,722	278.45					6.722	278.45
Jordan	Dinar	21.60	70.59					21.60	70.59
Egypt	Pound	157.50	225.00					157.50	225.00
Saudi Arabia	Riyal	39.30	11.73					39.30	11.73
Airline ticket from Washington, D.C. to Rome, Italy, and return.					964.00				964.00
Less reimbursement by personal check for expenditures of a personal nature.									−45.00

Footnote at end of table.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN MAY 24 AND JUNE 5, 1979—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency[1]	Foreign currency	U.S. dollar equivalent or U.S. currency[1]	Foreign currency	U.S. dollar equivalent or U.S. currency[1]	Foreign currency	U.S. dollar equivalent or U.S. currency
William H. Jordan:									
Israel	Pound	5,698	227.92						227.92
Jordan	Dinar	20,255	66.44						66 44
Egypt	Pound	127.500	180.00						180.00
Saudi Arabia	Riyal	433	12.75						12.75
Italy	Lire	128,550	150.00						150.00
Airline ticket from Washington, D.C. to Rome, Italy, nad return.					964.00				964.00
Delegation expenses:									
Italy	Lire			223.452	261.04			223.452	261.04
Israel	Pound			5,431	225.00	10,427	431.95	15,859	656.95
Total			2,158.53		3,378.04		431.95		5,878.52

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$5,878.52
Total	5,878.52

July 2, 1979.

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JEPSEN:

S. 1483. A bill to amend the Internal Revenue Code of 1954 to increase and index the amount which may be excluded from taxable gifts each calendar year; to the Committee on Finance.

By Mr. TOWER (for himself and Mr. BENTSEN):

S. 1484. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURENBERGER (for himself, Mr. BOREN, Mr. BOSCHWITZ, and Mr. HEINZ):

S. 1485. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to encourage competition in the health insurance industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. BOREN, Mr. HAYAKAWA, Mr. ROTH, Mr. DOMENICI, and Mr. ZORINSKY):

S. 1486. A bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 1487. A bill for the relief of Alfredo M. Maglinao; to the Committee on the Judiciary.

By Mr. NELSON:

S. 1488. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, and Mr. MCCLURE):

S. 1489. A bill to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 1490. A bill to amend the Woodrow Wilson Memorial Act of 1968 with respect to the Hubert H. Humphrey Fellowship in Political and Social Thought at the Woodrow Wilson International Center for Scholars; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; to the Committee on Environment and Public Works.

By Mr. NELSON (for himself, Mr. DURENBERGER and Mr. PROXMIRE):

S. 1492. A bill to save the Milwaukee Road's freight-carrying capacity; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENSON:

S. 1493. A bill to create the Department of Commerce, Trade and Technology, to consolidate in such department various functions of the Government with respect to commerce, international trade and technology, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 1494. A bill to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; to the Committee on Armed Services.

By Mr. HATFIELD:

S. 1495. A bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 1496. A bill to amend the Interstate Commerce Act to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1497. A bill to amend Title 49, United States Code, transportation to encourage motor carrier efficiency and to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 1498. A bill to amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year; to the Committee on Finance.

By Mr. ROTH:

S. 1499. A bill to promote and encourage the formation and utilization of export trade associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 1500. A bill to amend the Federal Rules of Criminal Procedure to provide certain sentencing requirements in any case in which a person commits a felony while admitted to bail; to the Committee on the Judiciary.

S. 1501. A bill to prohibit the pretrial release of any person charged with an act of aggravated terrorism; to the Committee on the Judiciary.

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

S. 1502. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. STEWART, Mr. GOLDWATER, Mr. GLENN, Mr. TOWER, Mr. HEINZ, Mr. CHILES, and Mr. DECONCINI):

S.J. Res. 95. A joint resolution to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of General Daniel "Chappie" James, Junior, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN:

S. 1483. A bill to amend the Internal Revenue Code of 1954 to increase and index the amount which may be excluded from taxable gifts each calendar year; to the Committee on Finance.

THE GIFT TAX EXCLUSION SHOULD BE INCREASED

● Mr. JEPSEN. Mr. President, today I am introducing legislation which will increase the gift tax exclusion from $3,000 per year to $12,000 and index it to the rate of inflation thereafter.

Currently, one is allowed to give up to $3,000 in cash or equivalent property to another individual per year without having to pay gift taxes upon it. Were there no such exclusion one would have to pay gift taxes and keep records of every Christmas, birthday or wedding present. This would clearly be unenforceable and would simply cause a great deal of unnecessary paperwork for everyone.

Unfortunately, the gift tax exclusion has not been increased since 1932, when it was raised from $500. Thereafter, the exclusion was reduced to $4,000 in 1938 and to $3,000 in 1942, on the grounds that people were able to avoid gift taxes but the estate tax altogether by disposing of their estates a piece at a time during their lifetimes. This may have been true at that time, when incomes and estates were so much smaller, but because of inflation and because our national wealth has increased so much since World War II I think that it is time to revise the gift tax exclusion accordingly.

Had the gift tax exclusion kept pace with inflation it would have increased to $12,000 today, since prices have roughly quadrupled since 1942. Looking at it from another perspective, in 1942 the average price for an acre of farmland was $34. Today it is more than $500 nationwide and higher still in Iowa. Thus in 1942 a father could give his son 88 acres of land in a year without having to pay gift taxes on it, but today he could only give him six acres or less. Thus I believe that raising the gift tax exclusion to $12,000 is really quite a modest proposal.

The revenue impact of this legislation will be minimal. At present all estate and gift taxes combined only raise $5.3 billion per year, about 1 percent of Federal revenues. If most people realized how little revenue estate and gift taxes raise compared to the amount of anguish it causes people who must sell family farms and small businesses to pay them I think there would be a very strong move in this country to abolish these taxes. As far as I can see they serve no useful purpose. Rich people can afford the high-priced legal advice necessary to escape them so that they impact largely on those with only modest estates.

If I am charged with trying to undermine the estate and gift tax with this legislation, then so be it. It is an unfair and inequitable tax which I would just as soon see abolished. In the meantime, it is only fair that we raise the gift tax to its equivalent real value in 1979 dollars. This modest proposal will at least help to mitigate some of the unnecessarily annoying effects of the estate and gift tax and allow people to dispose of some of their wealth during their lifetime without being penalized.●

By Mr. TOWER (for himself and Mr. BENTSEN):

S. 1484. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; to the Committee on Environment and Public Works.

● Mr. TOWER. Mr. President, in November 1977, the city of El Paso, Tex., in conjunction with the Texas Air Control Board and the Texas Attorney General's office, conducted an international air pollution meeting in El Paso. Officials of the Republic of Mexico and the U.S. Environmental Protection Agency participated in those discussions, as did staff members from my office and that of my distinguished colleagues from Texas, Senator LLOYD BENTSEN and Representative RICHARD WHITE of El Paso.

Issues discussed at that 1977 meeting focused on air pollution control matters of mutual interest and importance to Mexico and the United States. The States bordering Mexico in the Southwestern United States are extremely concerned about air pollution problems, particularly since our standards are, in most instances, more stringent than those prevailing in Mexico. As our cities strive to comply with ambient air quality standards resulting from the Clean Air Act amendments of 1977, the situation experienced by the Southwestern border States is one which causes great concern.

Today I am introducing with Senator BENTSEN legislation designed to address some of the unique air pollution problems faced by the border States. Identical legislation is being introduced in the House of Representatives by Representative RICHARD WHITE.

My bill would require the President to enter into treaties or other appropriate agreements with those countries whose borders are contiguous with ours for the purpose of preventing or controlling air pollution in these areas. Furthermore, the Secretary of State would be directed to take such diplomatic measures as necessary to reduce or eliminate that pollution which has an undesirable effect in our country.

Under this bill, the EPA Administrator would be directed to test air quality in the border areas and determine the percentage of pollutants emanating from foreign sources. Those pollutants determined to be from foreign sources would then be eliminated for the purposes of determining attainment or nonattainment of ambient quality standards in the region. Until those determinations are made, the border cities would be exempt from the current standards.

Finally, the EPA Administrator, in establishing ambient air quality standards, would be directed to take into account those unusual geographical and topographical conditions which directly or indirectly affect air quality. Such conditions include, for example, mountain ranges, stagnant air, and inversion layers.

Mr. President, this legislation is intended to address these unique border area air pollution problems in a reasonable way, and I welcome my colleagues support in this effort.

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. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Clean Air Act is amended by inserting at the end thereof the following:

"(e)(1) The President shall undertake to enter into treaties or other appropriate agreements with countries contiguous to the United States for the purpose of preventing and controlling air pollution in border areas. Such treaties or agreements shall be negotiated and entered into not later than six months after the date of enactment of this subsection.

(2) The Secretary of State, in consultation with the Administrator, shall take appropriate diplomatic actions to reduce or eliminate air pollution which has an undesirable effect on any area of the United States and which originates in another country. Such diplomatic actions shall be entered into not later than six months after the date of the enactment of this subsection.

(f) In carrying out the provisions of this Act, the Administrator, after testing the air quality control regions in border areas, shall determine the per centum of pollutants in each region which results from foreign sources and shall eliminate such per centum for the purpose of determining attainment or non-attainment of ambient quality standards in such region. Such testing shall be conducted not later than three months after the date of the enactment of this subsection. Effective on the date of enactment of this subsection and until such determination is made with respect to any such region the provisions of this Act shall not apply in such region."

Sec. 2 Section 113 of the Clean Air Act is amended by inserting at the end thereof the following:

"(e) In implementing and enforcing the provisions of this Act relating to the attainment and non-attainment of ambient air quality standards the Administrator shall take into account the pollutants attributable to unusual topographical and geographical conditions, such as mountain ranges, stagnant air and inversion layers and other such conditions which may contribute to such attainment or non-attainment and shall adjust ambient air quality standards in those regions accordingly."●

● Mr. BENTSEN. Mr. President, today I join with Senator TOWER to introduce legislation to amend the Clean Air Act with respect to prevention and control of air pollution in border areas of the United States and countries contiguous to the United States. This legislation is designed to respond to a problem that is perhaps most prevalent in the area around El Paso, Tex. It is a problem that must be resolved on an international basis. El Paso, like other cities in the United States, is now attempting to comply with requirements of Clean Air Act amendments passed by this Congress in 1970 and again in 1977. It is, however, constrained in the success of its efforts as a result of pollutants generated outside our boundaries that are contributing to the ambient air quality of El Paso.

One element of this legislation would direct the President to undertake efforts to enter into treaties and other appropriate agreements with those countries contiguous to the United States for the purpose of preventing and controlling air pollution in border areas. Mr. President, for areas near the border countries next to the United States to hope to have success in meeting the requirements that this country has mandated

in attainment of ambient air quality standards we must have the participation of our neighbors. I believe this Government must participate in developing the conditions that will allow for the necessary cooperation between border communities on both sides of the border.●

By Mr. DURENBERGER (for himself, Mr. BOREN, Mr. BOSCHWITZ, and Mr. HEINZ):

S. 1485. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to encourage competition in the health insurance industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

HEALTH INCENTIVES REFORM ACT OF 1979

Mr. DURENBERGER. Mr. President, the 1970's will be remembered as one of the most difficult periods in this Nation's history. In has been a decade characterized by faltering political leadership, economic inflation, energy crises, and perhaps most crucial, bewilderment over the place of the individual in our complex society.

We have experienced earlier periods of turmoil and conflict, but there is a difference between the problems of today and those of yesterday. Previous conflicts have arisen from the aspirations of various social groups to preserve or participate in the benefits of our democratic society. Today, the problem is not one of conflict, but of doubt as to whether this country can develop solutions to the complex problems confronting us. Even the positive developments of the decade have been bittersweet. This is particularly true of the subject of my remarks today, health care.

The United States has developed the most sophisticated health care delivery system in the world. New technologies, new procedures and new medicines provide better health care for more and more Americans. At the same time, we have been plagued with rapidly increasing costs for this health care. In the past few years, physician and hospital bills have been rising at double digit rates. We have reached a plateau of physical well-being even though we are spending more of our national income on health care.

The basic problem of our health care system is a reflection of the much larger crisis in our society. That is, the individual does not intelligently participate in nor have adequate responsibility for the decisions being made on health care for that individual. Doctors, and sometimes nurses, make the decision on treatment. No one makes any decision on the cost. Third party payers—either employers, insurance companies or the Government—foot the bill. It is a health bill based solely on cost, and not on the efficiency or effectiveness of health care. The crux of the problem is that we have created a cost-plus reimbursement system for health services which completely ignores the normal economic theories of supply and demand.

The cost of health care is particularly important to all levels of Government because the Government pays about half of all health expenses in this country annually. Public sector spending on health care, $9.5 billion in 1965, will reach $85 billion this year. Medicare, a program that was supposed to provide adequate health care for the aged and disabled, is doubling in cost every 4 years. The aged pay more in premiums under medicare than they paid for their entire health bill before medicare was initiated.

The reaction of both the Executive and Congress to the economic problem of health care—the inflationary reimbursement procedure—reveals the same inability to confront the core issues as does our public policy in many other areas.

The problem, simply stated, is what level of health services will our system provide for the consumer-patient. To date, the answer has been whatever the supplier of health care decides to provide with no limit on reimbursement. The system is so distorted that the more health services are supplied, the more will be demanded regardless of the necessity or appropriateness. The health care system is in a state of imbalance.

The response to this disequilibrium has not focused on insuring that demand restrains a potentially unlimited and expensive supply. Instead, public policy has sought to interject political rather than economic judgments on how to control demand and supply of services. Our political policy has, on the one hand, stimulated increased demand for new and expanded services, such as renal dialysis, in a manner which has increased costs. At the same time, policymakers have created new regulations and economic controls in an attempt to limit or ration health services. So, we are developing a system that says if you get sick, the system will pay whatever it costs to make you better, but if you exceed what has been approved or rationed for a particular service, you are cut off.

Further regulation is clearly not the answer. Adequate health care at a reasonable cost can best be provided by ensuring that consumers make wise choices and suppliers are rewarded for efficiency and not excess, as now occurs. It is a simple solution, but it is one that works. It combines both responsibility and participation—the two elements lacking in the existing system and lacking in the regulated structure we are busily erecting.

This alternative approach does not rely on controls. Rather, it seeks through competitive incentives to change the basic financial incentives that guide health care delivery.

Today I am introducing the Health Incentives Reform Act of 1979 as a first step toward this kind of necessary change. I am proposing a program which rewards providers for delivering better care at less cost and which rewards consumers for choosing better quality care at lower premiums. The basic principle of HIRA is that the option to choose among competing health care alternatives can lower prices and improve medical care coverage. Competitive incentives, which operate effectively in other sectors of the economy, can work in the health sector, if we plan with reasonable forethought.

The Health Incentives Reform Act is designed to foster competition by involving employers, providers, and patients in an expansion of consumer choices. Briefly, it states that:

Employers must offer each employee a choice of at least three alternative health care plans;

The employer's contribution to premiums remains the same, regardless of the employee's choice. The employee who chooses an economical plan keeps the savings while the employee who chooses a more costly program pays the additional cost; and

The tax-free employer contribution to the employee's health insurance would be limited to the average premium cost for federally qualified HMOs across the country. Above that limit, employees would have to pay premiums with their own net after-tax income. This involves employees in the cost of their health insurance and gives them the incentive to shop wisely.

To qualify for tax-free treatment, all health plans must:

Cover at least a minimum set of basic benefits;

Provide catastrophic expense protection;

Offer coverage to dependents; and

Provide reasonable continuity of coverage to families and individuals who lose group membership.

Finally, HIRA offers an effective HMO option for medicare beneficiaries, and also allows medicare beneficiaries to choose to be insured by other innovative and cost-effective private health care plans.

Under these rules of fair economic competition, consumers who join health plans that do a good job of controlling costs will get more for their money. Health plans that do a poor job will lose customers and risk being driven out of business. Over the years, we will see an evolution of the system toward one with cost control and incentives for good service to consumers.

Are these proposals practical? Based on the experience of the Twin Cities, I know they are. In the Twin Cities, we have seen tremendous benefits from competition and consumer choice. We now have seven—soon to be eight—HMO's enrolling over 300,000 residents and competitive with one another and with traditional insurance on the basis of costs and benefits. Many of our leading employers are already offering employees a choice of several plans, to the benefit of all.

HIRA is an attempt to get Government back to a more traditional and successful role, that is, to see to it:

First, that there is competition—in terms of both cost and quality;

Second, that people have freedom to make choices;

Third, that people have full reliable information about those choices; and

Fourth, that the competitors all meet reasonable performance standards. That is, the Government sets reasonable minimum standards for what they must do, but does not tell them how to do it.

What does HIRA do to increase incentives?

First. It gives consumers both a choice and a reward for choosing wisely;

Second. It rewards doctors and hospitals that do a good job of controlling costs;

Third. It puts insurers under competitive pressures to act as prudent buyers for their policyholders—to identify cost-effective providers and to contract with them in ways that reward economy; and

Fourth. It encourages employers to find or develop new economical health plans for their employees.

What does HIRA do for the general public?

It moves us toward a health care economy served by a variety of comprehensive health care plans. By rejoining the system and making it economically efficient, it lays the groundwork for expanded coverage.

First. Medicare beneficiaries will be able to benefit by joining HMO's and other innovative private insurance plans. They will get the savings, now not available to them, in the form of reduced cost sharing and premiums and more extensive benefits.

Second. Workers will get better service, better accessibility, better care, at a lower cost. Employers will be able to pay higher wages or other benefits as health care cost come under control.

Third. The economically disadvantaged. With a reformed delivery system, we will be better able to afford extending coverage to those in economic need, and to those who are uninsurable in today's system.

Fourth. Doctors and hospitals. The system of fair economic competition in the private sector is the best way for providers to avoid increasing the burdensome and frustrating regulations that would otherwise be necessary.

The Health Incentives Reform Act promotes competition in terms of cost and quality in health care delivery. Unlike regulatory controls imposed from without it sets benefit standards without dictating how competing insurers will organize their plans. Unlike more universal proposals, HIRA stops short of adding more revenue to an imbalanced system and addresses system reform first. Its impact is intentionally limited to the private sector in order to set the framework a more cost effective system of health care financing.

The Health Incentives Reform Act represents a response to the overwhelming need to stop medical inflation. As with all reform measures, the success of this legislation depends on strong leadership—congressional leadership, leadership in industry, the leadership of health professionals, and concerned citizens capable of making hard decisions without compromising quality medical care. Having nearly made our way through the difficult 1970's, we have before us the opportunity to use our great private and public resources to form a more confident, progressive, and equitable society for the 1980's.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill, a section description and analysis, an article from the Federationist, the official publication of the AFL–CIO, on HMO's, and several articles by Prof. Alain Enthoven of Stanford University describing how the competitive incentive program works.

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

S. 1485

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 "Health Incentives Reform Act of 1979".

STANDARDS FOR EMPLOYER HEALTH BENEFIT PLANS

SEC. 2. The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XXI—STANDARDS FOR HEALTH BENEFIT PLANS

"PURPOSE OF TITLE

"SEC. 2101. (a) The purpose of part A of this title is to establish standards which must be met by any health benefit plan offered by an employer in order for the employer's contribution to such plan to be excluded from the gross income of his employees under section 106 of the Internal Revenue Code of 1954.

"(b) The purpose of part B of this title is to establish standards which must be met by any health benefit plan in order for such plan to be considered 'insurance' for purposes of determining the deduction for health insurance under section 213 of the Internal Revenue Code of 1954.

"PART A—STANDARDS FOR EMPLOYER HEALTH BENEFIT PLANS

"MULTIPLE CHOICE OF PLANS

"SEC. 2111. (a) Each employer shall make available to his employees a choice of not less than three health benefit plans, each of which meets the requirements of this title, and each of which is offered by a different carrier.

"(b) To the extent available, and in accordance with the requirements of section 1310 of the Public Health Service Act, at least two of such plans shall be plans offered by a health maintenance organization that meets the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act.

"(c) To the extent that plans required to be offered under subsection (b) are not available to an employer, such employer must offer, in lieu of such unavailable plans, alternative health care plans (to the extent that such alternative plans are available and have requested such employer to offer the plan) that the Secretary determines meet the following requirements:

"(1) The plan provides, or arranges for the provision of, a specified set of benefits that includes at least the benefits required under part B of this title.

"(2) The plan is provided to individuals who choose to enroll under the plan for a specified contract period.

"(3) Benefits are provided under the plan to enrollees for a fixed premium amount, specified and paid in advance, plus deductible and copayment amounts that are specified in the contract.

"(4) The providers of services under the plan constitute a small enough percentage of the total number of providers of such services in the community so as to generate competition with other providers.

"(5) The plan meets all applicable requirements of State law.

"(d) Each such plan must provide for an open enrollment period, which shall be the same for each plan, during which any employee may change his enrollment from one such plan to another.

"(e) The provisions of this section shall apply only to an employer who is an 'employer' within the meaning of section 3 of the Fair Labor Standards Act and has at least 25 employees.

"EQUAL CONTRIBUTION TO PLANS

"SEC. 2112. (a) Each employer who offers more than one health benefit plan shall, subject to subsection (c), make an equal contribution for each employee regardless of which plan the employee chooses.

"(b) If the contribution amount selected by the employer is in excess of the total cost of any plan offered, the employer shall contribute, to any employee choosing such plan, an amount equal to the difference between the employer contribution amount and the total cost of the plan chosen by that employee. Such contribution may be in cash or in any other form of compensation or benefit.

"(c) An employer may make contributions of differing amounts for employees based upon reasonable actuarial categories, but contributions may not vary among plans within the same actuarial category.

"(d) Each employer shall provide his employees the right to make any contributions to a health benefit plan required of such employee through a payroll deduction system.

"LIMITATION ON AMOUNT OF EMPLOYER CONTRIBUTION

"SEC. 2113. (a) For purposes of section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) an amount contributed by an employer to a health benefit plan shall not be excluded from the gross income of a taxpayer to the extent that such contribution exceeds the average premium cost for health benefit plans offered by health maintenance organizations meeting the requirements of section 1301(a) of the Public Health Service Act, for the same family status actuarial category as such taxpayer's filing status (as determined under subsection (c)).

"(b)(1) The average premium cost for health benefit plans offered by health maintenance organizations shall be determined for any taxable year as follows:

"(A) Each health maintenance organization qualified under section 1301(a) of the Public Health Service Act shall report to the Secretary, prior to September 1 of each year, its weighted average premiums as of June 30 of such year for health benefit plans for individual, couple, and family plans, and the number of individuals covered by each such category of plan.

"(B) The Secretary shall determine the weighted average (based on the number of individuals enrolled in each category of plan) premium for individual, couple, and family plans. Each such amount shall be increased by a percentage equal to the percentage increase in the Consumer Price Index for the 12-month period ending on such June 30. The amount so determined shall be published on October 1 of each year and shall be the applicable average premium cost for purposes of subsection (a) for taxable years that begin on or after the next January 1 and end on or after the December 31 following such January 1.

"(C)(1) The Secretary of the Treasury shall by regulation provide that the amount of each such average premium cost for a taxable year shall be made available to taxpayers on the written statement required to be made by employers under section 6051(a) of the Internal Revenue Code of 1954 (relating to receipts for employees).

"(2) The Secretary of the Treasury, in consultation with the Secretary of Health, Education, and Welfare, shall by regulation provide for rules applicable to all taxpayers whereby the taxpayer's filing status under subtitle A of the Internal Revenue Code of 1954 shall be properly correlated with the

equivalent category of plan (individual, couple, or family) for purposes of determining the amount which may be excluded from income under section 106 of such Code, and the amount of any deduction which may be allowed under section 213 of such Code. Such regulations shall provide in general that—

"(A) with respect to a taxpayer filing a separate return who claims no dependents (as such term is defined for purposes of this title), the limitations on exclusion from income under section 106 of such Code and on deductibility under section 213 of such Code shall be equal to the average premium amount for an individual plan as determined under this section;

"(B) with respect to a taxpayer who is married and filing a joint return, and who claims no dependents, such limitations shall be equal to the average premium amount for a couple plan as determined under this section; and

"(C) with respect to a taxpayer who claims at least one dependent (other than his spouse), such limitations shall be equal to the average premium amount for a family plan as determined under this section.

"CONTINUITY OF COVERAGE

"SEC. 2114. Each health benefit plan offered by an employer must provide—

"(1) continued group coverage under the plan for a period of at least 30 days to any individual covered under the plan who would otherwise lose such coverage on account of the death, unemployment, or divorce of the employee;

"(2) continued group coverage under the plan for an additional period of 6 months to any individual referred to in paragraph (1) upon payment of a premium to exceed the applicable group premium rate;

"(3) for the right of any individual who was covered under such plan to convert, within 6 months after the time that his group coverage ceased, to an individual health benefit plan meeting the requirements of part B of this title without regard to prior medical condition or proof of insurability;

"(4) that coverage shall begin within 30 days after the beginning of employment; and

"(5) that there shall be no exclusions or restrictions on coverage based upon prior medical condition.

"COVERAGE FOR DEPENDENTS

"SEC. 2115. (a) Each health benefit plan shall provide to an employee the option to purchase coverage under the group plan for his spouse and for any of his dependent children.

"(b) For purposes of this section an individual shall be a dependent child of an employee if such individual is—

"(1) a dependent of such employee within the meaning of section 152 of the Internal Revenue Code of 1954; and

"(2) is a child of the employee (within the meaning of section 151(e) of such Code) and (A) has not attained the age of 19, or (B) is a student (within the meaning of section 151(e) of such Code).

"(c)(1) Each health benefit plan must provide that coverage under the plan shall continue (in the same manner as if he were a dependent child) for any disabled dependant child without regard to age for so long as such child remains disabled and resides in the same household as the covered employee, if such child became disabled during a period of time in which the child was a dependent child of such employee as defined in subsection (b).

"(2) A child shall be considered disabled for purposes of this section if he is unable to engage in substantial gainful activity within the meaning of section 223 of this Act.

"(d)(1) Each health benefit plan must provide that coverage under the plan shall continue (in the same manner as if he were a dependent child) for any dependent child who becomes ill during a period of time in which the child is a dependent child as defined in subsection (b), for the duration of such illness.

"(2) The Secretary shall by regulation establish criteria for determining onset and duration of illness for purposes of this subsection.

"(e) Each health benefit plan must provide that, in the case of an employee who chooses coverage for dependent children, such coverage shall begin automatically for his children at the time of birth or adoption.".

STANDARDS FOR ALL HEALTH BENEFIT PLANS

SEC. 3. Title XXI of the Social Security Act (as added by section 2 of this Act) is amended by adding after part A the following part:

"PART B—STANDARDS FOR ALL HEALTH BENEFIT PLANS

"MINIMUM BENEFITS

"SEC. 2131. (a) Each health benefit plan must at least provide coverage for—

"(1) physician services (including consultant and referral services by a physician);

"(2) inpatient and outpatient hospital services;

"(3) medically necessary emergency health services;

"(4) short-term (not to exceed 20 visits), outpatient evaluative and crisis intervention mental health services;

"(5) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

"(6) diagnostic laboratory and diagnostic and therapeutic radiologic services;

"(7) home health services; and

"(8) preventive health services (including (A) immunizations, (B) well-child care from birth, (C) periodic health evaluations for adults, (D) voluntary family planning services, (E) infertility services, and (F) children's eye and ear examinations conducted to determine the need for vision and hearing correction).

"(b) The requirements of subsection (a) shall not affect any provisions of such a plan relating to deductibles or copayments, or relating to requirements that covered services be provided by particular persons or facilities.

"CATASTROPHIC EXPENSE PROTECTION

"SEC. 2132. (a) Each health benefit plan shall provide for payment of 100 percent of the cost of services included under section 2131(a) which are provided to a beneficiary of the plan during a catastrophic benefit period.

"(b) A catastrophic benefit period with respect to any individual—

"(1) shall begin at such time as the individual and his spouse and dependent children have incurred out-of-pocket expenses for services included under section 2131 (a) provided to them during any calendar year in excess of $3,500; and

"(2) shall end at the end of such calendar year.

"(c) For purposes of this section the term 'out-of-pocket expenses' means expenses, the payment for which such individual, or his spouse, or dependent child covered under the plan, is responsible, and for which reimbursement cannot be made, or cannot reasonably be expected to be made, under any form of insurance or benefit plan, or any law or government program, but does not include expenses incurred for which reimbursement is not made under a health benefit plan solely by reason of the fact that the individual or his spouse or dependent child incurred such expenses for services provided by a person or facility, and under such circumstances, such that payment under such plan is not authorized.

"(d) For purposes of this section the term 'dependent child' has the same meaning as in section 2115 of this Act.

"CANCELLATION PROHIBITION

"SEC. 2133. Coverage provided under a health benefit plan may not be cancelled for any reason based upon the status or actions of the covered individuals, other than nonpayment of premium.

"CARRIER REQUIREMENTS

"SEC. 2134. (a) Each health benefits plan must be provided by a carrier who complies with the requirements of subsection (b).

"(b)(1) Each carrier must offer at least one health benefits plan meeting the standards established by this part which individuals entitled to conversion rights under section 2114 (3) of this Act may purchase, in accordance with the provisions of such section 2114(3), at a reasonable premium rate.

"(2) The reasonable premium rate for such plans shall be determined by the appropriate State agency in accordance with standards established by the Secretary, which standards shall ensure that the rate is reasonable on the basis of the costs involved in providing such coverage.

"(c) For purposes of this section the term 'carrier' means a nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, in consideration of premiums or other periodic charges payable to the carrier.".

INTERNAL REVENUE CODE AMENDMENTS

SEC. 4. (a) Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) ACCIDENT PLANS.—Contributions by the employer to accident plans for compensation (through insurance or otherwise) to his employees for personal injuries shall not be included in gross income.

"(b) DENTAL PLANS.—Contributions by the employer to dental plans for compensation (through insurance or otherwise) to his employer for dental services shall not be included in gross income.

"(c) HEALTH PLANS.—Subject to the limitation in subsection (c), contributions by the employer to health plans for compensation (through insurance or otherwise) to his employees for personal injuries or sickness shall not be included in gross income, provided that the health plan meets all applicable requirements of title XXI of the Social Security Act.

"(d) LIMITATION.—Contributions shall be excluded from gross income under subsection (c) only to the extent that such contributions are not in excess of the applicable limitation established under section 2113 of the Social Security Act.".

(b) Section 213(e)(1)(C) of such Code (relating to definition of medical care) is amended to read as follows:

"(C) for insurance covering medical care referred to in subparagraphs (A) and (B) which meets the requirements of paragraph (5).".

(3) Section 213(e) of such Code is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (1)(C) the term 'insurance' means—

"(A) supplementary medical insurance for the aged under part B of title XVIII of the Social Security Act,

"(B) a health benefit plan which meets all applicable requirements of title XXI of the Social Security Act, and

"(C) a dental benefit plan.".

(c) Section 6051(a) of such Code (relating to receipts for employees) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and"; and

(3) by inserting after paragraph (7) the following:

"(8) the maximum allowable health benefit plan contribution amount as determined under section 2113 of the Social Security Act.".

EFFECTIVE DATES

SEC. 5. (a) Except as provided in subsection (b), the amendments made by sections 2, 3, and 4 of this Act shall apply with respect to taxable years beginning more than two years after the date of the enactment of this Act.

(b) The requirements of section 2111 of the Social Security Act (as added by section 2 of this Act) shall apply—

(1) for taxable years beginning more than two years after the date of enactment of this Act with respect to employers (within the meaning of such section 2111) who have more than 200 employees;

(2) for taxable years beginning more than three years after the date of the enactment of this Act with respect to such employers who have more than 100 employees; and

(3) for taxable years beginning more than four years after the date of the enactment of this Act with respect to all such employers.

MEDICARE PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

SEC. 6. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under parts A and B who are enrolled under this section with a health maintenance organization with which he has entered into a contract under subsection (i), and shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under part B alone who are enrolled under this section with such a health maintenance organization. The Secretary shall define appropriate classes of members, based on such factors as age, sex, institutional status, disability status, and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such organization the appropriate rate, in advance, for each individual enrolled under this section with the organization, or such lesser amount as the organization requests. Those payments shall be instead of the amounts which would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled under this section with the organization, or enrolled other than under this section with the organization but eligible to enroll under this section with the organization.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health maintenance organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a health maintenance organization (and, for services covered only under section 1861(S)(2)(G), if the services were to be furnished by a physician or as an incident to a physician's service).

"(3) The payment to a health maintenance organization under this subsection for individuals enrolled under this section with the organization and entitled to benefits under parts A and B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such members for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such members for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839 (c) (4).

The remainder of that payment shall be paid by the former trust fund.

"(b)(1) For purposes of this section, the term 'health maintenance organization' means a legal entity that is licensed as a health maintenance organization by the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act as that definition applies (or would apply) to individuals not entitled to benefits under this title, except that—

"(A) with respect to individuals enrolled under this section with the organization—

"(i) the term 'basic health services' in title XIII of that Act shall be considered to mean (I) the services listed under parts A and B that are available to individuals residing in the geographic area served by the organization, and (II) preventive health services under section 1302(1) of that Act,

"(ii) the term 'supplemental health services' in title XIII of that Act shall be considered to include those services listed in section 1302(1) of that Act that are not included in clause (i) of this subparagraph,

"(iii) the organization may not include any supplemental health services in its basic health services,

"(iv) the organization fixes the payments required from those individuals as prescribed by subsections (g) and (i)(2), and

"(v) the organization provides the services listed under parts A and B through institutions, entities, and persons meeting the applicable requirements of section 1861, and

"(B) with respect to the enrollment of individuals with the organization under this section—

"(i) subsections (c)(4) and (d) of section 1301 that Act shall not apply, and

"(ii) the organization must enroll individuals eligible to enroll under this section without regard to their health status (but may commence or cease enrolling such individuals at any time).

"(2)(A) The administration of the duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a 'health maintenance organization' within the meaning of paragraph (1), shall be integrated with the administration of section 1312 of the Public Health Service Act.

"(c) If an individual is enrolled under this section with a health maintenance organization, neither the individual nor any other person or entity (except for the health maintenance organization) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health maintenance organization with which the Secretary has entered into a contract under subsection (i) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health maintenance organization as may be prescribed in regulations, and may terminate his enrollment with the health maintenance organization as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health maintenance organization a party. If the amount in controversy is $1,000 or more, the individual or health maintenance organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health maintenance organization shall be entitled to be parties to that judicial review.

"(g)(1) Except as provided in paragraph (3), the portion of a health maintenance organization's premium rate and the actuarial value of its other charges for individuals enrolled under this section with the organization and entitled to benefits under parts A and B, and the portion of its premium rate and the actuarial value of its other charges for individuals enrolled under this section with the organization and entitled to benefits under part B only, for services covered under parts A and B, or part B only, respectively, may not exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organigation) and entitled to benefits under parts A and B, or part B only, respectively, if they were not members of a health maintenance organization; and the portion of its premium rate and the actuarial value of its other charges for those individuals for other services may not exceed the value of the adjusted community rate for those services (except as prescribed by the last three sentences of section 1301(b)(1) of the Public Health Service Act).

"(2) For purposes of this section, the term 'adjusted community rate' for a service means the rate of payment for that service that the health maintenance organization annually estimates (and the Secretary verifies) would apply to an individual enrolled under this section with a health maintenance organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), but adjusted for differences between the utilization characteristics of the individuals enrolled with the health maintenance organization under this section and the utilization characteristics of the other

members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(3) The provisions of paragraph (1) shall not apply to a health maintenance organization if the Secretary determines that—

"(A) there is significant competition among health maintenance organizations in the area served by such health maintenance organization; and

"(B) such health maintenance organization received payments under this title for the calendar year 1979 that were not in excess of $10,000,000.

"(h)(1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who are not entitled to benefits under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) in circumstances which the Secretary finds warrant special consideration (and may take into account, in determining whether to modify or waive that requirement, the reasonableness of the organization's premium rate and other charges for members entitled to benefits under this title or under a State plan approved under title XIX).

"(i)(1) The Secretary is authorized to enter into a contract with any health maintenance organization that undertakes to provide the benefits described in title XIII of the Public Health Service Act (as modified by subsection (b)) to individuals enrolled under this section with that organization.

"(2) The contract shall provide that, if the adjusted community rate for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts), for individuals enrolled under this section with the organization and entitled to benefits under those parts, or if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part), for individuals enrolled under this section with the organization and entitled to benefits under that part only, is less than the average per capita payment to be made under subsection (a) at the beginning of an annual period for individuals enrolled under this section with the organization and entitled to benefits under parts A and B, or part B only, respectively, the health maintenance organization shall provide to each individual enrolled under this section with the organization and entitled to benefits under parts A and B, or part B only, respectively, certain additional benefits that the Secretary finds are at least equal in value to the difference between that average per capita payment and that adjusted community rate (as so reduced).

"(3) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health maintenance organization that pertain to services performed or determinations of amounts payable under the contract,

"(B) shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization,

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act, and

"(D) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may prescribe the procedures and conditions under which a health maintenance organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(7) The Secretary may not enter into a contract with a health maintenance organization under this subsection if a former contract with that organization under this subsection was terminated at the request of the organization within the preceding five-year period, except in circumstances which the Secretary finds warrant special consideration.

"(j) The function vested in the Secretary by subsection (i) may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of such Act is amended—

(1) in subparagraph (E), by striking out "and",

(2) in subparagraph (F), by adding "and" at the end, and

(3) by adding after subparagraph (F) the following subparagraph:

(G) services furnished pursuant to a contract under section 1876 to a member of a health maintenance organization by a physician assistant or by a nurse practitioner (as those terms are defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c) The amendments made by this section shall apply with respect to services furnished on or after the first day of the thirteenth calendar month that begins after the date of enactment of this Act, or earlier with respect to any health maintenance organization if the organization so requests and the Secretary of Health, Education, and Welfare agrees, but shall not apply—

(1) with respect to services furnished by a health maintenance organization to any individual who is enrolled with that organization and entitled to benefits under section 1833(a)(1)(A) of the Social Security Act at the time the organization first enters into a contract subject to the amendments made by this section, unless the individual requests at any time that the amendments apply, or

(2) with respect to services furnished by a health maintenance organization during the five year period beginning with the date of enactment of this Act, if a contract between the organization and the Secretary of Health, Education, and Welfare under section 1876(1)(2)(A) of the Social Security Act was in effect immediately before enactment of this Act, unless the organization requests that the amendments apply earlier.

PAYMENTS TO HEALTH BENEFIT PLANS

SEC. 7. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS TO HEALTH BENEFIT PLANS

"SEC. 1882. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under parts A and B who are enrolled under this section with a health benefit plan with which he has entered into a contract under subsection (h), and shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under part B alone who are enrolled under this section with such a health benefit plan. The Secretary shall define appropriate classes of members, based on such factors as age, sex, institutional status, disability status, and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such plan the appropriate rate, in advance, for each individual enrolled under this section with the plan, or such lesser amount as the plan requests. Those payments shall be instead of the amounts which would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the plan to individuals enrolled under this section with the plan, or enrolled other than under this section with the plan but eligible to enroll under this section with the plan.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health benefit plan or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a health benefit plan (and, for services covered only under section 1861(s)(2)(G), if the services were to be furnished by a physician or as an incident to a physician's service).

"(3) The payment to a health benefit plan under this subsection for individuals enrolled under this section with the plan and entitled to benefits under parts A and B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the plan for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such members for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such members for the month who have not attained age 65, and (ii) the monthly actu-

arial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(b)(1) For purposes of this section the term 'health benefit plan' means a nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the plan, but does not include an organization that meets the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act.

"(2) In order to enter into a contract with the Secretary under subsection (h), a health benefit plan must—

"(A) use a community rating system with respect to individuals enrolled under this section in the plan for purposes of setting the premiums, within the classes of members used by the Secretary in determining the per capita rate of payment under subsection (a);

"(B) demonstrate to the satisfaction of the Secretary that the ratio of premium amounts to benefits paid for individuals enrolled in the plan under this section will not exceed the average ratio of premium amounts to benefits paid for individuals enrolled in such plan who are not beneficiaries under this title;

"(C) meet reasonable standards established by the Secretary with respect to fiscal soundness;

"(D) demonstrate to the satisfaction of the Secretary that the plan will be able to meet its obligations under the contract, based on substantial experience in providing health benefits to populations other than beneficiaries under this title or State plans approved under title XIX of this Act;

"(E) utilize significant and innovative cost control methods, such as the use of participating providers at negotiated rates or incentive payment systems;

"(F) inform all beneficiaries of any limitations on participating providers under the plan, including the identity and location of the participating providers;

"(G) provide the services listed under parts A and B through institutions, entities, and persons meeting the applicable requirements of section 1861; and

"(H) enroll individuals eligible to enroll under this section without regard to their health status (but may commence or cease enrolling such individuals at any time).

"(c) If an individual is enrolled under this section with a health benefit plan, neither the individual nor any other person or entity (except for the health benefit plan) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health benefit plan with which the Secretary has entered into a contract under subsection (h) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health benefit plan as may be prescribed in regulations, and may terminate his enrollment with the health benefit plan as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health benefit plan under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefit plan a party. If the amount in controversy is $1,000 or more, the individual or health benefit plan shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health benefit plan shall be entitled to be parties to that judicial review.

"(g)(1) Except as provided in paragraph (2), each health benefit plan with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who are not entitled to benefits under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) in circumstances which the Secretary finds warrant special consideration (and may take into account, in determining whether to modify or waive that requirement, the reasonableness of the plan's premium rate and other charges for members entitled to benefits under this title or under a State plan approved under title XIX).

"(h)(1) The Secretary is authorized to enter into a contract with any health benefit plan that undertakes to provide the benefits described in sections 1812 and 1832 of this Act to individuals enrolled under this section with that plan.

"(2) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, with a health benefit plan, neither the individual nor any other person or entity (except for the health benefit plan) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health benefit plan with which the Secretary has entered into a contract under subsection (h) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health benefit plan as may be prescribed in regulations, and may terminate his enrollment with the health benefit plan as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health benefit plan under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefit plan and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health benefit plan involved as he may provide in regulations), if he finds that the plan (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health benefit plan that pertain to services performed or determinations of amount payable under the contract.

"(B) shall require the plan to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the plan, and

"(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may prescribe the procedures and conditions under which a health benefit plan that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the plan about the organization, or may enroll such individuals with the plan.

"(7) The Secretary may not enter into a contract with a health benefit plan under this subsection if a former contract with that plan under this subsection was terminated at the request of the plan within the preceding five-year period, except in circumstances which the Secretary finds warrant special consideration.

"(i) The function vested in the Secretary by subsection (h) may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) The amendment made by this section shall apply with respect to services furnished on or after the first day of the thirteenth calendar month that begins after the date of the enactment of this Act.

THE HEALTH INCENTIVES REFORM ACT OF 1979

1. Standards for employer health benefit programs and for private health care financing and delivery plans to qualify for exclusion of employer contributions and deductibility of employee contributions from employee's taxable income.

A. Standards for Employer Health Benefifit Programs

In order for employer contributions to employee health benefits to qualify for exclusion from the employee's taxable income, the employer health benefit program must meet the following standards.

1. Multiple Choice of Plans Offered.

Proposal: Each employer subject to the Fair Labor Standards Act, having 25 or more employees, shall include in any health benefits program offered to employees a choice of no less than three health insurance or delivery plans meeting the standards described in Part B below. Employees must have a periodic opportunity to change plans. The choice of plans may include private indemnity or service benefit plans, a self-funded plan, health maintenance organizations, or a labor-management health and welfare trust fund. (Three different "options" from the same carrier would not meet this requirement.) Two of the three must be state or federally qualified health maintenance organizations, if available.

Reasons: The link between jobs and health insurance, fostered by the favorable tax treatment of employer-provided health bene-

fits, has become one of the most important barriers to competition among health care financing and delivery plans in the United States today—a result Congress surely did not intend when it enacted the Internal Revenue Code of 1954. Most employed people still are offered a single health insurance plan by their employer, and are thus denied some of the important benefits of competition and choice. The multiple choice of health plan principle has been proved to be practical and desirable in such programs as the 18-year old Federal Employees Health Benefits Program now covering 10.5 million people. It has also found successful though limited application in the private sector.

Congress recognized the desirability of multiple choice in the HMO Act when it required employers to offer their employees one group practice and one individual practice HMO, if available. However, HMOs are too few in number, for the most part too small, and too tightly regulated by HEW, to be able to bring the benefits of competition and choice to most Americans in the foreseeable future. Moreover, there are other potentially attractive alternative health-care financing and delivery systems that do not meet the detailed specifications of the HMO Act. This proposal would open up competition and multiple choice of health insurance plans to all employed Americans.

The HMO Act would still apply, i.e., if appropriate federally-qualified HMOs are available in an area, the employer would still be required to offer them. They could be included in the required three plans.

2. Equal Dollar Contributions to All Plans Offered.

Proposal: The employer's premium contribution must be the same whichever plan the employee chooses. If an employee chooses a plan whose premium is below the employer contribution level, the employer must give the employee the difference in cash or other benefits. The employer must also offer payroll deduction to the employee for the employee's contribution.

The employer may contribute different amounts on behalf of employees in different actuarial categories (e.g. individuals, couples, families). This provision does not require employers to contribute at any particular level. If the employer is not currently making a fixed periodic dollar contribution per employee (because, for example, he is offering a self-insured or retroactively adjusted experience-rated insurance plan), he must ascertain the actuarial value of his current arrangements per employee and contribute an equal dollar amount on behalf of those who join HMOs or other health plans.

Reasons: The intent of this proposal is twofold. First, it would subject health plans to economic competition. The employee who chooses a more costly plan would have to pay the difference in cash or other benefits foregone. Second, it would make the competition fair.

Today, many employers pay 100 percent of the premium, whichever plan the employee chooses, thus paying more to more costly health plans, and subsidizing plans with weak or no cost controls against those with effective cost controls.

Employers or collective bargaining agreements not now in compliance with this principle could work out alternative arrangements that are in compliance at the next contract renewal. For example, employers could contribute the difference, on behalf of those who chose less costly health plans, to other tax-sheltered fringe benefits. One frequent response would be for the employer to pay no more than 100 percent of the premium of the least costly plan, leaving it to the employee who selects a more costly plan to pay the difference. An important effect would be to make all employees aware of the costs of their health benefits.

These two proposals together would put Congress firmly on record as in favor of fair economic competition among health plans.

3. Limit on Tax-Free Employer Contribution.

Proposal: The tax-free employer contribution would be limited to the average premium cost for federally qualified HMOs across the country. The limits would be calculated for the categories by which HMOs quote premiums such as individual, couples, and families (subscriber with 2 or more dependents). The limit would be applied by family, so that a family with 2 or more workers could not accept tax-free employer contributions above the limit.

Reasons: The present open-ended tax subsidies to health insurance have motivated employees to negotiate for extremely costly health benefits without built-in cost controls.

In effect, the federal government is subsidizing people's choices of the most costly health plan options. It is appropriate for the federal government to subsidize health insurance purchases up to the level required for good quality comprehensive care (as provided by the HMOs). If people want to buy, or negotiate for their employers to buy, more costly health insurance, that should be their right—but not at taxpayer expense. Moreover, over 30 million people have duplicate insurance, usually provided tax free through the employers of both spouses. Again, this duplicate coverage should not be tax free. (Note: If this Congress mandates employer provided catastrophic medical expense insurance for employees, the requirement of multiple-choice would not be applied to those employers not previously offering health insurance and whose insurance plan is limited to the mandated level.)

B. Standards for Health Care Financing and Delivery Plans. Any health benefits plan that results in nontaxable fringe benefits or itemized deductions must meet the following standards.

1. Standard Basic Minimum Benefits.

Proposal: All health benefits plans must cover, as a minimum uniform set of benefits, the Basic Benefits defined in the HMO Act. Coverage may be subject to substantial copayments and deductibles. Additional benefits may be offered. Such plans may require the beneficiaries obtain covered services from participating providers.

Reasons: The covered benefits of health plans are often hard to understand and compare. There are complex exclusions and limits on coverage. Consumers can understand copayments and deductibles and make reasonable judgments about quality and accessibility of services. But the effort required to become well informed about the significance of many "fine print" exclusions is very great. This proposal would standardize a lot of the fine print. All health benefits could then be described in terms of Basic Benefits plus a manageable number of additional benefits. This would focus competition on quality and accessibility of services, and price. Price comparisons would be easier and more meaningful. And consumers would be protected from tricky or misleading exclusions of important services. This provision would also hold HMOs and other health benefits plans to a more comparable standard of benefits. This provision need not increase premium costs; premium can be reduced even to quite low levels by raising the deductible.

2. Limits on Cost-Sharing-"Catastrophic Expense Protection."

Proposal: All health plans must limit consumer cost-sharing (co-insurance, copayments, deductibles) for Basic Benefits to a maximum annual amount of $3,500 per family (with the consumer to provide evidence of applicable payments).

Reasons: Tens of million of Americans lack "catastrophic expense protection" even though they have some health insurance. This is particularly unfortunate in view of the fact that the infrequency of catastrophic illness expense makes this kind of insurance much less costly than "first dollar coverage." Many millions of Americans now must plan to fall back on the public sector in the event of catastrophic illness. Thus, it seems reasonable to require that every plan provide such protection. The extremely costly expenses should be insured before "first dollar" coverage is provided.

Cost-sharing by the patient has been considered to be a valuable economic incentive to motivate the patient to consider the cost of care. Whatever its merits in the case of ambulatory visits might be, when the patient is seriously ill, it is the providers, not the patient, who make the main cost-generating decisions. Thus, cost-sharing by patient should be limited to the comparatively low cost "patient-initiated and elective" care.

3. Continuity of Coverage.

Proposal: All health plans must provide to covered beneficiaries:

(a) at least 30 days coverage without premium payment for the unemployed after termination of employment, for dependents after death of an employed family member, and for divorced spouses after divorce;

(b) at least 6 months additional continuation of existing coverage for the categories identified in (a) upon payment of premium not greater than 100% of the premium (or cost) applicable to the pertinent group coverage;

(c) the right for the employee, widows or widowers, spouses and other dependents of retirees, divorced spouses and dependent children, and dependent children upon attainment of majority, who have been members of an insured group to convert, without proof of insurability or reference to prior medical conditions, to individual coverage. Each participating carrier shall offer one standard individual conversion plan which shall provide benefits at least equal to those specified in section B.1. at a premium rate to be determined by a formula to be submitted by the carrier to the applicable state agency. Such state agency shall be responsible for determining, in accordance with criteria to be established by the Secretary that such formula provides a rate that is reasonable, taking into account the cost of providing covered benefits to such individuals.

(d) coverage with a waiting period of no more than 30 days, and with no exclusions or restrictions for prior medical conditions.

Health plans may not cancel coverage because of illness or any reason other than failure to pay premiums.

Reasons: Many people lose their health insurance when they lose their jobs, are divorced, their spouse dies, etc. Dependent children lose coverage upon relinquishing dependent status. This causes individual hardships, and subjects the private health insurance industry to justifiable criticism. This proposal would add little to the cost of insurance, but would greatly enhance people's continuity of coverage.

4. Dependent Coverage.

Proposal: All health plans must offer the employee the option of buying coverage for dependent spouses and children. The employer is not required to pay for it. Employers must offer payroll deduction for employee premium contributions. The definition of these dependents must include at least those defined as dependent children by the IRS. Moreover, children who were disabled while dependents must be covered by such policies as long as they are living with

their parents. Newborns must be covered automatically.

Reason: About 45 percent of those who have no health insurance are members of a family the head of which is insured. Young adults are almost twice as likely as any other age group to be without coverage. Their families ought to have the option of buying them health insurance at affordable group rates.

II. MEDICARE

A. An Effective HMO Option for Medicare Beneficiaries.

Proposal: Change Section 1876 of the Social Security Act to permit any Medicare beneficiary to direct the 95 percent of the "Adjusted Average Per Capita Cost" (AAPCC) to the Medicare program for people in his actuarial category who are not members of a HMO, be paid, as a premium contribution on his behalf, to the HMO of his choice in the form of a fixed prospective periodic payment. Each HMO agreeing to this form of payment would construct an "Adjusted Communited Rate" which would be its basic community rate actuarially adjusted for Medicare benefits and the utilization of the Medicare beneficiaries.

If the "Adjusted Community Rate" is less than the Prospectively determined AAPCC, the HMO must pass on the difference to its Medicare beneficiary members in the form of better benefits, or reduced premiums or cost-sharing. If the Adjusted Community Rate exceeds the AAPCC, the HMO must provide the Medicare benefits for the AAPCC amount.

Reasons: Today, Medicare does not pay HMOs in a way that conforms to their usual way of doing business, i.e. on the basis of a fixed prospective periodic payment for comprehensive services. Instead, Medicare imposes on them the fee-for-service cost-reimbursement mode of payment with its cost-increasing incentives. (There is a provision—Section 1876—for paying HMOs on a quasi-per capita basis, but it is very complex, is discriminatory against HMOs and their members since the government keeps half the "savings", retains elements of cost reimbursement, and has not been put into operation to any appreciable extent).

Thus, Medicare often pays substantially less on behalf of beneficiaries who join HMOs than on behalf of similar beneficiaries in the same area who choose to get their care from the fee-for-service sector. For example, in 1970 Medicare paid $202 per capita (on a cost-reimbursement basis) on behalf of beneficiaries cared for by cost-effective Group Health Cooperative of Puget Sound, but paid $356, or 76 percent more, on behalf of similar beneficiaries (i.e., an age-sex-area matched sample) who chose fee-for-service. On average, for six group practice prepayment plans around the country included in the study from which these data come, Medicare paid 36 percent more on behalf of similar beneficiaries who chose fee-for-service.

This Medicare system deprives beneficiaries of an important financial incentive to join a cost-effective organized system of care. In 1977, less than 300,000 Medicare beneficiaries were HMO members, about one percent of all beneficiaries.

For Medicare reimbursement to HMOs at 95% of AAPCC, those HMOs engaged in significant competition with other health plans *and* with less than $10 million in existing Medicare business will be exempt from the Adjusted Community Rate (ACR) provisions.

The ACR provision is designed to insure that any savings an HMO realizes (the difference between costs and 95% AAPCC) are returned to the beneficiary in the form of additional benefits. While this may be necessary for the isolated and/or large HMO, it is unnecessary for an HMO locked in competition with other cost-effective plans for Medicare beneficiaries. In this case, the market place will act to naturally fill the gap with benefits attractive and appropriate to the Medicare population. Furthermore, the ACR provision establishes a potential vehicle for the federal government to regulate price and benefits.

For a number of existing HMOs, Medicare beneficiaries already constitute a fair amount of business (Kaiser, Group Health of Puget Sound, HIP). For them, the recruitment of their existing Medicare beneficiaries is over and will not be affected by this bill. For those people, we want to insure that the change in reimbursement arrangement results in increased benefits to them, not just increased revenue for the HMO. The ACR scheme assures that.

B. A Similar Private Health Service on Insurance Plan Option for Medicare Beneficiaries.

Permit the Secretary of HEW to contract with health service or insurance plans other than HMOs to underwrite health insurance for medicare beneficiaries. HEW would contribute 95 percent of the Adjusted Average Per Capita Cost to Medicare, prospectively determined, as a fixed premium contribution to the plan of the beneficiary's choice. The health plan would offer enrollment through an annual open enrollment process, run by DHEW, similar to that used in the Federal Employees Health Benefits Program. Participating health plans would have to agree to the following:

1. Compliance with enrollment and marketing procedures specified by the Secretary, including annual open enrollment to all Medicare beneficiaries in the plan's designated service area.

2. The plans must provide the Medicare benefit package for 95 percent of AAPCC. They may offer additional benefits.

3. The plans must use a community rating system for premium setting, within the actuarial categories used by the Secretary to determine AAPCC.

4. The plans must be able to meet reasonable standards, established by the Secretary, with respect to fiscal soundness.

5. The plans must provide evidence, based on substantial experience in markets other than for Medicare and Medicaid beneficiaries, that they are able and likely to meet their obligations.

6. The plans must provide evidence of significant and innovative cost control methods, such as selection of a limited set of participating providers who are wiling to accept negotiated incentive payment systems. (If the participating providers are limited in number, the health plan must fully inform the beneficiaries of their identity and location).

7. If the Secretary finds evidence that the health service or insurance plan is systematically selecting preferred risks, failing to perform its contractual obligations, or engaging in fraud and deception, he may cancel the contract as of the next annual enrollment.

B. These proposals would enhance fair competition and incentives for cost control. Thus, it would make Medicare more of a force for delivery system reform.

HMOs: THE ROAD TO GOOD HEALTH CARE

(By James F. Doherty)

If all had gone according to plan, there would have been 1,700 health maintenance organizations (HMOs) enrolling 40 million people in 1976. And in 1980, 90 percent of the American public could have had the option of enrolling in an HMO.

This was the objective presented by President Nixon to Congress in the spring of 1971 as an ambitious plan to remedy many of the ills of the nation's health care delivery system. Unfortunately, actual HMO enrollment by 1976 was only 6 million and the most optimistic projections of 1980 are for only slightly more than 9 million people to be enrolled in 245 HMOs. The story behind the eight years separating the rhetoric of 1971 and the reality of 1979 is an interesting tale of the evolution of a good idea that many have liked but to few have supported.

From its inception in 1970, the acronym HMO was designed to curry immediate favor among both health policymakers and the general public. Who wouldn't want their health maintained? But while the acronym sparks immediate interest, the organizations on which the term is based belie the notion of simply maintaining the health of their members. While in fact providing their members with a number of preventive servicts, HMOs owe their existence to their ability to organize and discipline the process of directly providing a wide range of health services. The efficiency of that process produces considerable savings which are in turn used to eliminate many co-payments and deductibles accompanying such services under traditional insurance plans. But from the beginning, the over-simplified HMO concept may have caused as many problems as it solved.

Early models for HMOs date to the late 1920s. Spawned by the hard times of the early Depression, the earliest model was the Ross-Loos Medical Group in Los Angeles which for a prepaid fee of $2 per person per month provided city Water and Power Department employees with a wide range of medical and hospital services. Prepayment enabled the workers to set aside a fixed amount for medical care and enabled the two founding physicians, Ross and Loos, to accumulate sufficient funds to finance health care facilities. By 1931, the prepaid group practice plan was providing services to more than 6,000 city employees and their dependents at half the price of what the same services would have cost on a fee-for-service basis. These savings were generally attributable to prepayment, which eliminated the physicians' financial inventives to provide unnecessary or unusually expensive services.

Other prepaid group practices emerged during the 1930s and 1940s from a variety of backgrounds. Some were consumer-sponsored and others, like the Kaiser-Permanente Medical Care Program, evolved out of a wartime industrial setting.

All relied heavily on organized labor for their existence and growth. Like other forms of health insurance, HMOs and their earlier versions are financed mainly by employee group contributions. Thus labor's early and continued support was and is a key to survival.

By 1948, about 15 prepaid group practices were operational around the country. Members enrolled voluntarily and were free to disenroll, giving the plans considerable incentives to ensure satisfactory health services. The result was a remarkably effective private sector system of containing health costs—through the prepayment mechanism—while providing high quality services through the physicians' group practice. But even good ideas are not without their opponents.

As early as 1932, the American Medical Association had attacked prepaid group practice as the corporate practice of medicine, or the pejorative, "contract practice." Prepaid group practice physicians were expelled from or refused admission to local medical societies which in turn often caused the loss of hospital staff privileges. In some cases, local medical societies even worked to deny plan physicians state medical licenses.

Prepaid group practices were viewed as a competitive threat to many fee-for-service practices in some areas, prompting organized medicine and others to work for the passage of state laws to restrict the formation of such groups. By the mid-1960s, a total of 26 states had laws on the books that limited HMO growth by requiring huge financial reserves, preventing physicians from being employed by non-physicians, preventing

HMOs from limiting their members' choice of physicians to those employed by the plan, and limiting management of the organization to all or a majority of physicians. It was not until the 1970s that these restrictions were finally eased through social pressures and federal legislation. However, the Federal Trade Commission is today still attempting to eliminate provider-induced restrictions on HMOs.

Despite these obstacles, prepaid group practices had by the early 1970s established an impressive record of containing health costs. Studies of federal employees comparing those enrolled in prepaid group practices and those covered under traditional insurance showed that the prepaid groups were hospitalized only half as much as the others. And this was due almost entirely to the prepaid groups' providing more care in centralized outpatient facilities than in hospitals. There was also a significant reduction in certain kinds of surgery, such as tonsillectomies, with no reduction in the quality of care. This was attributed to the prepaid group's unique incentive to provide both high quality care to retain members and to provide appropriate kinds of care to reduce plan costs.

In contrast, federal health programs such as Medicare and Medicaid had by the 1970s begun to have huge cost overruns. Relying on the existing health care delivery system to provide care for the poor and elderly with federal funds, both Medicare and Medicaid were costing two to three times what had been projected in the mid-60s. Although many people were for the first time receiving some essential medical care, the infusion of federal dollars into a fee-for-service system—with no incentive to provide care cost-effectively—resulted in a new era of inflation in both the federal health budget and the health industry as a whole. Faced with these problems, prepaid group practices looked extremely attractive to the Nixon Administration.

The term health maintenance organization was coined by Presidential health advisor Paul Ellwood, M.D., to describe the prepaid group practices. Even as late as 1970, organized medicine was strongly opposed to the prepaid group practice concept, so a more general, politically neutral term, HMO, was coined. Although prepaid group practices do provide their members with so-called preventive services, such as annual physicals and well baby care without any additional charges, the term HMO was a bit misleading. The prepaid plans were really providing appropriate illness and injury care with emphasis on the value of early detection of illness or disease. But none of the plans claimed to be able to keep all of their patients healthy.

HMOs were posed by President Nixon in a Feb. 18, 1971, address to Congress as the centerpiece of a national health strategy to contain soaring national health costs. The federal government would provide funds to support the development of new plans and would provide up to $300 million in loan guarantees to build new facilities. State laws would be overridden when they prevented HMO development and insurance companies would be required to offer subscribers the choice of HMO membership if one were available. Medicare and Medicaid beneficiaries would be encouraged to join and, as a result, many of the nation's health delivery problems would be solved.

In 1971, about 20 prepaid group practices in the country enrolled less than 4 million people. In just five years, that number was to increase 1,000 percent and in nine years the number of operating plans was to increase by 8,600 percent.

In 1971, the Department of Health, Education and Welfare began funding HMO development, using $6 million of existing funds from other programs. However, by year's end, key congressional leaders became concerned that HEW was acting without specific congressional guidance on how and where to develop HMOs. In a letter to HEW Secretary Elliot Richardson in February 1972, Sen. Edward Kennedy (D-Mass.) and Rep. Paul Rogers (D-Fla.) requested HEW to halt their HMO funding until Congress could take up the matter. Kennedy and Rogers chaired key congressional health committees.

By 1972, faced with growing opposition from a number of groups, HEW had already revised its HMO growth numbers, promising by then that by 1976 it would fund 450 HMOs rather than the originally proposed 1,700. However, HEW Secretary Richardson was still promising 1,800 HMOs by 1980. The numbers game had already begun, even before formal HMO legislation had been introduced in Congress.

National politics also intervened in the HMO strategy. The American Medical Association and others mustered their forces in mid-1972 to strongly object to the massive HMO development strategy. Although HMO-type organizations had over 40 years of demonstrated experience in providing high quality health care, the AMA insisted that the HMO concept needed further testing. As a result, by 1973 the Nixon Administration had adopted a far more conservative approach to HMOs. The Administration at that point proposed a bill in Congress that called for a much scaled-down federal HMO program.

Congress had as early as 1970 considered HMO legislation that would have provided new incentives for HMO-like organizations to enroll more Medicare patients. But delays in both the House and Senate caused by the need for considerable changes in the existing Medicare program and the unwillingness of key congressional staff to back normal HMO payment methods prevented the bills from serious consideration.

By mid-1972, a number of other HMO bills had been introduced in Congress. One, sponsored by Kennedy, proposed to do with HMOs what he had been unable to do with an earlier national health insurance bill. HMOs would be required to offer a comprehensive set of benefits to everyone at a uniform rate. Kennedy proposed a $5 billion federal susbidy over a period of five years to start new HMOs that would develop in both urban and rural areas. But the Nixon Administration and Kennedy were at great odds as to the amount of federal subsidies that should be committed to meet the promise of 1,700 HMOs by 1976. However, enormous subsidies were clearly required if the HMOs were to provide everyone with virtually unlimited benefits.

Throughout 1972 and 1973, congressional debates continued on the merits of the HMO arguments. Following the AMA attack on HMOs prior to the 1972 presidental election, the Nixon Administration had all but abandoned its earlier support for broad-based HMO development. The result was passage in late 1973 of an HMO law that required a wide range of benefits but which authorized HEW to spend a fraction of the funds originally requested by Kennedy. And as it turned out, Congress in the next three years appropriated only a third of the amount authorized under the 1973 law, or little more than $100 million.

Relatively little progress was made from 1974 through early 1977 in developing new HMOs due to the unrealistic requirements placed on plans to receive federal funding. To meet the federal qualification requirements, plans were required to offer an expensive benefit package to everyone in a community, regardless of their health status. Even with the various efficiencies of the prepaid system, without sizable federal subsidies the plans were too expensive to be competitive in most marketplaces. Even established plans had no incentive to participate in the federal program. And one important provision in the HMO law that required most employers to offer qualified plans to their employees was unavailable to the majority of successful plans that could not afford to become qualified.

By 1976, the original HMO law was amended to provide additional funds for the HMO program, to significantly revise the restrictive benefit requirements, and to provide newly developing HMOs time to achieve financial stability before having to offer enrollment to everyone in their communities. However, the 1976 amendments did give a union bargaining team the exclusive right to accept or reject an HMO offering on behalf of its organized workers. And even though organized labor has historically been a key supporter of prepaid group practices, even this provision has in some instances hindered effective HMO marketing to organized groups.

The Carter Administration since taking office in 1977 has to a certain extent revived the federal commitment to aggressively develop HMOs. The President for fiscal year 1980 doubled the request for HMO funds over 1979, something Congress is currently considering. HEW has mounted a promotional effort to support HMO development in a number of new areas and plans to provide support to existing HMOs for expansion.

But given the rhetoric of the last eight years, some observers remain cautious about the future for HMOs. HEW currently says that by 1990 there will be 440 HMOs enrolling over 20 million people. Cost savings are expected to be over $20 billion as a result. Sixty-one cities have been targeted for new HMO development and an HEW field staff is currently at work trying to develop community support to start new HMOs. Even though current HEW projections are well under those of 1971, the increases promised in 10 years are enormous. The question today is whether HEW can deliver on those promises.

By the end of 1978, national HMO enrollment was around 8 million in slightly more than 200 plans. Of those members, 3.5 million are in the country's largest HMO, the Kaiser-Permanente Medical Care Program, which has health facilities in six states. Seventy-one percent of the 1978 HMO enrollment was in plans more than 10 years old which will require an enormous increase in new plans to meet the 20 million enrollment goal.

The current HEW strategy for HMO development is geared primarily to produce cost savings. The $20 billion savings by 1990 has undeniable appeal in the increasingly cost-conscious Congress which must fund the HEW effort. And, if anything, the savings figure is conservative if in fact 440 HMOs were to enroll 20 million people by 1990. But to double the number of operational HMOs in 10 years poses formidable problems that current HMO legislation does not adequately address.

The financing of facilities remains a major problem. Although some federal loans will become available in 1980 as a result of 1978 HMO amendments, the capital needs of 220 new HMOs over the next 10 years will be enormous. The Kaiser program alone has close to $500 million invested in facilities and equipment to serve its 3.5 million members. Even a rough calculation of the facility needs of the plans that will serve the 12 million new members that are expected to join HMOs in the next 10 years demonstrates the magnitude of the problem. Private capital will have to become available for such growth.

Another strategic problem facing HEW's growth plans for HMOs is its targeted cities. The strategy rests on the premise that because HMOs save money they will thrive in high-cost areas. This may be true once they have become established and do not have

to subsidize start-up costs and are not dependent on free-for-service hospitals and specialists. But a new developing plan must not only reflect its area's hospital and other medical costs in addition to sizable start-up costs, but it must also compete with traditional insurers for members that are able to offer national employers national rates. The problem for HMOs is that a national rate reflects the average of costs between high-cost areas and low-cost areas. Because an HMO must reflect the local costs of medical and hospital services, it is often at a competitive disadvantage. Thus, the selection by HEW of high-cost cities such as Boston, New York, and Washington, D.C., for new HMO development may be somewhat unrealistic. And many of the targeted cities already have several competing HMOs so that interjecting new HMOs into an already crowded HMO market could produce only minimal results.

It is certainly clear that much real support for HMOs—dollars for both initial development and for marketing assistance for growing plans—will be necessary from both business and labor if HEW is to make good on its projections of future HMO growth. Given the disappointing experiences of the past eight years, even the most optimistic observers expect that whatever the future holds for new HMO growth will depend to a large extent on the HMO industry's own ability to make its case in the private marketplace.

COMPETITIVE HMOs ARE BRINGING CHANGES TO AREA MEDICAL-CARE SYSTEM

(By Peter Vanderpoel)

When John Miles, 6, developed an ear infection the other day, his mother Linda, 801 Terrace Dr., Roseville, didn't hesitate—she bundled him into the car and drove to one of Group Health Plan's seven clinics, at 2500 Como Av. in St. Paul.

"There's no charge to see the doctor, so you never hesitate to bring the children in," she said, illustrating one of the features a growing number of Twin Cities-area residents find attractive about health-maintenance organizations (HMOs).

"We have a very good rapport at this clinic," Linda said, nodding toward Dr. Joseph ("call me Joe") Rignatano, one of two pediatricians who see John regularly. "The people know you here and are very friendly. And financially, the cost of care and medicine is extremely reasonable."

Linda and her husband, Michael, an assistant state attorney general, have been Group Health Plan members since they moved to the area in 1970.

Back then, Group Health—the area's oldest and largest HMO—had only two clinics; it was the area's only alternative to traditional insurance coverage and "fee-for-service" physicians, and only a relatively few employers, mainly public bodies, offered workers even that choice.

Today, the Twin Cities metropolitan area boasts eight HMOs competing with each other and with traditional indemnity insurance plans; nearly every major company offers its employees a choice of two or three HMOs, and membership is mushrooming.

(The newest, Metropolitan Area Pre-Paid Plan, was formed last month and covers about 400 of 700 private-practice physicians in Ramsey, Dakota and Washington counties.)

HMO enrollment stands at nearly 256,000, or 13 percent of the seven-county population. Membership gains over the last two years alone are about equal to *total* HMO membership in 1975. The health plans have captured more than 50 percent of the market in some corporations (from 69 percent at Cargill and 60 percent at General Mills to 4 percent at 3M) and an average of 26 percent in 21 companies recently surveyed randomly; they invariably gain in subsequent enrollments, and they are beginning to turn to smaller companies and groups. Estimates that they will have 30 percent to 50 percent of the market within five years or so are common.

The area, in fact, is unique, according to Dr. Paul Ellwood, president of InterStudy, the Shorewood healthy-policy research institute, who in 1970 coined the term HMO and sold the concept to the Nixon administration.

"It is clear that this is the only community (in the nation) where we have a majority of the medical profession and hospitals locked in this kind of competition," declared Ellwood, although a few metropolitan areas do have a higher percentage of HMO subscribers. "We have here a health system being subjected to a lot of economic, social and market forces that have never occurred in a health system before."

So what?

So this area is showing the country that a generous injection of the marketplace into the traditional medical-care system can cause fundamental changes—changes that, for the first time, are giving doctors and hospitals incentives to keep costs down and are cutting the all-too-familiar steep annual increases in health-care costs, say HMO backers.

"All the problems (of rising costs) come down to the absence of market forces," said Dr. Walter McClure, InterStudy's director of health-policy analysis. "Until you change those incentives, ain't nothing going to happen" to change the system.

In an HMO, a family pays a set monthly fee for essentially all the medical and hospital care it needs. Since the HMO must provide this care for the fixed annual rate, it presumably has a financial incentive to hold down expenses, to keep the family healthy and especially to keep it out of costly hospitals. The fee includes services such as routine office visits, physical examinations and other preventive care seldom covered by conventional insurance.

"You feel like you can afford to go to the doctor," Karen Nelson, 122 18th Av. N., Hopkins, said of the MedCenter HMO plan her husband, Gene, chose at the Onan Corp., where he works in building maintenance. MedCenter, the area's second largest HMO, was begun by the St. Louis Park Medical Center in 1972 and now comprises 15 clinics, including St. Louis Park satellites and other suburban and St. Paul clinics.

"We get a lot cheaper and much better care" than under the Nelsons' former conventional insurance coverage, even though Onan would pay the entire cost of that plan and MedCenter costs the Nelsons about $7 a month, Karen said. "We use it a lot—we have four children" ranging from 10 to 16 years old, she said.

Under the traditional system, which critics say has a "spare-no-expense" mentality, no one—patients, physicians, hospitals—has an incentive to hold down costs or to be efficient, especially with widespread insurance.

The payoff, of course, is in consumer savings—either lesser annual cost increases or more and better care for the same dollar.

And if, as skeptics maintain, a final verdict isn't yet in, at least a number of indications exist here that Ellwood and other HMO boosters are right.

Item: HMO members are spending significantly less time in hospitals than the Twin Cities-area average, according to several studies—between 400 and about 700 days per 1,000 HMO members, compared with 1,350 over-all. (This comparison is not exact, because HMOs have few elderly or low-income members.)

Item: The difference is less but still substantial in at least some comparable groups. The rate for the 31 percent of Honewell's Twin Cities employees in HMOs is about 500 days per 1,000, half that of those with conventional group insurance.

Item: The cost of traditional group-insurance plans, which pay for fee-for-service care, has been rising faster than HMOs. When General Mills first offered MedCenter in 1973, for example, the plan cost employees about $9 more than conventional coverage; that difference has shrunk to essentially zero today. MedCenter's 1979 rates are up only 4.6 percent over last year, according to Stephen Goldstone, executive director. (For 1979, at least some conventional plans have virtually eliminated increases.)

Item: The Twin Cities-area consumer price index for medical care rose 8.1 percent in 1978, less than the 8.4-percent increase for all urban areas, according to the U.S. Bureau of Labor Statistics.

Item: The 1977 hospitalization rate for HMO members averaged about 320 days per 1,000 members less than for Blue Cross-Blue Shield groups in Minnesota, according to one study. With today's HMO membership and hospital costs, that would mean about $18.4 million a year less in hospital bills. (Actual savings would be somewhat less, since an undetermined amount of this care would occur in doctors' offices and clinics.)

Item: The careful, efficient use of hospitals by HMOs may be spreading (many physicians with mainly fee-for-service practices also have some HMO patients), according to Ellwood. He cites preliminary national data for Blue Cross-Blue Shield groups showing a drop in hospital use here of about 17 percent over the last 18 months and a decrease of almost 11 percent in hospitalization of Medicare patients in 1978—"the largest drop in the country, and contrary to national trends; admissions are up in Boston, New York, Atlanta, Los Angeles, Chicago, Salt Lake City."

The explanation?

"Physicians are incapable of practicing a double standard of medicine," said Ellwood (one for HMO patients, another for fee-for-service patients).

"They've learned their patients do just as well without being hospitalized so often, and so they have stopped putting them into the hospital."

(Other observers argue that peer review of hospitalization, conducted by federal law under the Foundation for Health Care Evaluation since 1974, is at least equally responsible for drops in hospital use.)

If, indeed, the Twin Cities area is setting an HMO example for the nation, why is this happening here?

A wide variety of the people involved agree on essentially four factors, although they tend to weigh them differently depending upon their vantage points and backgrounds: The existence of Group Health Plan, pioneer in the prepayment field here, and of InterStudy, with Ellwood and McClure constantly arguing the necessity of doses of competition; the interest and encouragement of at least part of the corporate leadership, and the decision of St. Louis Park Medical Center, a prestigious, multispecialty clinic, to form an HMO in 1972—essentially, to offer prepayment as an alternative to its customers.

Group Health, a consumer-oriented plan that grew out of the cooperative movement, was widely opposed by organized medicine when it began in 1957 and grew slowly until 1970, "broke the ice and was doing reasonably well," said Ellwood.

"The whole HMO movement in the Twin Cities is directly a product of Group Health," said Maurice J. McKay, its general manager since 1960. "No question about it. The reason is that all of the organizations now offering HMOs really did not subscribe to the concept, and all without exception fought it until Group Health, by reason of a certain kind of doctrinairism, succeeded in making it a reality in spite of all the opposition of the established medical community and the established insurance community.

"The environment is quite different today . . . But back then, anything that departed

from the fee-for-service concept . . . and, basically, individual practice, was seen as some form of socialism. Even at times group practice—such prestigious groups as the Mayo Clinic and St. Louis Park Medical Center—were greeted with skepticism and fear from the medical community."

In addition to Group Health's demonstration that the HMO idea could work, McKay said, "the whole milieu" in the late 1960s and early 1970s was alive with thoughts of change.

That is precisely how a number of other participants describe it.

In 1968, Dr. Loren Vorlicky, a St. Louis Park Medical Center pediatrician, persuaded the clinic to begin looking at a prepayment option. He became chairman of an in-house committee that did just that, but the clinic was reluctant to make any quick changes, despite Ellwood's prodding. "Those doctors just didn't want to go further" than the study, said one close observer.

By 1971, Ellwood had sold the Nixon administration on his ideas, and a February presidential message on health plugged HMOs heavily and proposed $23 million in federal aid for HMO sponsors, which drew considerable attention to the concept and raised the interest of the insurance industry.

In early 1972, nearly 20 Twin Cities corporations and foundations contributed up to $40,000 each to a feasibility study called the Twin Cities Health Care Development Project. Their action was partly in response to a vague proposal by the Equitable Life Assurance Society to set up one large "umbrella-type" HMO embracing the entire metropolitan area.

"Primarily, we (the business community) wanted to see a more competitive health-care environment," said Verne Johnson, a General Mills vice president active in the effort. "Health care was generally our fastest-growing cost at that time. The incentives were all wrong under the traditional system.

"I personally felt very strongly that, one, the (Equitable) proposal would be dominated by the insurance industry, and we didn't want that, and, two, that we shouldn't have one monolithic system."

The project, abetted by InterStudy, involved corporate, community and medical interests, focused attention on health-care costs and helped educate the business community.

Physician participation meant "we were able to capture those doctors early on in such a way that they couldn't kill it before it got started," said one corporate participant.

"If credit is due anywhere in the provider field, St. Louis Park has to get it—they had the credibility (with consumers and the medical profession) needed to move into an HMO," said Johnson.

Another participant put it this way: "Once St. Louis Park moved, they (the medical profession) couldn't say, 'Yeah, but their quality (of care) is lousy,'" a not uncommon allegation about "the socialists at Group Health."

St. Louis Park offered a prepay option only after a number of internal concerns were ameliorated, encouragement by InterStudy and federal developments and an offer by General Mills to offer the plan to its employees in competition with its conventional indemnity insurance. And, some observers say, after Group Health moved to open a satellite clinic in St. Louis Park.

Neither Vorlicky, now medical director of MedCenter, nor Dr. Glen Nelson, St. Louis Park Medical Center president, believes that Group Health competition was responsible for the clinic's decision.

More important, both say, is that the medical center's very efficient, cost-effective group practice was "masked" by the traditional insurance-payment system. In other words, there was no reward to the clinic for its cost-effective practice. "Prepayment unmasked that efficiency and allows us to get into the market and compete with nongroup practices," said Vorlicky.

Based on hospitalization rates, the two physicians are correct. The clinic has lowered its use of hospitals only slightly since forming the HMO, but nevertheless has among the lowest of HMO rates (only 350 days per 1,000 members last year).

Also in 1972 and also with considerable urging and support from InterStudy, Ramsey Health Plan was organized in St. Paul, primarily as an effort to open expensive, underused St. Paul-Ramsey Hospital to county employees.

Next, in 1973, and also in St. Paul, came Share, an outgrowth of an attempt to save a small hospital that had been operated by railroad unions and the Northern Pacific Railroad solely for railroad employees. The Nicollet-Eitel Health Plan, built on the long-established Nicollet Clinic and Eitel Hospital in Minneapolis, also began operating in 1973.

With this level of HMO activity, most observers agree, Ellwood's initial reasoning about marketplace behavior proved correct. The five health plans now enrolled 75,000 patients. For largely competitive reasons, other HMOs inevitably would be formed.

The most dramatic example of how health-maintenance organizations, with their prepaid feature in which physicians are at economic risk, can change doctors' practices is Physicians Health Plan (PHP). This loosely knit HMO has 1,350 physicians in all metropolitan-area counties except Ramsey and includes most of the private-practice physicians in Hennepin County.

Unlike the so-called "closed panel" HMOs such as MedCenter and Group Health, whose members must see that group's doctors (at least initially, pending referral as necessary), PHP is an "open panel" plan. Patients can join the HMO without changing physicians, if their doctor is a member.

PHP, formed by the Hennepin County Medical Society, came close to bankruptcy because of start-up costs and undercalculation of the rate at which member physicians would put their patients into hospitals.

The plan lost more than $700,000 in about two years, and by mid-1977 the plan's board warned that "drastic measures are necessary to get medical costs under control." Physicians absorbed those losses, since the plan had not charged members enough to reimburse the doctors for their entire bills to the HMO for their work.

Most members, perhaps surprisingly, opted to accept rigid controls, including tough hospital-admission and hospital-stay reviews and limitations on physician fees for some services.

With those controls, PHP began immediately to reverse its deficit, said Richard Burke, director. Its hospitalization rate per 1,000 members dropped from 805 days in 1976 (nearly 40 percent over the calculated rate), its first full year of operation, to 639 days in 1977 and 520 days last year.

"Naively enough," said Thomas Hoban, county medical society executive director, "we thought the physician could really practice as he always did. We were wrong, and the controls were necessary."

Some Still Skeptical About Group Health

"It's too early to tell whether health maintenance organizations (HMOs) will continue to be cheaper in the long run," says Harry Rosaasen, Honeywell's manager of group insurance.

Rosaasen, who terms himself "supportive of the HMO concept," nevertheless is adopting a wait-and-see attitude about whether the comprehensive health-care plans will continue to show savings and rapid expansion. Despite estimates by enthusiasts that within five years or so HMOs could gain up to between 30 percent and 50 percent of the Twin Cities-area population, compared with today's 13 percent, Rosaasen is not alone.

Dr. Thomas Briggs of the White Bear Lake Family Practice Clinic, a self-admitted "skeptic" although his clinic is part of the MedCenter HMO, worries about quality of care, about whether patients who aren't really sick will demand unnecessary care, about competition becoming so keen that physicians will cut legitimate costs to attract patients.

Given all those and other concerns, "you've got to be a little skeptical over the long haul," he says. Even so, Briggs concedes that he has been "pleasantly surprised" by the clinic's experience in MedCenter and his fears "haven't been borne out yet."

Briggs also points out that hospitalization comparisons with conventional insurors and fee-for-service physicians are not fair because HMOs enroll "a select group, usually the healthy and the working."

George Halvorson, director of Minnesota Blue Cross-Blue Shield's HMO in Minnesota, a loose "network" health plan, makes the same observation. Under the fast-expanding plan of Blue Cross, 25 separate "health-care organizations" (essentially, clinics and groups of doctors) contract separately with the HMO.

Nevertheless, Halvorson expects that his health plan will continue to gain members throughout the state and agrees that some HMO enthusiasts' observations that their continued growth now is "irreversible" here is "pretty accurate."

The Blue Cross' HMO, like some others here, avoids one common objection to the prepaid health plans because members need not leave their doctors and receive care in strange clinics—or, in some cases, change hospitals.

One family unhappy with its new clinic, the Dale Johnsons, 11956 Terrace Rd. NE., Blaine, plans to leave MedCenter and return to its former physicians.

The Johnsons left a conventional insurance plan for MedCenter because "something was always happening" to their four boys, said Mrs. Johnson. "They get a cut or a sprained ankle or kicked."

But her experience at one of MedCenter's clinics has been less than happy, she said. "I don't think they're thorough enough, and they make you feel like you're on welfare."

That reaction appears to be relatively rare, however, since the record to date indicates that few families leave HMOs, once they join. At General Mills, for example, the number is "very, very low," said David McIntire, manager of employee benefits. Employee surveys indicate that they "perceive HMOs as a great employee benefit, something important to them," he said.

Others such as Stephen Goldstone, executive director of MedCenter, worry that employers "will pick up the entire cost" of competing plans (as a few companies now do), thereby removing the employee's financial incentive to choose the most efficient (and therefore least expensive) plan.

"You've got to compete on price," said Dr. Paul Ellwood, president of InterStudy. "If the employer subsidizes one plan more than another, he's destroying that competition."

And one HMO director, who would not be quoted, suggested that current praise of the health plans' achievements here is premature.

"Sure, we've had great, fabulous success" in cutting hospitalization rates, he conceded. But rapid membership expansion has meant a lag in hospital use ("it takes a while to get patients into the pipeline") that might make the record look artificially good, he said. This could change when—and if—membership gains slow, and HMO costs could rise.

TRIO LED WAY FOR HMO GROWTH IN TWIN CITIES

(By Peter Vanderpoel)

The strong-willed son of a liberal Montana newspaper publisher, legislator and sometime union organizer.

A California-educated physician who has been throwing gentle darts at the health-care industry for nearly two decades.

A St. Louis Park Medical Center pediatrician with what one colleague calls "a tremendous sense of balance."

If any three individuals are the prime movers in the growth of Twin Cities health-maintenance organizations (HMOs)—and therefore what is labeled as the unique state of competition in the health-care industry here—it is that trio:

Montana native Maurice McKay, general manager and chief strategist since 1960 of Group Health Plan, the area's oldest HMO.

Dr. Paul Ellwood, long-time director of the Kenny Institute in Minneapolis, who is president of the health-care "think tank" InterStudy in Shorewood.

Dr. Loren Vorlicky, medical director and board member of MedCenter, the second-largest HMO, and the leader a decade ago in the St. Louis Park clinic's pivotal decision to create MedCenter.

This area's eight HMOs, competing with each other and with traditional indemnity insurance plans for the area's health dollar, appear to be providing the incentives that HMO supporters deem essential to hold down spiraling health-care costs.

Group Health provided a living example that prepaid plans could work long before Ellwood coined the now-familiar term HMO. McKay held the fledgling Group Health together and helped it grow—albeit slowly at first—after coming here from a similar but larger plan in New York, says a long-time Group Heath board member who was largely responsible for importing McKay.

"Maurice came up with the dual plan, and that's what did it for us," said the board member. "That was the breakthrough."

He was referring to an arrangement McKay deemed essential for young, struggling prepaid plans in those days, and one in which the New York plan was not interested.

"The concept was that developing HMOs needed to employ some facets of traditional indemnity insurance, recognizing that both doctors and the public had grave reservations about closed-panel medical care, and that we needed to provide an optional arrangement," said McKay.

So he worked out what he called an "instant choice" plan, under which subscribers had both Group Health and traditional indemnity health insurance, and could use either the Group Health clinic or a private-practice doctor interchangeably.

"We installed our first contract of that kind in 1961," McKay recalled. Group Health remained "terribly undercapitalized," with no ability to serve a large group even if we could enroll one. We were limited to small groups . . . little steps forward. But all the time we were building staff, resources and capabilities."

In those days, said a 1977 Federal Trade Commission report, "Group Health physicians were denied access to hospitals, were socially ostracized and were subject to professional ridicule."

Group Health grew slowly but inexorably; it had 4,278 members and one full-time physician in 1960; 10,249 members and four full-time physicians in 1965 and—buoyed by gaining access in 1962 to state employees, 35,996 members and 18 physicians in 1970, compared with today's 96 doctors, 16 dentists and 121,000 members.

At about the same time—1962—Ellwood, as Kenny's young assistant director, was telling the medical community things such as "the political face of medicine . . . gives the impression of being reactionary and pursuing the economic motives of doctors."

A year later, he was warning that deficiencies in the health-care system would lead to more government programs and regulations (and then came Medicare), just as he and other InterStudy thinkers now argue that the medical industry must either develop competition or face tough regulation.

By 1967, Ellwood was advising the leadership of the health-insurance industry that they should "reorganize . . . the prevailing mechanisms for paying for and delivering health services" and arguing for "prepayment mechanisms for programs offering total health care"—in other words, HMOs, an idea he sold to the Nixon administration in 1970.

In the late 1960s, he was helpful in persuading the Twin Cities business community to promote HMOs and was dogged in his pursuit of St. Louis Park Medical Center's forming an HMO.

"Paul promoted it," said Dr. Glen Nelson, now president of St. Louis Park Medical Center and then an HMO proponent. "He really felt we should do it." And, said another St. Louis Park doctor: "He was constantly in the wings, telling us we were the ideal group to do this, and sharing in federal developments."

And that was a key decision because the move of the big, respected, multispecialty clinic attracted the medical community's immediate attention and made prepaid, closed-panel group practice respectable among physicians and others who had opposed or looked down on Group Health and implied that it provided second-rate care.

Vorlicky, who in 1968 challenged the St. Louis Park clinic's board to adopt a prepaid option and then chaired a committee that studied this possibility, downplays his own role. "I don't think anybody (at the clinic) felt as a philosophical matter that we shouldn't get into prepayment. The politics of the medical environment and three years of planning, plus a lot of local and national stuff, began to blow away much of that kind of concern," he said.

But McKay remembers Vorlicky "promoting the prepay concept" with little initial success.

And a Minneapolis corporate executive who was close to that scene said that it was primarily Vorlicky who "nurtured the idea along. That clinic had a better-balanced set of doctors, less interested in the almighty dollar and less conservative in political outlook than many doctors, but Larry (Vorlicky) was able to pull that different orientation together and move it along, when most of them didn't want to move."

WHERE DOCTORS SCRAMBLE FOR PATIENTS' DOLLARS

(By Edmund Faltermayer)

Those who doubt that health-maintenance organizations have a big future in the U.S. ought to take a look at what is happening in the Twin Cities of Minneapolis-St. Paul and their suburbs. In just seven years, the proportion of the area's 1.9 million inhabitants enrolled in HMO's has leaped from 2 percent to nearly 12 percent. Major companies have encouraged the trend to help brake inflation in the cost of workers' medical benefits. Amazingly, most of the area's doctors are now connected with HMO's, including hundreds who were against the whole idea.

The blessings to the consumer are pretty much what the champions of HMO's long foresaw in theory but were hard-put to document in real-life experience. These prophets saw HMO's as an antidote to the waste and inflation that have driven the nation's medical bill to the threshold of $200 billion a year—a third paid by business in the form of employees' health insurance. In conventional fee-for-service medicine, they said, a "spare no expense" mentality prevails because most of the big bills are reimbursed automatically by the federal government and private insurance plans. In both cases, the reimbursers are too far removed from individual doctors and patients to judge whether the services they are paying for are excessive.

But suppose there were HMO's offering comprehensive medical care for a flat annual fee. Such plans would be run by administrators close to the scene and staffed with doctors who were forced to stay within each year's subscription income or see the organizations go broke. These better medical mousetraps, the prophets said, would not only strive to avoid the waste that is rampant elsewhere, but would also by their mere competitive presence induce the rest of the system to mend its ways.

WORRIES ABOUT "UNDERPRICING"

The renowned Kaiser-Permanente medical plans, operating in California and Hawaii for decades, have shown how HMO's can hold down costs, but not even they have kicked off the kind of competitive free-for-all and price warfare that has erupted in the Twin Cities. There is an unprecedented multiplicity of these better mousetraps in Minneapolis-St. Paul—seven HMO's, soon to be eight—all battling with each other and with conventional health-insurance plans. "The competition among HMO's is getting cutthroat," observes Stephen K. Goldstone, executive director of MedCenter Health Plan, one of the area's most successful HMO's. Employing language that is often heard in the business world but almost never in the corridors of American medicine, Goldstone adds, with a touch of concern in his voice: "Some of the HMO's in town are underpricing their product."

Whether they are "underpricing" or not, most of them are operating in the black, and they all deliver more product for the money. John G. Turner, a senior vice president at Northwestern National Life Insurance Co., which helped set up the MedCenter plan, estimates that the same coverage would cost 15 to 20 percent more under conventional health insurance, mainly because a lot of unneeded services would be rendered.

Over the past several years, moreover, the HMO's have generally got by with smaller rate increases than those posted by conventional insurers. None of them is planning an increase higher than 8.5 percent next year. The biggest HMO in the area, known as Group Health Plan, Inc., with 115,000 members, is hoping to get through two years on a 12 percent increase that took effect this year. Partly because of competition from HMO's, the conventional insurers in the area have started to crack down on waste, particularly the excessive hospitalization of patients.

Critics of HMO's have often charged that they achieve their savings by carrying efficiency too far, skimping on both the quality and the quantity of services. That is clearly the case in some other parts of the U.S., where niggardly HMO's have had trouble attracting and holding members. In the Twin Cities, however, competing HMO's have actually improved the quality of medical care in many ways. Instead of forcing members to travel long distances to a few large clinics, as is the case in some cities, the seven HMO's have blanketed the metropolitan area with forty-nine clinics and branches. Like gas stations in a price-war zone, the clinics have been lengthening their hours of operation.

To speed the patient's recovery and keep down costs, some HMO's have begun to stress what physicians call "compliance"—telephoning to make sure the patient is actually

taking the medicine or doing the exercises the doctor ordered. They are also helping to keep incompetent doctors from practicing medicine. The conventional medical system, like the public schools, tends to shield professional mediocrity. But the physicians in several of the HMO's, intent on maintaining their reputation for excellence, screen doctors who seek to join. And some HMO's have done the utterly unthinkable—they have fired physicians.

Consumer grousing is rare in the Twin Cities. In 1977, less than two-tenths of 1 percent of all HMO enrollees sent in written complaints, according to data supplied to the Minnesota Department of Health. Not all unhappy consumers bother to write letters, of course, but most HMO members appear to be satisfied. Out of fourteen people interviewed at a Group Health clinic in suburban Bloomington, only one criticized the service. She was recently forced to see a physician at another clinic far from her home, she complained, and had to wait a long time for the appointment: "I saw a bone doctor who acted like he was doing me a favor." But she also volunteered that the care given her husband, who needed heart surgery, has been "terrific."

The other thirteen rated the services "good" (six) or "excellent" (seven). Richard Radl, a state trooper with allergy problems, said he has turned down a transfer just to stay in the plan. His family used to be on Blue Cross, he said, "and paying bills was a hassle."

One big advantage of HMO's, Twin Cities subscribers say, is that they almost never *see* a medical bill. Except for a few nominal, out-of-pocket outlays for certain types of services and for prescription drugs at HMO pharmacies, everything is paid in advance, with the employer of the family breadwinner footing most or all of the bill. Even children's checkups and immunization shots, which are excluded from most conventional health-insurance plans, are covered. Nor is there any deductible, such as $100 a year, below which the family pays everything.

FREEDOM FROM PERPLEXING FORMS

Last spring, when Honeywell first offered the HMO option to its 15,000 workers in the Twin Cities, it made liberation from paperwork a major selling point. During a slide presentation on HMO's, shown to all workers on company time, a scene familiar to most adult Americans flashed on the screen. A man standing at a counter was scratching his head while filling out a form thrust at him by a nurse. With HMO's, the voice on the sound track said, "you don't have to juggle around a lot of confusing bills." Another slide showed that an employee's monthly contribution to the cost of an HMO plan would be less than it is under a conventional plan—as much as $9.60 a month less in the case of a worker with dependents.

On the strength of this education effort, 31 percent of Honeywell's workers defected from conventional health insurance to HMO's in one crack—the biggest single changeover to date in the Twin Cities.

CONVERTS BY THE DROVES

This is only the most recent victory for the prepaid plans. At Control Data, where the HMO option has been available for a year, about 30 percent of the local employees have made the switch. Sharon S. Collins, manager of corporate benefits, expects the figure to grow to 40 to 50 percent the next time workers are given a chance to sign up. HMO's have captured half the workers at the regional offices of Prudential, which ironically enough is in the conventional health-insurance business. At General Mills, a company that has enthusiastically offered the HMO option for five years, an astounding 60 percent of all Twin Cities employees are enrolled. Only at the headquarters of 3M have the employees given HMO's their one major rebuff; a mere 3.5 percent have signed up.

The HMO boom in the Twin Cities—where total enrollment is expected to rise by at least 30 percent this year—is part of a nationwide trend that appears to be accelerating again after losing steam. Until very recently, HMO growth was heavily concentrated in cities that already had strong, well-established organizations, most notably the Kaiser medical plans. Elsewhere, the requirements for establishing a new HMO looked so formidable—millions of dollars to build clinics, and a willingness to buck the local medical interests—that few organizations besides Kaiser seemed able to pull it off.

During the last fifteen months, however, HMO enrollment across the land climbed by a record one million people to a new high of 7.4 million. For the first time, more than half the growth took place outside the Kaiser plans. There are other hopeful signs. The American Medical Association, which bitterly fought HMO's for decades, has begun to give them cautious endorsement. Joseph A. Califano, Jr., the U.S. Secretary of Health, Education, and Welfare, has been urging corporations to take the lead in setting up more of the prepaid health systems.

The Twin Cities have had some special things going for them. One of them is Group Health, the oldest and biggest of the area's HMO's. Group Health dates from 1957, but was long ignored by doctors and shunned by private employers; it was organized as a consumer cooperative, by people regarded as a touch socialistic. By 1970 the plan had bootstrapped its way to 36,000 members, and some of the areas's physicians were growing uneasy at the number of patients who were asking to have their X-rays and medical records transferred to Group Health, a phenomenon that, it appears, wonderfully focused the doctors' innovative faculties.

About the same time, when some hospitals and groups of physicians were talking of setting up new HMO's of their own, the local business community began discussing the idea as a way to slow down annual, double-digit increases in health-insurance costs. The companies in the Twin Cities, which have a long history of discussing problems of mutual concern, turned down a proposal for grouping all the new organizations under a single plan controlled by doctors and hospitals. "We didn't want a single provider organization to work through, because it wouldn't have been competitive," says Verne C. Johnson, vice president for corporate planning at General Mills. Johnson played a leading role in quashing the single-HMO idea.

In favoring multiple HMO's, Twin Cities executives were strongly influenced by a local physician named Paul M. Ellwood Jr., who has evangelized widely across the U.S. in the cause of introducing market forces into medical care. Ellwood runs an unusual think tank called InterStudy, which has contributed more than just ideas. Some of InterStudy's former theorizers actually run HMO's, including three of the successful ones in the Twin Cities.

While the receptive climate in the Twin Cities has been unusual, the ways in which the new HMO's got going are not. All around the U.S. in recent years, the founders of prepaid plans have devised ways to launch them on a comparative shoestring by enlisting portions of the local medical establishment, instead of battling the whole system. The new HMO's in the Twin Cities have been grafted onto existing institutions—medical groups, hospitals, and in some instances medical societies serving an entire area.

Multi-specialty groups of doctors abound in the Middle and Far West. The most prestigious of these in the Twin Cities area is the St. Louis Park Medical Center dating from 1952. By the late 1960's, some of the doctors in the St. Louis Park group began to worry not only that Group Health's success would cut into their own future growth; they were also genuinely intrigued by the prepayment idea, which among other things substitutes a steady cash flow for a bill-collection system in which postage and noncollectibles can run as high as 15 percent.

THE CONSTRAINTS OF "CAPITATION"

Since the St. Louis Park group already had a magnificent, well-equipped clinic, it took relatively little capital to launch its MedCenter HMO in 1972—a bit over $200,000. MedCenter, in effect, started up as an alternative payment system for patients treated by doctors at the St. Louis Park Center. By now, the proportion of HMO patients at the clinic has grown to 30 percent, and new satellite clinics have been built to handle the growing enrollment. The key difference with HMO members is that the clinics receive only a fixed monthly "capitation" income for each member—and not a dime more, regardless of the volume of services performed.

MedCenter lost money three years ago, but turned the corner shortly thereafter. The plan produced a surplus of $94,000 last year, not counting $70,000 that was turned back to the affiliated doctors' groups as a kind of bonus. With 45,000 members, the plan is the second-largest HMO in the area and one of the fastest growing.

Another successful HMO plan, called SHARE, is the offshoot of a formerly underutilized hospital in a working-class neighborhood in St. Paul. The U.S. as a whole has a surplus of hospital beds, but the surplus is especially large in the Twin Cities. SHARE's principal outpatient clinic uses some of the hospital's surplus space and sends some patients there. It is the only HMO in the Twin Cities that has received government start-up money, but the loans and grants have been modest—under $1 million from the federal government—and SHARE has done better financially than most federally aided HMO's. Thanks to tight controls instituted by Robert K. Ditmore, an InterStudy alumnus who is SHARE's president, the plan will achieve an impressive surplus of $250,000 this year. Despite the hospital tie, it has done a remarkable job of not sending patients down the hall and into hospital beds. SHARE's hospitalization rate, in fact, is the lowest of any medical plan in Minnesota.

The most interesting HMO, with the rockiest experience, is the one formed in desperation by doctors left out of the other plans. By 1975, the Hennepin County Medical Society, which represents most physicians in the county that includes Minneapolis, had become sufficiently alarmed by the inroads of HMO's to set up an organization called the Physicians Health Plan. This is called an open-panel HMO, or "independent practice association," because it enrolls a large number of doctors—85 percent of the medical society's 1,600 members—who treat HMO participants in their own private offices along with their other patients. This gets around a widespread objection to most HMO's, which are of the closed-panel type; in the Physicians Plan, instead of being restricted to seeing the doctors connected with one clinic or hospital, the consumer has a wide choice. Many consumers agree, and in just three years the Physicians Health Plan has become the third-largest HMO in the Twin Cities.

KEEPING THE DOCTORS "AT RISK"

In theory, the Physicians Health Plan could not be simpler. Instead of billing an HMO member for an office visit or operation, the doctor bills the plan, which in turn reimburses him out of the general kitty of subscription income. In practice, such a plan can readily go broke if the moneys are paid out too generously. To keep that from hap-

pening, the doctors have had to swallow some of the strictest rules ever applied to their profession anywhere.

For one thing, the doctors are reimbursed at the average rate charged by all members for each type of service. Because of this rule, some high-priced physicians have dropped out of the plan. Doctors are also kept "at risk" for a portion of the fees, in order to give them a collective stake in keeping costs in line. They receive only 80 percent right away. The rest is withheld to cover the plan's possible losses; all or part of it is paid out to doctors later if the plan breaks even. A year ago, when the plan was deeply in the red, the reimbursement formula had to be cut temporarily to 70 percent. Since the doctors never saw any of the remaining amount, they were, in effect, giving a 30 percent discount to keep some of their patients from deserting to other HMO's.

But even that kind of incentive feature wasn't enough to stanch a hemorrhage of funds caused by the excessive hospitalization of patients. In the spring of 1977 the directors of the plan imposed a rule requiring doctors to notify headquarters each time they sent an HMO member to a hospital. Six months later the rule was tightened further. Today, a doctor's fee can be withheld in toto if he sends a patient to a hospital for nonemergency reasons without "preadmission certification."

Certification is given only by Diana Tchida, a registered nurse formally known as the plan's Medical Services Director. As hospital gatekeeper, she also approves the duration of the stay, following a manual based on what she calls "the acceptable mode of practice in this area." That is not all. Every day, someone from plan headquarters calls hospitals to inquire about each patient's progress. This procedure is called "concurrent review of patient confinement," but Charlotte Katz, the plan's administrator, has a blunter translation: "We call it post-admission harassment."

Flat turndowns of hospital admissions are very rare, but the mere existence of the new procedures has helped to put the Physicians Plan in the black at last. This year, says Richard T. Burke, the plan's executive director, "we'll be down around 500 hospital days per 1,000 members, and 400 in the case of some company groups enrolled in the plan." That is considerably below the 800-day average in the Twin Cities for persons of a comparable age mix who are covered by conventional health insurance.

By bringing its costs in line, the Physicians Plan has also been able to survive in the tough, competitive climate of the Twin Cities, one that gives employers unusual bargaining clout. Honeywell initially rejected the plan because its quote on monthly rates was way out of line. By last spring the plan had come back with a quote closer to those of other HMO's, and Honeywell included it along with five other prepaid plans offered to its workers. Of the workers who chose HMO's, half signed up with the Physicians Plan.

Partly because of such marketing successes, the plan's doctors seem willing to put up with all those tough rules. Dr. William L. Jefferies, a family physician in Minneapolis, admits he doesn't like preadmission certification for hospital patients. "But if that's what it takes to make the plan work," he says, "I'll do it. We physicians must provide a service the public is demanding, or we may be on the outside looking in."

IT PAYS TO KEEP THEM SCRAPPING

How much of the Twin Cities market can HMO's get? Says Dr. Richard J. Frey, chairman of the Minnesota State Medical Association, who isn't a member of an HMO himself: "I believe it's possible that 50 percent of our people will be enrolled in HMO's in the not too distant future." Much will depend on whether the HMO's begin signing significant numbers of Medicare and Medicaid patients. SHARE is the only HMO in the Twin Cities that currently meets federal criteria for enrolling them, though Washington could one day liberalize the regulations. The HMO's might also change their prevailing policy against recruiting self-employed workers.

Whatever the future holds, the Twin Cities experience already has proved a lot of things about building a strong HMO movement in cities that never had one. First, if the services are good and the price is competitive, many consumers will sign up. Second, the growth in enrollment may be slow at first, but will take on an irresistible momentum once it reaches a critical mass. Third, the enthusiasm and support of business can help move enrollment toward that level. And fourth, an age-old business principle—keeping many suppliers scrapping—applies to employee medical plans just as it does to the purchase of bushings and ball bearings.

IMPROVING THE HEALTH CARE SYSTEM AND CONTROLLING THE COST

I. Inflation and inequity today.

1. Health care costs are straining the federal budget and putting a heavy burden on employers.

Medicare is doubling from about $18 to $36 billion from 1976 to 1980, is projected to exceed $52 billion in 1982.

Public spending on health care rose seven times over from 1965 to 1977, from about $9.5 to $68.4 billion.

General Motors health insurance premiums also rose about sevenfold from 1965 to 1977, from $170 million to $1.3 billion. Similar increases have been experienced by many other companies.

2. There is a great deal of waste: excess specialized facilities, excessive use of hospitalization, diagnostic tests and other costly procedures.

3. Health care resources are distributed unevenly. Subspecialists crowd attractive metropolitan areas while rural and poor urban areas lack doctors.

4. While many factors contribute to the cost increase, the main cause of the unjustified and unnecessary increase in costs is the complex of perverse incentives inherent in today's dominant system of health care financing. Uncontrolled fee-for-service rewards doctors with more revenues for providing more and more costly services, whether or not more is necessary or beneficial to the patient. Cost reimbursement rewards hospitals with more revenue for generating more costs. And health insurance, provided by employers or government, leaves most patients with little or no financial incentive to question the need for or value of services. There is no reward for economy in the use of health care resources. Such a system must produce inflation in prices and waste in the use of resources.

II. Public regulation of prices and capacity will not solve these problems.

1. The nature of medical care defies regulation. The government cannot measure output or evaluate its quality (except in extreme cases). The "doctor office visit" and the "patient bed day" are not standard units whose price can be regulated like passenger miles or kilowatt-hours. The leading experts cannot agree on standards for such things as the appropriate number of hospital beds or days of hospitalization per capita.[1]

2. The critical component of total cost is the extent of utilization of costly services such as hospitalization and procedures using advanced technology. These are inherently matters of individual doctor and patient judgment.

Footnotes at end of article.

3. Certificate-of-need regulation has failed to control the problems of excessive investment.[2 3 4 5] People accept efficiency-improving changes (e.g. closing unneeded facilities) when they are produced by impersonal market forces in the private sector. When such changes are imposed by government, those who would be harmed resist them, usually successfully, through legal and political action. Public officials (including regulators) could not withstand the pressure if they denied people medical care their doctors said they needed.[6]

4. Price regulation, in the long run, amounts to cost reimbursement, and gives producers the same incentives.

5. Public-utility regulation would fail to protect the general public for the same reasons it has failed in airlines, trucking, and elsewhere. Well focused producer interests and special-interest political pressures dominate.

III. Appropriately designed incentives and competition in the private sector can work effectively.

1. The key to cost control is to motivate physicians to use hospital and other health care resources economically; to establish competing system in which physicians are rewarded for finding ways to give better care at less cost. With appropriate organization and incentives, costs could be cut substantially without cutting the quality of care.[7]

2. We have numerous Alternative Delivery Systems in this country (alternative to uncontrolled fee-for-service and cost-reimbursement) with built-in cost controls and incentives to use resources wisely. They include:

Prepaid Group Practice (e.g. Kaiser Permanente);

Individual Practice Associations (e.g. Physicians Association of Clackamas County);

Health Maintenance Plans (e.g. SAFECO Life Insurance Co. of Seattle; Wisconsin Physicians Service);

Physicians accept responsibility for providing comprehensive health-care services to enrolled members, usually largely for a periodic per capita payment. The idea is compatible with many different systems and styles of care.[7]

3. Numerous comparison studies show that Prepaid Group Practices reduce total per capita costs (premium and out-of-pocket) to levels 10 to 40 per cent below those for comparable people cared for under traditional fee-for-service insurance plans.[8] Under competitive pressure, other Alternative Delivery Systems could achieve similar savings.

4. Physicians will impose on themselves and accept from other physicians controls far more stringent than they would ever accept from government if it is in their economic interest to do so. Competition of alternative delivery systems can make acceptance of such controls a matter of economic survival.

5. Where tried, competition is effective in controlling cost and improving service. The best examples are Hawaii and Minneapolis-St. Paul.[9 10] Competition between Kaiser and Physicians Association of Clackamas County, Oregon, is also a significant force.

6. If given a chance to compete on equal terms, Alternative Delivery Systems could grow rapidly. Many types of institutions have sponsored HMOs (e.g. industrial and insurance companies, unions, and universities, the Blues, consumer cooperatives, physician association, etc.). Many insurers could switch fairly quickly from traditional fee-for-service to per capita plus incentive plans like SAFECO's.

IV. Alternative delivery systems have not grown faster because they have been denied the opportunity to compete on equal terms.

1. Medicare and Medicaid are based on fee-for-service and cost reimbursement. Thus,

they pay more on behalf of people who choose more costly systems of care. For example, in 1970, Medicare paid 65 percent more on behalf of beneficiaries in the Portland area who got their care from the fee-for-service sector than on behalf of similar beneficiaries who got their care from Kaiser.[11]

2. The tax laws, in effect, limit the employee's health insurance options to the plan or plans offered by the employer or health and welfare fund because employer contributions are excluded from taxable income. Also, the tax exclusion encourages employee pressure for more employer-paid health benefits and for 100 percent employer-paid premiums. Employers often do pay more on behalf of employees who choose a more costly health plan; and the tax laws allow this greater compensation to be tax free.[12] Thus, employees often have a weakened incentive to join an efficient Alternative Delivery System, even if their employer offers one.

V. Incremental steps or a comprehensive national plan?

The creation of an effective national competitive system can be approached either on an incremental basis, i.e. selected changes in today's laws, or on the basis of a comprehensive national health insurance (NHI) plan based on a fair-market competition in the private sector.

The incremental approach is more realistic in today's economic and political climate. And a few key changes could do a great deal to enhance competition.

But it is also useful to keep the comprehensive plan in view as an indication of the desired end point of the process of incremental change, and as a practical proposal in the event a comprehensive approach becomes feasible.

VI. Recommended low-cost changes to existing laws to enhance competition among health care financing and delivery plans.*

1. Standards for employer health benefits programs and for private health care financing and delivery plans to continue to qualify for favorable tax treatment.

(a) Each employer should be required to include in any health benefits program offered to employees a choice of no less than three health insurance or delivery plans. The link between jobs and health insurance, fostered by the favorable tax treatment of employer-provided health benefits, has become one of the most important barriers to health plan competition, a result Congress surely did not intend. The multiple choice of health plan principle has been proved to be practical and desirable in such programs as the Federal Employees Health Benefits Program. Congress recognized the desirability of this idea in the HMO Act. The principle ought to be extended to all health benefits programs.

(b) The employer's premium contribution should be the same whichever plan the employee chooses.

(c) All health benefits plans should be required to cover, as a minimum uniform set of benefits, the Basic Benefits defined in the HMO Act. This coverage may be subject to substantial copayments and deductibles, if necessary, to keep premiums down. This would make health insurance plans easier to understand and compare. It would focus competition on quality and accessibility of services and price. It would protect consumers from misleading exclusions of important services.

(d) All health plans should be required to limit each family's out-of-pocket payments to a maximum annual amount such as $1500. That is, all should be required to provide "catastrophic expense protection" before they provide "first-dollar coverage."

(e) All health plans should be required to assure continuity of coverage, through the right of conversion to individual coverage at group rates, in such cases as loss of job, death of spouse, divorce, etc. Health plans should not be allowed to cancel coverage because of illness.

(f) Health plans that offer care through a limited number of participating physicians should not be allowed to sign up more than 50 per cent of the doctors in a market area. This is to prevent Blue Shield Plans or Individual Practice Associations to be used to restrain competition.

2. Section 1876 of the Social Security Act should be changed to create a genuine and fair HMO option for Medicare beneficiaries, i.e. to permit any beneficiary to direct that the "Adjusted Average Per Capita Cost" to the Medicare program for people in his actuarial category be paid, as a premium contribution on his behalf, to the state or federally qualified HMO of his choice in the form of a fixed prospective periodic payment. This would permit Medicare beneficiaries who join HMOs that do a good job of controlling cost to realize for themselves the benefits in the form of more covered services or reduced out-of-pocket payments.

3. Eventually, a similar option should be offered to all Medicaid beneficiaries. But the complexities of doing this now have not been resolved.

VII. Consumer-choice health plan (CCHP): A comprehensive NHI proposal based on regulated competition in the private sector.[13][14]

A. Overview: CCHP would resemble the Federal Employees' Health Benefits Program (FEHBP) for the nonpoor. The FEHBP covers 10.5 million people and has been in successful operation for 18 years. CCHP would resemble Multnomah County's PROJECT HEALTH for the poor. It would assure that all people have a choice among competing alternatives. Government would help people enroll in and pay for the private health benefits plan of their choice with tax credits or vouchers whose amounts are based on actuarial category and, for the poor, financial need, and which are usable only for premiums in qualified health plans.

B. Financing:

1. Tax credit. The present exclusion of employer contributions and deductibility of employee premium payments to health insurance, and deductibility of medical expenses from taxable income (costing about $10 billion in FY 1978 including payroll taxes) would be replaced by a tax credit based on actuarial category (e.g. nonaged family of four). That is, the present open-ended tax subsidy of roughly 30 percent of health insurance costs up to any level would be replaced by a 100 percent subsidy up to a predetermined level with no subsidy above that.

2. Vouchers for Medicaid. Medicaid would be replaced by a system of vouchers for premium payments to qualified health benefits plans, reaching 100 percent of actuarial costs (AC) or basic benefits in the case of the very poor.

3. Freedom of Choice in Medicare. The Medicare law would be changed to permit each beneficiary to have his Adjusted Average Per Capita Cost paid to the qualified health plan of his choice as a fixed prospective period payment. (Conventional Medicare would be retained for present beneficiaries who choose it. But new beneficiaries should be phased onto a per capita payment system. A voucher would supplement Medicare for poor beneficiaries.)

In a full version of CCHP, with tax credits equal to 60 percent of Actuarial Cost (AC), a typical tax credit for a nonpoor family of four would be about $800 per year a typical voucher for a poor family might be as high as $1,350 (all in 1978 dollars). The net cost to the federal budget would be about $22 billion. CCHP is a flexible concept, not an "all or none" proposal. It can be phased in. For example, a version with a tax credit equal to 30 percent of AC for the nonpoor, raised on a sliding scale to 100 percent of AC at the income-guarantee level ($4,200 for a family of four) would have a net cost in FY 1978 prices of $3.1 billion. The credit could be raised, e.g., 2.5 percentage points per year over 12 years, until the tax credit reached 60 percent, at an annual increase in outlay of about $1.6 billion.

C. Pro-competitive regulatory framework: Criteria for qualified plans.

1. Open Enrollment, through an annual government-managed open-season, would enhance competition and assure everybody access to all qualified health plans in their area.

2. Community Rating, i.e., premiums equal for all persons in the same actuarial category enrolled for the same benefits in the same area, would preclude prohibitive rates for poor risks and would spread health care costs over the total population.

3. Rating by Market Area would "internalize" costs of health services by NHI market area to give local regulators incentives for cost control and eliminate anti-competitive cross-subsidies. (Today, local regulators have little incentive to close unneeded health facilities because the cost of operating them is paid mostly from outside their area, while the jobs that would be eliminated are inside their area.)

4. Basic Minimum Benefits and a Required "Low Options" would prevent plans from limiting membership to the well-to-do by offering only plans with costly supplemental benefits. Qualified plans would have to cover at least basic minimum benefits as defined in the NHI law. They could offer a "high option" as in the FEHBP, but they would also have to offer a "low option" limited to basic minimum benefits.

5. Limit on Out-of-Pocket Costs, i.e. "Catastrophic Expense Protection", would provide full protection against catastrophic expense, and also put pressure on the health plans to establish effective cost controls. Qualified plans could use cost sharing, but it would have to be limited to a maximum annual amount per individual and family (e.g. $1500).

6. A Systematic Program of Information Disclosure would help consumers judge the merits of alternative plans and help assure public confidence. Data would include patterns of utilization, availability of services, and total per capita cost including premiums and out-of-pocket costs.

7. Grievance Procedures would be required to provide a forum for resolving disputes.

8. Anti-monopoly Provisions would ensure that market forces operate to control costs. A qualified "limited provider plan" with participation agreements with physicians could not have such agreements with more than 50 percent of practicing physicians in a county or metropolitan area, unless the Secretary of HEW waived the provision in the case of sparsely populated areas.

D. Goals of CCHP include the following:

1. Equity in the Use of Public Funds. Today Medicare and the tax-subsidies pay more for people with more income and who are better insured; CCHP would pay more to people in greater medical and financial need.

2. Motivate Efficiency by Changing Financial Incentives. The system of economic competition would reward doctors and other providers for funding ways to deliver better care at less cost.

3. Continuity of Coverage. Each person would be assured of continuity of coverage in the same health plan regardless of job status. (Today loss of job generally means loss of health coverage and change of job means change of coverage.)

4. Improve Access to Care. Access (financial, geographic, social) for every American to comprehensive health care services of

Footnotes at end of article.

good quality, willingly provided, and with a freedom of choice that respects each person's preferences.

5. Delivery System Reform. Transformation of the health care delivery system into competing organized systems that reward providers for offering high-quality but cost-effective care.

6. Personal Choice in Use of Resources. Within the limits required by the goal of universal comprehensive coverage, CCHP would let spending for personal health care services be set in the marketplace on the basis of individual priorities rather than being set in a political process.

FOOTNOTES

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* For further detail, see attached paper with this title.

SHATTUCK LECTURE—CUTTING COST WITHOUT CUTTING THE QUALITY OF CARE

(By Alain C. Enthoven, Ph.D.)

The invitation to give the Shattuck Lecture posed a problem for me. How could an economist from California relate to Dr. Benjamin Shattuck, colonial physician in Templeton, Massachusetts, and the distinguished line of Shattuck physicians that followed him? Then I discovered Lemuel Shattuck (1793-1859), not a physician, but a businessman, a founder of the American Statistical Association and principal author of the Report of a General Plan for the Promotion of Public and Personal Health, published in 1850. Lemuel's interest was not primarily in how the medical profession could lift itself above quackery, a problem very much on the mind of Dr. George Cheyne Shattuck when he addressed the Society in 1866. Lemuel was interested in how the people of Massachusetts could most effectively use their resources to promote the health of the population, a problem he considered too large to be left exclusively to physicians. He proposed a broad program of practical measures, to be refined with the help of better statistics, and justified by cost-effectiveness analysis. When I read Lemuel's Report, I knew I had found my Shattuck. I felt comfortable about coming here as I realized that Lemuel Shattuck had demonstrated that one does not have to be an M.D. to be able to speak intelligently about health policy.

Lemuel was concerned that the Commonwealth was spending far too little on health. Today, of course, our concern is that we appear to be spending too much.

The rapid increase in the cost of health care has become a serious problem. Government will do what it must to bring this spending under control; its financial commitment is now too large for it not to. The main line of public policy has been to attempt direct economic controls: certificate of need, price controls, Medicare and Medicaid reimbursement limits and, recently, the proposed Hospital Cost Containment Act of 1977. Generally speaking, studies have shown that such controls are ineffective. Even if they were to be made effective, there is nothing in them, or in the history of economic regulation in general, to suggest that they would promote more efficient or equitable delivery of services.

The main alternative to increasing direct economic regulation is to change the basic framework of financial incentives within which the health-care industry operates. Today's system of fee for service for the physician, cost reimbursement for the hospital, and third-party intermediaries to protect the consumer rewards providers of care for cost-increasing behavior and leaves the insured consumer little or no incentive to consider the cost of care. The alternative is to create a system in which consumers and providers can benefit from seeking out and joining health-care financing and delivery plans ("health plans") that are economical in the use of resources. Such a system would rely on incentives and competition to promote economy and equity. I have proposed such a system of health-care financing, called Consumer-Choice Health Plan. More recently, the AMA-sponsored National Commission on the Cost of Medical Care recommended a similar strategy for cost control.

The Shattuck Lecture gives me an opportunity to respond to two questions physicians often ask about such competitive market approaches to cost control:

The first is, "How can we organize to control cost? Are you saying that we must join an organization like Kaiser-Permanente or Harvard Community Health Plan? Or would we be able to continue practice in our own offices on a modified fee-for-service basis?"

The second is, "How can we cut cost without cutting the quality of care?"

These are not easy questions. The answers require balancing different values, which will be weighed differently by different people. And there is much uncertainty about many of the relevant facts. In this spirit, I offer suggestions for consideration, not definitive answers.

ORGANIZING FOR IMPROVED EFFICIENCY AND COST CONTROL

In the system of fee for service, cost reimbursement and third-party intermediaries that dominates health-care financing today, the question of efficient use of resources does not even arise. The problem of how best to spend a given amount of money for the health care of a population is not posed. Providers are not required to set priorities, look at alternatives and make hard choices. From the point of view of the provider, there is an apparently unlimited amount of money. This system rewards cost-increasing behavior with more revenue; it punishes cost-reducing behavior with less revenue. Such a system must produce inflation in prices and waste in the use of resources.

By contrast, an economically rational health plan will have built-in incentives for cost effectiveness. It will reward people for finding ways to deliver better care at less cost. The source of funds will not be open-ended. Rather, in such, a plan, physicians will accept responsibility for providing comprehensive health care services to defined populations, largely for a prospective per capita payment, or some other form of payment that rewards enconomy in the use of resources. Physicians control or influence most health-care spending. The key issue in health-care costs is not physicians' fees; it is how to motivate physicians to use hospital and other resources economically.

Physicians and other health professionals are motivated by nonfinancial goals, including a desire to cure the sick and to achieve professional excellence and the esteem of peers and public. But their use of resources is inevitably shaped by financial incentives. Those who survive and prosper must do what brings in money and curtail what loses money.

In the design of health plans with built-in incentives for cost effectiveness, physicians are not limited to a single blueprint. Today, there are several successful or promising models in existence. And one of the objectives of the Consumer-Choice Health Plan is to stimulate the development of more good ideas.

Prepaid group practice

The best known type of health plan with built-in incentives for economy is prepaid group practice. The main examples include the Kaiser-Permanente Medical Care Program, the Group Health Cooperative of Puget Sound and the Ross Loos Medical Group. And an important recent entry is the Harvard Community Health Plan. The essential principles are that a group of physicians, working together, agree to provide comprehensive health-care services, for a fixed prospective per capita payment, to a defined population of members who have enrolled as the result of a free choice. There are many variations on the theme, depending on their origins and sponsorship and the conditions in which they operate. Prepaid group practices have been sponsored by industrial companies, physician partnerships, consumer cooperatives, insurance companies and Blue Cross, universities and others. The physicians may be salaried, as in the Harvard Community Health Plan, or receive capitation plus a share of the program's net income as group, and salary and bonuses as individuals, as in Kaiser-Permanente, or the physician partnership may own the plan as in Ross Loos. The prepaid group practice may or may not own its own hospitals. The physician group may include a broad range of specialties, or it may emphasize primary care, referring elsewhere patients who need care by specialists not in the group.

There is convincing evidence that prepaid group practices are effective in holding total per capita costs (premium and out-of-pocket) to levels well below those for comparable people with health insurance cared for under fee for service. Luft reviewed and reanalyzed the many comparision studies done since 1950 and concluded that the cost reduction was on the order of 10 to 40 percent. The cost savings are mainly attributable to much lower hospitalization rates and to greater economy and efficiency of operation. They

cannot be explained away by out-of-plan utilization, differences in age and sex composition, previous health status or government subsidies.

For example, one large study compared the costs to Medicare of beneficiaries in six prepaid-group-practice plans with the costs of a control group on fee for service matched for age, sex and area. The average cost of the former was 74 per cent of the latter. Medicare beneficiaries who regularly get their care from prepaid group practices are free to get the same benefits from fee-for-service providers outside their plan; in this study, the costs of the outside services were identified and charged to the costs of the group-practice beneficiaries. Another large study, by Gaus, compared days in hospital and surgical admissions for Medicaid beneficiaries enrolled in eight prepaid-group-practice plans with those of beneficiaries in matched control groups who got their care from fee-for-service providers. The group-practice beneficiaries averaged 340 days in the hospital and 24 surgical admissions per 1000 persons per year, as compared to 888 days in the hospital and 50 surgical admissions per 1000 persons per year in the control groups. This study investigated prior health status as perceived by the beneficiaries and number of chronic conditions, and it found no statistically significant difference between the members of prepaid-group-practice plans and the control groups. As for government subsidies, federal assistance to health-maintenance organizations has been both recent, small and more of a burden than a help.

The prepaid-group-practice model offers many advantages for economy and quality. The method of payment gives the organization a prospective budget. Its physicians and managers must seek to get the most effective medical care out of limited resources. The method of payment also virtually eliminates the administrative burden of billing and collecting from patients for each service. And an economical division of labor frees the doctor from business management and allows him to concentrate on medical care.

Secondly, practice in a multispecialty group has advantages independent of the method of payment. These advantages include ease of consultation, which can be a convenience for both the physician and the patient, a single unified medical record, which allows each doctor to see what the others are doing to and prescribing for the patient, and the stimulation and reassurance of mutual professional support. Ellwood has found evidence that "good multispecialty group practices manage to provide good medical care with less hospitalization" whether on a fee-for-service or a prepayment basis.

Thirdly, a major contributor to cost in the fee-for-service sector is unneeded facilities: hospital beds, surgery suits, radiation-therapy units and the like. The hospital-based prepaid-group-practice plans have a strong financial incentive to match carefully their facilities to the needs of the populations that they serve. And they operate roughly half the beds per capita (adjusted for age and sex) as their fee-for-service counterparts.

Fourthly, prepaid-group-practice plans have economic and professional incentives to match their specialty mix to the needs of their enrolled populations. The goals of proficiency and economy are best served by a limit on the number of surgeons to those who can be kept fully employed during surgical procedures and by primary care performed by primary-care physicians. Prepaid group practices employ relatively more primary physicians and fewer surgeons than are in the population as a whole.

Fifthly, group practices offer advantages in terms of opportunities for quality control. They can control the quality of their members and have incentives to do so. They can review the qualifications of a physician before he joins, and take action to correct poor performance afterward. They can adjust the professional activities of each physician to the tasks that he is currently well qualified to perform without threatening his livelihood. In the group-practice setting, there is no financial incentive for a physician to practice beyond his competence.

However, it is also clear that the model has serious limitations. In the first place, it takes much time and cost to get one started. The experiences of Georgetown University and Harvard Community Health Plans and others suggest that several years and several million dollars in investment and operating losses are required before a new prepaid group practice will reach the financial break-even point.

Secondly, to join one, patients must change their physicians, something many will be reluctant to do. Thus, prepaid group practices seem to grow fastest in areas and among population segments characterized by high mobility in which people are required to find new physicians anyway.

Thirdly, many patients apparently do not prefer this style of care. Some perceive it as impersonal, institutional or inconvenient. However, it is really not known how many prefer the prepaid-group-practice to the individual-practice style of care because most Americans have not been given the choice on an equal basis.

Fourthly, and even more important, it is evident that this style of practice, although attractive to some physicians, is quite unattractive to many others, who see it as posing unacceptable limitations on their professional independence.

In a national system of fair market competition, prepaid group practice would be an effective competitor. But, because of these limitations, it is not likely to dominate the scene. There would be a good deal of room for other kinds of organizations.

Individual-practice associations

Another type of health plan with built-in cost controls is the individual-practice association or "fee-for-service health-maintenance organization." Its protoype is the San Joaquin Foundation for Medical Care, established in 1954 in response to the threat of entry by Kaiser-Permanente. There are many variations on this theme. The essential principles are these. The physician continues to practice in his office on a fee-for-service basis. However, as part of a group, the physician agrees to provide comprehensive health benefits to an enrolled population largely for a fixed prospective periodic payment.

To reconcile fee-for-service with the fixed payments, the physicians agree to the following arrangements. First of all, they agree on a maximum fee schedule. When they render a service to a member of the plan, they bill the plan, not the member. Secondly, they accept peer review of the appropriateness of services. This has led individual-practice associations to develop a number of management tools for cost control, including criteria for patient care such as model treatment systems and peer review before hospitalization. Thirdly, the association either pays hospital costs or teams up with an insurance carrier that offers a hospital insurance policy. The premium for the policy reflects the hospital use of those enrolled in the individual-practice association: the less the hospitalization, the more left over for the doctors. Finally, the physicians accept varying degrees of financial risk. If the money runs low, they may agree to accept a pro rata reduction in fees. In some plans, physicians are also liable for costs of inappropriately ordered hospital use or for hospital costs in excess of the budgeted amount.

The individual-practice model offers some substantial advantages. The first is that, as compared to a prepaid group practice, an individual-practice association can be established more quickly and with a smaller initial investment. Secondly, it requires a minimal change in the established physician's practice style. Physicians can remain in fee-for-service solo practice with existing doctor-patient and hospital-staff relationships. Patients may be able to keep their doctors when enrolling in an individual-practice association. However, despite the apparent ease of startup, these associations have not grown in number or membership as fast as prepaid group practices. As of the July, 1977, census of health-maintenance organizations, 65 per cent of all prepaid plans representing 90 percent of total membership were prepaid group practices. Thirdly, fee-for-service practice has positive aspects that should not be overlooked in the present concern with cost. It does reward the doctor for working harder and for being more attractive to his patients.

Apparently, individual-practice associations have not so far succeeded in controlling costs. Gaus, Cooper and Hirschman compared days in hospital and surgical admissions for Medicaid beneficiaries enrolled in two individual-practice associations with beneficiaries in matched control groups getting their care from uncontrolled fee-for-service providers. The data revealed no statistically significant differences between the individual-practice beneficiaries and the control groups. This study is the only one with matched control groups. However, its value is limited by such factors as small sample size and the fact that hospital admissions for the Medicaid beneficiaries in Sacramento in the fee-for-service control group were also subject to the Sacramento Medical Care Foundation's Certified Hospital Admissions Program. Studies of total per capita costs for California state employees found that the costs for individual-practice associations were 24 to 27 per cent higher than those for the Kaiser-Permanente program. Luft concluded that "there is no evidence that costs for enrollees in Individual Practice Associations are any lower than for people with conventional insurance."

Egdahl recently sought evidence of the ability of independent-practice associations to reduce hospital use. His investigation was seriously limited by lack of good data, a condition that he is working to correct, and by a lack of comparisons with suitable control groups. Nevertheless, he did find that "three IPA-type plans studied in detail achieved a striking decrease in hospitalization of their patients after introduction of the plan, or in contrast to a comparison population." I believe Egdahl's research points to the correct conclusion: these or similar fee-for-service organizations can control cost if they must. Competitive necessity is the key factor. For example, Hawaii Medical Service Association, a community-sponsored Blue Shield type of plan with built-in cost controls, competes effectively with the Kaiser-Permanente Medical Care program in Hawaii. Both have hospital-use rates (for patients under 65 years old) below 400 days per 1000 per year, and premiums among the lowest of all the comprehensive plans participating in the Federal Employees Health Benefits Program.

Cost control of individual-practice associations is weakened by the fact that the physicians are paid fees for service. In a sense, the format of the individual-practice association assumes that abuse or overutilization is the cause of the cost problem. Peer review curbs the excesses, but it does not do much to motivate a reduction in the costs generated by the majority of doctors whose practices are near the norms.

Individual-practice associations have a propensity to sign up 75 to 100 per cent of the physicians in private practice in their service areas—many more than the number needed to serve their enrolled populations. One main reason for this excess is marketing: the association cannot tell the prospective enrollee that he will be able to keep

his own doctors unless most of the doctors belong. And marketing is a critical problem for any health plan starting up. Another reason is political: to gain physician support and neutralize opposition.

But this means that the individual-practice association accounts for a comparatively small percentage of most physicians' practices, which limits its ability to influence their behavior. (Or, if its controls influence physician behavior with patients who are not enrolled in individual-practice associations, as some claim, it does not enhance the association's competitive position.) It also means that the association includes the physicians who generate high costs as well as the economical ones. And it means that the association cannot realize the benefits of matching the specialty mix of its physicians to the needs of its enrolled population. Thus, individual-practice associations face a dilemma: one of their main strengths is connected to a serious weakness. I doubt if they will become effective competitors unless they become selective in their physician membership.

Moreover, signing up most of the physicians in an area invites charges of anticompetitive behavior. The tradition of county-medical-society sponsorship of individual-practice associations makes this situation worse. The individual-practice association then appears to be a restraint of trade for the purpose of fixing prices and blocking competitive entry by other health plans. This position will not be viable in the long run. If competition is not genuine and effective in controlling costs, the government will surely step in and regulate.

Individual-practice associations should carefully select their physician members on the basis of quality, commitment and cost consciousness. They should also reasonably relate the numbers and specialties of their physicians to the needs of their enrolled populations. They should avoid county-medical-society sponsorship And they should leave the market open to competitive entry by other health plans. The model is flexible enough to make such adaptations.

The health-maintenance program

A third and much more recent model has been called by its originators a "health-maintenance program." Its prototype, the Wisconsin Physicians Service Health Maintenance Program, begun at Wild Rose, Wisconsin, in 1970, now covers about 150,000 people. A similar system was inaugurated in 1974 in Woodland, California, by the SAFECO Insurance Company of Seattle in collaboration with the Woodland Clinic. It has been extended to other areas in California and Washington, and now covers roughly 9000 people. Thus, these plans are both small and new. The value of studying them is for the innovative quality of their ideas rather than for the duration and breadth of their experience.

In the SAFECO plan, a member of a covered group is given a choice between a conventional third-party insurance plan, with cost sharing (i.e., coinsurance), and a prepaid health plan, with essentially no cost sharing. A beneficiary who chooses the prepaid plan agrees to get all his care from or through (i.e., on referral by) the participating primary-care physician of his choice. (Except for emergencies, services not ordered or referred by the primary-care physician are not covered.) If the beneficiary is not satisfied with his doctor, he may select another participating physician and remain in the prepaid plan, or he may switch to the conventional insurance plan.

The participating primary-care physician (or group of physicians) agrees to provide directly all primary-care services, and to arrange referrals and supervise all other care, including specialist services and hospitalization, for each of his (or their) enrolled beneficiaries. For his services, this physician (if he has 50 or more enrollees) is paid a negotiated age-sex-adjusted monthly capitation payment. An account is set up for each participating physician from which the bills for all referral services are paid. Money flowing into this account is based on the gross premium revenue associated with the doctor's patients, less an allowance for the insurance company's costs, and less the capitation payments. The physicians must see and approve every bill. The doctor receives or pays back 50 per cent of the annual surplus of deficit in this account, with a limit on his share of the deficit equal to 5 per cent of his capitation revenue, but with no limit on the surplus. To protect physicians from the costs of catastrophic illness, the costs of patients whose annual expenses exceed a limit are excluded from these calculations, and paid by the insurance company from its reserves. A medical director, assisted by a board of participating physicians, monitors utilization, hospitalization and prescription patterns. Questionable patterns of use are reviewed for possible corrective action. The company reports hospital use of about 300 days per 1000 per year, about half the rate in the community as a whole.

As with the other models, there is room for considerable variation on this theme. In the Wisconsin Physicians Service Program, the primary-care physicians are paid on a fee-for-service basis, not capitation. The Wisconsin plan includes specialists; the SAFECO plan is built on primary-care physicians. The Wisconsin plan is sponsored by physicians and endorsed by the county medical societies. The SAFECO plan is sponsored by an insurance company. The formulas for sharing in the savings can vary.

The health-maintenance-program model offers some attractive features. It makes the individual primary-care physician knowledgeable and accountable for the total health-services costs of his enrollees. It gives him an incentive to increase productivity—e.g., by using nurse practitioners for well-baby visits. It gives him incentives to emphasize prevention of illness and instruction of patients in self-care. It makes the primary-care physician the "general manager" of his patient's medical care, a much needed role in today's complex health-care system.

The health-maintenance program can be started with a minimum of investment and a minimum of disruption of established practice patterns and relationships between doctors and patients, hospitals and other doctors. SAFECO's cost to establish its plan in four areas over a four-year period was less than $500,000. The program can start small, with a few doctors and families, and can be extended gradually into a whole system including specialists and hospitals.

The health-maintenance program creates a market for specialty and hospital services in which the buyers are experts—i.e., physicians able to judge quality, need and appropriateness of services all in relation to cost. Primary-care physicians can see what specialists are charging, and reflect judgments about quality of services in deciding what they should be willing to pay.

The SAFECO model is a partnership between an insurance company and physicians in which the company contributes its skills of organization, administration, underwriting and marketing, and its capital. And the plan can be tied into existing group-insurance arrangements. Thus, it is one way in which the established health-insurance industry can participate in the restructuring of the health-care delivery system.

The health-maintenance program has many of the advantages of the individual-practice association without its most serious defect—i.e., that in the individual-practice association the individual doctor is paid fee for service and has no knowledge of or incentive to control total per capita cost of services for his enrollees.

There are potential disadvantages. Are the cost-control incentives too strong? Will they lead to inadequate service? There might be a problem of preferred-risk selection—i.e., a doctor could benefit financially by discouraging high-risk patients from continuing their enrollment with him. There may be an economic incentive for the physician to take his capitation patients for granted and seek the extra revenue obtainable from serving fee-for-service patients. But there are safeguards against such abuses, the most important of which is the freedom of the dissatisfied patient to change doctors or health plan. And the design of such a plan can be modified to correct problems.

There is potential for abuse under any system of health-care organization and financing—including fee for service or a National Health Service. A physician who wants to take advantage of the incentives of the health-maintenance program, or any other scheme, can surely do so. If there is an optimal set of incentives, I do not know what it is. There is not a priori basis for deriving one. The only way to find good incentive schemes is through experience in a system of fair market competition among alternative health plans. And any payment system, including fee for service, must ultimately place some reliance on the ethics of physicians.

Other models

There are other models: some in actual operation, some only proposed. Newhouse and Taylor proposed variable cost insurance. Ellwood and McClure proposed health-care alliances. The essential idea in both is that beneficiaries agree to get their care from a defined set of providers (or on referral by them); the premium for their insurance policy reflects the cost-generating behavior of these providers. In a competitive situation, the providers will be under pressure to control costs. I believe there are other interesting possibilities that have not yet been conceived because we do not have a system of fair market competition that would create a demand for them.

Each of these models is flexible. The variations on each of these themes are many and important. Participating in an organized health plan with built-in cost controls need not be an uncomfortable straitjacket for the physician. There are enough models to suit the tastes of many—perhaps most. Moreover, in a world of competing health plans, there would be substantial room for individual fee-for-service practice. Some consumers, because of their life-style or tastes, will prefer ordinary insurance and will be willing to pay the higher cost associated with it. Moreover, all the organized systems would refer some of their patients to physicians outside their plan for specialty care, which may be on a fee-for-service basis.

CUTTING COST WITHOUT CUTTING THE QUALITY OF CARE

As physicians join such organized health plans with built-in cost controls, they will confront the question, "How can we cut the cost without cutting the quality of care?" I believe that lower cost does not need to mean lower quality of care. On the contrary, in many cases quality and economy work together. In other cases, spending can be reduced substantially with no discernible loss in benefit to the patients. Determining the effect of different patient-management policies is extremely complicated, and can be discussed in detail only on a case-by-case basis. What I can offer here are a few insights and suggestions, not a complete catalogue of methods of medical-care cost reduction.

Curtailing "Flat-of-the-curve medicine"

A basic principle of economics is the law of diminishing marginal returns: as one input is applied to a production process in successively larger amounts, the resulting increases in output will each be successively smaller. The marginal return—i.e., the increase in output associated with a unit increase in input—may even become zero or negative. As an empirical generalization this law fits many (though not all) situations in the production of goods and services, national defense and environmental protection.

For medical examples of diminishing marginal returns, one should think of the relation of health outcome to more in-hospital days for a patient with a given diagnosis, or the relation of the probability of a correct diagnosis to the number of diagnostic tests, or the relation of health status for a given population to the percentage of the population to which an elective surgical procedure is applied.

I believe that a great deal of "flat-of-the-curve medicine" is being practiced in the United States today—that is, applications of health-care resources yielding no discernible or valuable health benefit. Admittedly, the evidence is suggestive, not conclusive.

Lembcke observed wide variations in the per capita rate of primary appendectomies in different hospital service areas of New York. He found that a lower per capita rate of operations for appendicitis was not associated with higher appendicitis death rates. If anything, he found the contrary. His data suggest that patients in areas with a high rate of appendectomy would have been no worse off if the rate of operations had been reduced to that in the areas with a low rate.

More recently, Wennberg and Gittelsohn found wide variations in the per capita consumption of various health services in 13 different service areas of Vermont, despite the similarity of the populations in terms of rates of illness, income, racial and social background, insurance coverage and per capita physician contacts. They found a twofold variation in the overall age-adjusted per capita rate of surgical procedures, with much wider variations for some operations. There was also wide variation in use of nonsurgical procedures: among Medicare enrollees, total laboratory services per capita varied by 700 per cent. Wennberg observed, "There is no evidence that the latter (i.e., those living in high cost areas) have greater medical need, or indeed, that more health is produced . . . in terms of their health status, it is not possible in my opinion to argue that Vermonters in more expensive areas are better or worse for the effort." Other studies have documented similar variations elsewhere.

As mentioned earlier, there have been many comparisons of hospital use by members of such groups as federal employees and their families, some of whom get their care through fee for service paid by insurance, and some of whom get their care through prepaid-group-practice plans. The latter are hospitalized, typically, some 30 to 50 per cent less. The fact that those cared for by prepaid group practices are there as the result of a free choice suggests that, at least in their judgment, the lower rate of hospitalization was not associated with lower quality of care.

Another indication of "flat-of-the-curve medicine" is provided by the results of second-opinion surgical consultation programs such as the one directed by McCarthy for several unions in New York City. In some of the programs, a second opinion was voluntary, and in others it was mandatory. In the voluntary programs, 34 per cent, and in the mandatory programs, 17 per cent, of the recommendations for operation were not confirmed by the second opinion.

I am careful to avoid the term "unnecessary surgery" in discussing such findings, although that term will inevitably be used in political discussion and by the media. I am quite prepared to believe that in most of the cases not confirmed by a second opinion, the patient had a real ailment to which the recommended operation was addressed. Moreover, I believe that most physicians sincerely want to do the best thing for their patients, and that the surgeons recommending these operations honestly believed that they were in the best interest of their patients. The findings of Bunker and Brown about high surgical rates among physicians' families would support this view. And in some cases, medical management may cost as much as surgical care, so that avoidance of surgical procedures may not save much. But these second-opinion results do suggest that in many cases, the risks and benefits to the patient are quite closely balanced. If two surgeons, both well qualified and honestly seeking what is best for the patient, come to different conclusions about the advisability of an operation, generally speaking its net benefits must not be large or obvious. One might say that some of the operations are examples of "flat-of-the-curve" medical care.

Another example of "flat-of-the-curve" care was reported by Hutter and his associates. Their prospective randomized controlled study found "no apparent additional benefit to the patient with an uncomplicated definite myocardial infarction from a three-week as compared to a two-week hospital stay." McNeer and his colleagues recently reported a similar result with hospital discharge at one week. Unfortunately, the samples in both studies were small, and McNeer's description of methods makes no mention of randomization. But if their conclusions hold up under further study, the cost savings could be very large. Similar conclusions about the hospital treatment of many diseases must have been reached by physicians who have formed individual-practice associations, developed model treatment systems with criteria for length of stay and substantially reduced hospital use.

It is apparent that there is a great deal of bias in favor of more care, and more costly care, whether or not it helps the patient. This situation is quite understandable in terms of the values of patients and physicians. The insured patient and his anxious family have every reason to seek whatever care might do some good. And it seems unnatural for the physician to stand back and not do all he could to cure disease and alleviate suffering. And the bias is increased by the fear of malpractice suits. We now need to introduce some correction to this bias. We are facing a new situation. The costs are becoming too large. To use Fuchs' phrase, ". . . medicine should consider the possibility of contributing more by doing less." And the places to begin doing less are where the curves relating benefits to costs are flat.

Regionalization

In the production of many specialized services, average total cost per unit decreases substantially as the number of units produced per year increases. In such cases, economies can be achieved if production is consolidated into facilities producing at an efficient volume.

For example, my student, Steven Finkler, recently estimated the costs of open-heart surgery as a function of annual volume, based on an examination of all the relevant costs for a typical mix of operations at a large medical center in California in 1976. He found that at 50 patients per year, the cost per patient would be about $21,000; at 500 patients per year, the cost would be about $8,700. The average costs per unit decrease with volume mainly because many of the costs of a heart-surgery center are fixed.

Finkler then examined the distribution of open-heart operations in California. In 1975, nearly 15,000 operations were performed in 91 hospitals, for an average of 163 per hospital. In 48 hospitals, there were 100 or fewer operations. Finkler estimated what the total costs would have been if every hospital had produced its reported volume at the unit costs he had calculated and then what they would have been if all the heart procedures had been done in 30 centers doing about 500 operations each. He estimated that consolidation would have saved about $44 million per year in California alone.

Additional savings to be expected from proficiency based on experience are not reflected in these estimates. Moreover, other things equal, the quality of care is likely to be much better in the hospital that does 500 operations per year than in the one that does less than 100. Quality and economy are not always opposed; here is a case in which they go together.

Other services that exhibit decreasing unit cost with increasing volume include clinical laboratories, computed tomography, maternity and neonatal intensive care. Pettigrew's estimates of the costs of an efficient minimum capability maternity unit imply $1,245 per admission at 500 admissions per year and $653 per admission at 1200 admissions per year. Evens and Jost estimated the technical cost per tomographic examination at about $157 at a volume of 40 patients per week, and $89 at 80 patients per week.

Regionalization is not a new idea, but its practical implementation is not widespread. If most people got their health care through organizations that actively sought out the best combination of cost and quality of specialized services for their enrollees, and if today's system of cost reimbursement for hospitals were replaced by a system of competitive pricing, I believe that competition would bring about a desirable degree of regionalization on a voluntary basis. (For them to be able to compete, the teaching and research costs of university medical centers would need to be separately identified and subsidized on their own merits.) The resulting improvements in economy and quality would be large.

Cost-effectiveness analysis

Physicians should encourage and participate in the development of cost-effectiveness analysis for medical decision making. And they should learn to use it. By cost-effectiveness analysis, I mean a synthesis of principles of economics, statistics, probability and decision theory applied to the complex and uncertain problems of medical decision making. The goal is to elucidate all the costs, risks and benefits of alternative courses of action so that decision makers can be well informed in applying the necessary judgments. Such analysis, properly conceived, should be an aid to judgment, not a substitute for it.

Such an analytical approach to decision making should be formal—that is, written down in precise terms, with the logical steps of the argument exposed to view. Quantitative aspects should be treated quantitatively (rather than with adjectives). The analysis should be empirical, with standard definitions and criteria for measurement, broadly based data and the best statistical methods. Decision analysis should be open and explicit. It should be presented in such a format that it can be reviewed critically from many perspectives. Such an approach allows the experiences of many physicians to be pooled, so that the individual physician does not have to rely excessively on his own experience. It can allow value judgments by patients, public officials and others to be introduced and considered. And an open, explicit analysis can be debated and corrected much more easily than an intuitive, implicit analysis.

Analytical aids to decision making have been developed and applied extensively in such fields as industrial management, natural-resource development, environmental protection and national defense. In 1850,

Lemuel Shattuck defended his General Plan for the Promotion of Public and Personal Health with an economic analysis. But there was virtually no progress in the application of cost-effectiveness analysis to health care in the 100 years after that. There are several reasons for this lack. In the first place, the total costs, in relation to income, were not nearly so large as they are today. Secondly, it is often exceedingly difficult, if not impossible, to put a meaningful numerical value on the benefits of medical care. Thirdly, people understandably resist what appears to be "trading dollars for lives." Fourthly, the system of fee for service, cost reimbursement and third-party financing gives providers little or no incentive to consider costs. However, in recent years there has been a considerable development of cost-effectiveness analysis for medical decision making, much of it at Tufts and at the Center for the Analysis of Health Practices at the Harvard School of Public Health.

The development of cost-effectiveness anlysis is needed because of the extreme complexity of medical-decision problems. I recognize that these decisions require difficult judgments in the face of uncertainty, with wide variations in the responses of different patients, and often a wide variety of diagnostic and therapeutic choices, each having a large number of components with different probabilities of producing different outcomes in different people. The trade-offs among these variables must be considered. And decisions must be made in a timely way, in the face of pain, suffering and risk of death. That the medical profession has dealt with all this as well as it has is a most impressive achievement. But I believe that physicians need help from other disciplines in the development of a set of aids to decision comparable to those developed in other fields.

The need for such help is illustrated by the findings of my Stanford colleague, Dr. David Eddy, who recently did a study of the clinical policy-making process in mammography, which included a thorough review of the literature through 1975. Among other problems, he found numerous errors in probability reasoning such as confusing the conditional probability that a woman will have a positive mammogram, given that she has breast cancer (the sensitivity or true-positive rate), with the conditional probability of cancer, given that a woman has a positive mammogram (predictive accuracy). The two probabilities are quite different, and confusing them can have very harmful consequences. Eddy also found a general pattern of single-minded pursuit of breast-cancer detection to the exclusion of such relevant considerations as the false-positive rate and the costs, risks, and discomfort of biopsies generated by false-positive results, radiation hazards, the costs of the procedure and the evidence of effectiveness. This type of reasoning is found in many recommendations to use mammography annually to screen relatively young, asymptomatic women. The recommendations may or may not prove to be wise. My concern here is not with the specific conclusions, but with the quality of the supporting rationale.

In 1850, Lemuel Shattuck observed of the medicine of his time, "The great error has been in forming theories upon observations or statements, without duly inquiring whether they have been sufficiently numerous, and have been carefully and truthfully made, upon a uniform and comprehensive plan, or whether they are otherwise imperfect." The medical literature of the 1970's still shows an inadequate awareness of the principles of statistical inference. One still finds comparisons in which the control group was not selected randomly, and sample sizes too small to support the conclusions drawn.

The art of medicine has drawn heavily from the physical and biologic sciences. Physicians should now draw the decision sciences into their synthesis.

Controlled introduction of new technology

The history of medicine includes many innovations that were initially greeted with enthusiasm, and then subsequently dropped for lack of evidence that they were beneficial. Although new drugs can be introduced for general use only after thorough testing according to careful experimental designs, new operations and other new technologies often move quickly into widespread application without the benefit of similar controls. Only a minority of medical innovations are tested by a randomized controlled trial. Investigator enthusiasm for new procedures appears to be much greater in the uncontrolled studies than well controlled studies. And only a minority of innovations prove to be preferred to standard existing treatment when evaluated by a randomized controlled trial.

Although recognizing the many difficulties in planning and executing a randomized controlled trial, and recognizing that such trials do not answer all the questions and settle all the arguments, I believe that many more innovations should be evaluated by this means. In any case, innovations in medical technology should be thoroughly evaluated early, before being put into widespread use. Public officials have good reason for concern when they see, for example, that the number of coronary-artery bypass grafts has grown to more than 70,000 operations a year at a cost of roughly $1 billion while the medical profession is still debating the merits of the procedure. The debate is healthy. But it is entirely reasonable for those concerned with public finances to believe that it would have been better if the procedure had been limited to perhaps a few thousand per year, done in a few centers under careful experimental protocols, including long-term follow-up observation, until the indications for the operation and its efficacy had been clearly established.

A similar point can be made for computed tomography. In a very short time, we will have installed 1000 computed-tomography scanners, with an annual cost of roughly $300 million, without established guidelines for its use. Although tomography is a marvelous innovation that will doubtless improve care and save much cost in some applications, there is no evidence that Americans would not be just as healthy with, for example, half as many scanners. Again, early controlled evaluations leading to guidelines for use of computed tomography might have saved tax and premium payers a great deal of money.

Government regulation can exacerbate the problem of uncontrolled introduction of new technology by rewarding those who move quickly to buy a new device before proof of efficacy and evaluation of cost-effectiveness, and punishing those who take a more deliberate approach. Such perverse incentives need to be corrected.

But private action by physicians is also needed. They should forbear in the introduction of costly new technology until a controlled evaluation has been done. Bunker, Hinkley and McDermott have recently recommended the creation of an "Institute of Health Care Assessment" to provide independent evaluation of surgical procedures, to act as a "central reviewing authority capable of sophisticated statistical and economic analysis and empowered with authority and resources necessary to initiate and coordinate appropriate trials." Similar evaluation of other new technolcgies and of many existing practices is needed. Physicians would find the process far more satisfactory if the evaluation were done on a private and voluntary basis by the profession than if it were done by the government.

Although my purpose in making these recommendations to suggest ways of controlling costs, I also believe their adoption could improve the quality of care.

OTHER METHODS

These are only a few of the ways in which physicians could respond to a financing system that rewarded economy in care without cutting quality. I believe that we could find many other possibilities if the incentives were appropriate. Observation suggests many things that could be done in a less costly but equally effective way. If our financing systems were not biased against it, we could make greater use of home care. And, if incentives for physicians and patients were appropriate, we could make more use of self-care. Bear in mind that health-care spending will inevitably be brought under control. Control could be effected voluntarily by physicians in a system of rational incentives, or by direct economic regulation by the government. I believe the incentives approach to cost control would produce an outcome far more satisfactory to doctors and patients. Physicians are by far the best qualified to make the difficult judgments about need and cost effectiveness. So I hope the medical profession will accept the challenge.

CONSUMER-CHOICE HEALTH PLAN

(First of two parts)

(By Alan C. Enthoven, Ph.D.)

Inflation and Inequity in Health Care Today: Alternatives for Cost Control and an Analysis of Proposals for National Health Insurance.

Abstract: The financing system for medical costs in this country suffers from severe inflation and inequity. The tax-supported system of fee for service for doctors, third-party intermediaries and cost reimbursement for hospitals produces inflation by rewarding cost-increasing behavior and failing to provide incentives for economy. The system is inequitable because the government pays more on behalf of those who choose more costly systems of care, because tax benefits subsidize the health insurance of the well-to-do, while not helping many low-income people, and because employment health insurance does not guarantee continuity of coverage and is regressive in its financing. Analysis of previous proposals for national health insurance shows none to be capable of solving most of these problems. Direct economic regulation by government will not improve the situation. Cost controls through incentives and regulated competition in the private sector are most likely to be effective.

Headlines will soon appear proclaiming the latest round of health-care cost increases. The nations' health-care spending exceeded $160 billion in 1977—four times the 1965 amount. Congress will consider cost-control measures with increasing urgency. The Carter Administration is working to develop a national-health-insurance (NHI) proposal that will satisfy key constituencies and still have a chance of passage. The problems are closely interrelated.

INFLATION AND INEQUITY TODAY

Main problems

Real per capita spending on health care (i.e., net of general inflation) increased 79 per cent from 1965 to 1976; it increased 74 per cent on physicians' services and 110 per cent on hospital care. As a proportion of the Gross National Product, health care went from 5.9 to 8.6 per cent.[1] Costs of medical care are straining public finances at every level of government, and are forcing cutbacks in services to the needy. Public-sector spending rose from $9.5 billion, or 25 per cent of the total, in 1965 to $59 billion, or 42 per cent of the total, in 1976. Most of this outlay is in open-ended third-party reimbursement programs in which government spending is not controllable. For example,

Medicare outlays are increasing from about $17.8 billion in (fiscal) 1976 to about $26 billion in 1978 (i.e., by nearly 50 per cent in two years).[2] In 1975, the increase in medical costs forced Massachusetts to stop paying for the health care of the general-relief population, throwing the burden on local government. From 1968–69 to 1975–76, Medi-Cal costs in Los Angeles County increased from 24 to 42 per cent of property-tax revenue.

Meanwhile, President Carter has recommended a tax cut of some $25 billion. Such a cut is urgently needed to lower the tax burden on the productive sectors of the economy, to spur saving and capital investment, to create jobs and to enhance productivity. And the pattern of local taxpayer resistance to tax increases is clear. Moreover, society has other pressing needs: helping the poor, rebuilding cities, energy conservation and environmental protection, to mention a few. So there is no ready source of funds to pay for these increases in health-care costs. It may take time, but the government will do what it must to bring health-care spending under control.

There are good reasons for much of the increase in health spending: growth in public and private insurance coverage brought access to many who previously did not have it, especially the aged and the poor; advances in technology increased the power of medicine to prolong life and enhance its quality; the population aged; the health-care system took on new assignment (e.g., in mental health, alcohol and drug abuse); the pay of health-care workers was brought up to the level of other industries; and rising incomes and expectations increased consumer demand for health-care services. Present concern with the growth in spending should not mislead one into thinking it is all bad.

However, the increase has far exceeded what could be justified on these grounds, especially in recent years. Hospital charges and physician fees rose faster than consumer prices in general. Health workers' pay overshot equality and other industries.[3] There is great inefficiency (e.g., duplication of costly underutilized facilities). For example, in California alone in 1975, cardiac operations were performed in 91 hospitals. Millions of dollars could have been saved, and the quality of care improved, if these 15,000 procedures had all been done at 30 or fewer centers. Wide variations in the per capita consumption of various costly health services (e.g., hospitalization and operations) among similar populations, without any apparent difference in medical need or health outcome, suggest that there is much spending that yields little or no discernible benefit in terms of health.[4–7] People might be just as healthy with half as much hospitalization.

While the nation is spending more, some people are enjoying the benefits less. Gaps in coverage leave some unprotected from heavy financial burdens, and others protected by Medicaid only after medical costs have made them poor. Public funds (including tax subsidies) do more for the well protected well-to-do than for the working poor who need help more. Also, there is uneven geographic distribution, leaving many rural and inner-city residents poorly served, and there are too many doctors in some well-to-do areas.

Causes of inflation and inequity

The main cause of the unjustified and unnecessary increase in costs is the complex of perverse incentives inherent in the tax-supported system of fee for service for doctors, cost reimbursement for hospitals, and third-party intermediaries to protect consumers. Fee for service rewards the doctor for providing more and more costly services, whether or not more is necessary or beneficial to the patient. Cost reimbursement rewards the hospital with more revenue for generating more costs. Indeed, a hospital administrator who seriously pursued cost cutting (e.g., by instituting tighter controls on surgical procedures and laboratory use and avoiding buying costly diagnostic equipment by referring patients to other hospitals) would be punished by a loss in revenue (Medicare and Medicaid would cut him dollar for dollar) and a loss in physician staff and, therefore, patients. Third-party reimbursement leaves the consumer with, at most, a weak financial incentive to question the need for or value of services or to seek out a less costly provider of style or care.

The economic factors are important, but the important factors are not all economic. The financial incentives are reinforced by the demands and expectations of anxious patients, the prestige associated with costly technologic care, the malpractice-induced need for "defensive medicine" and the government-inspired proliferation of health manpower—especially physicians. Thus, the financing system rewards cost-increasing behavior and provides no incentive for economy. It is also inequitable. Medicare and Medicaid are among the worst offenders.

Medicare pays more on behalf of people who choose more costly systems of care. For example, in 1970, Medicare paid $202 per capita on behalf of beneficiaries cared for by Group Health Cooperative of Puget Sound, a prepaid group practice, but paid $356, or 76 per cent more, on behalf of similar beneficiaries in the same area who got their care from the fee-for-service sector.[8] Medicare pays more to doctors who charge more and more to hospitals that cost more. At the same time, Medicare pays more on behalf of rich than poor (because they live in better served areas and can more easily afford the coinsurance), white than black and well served than underserved.[9]

Medicaid, which also relies almost entirely on third-party payment, fee for service and cost reimbursement, is particularly vulnerable to fraud and abuse. Its beneficiaries are particularly unlikely to be able to judge the need for or value of services provided to them, and are less motivated to weigh the value against the cost because they are not spending their own money.

Private insurance receives important subsidies through the tax system. Employer contributions to employee health-insurance premiums, no matter how large, are not counted as taxable income to the employee. This exemption means that if an employee takes $100 of additional compensation in the form of health insurance, he gets about $100 worth of benefits, whereas if he takes it in cash, he gets (net after tax) $70 or less. Also, within limits, employee premium payments and out-of-pocket medical expenses are tax deductible. In fiscal 1978, these "tax expenditures" will amount to roughly $10 billion. However meritorious in origin and intent, these features of the tax laws have unfortunate effects in terms of both incentives and equity. They subsidize employee decisions to select more costly health-care systems and encourage employee pressure for rich employer-paid benefits. Also, this tax system provides more subsidy for better paid and covered than for poorly paid and covered people.

The incentives in these systems of payment also help to defeat local efforts to control costs by limiting hospital capacity. Most of the costs of operating unneeded hospital capacity are paid by Medicare, Medicaid and insurance policies whose premiums are rated on the experience of an area larger than a typical county or health-service area. Why should a health-systems agency or a board of county supervisors defy local pressures and force the closing of an unneeded hospital, with loss of jobs, when most of the extra costs of keeping it open are paid for with funds from outside their area?

The physicians' role

Physicians receive only about 20 per cent of the health-care dollar, but they control or influence most of the rest. Even though it may not appear so on an organization chart, physicians are the primary decision makers in the health-care system. But the present structure of the system assigns very little responsibility to them for the economic consequences of their health-care decisions. They are not trained in medical economics. Most doctors have no idea what hospital costs, pharmacy costs and other ancillary patient-care costs actually are. The system gives them little or no incentive to find out, or to act on the information if they have it. Their professional values combine with the financial incentives and other factors, such as the malpractice threat, to minimize concern over cost and to foster cost-increasing behavior. If the decision makers in a system are not concerned with cost effectiveness, the system will not be cost effective.

Lack of competition and choice

There are competitive elements in the health-care system. For example, insurance companies compete with each other, and with self-insurance, for group contracts, by offering lower administrative costs. But there is very little competition among providers of care to produce services more efficiently or to offer a less costly style of care, and to pass the savings on to consumers. Most workers are offered a single health-insurance plan by their employer or health and welfare fund, usually a third-party reimbursement plan with no limit on choice of physician. (The Health Maintenance Organization [HMO] Act was intended to open up employee groups to HMO's by mandating dual choice, but the qualification process has been bogged down in the Department of Health, Education, and Welfare, and many employers are holding back on offering HMO's until the HMO's are qualified.[10,11])

The Medicare law has a complex provision for paying HMO's, but it is based on retrospective cost finding, includes an implicit tax on HMO's, and has not been put into operation. So Medicare beneficaries are stuck with a third-party, cost reimbursement system; they cannot choose a more efficient system and realize the savings for themselves.

Although the fee-for-service, third-party-reimbursement system offers the patient a free choice among doctors and hospitals in his community, it does not offer him the alternative of keeping much of the savings that he would generate by choosing effective but less costly care. The premiums and charges that he must pay reflect the cost-generating behavior of the doctors and hospitals caring for his insured group. His choice of doctors and hospitals is generally limited to those who work within the framework of the cost-increasing incentives. If he would prefer, for example, a system that used half as much hospitalization per capita, in exchange for more home care or better access to ambulatory care, at an equal per capita cost, the third-party fee-for-service system would not be able to offer it to him.

For many years, some physicians have been effective in blocking the development of competing alternative systems of care in which consumers could choose a less costly system or style of care and realize the benefit in the form of a reduced premium. They have done so through such devices as boycotts of insurers seeking to develop closed-panel plans, in the name of defending "the patient's right of free choice of physician," and professional ostracism and denial of hospital privileges to physicians participating in closed-panel plans.[12] Insistence that every insurance plan give the patient a completely free choice of physician is, in effect, denial of the patient's right to elect to obtain his care from a limited group of

Footnotes at end of article.

physicians who offer less costly care for a lower premium. And these monopolistic practices are not relics of a distant past. As recently as 1977, medical staffs in Massachusetts and California have voted to deny hospital privileges to physicians belonging to highly reputable prepaid group-practice plans. In November, 1977, the Michigan State Medical Society House of Delegates voted to boycott Blue Shield because Blue Shield, acting under pressure from employers and unions, sought to discriminate in favor of participating physicians and to institute reimbursement incentives for utilization control.[13]

Other failures in the health-care market

In addition to these barriers to competition, consumers today generally have poor information about health-care alternatives. Most do not know what their health premium costs are because the costs are paid by the employer or the government. So they have, at most, a weak incentive to learn about and consider the costs of the care that they receive. In most communities, there is no organized information for consumers on the availability and merits of alternative providers. Moreover, consumers must rely for advice about the benefits of proposed treatments on physicians who often have a financial interest in more costly care. The situation is made worse by the great uncertainty about the benefits in many cases. The system is not built to facilitate thoughtful choices. There are many restrictive laws and practices.

Geographic and specialty maldistribution of physicians is exacerbated by third-party, fee-for-service financing, which creates on open-ended demand for subspecialty care in well-to-do areas, and little incentive to offer primary care in inner-city or rural areas.

Discontinuity of coverage

Most private health insurance is provided as an employment-related fringe benefit—a system that works reasonably well for a large portion of the economically self-sufficient population with job stability (except that, as noted above, the limit on employer health-plan offerings is a key barrier to competition and consumer choice). However, the employment-health insurance linkage is not compatible with an effective universal system of insurance coverage because people lose their coverage when they lose their jobs, because job changes commonly require health-coverage changes, with breaks in continuity of coverage and care and nonproductive administrative costs, and because it is very difficult to arrange good coverage for persons in marginal industries or with seasonal, intermittent or otherwise unstable employment. Furthermore, employer-employee financing is regressive. Without mandated employer-provided coverage the low paid, who often need the most protection, get the least; with mandated coverage, in addition to great administrative problems for workers with unstable employment, the economic burden would fall heaviest on the lowest paid and provide a strong disincentive for employing marginal workers.

In a society that agrees that everyone should have financial access to a decent level of health care, it makes no sense to have a system in which many people lose their coverage when they lose their jobs and many others lose their Medicaid eligibility when they get even a poorly paid job. Cycling in and out of Medicaid eligibility produces hardship and work disincentives for the poor, and heavy nonproductive administrative burdens for states, counties and providers. As incomes fluctuate, contributions, not eligibility, should vary with ability to pay. Everyone's health-care coverage should be continuous.

In sum, the status quo in health-care financing is untenable. If nothing else does, the growth in cost will force a change. The issue is not whether or not to enact national health insurance (NHI). This country already has a sort of NHI system, with separate programs for such groups as the aged, poor, employed middle-class, veterans, military and dependents. The issue today is "what kind of NHI?" I do not accept the view that Americans cannot afford comprehensive NHI now and must wait for it until costs are brought under control. On the contrary, they are already paying for NHI, but are not getting the benefit because of an inefficient, inequitable system that results from historical accident and interest-group pressure. Prompt action is needed to assure universal coverage. But an equally urgent reason for an effective NHI today is the need to find good ways to reorganize the system and build in incentives for equity and cost effectiveness.

BROAD ALTERNATIVES FOR COST CONTROL

The government will do what it must to bring health-care spending under control. The costs are too large for it not to. There are two broad alternative approaches to this end: one is direct economic regulation; the other is cost control through incentives and competition.

Direct economic regulation will not make things better

In recent years, the main line of government policy has been to attack the problems created by inappropriate incentives with various forms of regulation (e.g., planning controls on hospital capacity, controls on hospital prices and spending, controls on hospital utilization and controls on physician fees). The weight of evidence, based on experience in many other industries, as well as in health care, supports the view that such regulation is likely to raise costs and retard beneficial innovation.[14]

A great deal of regulation of health services is inevitable. And in some fields, regulation is used to maintain competition (e.g., the Securities and Exchange Commission and the antitrust laws). The issue, then, is not regulation in general, but the specific types of regulation and their likely consequences. The point here is that direct controls on costs, in opposition to the basic financial incentives, are not likely to make things better.

To determine a regulated price for a service, a regulator must start with the producer's costs, allowing a reasonable profit margin. So in the long run, price regulation amounts to cost reimbursement, and it gives the producer the same incentives. Because of the incentives that regulators face (e.g., to avoid being over-ridden by appeals to the courts and to avoid a failure in service for which they are blamed), regulation tends to protect regulated firms whenever competition or technologic change threatens established positions within the industry. Regulators often see the purpose of the price structure as providing a mechanism for subsidizing some groups at the expense of others, rather than as a mechanism for offering incentives to buyers and sellers to make economical choices.[14] For example, airline fares subsidize travelers on uneconomic routes at the expense of travelers on dense routes. The main reason some hospitals favor regulation is that it would function as a cartel to protect them from buyers who want to cut costs; they know that the approved rates will be based on their costs.

Medical care has many characteristics that make it a particularly unsuitable candidate for successful economic regulation.[15] Basic to the problem is the subtle, elusive and indeed almost indefinable nature of the product. In the health-care sector to date, the most extensively tested form of economic regulation has been regulation of hospital capacity. And it is clear that certificate-of-need regulation has not helped control the problem of overbedding.[16 18] A fixed legislated limit on total capital spending by hospitals might offer, a temporary illusion of effectiveness, but it is vulnerable to a number of countermeasures such as "unbundling" (i.e., breaking proposed investment projects down into small pieces, the value of each of which is below the threshold at which planning approval is required, or placing equipment in physicians' offices or other facilities beyond the reach of the regulators).

Physician fee controls have been advocated and were tried in the Nixon Administration. In judging their likely value as a cost-control device, would-be regulators should be aware that the "doctor visit" is high compressible, and the need for physician services is impossible to test objectively except in extreme cases. So the physician who considers his income to be threatened by fee controls can increase the frequency of recommended follow-up visits, increase the number of services rendered in each visit and bill separately for individual services, thereby making up the loss in increased volume. By triggering higher utilization, such controls might become counterproductive.

Overall controls on hospital spending face similar prospects: circumvention, "unbundling" and exceptions. The Carter Administration emasculated its proposed Hospital Cost Containment Act of 1977 by exempting wage increases from the hospital revenue limit, despite the fact that many hospital workers now earn more than their counterparts doing similar jobs in other sectors.[3] But even if such a law were ultimately successful at controlling total hospital spending at the stated growth rate, there would be no force in the system to assure efficiency or equity in the allocation or production of services. At best, the hospital industry would have been frozen in its present wasteful and inequitable pattern.

The danger in ineffective controls from the physicians' point of view is that they will inevitably bring on demands for more stringent controls that are likely to be increasingly burdensome and unpalatable. The next steps in controlling the costs of physician services are likely to include tighter utilization reviews, justified and accompanied by increasingly strident attacks on "unnecessary surgery" and other abuses. Another step might be, in effect, negotiated budgets for the total of all physician services in each state that are paid for by government or by tax-exempt or tax-deductible insurance policies. One effect of this approach would be to get physicians fighting among themselves over fees. The next step on hospital cost controls might be for the government to extend capital investment and spending limits to all health facilities and to create the detailed regulatory apparatus needed to process requests for exceptions, justified and accompanied by attacks on "obese hospitals." Although exceptions would have to be granted, the regulators could slow the rate of increase in spending by bogging down investment projects in procedural requirements. The failure of Congress to act on the Administration's cost-control proposal is not a rejection of the need for controls; it reflects uncertainty and disagreement over means.

LIMITATIONS OF PREVIOUS PROPOSALS FOR NHI

In addition to Consumer-Choice Health Plan (CCHP), a new proposal to be explained in the second part of this article, the Carter Administration has been examining four NHI alternatives, all of which have been introduced in previous Congresses. They are the Health Security Act ("Kennedy-Corman"), Universal Federal Third-Party Reimbursement Insurance ("Kennedy-Mills"), the Comprehensive Health Insurance Plan or "CHIP" (Nixon Administration) and the Catastrophic Health Insurance and Medical Assistance Reform Act ("Long-Ribicoff").

Because the first two would essentially give the federal government a monopoly of health-care financing, and because many people assume that NHI must inevitably mean

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such a monopoly, it is useful to begin evaluation of these alternatives by asking whether health-care financing is more appropriately organized as a government monopoly or through private markets. Much of the case for NHI rests on "private-market failure." And there is no doubt that the private market for health insurance, *as presently constituted and shaped by numerous government policies,* does a poor job of allocating resources, and fails to meet important social objectives. Consideration of private-market failure needs to be balanced by an appreciation of some of the characteristic limitations of government. The following generalizations, although obviously not true in every case, summarize important insights that must be considered in the decision whether NHI should be based mainly on private markets or on a government monopoly. To save time, they are stated here baldly and without applicable qualifications. The point of what follows is not to imply that government is "bad" as compared to private enterprise, or that government people are better or worse than private-enterprise people. Rather, the point is that government has certain limitations that are deeply rooted, if not inherent. Government is good at some things, such as taking money from taxpayers and paying it to social-security beneficiaries, and maintaining competition in many industries; it performs badly at other things. The problem of public-policy design is to define the appropriate role for government to achieve desirable social purposes most effectively.

1. Government responds to well focused producer interests; competitive markets respond to broad consumer interests. People specialize in production, and diversify in consumption. They are therefore much more likely to pressure their representatives on their producer interests than on consumer interests.

2. In Charles Schultze's words:

"We tend to subject political decisions to the rule, 'Do no direct harm.' We can let harms occur as the second- and third-order consequences of political action or through sheer inaction, but we cannot be seen to cause harm to anyone as the direct consequence of collective actions . . . The rule of 'Do no direct harm' is a powerful force in shaping the nature of social intervention. We put few obstacles in the way of a market-generated shift of industry to the South . . . but we find it extraordinarily difficult to close a military base or a post office." [19]

Thus, a government-run or regulated system must be very rigid, and government managers are often not allowed to make changes to improve efficiency.

3. When every dollar in the system is a federal dollar, what every dollar is spent on becomes a federal case. The recent Congressional deadlock over Medicaid funding for abortion illustrates the point. Putting permissible medical procedures to majority vote would, to use Schultze's phrase, "stretch thin the delicate fabric of political consensus by unnecessarily widening the scope of activities it must cover." [19]

4. Equality of treatment by government trends to mean uniformity. The uniform product is often a bargained compromise that pleases no one.

5. Government generally does a poor job providing services to individuals.

6. The government performs poorly as a cost-effective purchaser. Think of the Rayburn Building, the Humphrey Building (Department of Health, Education, and Welfare headquarters), Medicaid and the C-5A. If a government agency gets tough with suppliers, the suppliers can bring pressure to bear to get the rules changed. Government purchasers are surrounded by many complex procedural rules. They have to "go by the book." They are not allowed to exercise much judgment. And their incentives to achieve economy are weakened by the fact that they are not using their own money. (An important exception to this situation has been the Federal Employees' Health Benefits Program, in which the Civil Service Commission has acted as a "private" buyer on behalf of federal employees; the statute authorizing the Program establishes a competitive system, exempts the Civil Service Commission from required competitive bidding and allows it to use judgment—which it has done to good effect.) Private purchasers are using their own (or their company's) money. They generally have the authority to use their own best judgment, and they must bear the consequences of poor judgments. The government seems addicted to cost reimbursement despite its notorious record for generating cost overruns. Cost reimbursement protects providers at the expense of taxpayers and consumers.

7. The political system is extremely averse to risk. Private businessmen speak without apology of the gambles they made that did not pay off. To survive in a changing industry, one has to innovate, which means taking chances. Business is tolerant of individual mistakes as long as the batting average is good. By contrast, the political system gives inordinate attention to individual mistakes. Congressional investigators and the press get large rewards from discovering and exposing error in government. So government has become a sophisticated mechanism for dispersing and avoiding personal responsibility and avoiding risk. Moreover, visible errors of commission are punished far more severely than invisible errors of omission. This fact makes it extremely difficult to innovate in a government environment.

The financing of individual health-care services does not need to be a monopoly. There is no technical or economic factor that makes it a "natural monopoly like a public utility. Nor is personal health care a "public good" like defense or police protection. The benefits of individual health-care services are enjoyed primarily by the individual and his family, and he should be allowed a large measure of choice concerning it. The important public purposes of universal access to good-quality care can be pursued most effectively in a decentralized private system guided by an appropriate structure of incentives and regulation to support competition.

The Health Security Act,[20] proposed by Senator Kennedy and backed by organized labor, is designed to get away from third-party reimbursement and to shift health-care financing to a per capita and prospective budgeting basis within a publicly determined total. The Act would assign the entire financing and management of NHI to the federal government. It would create a Health Security Board in the Department of Health, Education, and Welfare to administer the program. It would levy payroll taxes and match this amount with an equal sum from general revenue. The Board would establish an annual national budget, not to exceed total receipts, and allocate it to each Health, Education, and Welfare region on a per capita basis in categories for institutional services, physicians' services, dental services, drugs or appliances. Within these totals, the Board would then contract for covered services with participating providers (i.e., providers who agreed to make no charge to the patient for covered services).

In brief, health security would create a system that is centrally and politically controlled, in which every participating provider received all his money from the federal government. Spending for personal health-care services would be set in the political process on the basis of national priorities rather than in the marketplace on the basis of individual priorities.

Health security has important strengths. It recognizes that the third-party-reimbursement principle provides inappropriate economic incentives in medical care. It seeks to restructure health services into organized systems. Capitation financing, which it emphasizes, gives incentives for economic efficiency in use of total resources. Health security seeks equity in the use of public funds. And it seeks to equalize per capita spending among regions and between HMO's and the fee-for-service sector.

Many of health security's weaknesses were summarized in my earlier discussion of government monopolies and private markets. But the main criticism of health security is that it cannot achieve its goals. The government cannot restructure the system by direct controls. Experience with other regulated industries, and with NHI in other countries, suggests that the government would freeze the system in its existing patterns. The "do-no-direct-harm" rule has prevented the government for years from closing unneeded Public Health Service hospitals and military bases. Its attempts to close hospitals in obviously overbedded areas drown in a deluge of lawsuits and pressure from employee groups. Imagine the vested interests and the rigidity surrounding the history-based allocations among hospitals, doctors, dentists and others. It would become much more important to provider groups to defend their allocation than to serve patients. The Health Security Act seems designed to freeze existing allocations and to protect existing jobs.

The Health Security Act proposes to bring total spending under control by "top-down budgeting." Top-down budgeting may indeed bring total spending under control, but of itself, without competition, the mechanism has no built-in means for assuring that much useful output is produced. This deficiency is especially true of a medical-care program whose output cannot be measured in any simple and adequate way. Look at the experience in our largest public health-care systems. At least by civilian standards, the Defense Department operates and fills far too many beds.[21] A recent study of the Veterans Administration (VA) system concluded—

"There are too many acute beds being operated in the system . . . about half the patients in acute medical beds, one-third of the patients in surgical beds, and well over half the patients in psychiatric beds do not require—and are not receiving—the acute care services associated with these types of beds. These data provide additional evidence that many more VA hospital beds are being operated than are required to meet the needs of veterans . . . The VA has installed many expensive specialized medical facilities that, in many hospitals, are used at rates far below their capacity." [22]

The point is that in the bureaucratic budgeting system, one strengthens one's case for more by doing a poor job with the budget that one has. If the budgeting system at the institutional level is based on workload rather than capitation, it gives physicians and administrators incentives for utilizations that are similar to fee for service.

The government is simply incapable of managing the Health Security Program. It does not have the organization, and it cannot acquire the management capability on a sustained basis. To illustrate one of the problems, the Act provides that members of the Health Security Board will be paid at Executive Level IV. This proposal means that the top management of the Program would be paid about 25 per cent less than the average doctor. The Board might attract outstanding management talent to begin with, on the basis of dedication to public service. But when it becomes clear what doing an effective job means—e.g., closing excess acute hospitals in some areas to pay for needed facilities in others—and Board members start feeling the wrath of citizens expressed through their

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Congressmen, and seeing the implementation of their plans tied up in court, the two-year turnover typical of assistant secretaries in the departments of Defense and Health, Education, and Welfare, is sure to emerge. Running a large organization effectively requires long-term commitment by its managers; it cannot be done well on revolving tours of two to four years.

Finally, health security would add over $100 billion to federal outlays in fiscal 1978 cost, which effectively rules it out on fiscal grounds. And there is no way to phase it in; it is an all-or-none proposal.

Universal Federal Third-Party Reimbursement is the most familiar approach to NHI. A bill to create such a system was proposed as a grand compromise by Senator Kennedy and Congressman Mills in 1974.[23] This is the approach that the Canadians took, though theirs is a joint federal-provincial program.

Conceptually, and initially, this is the simplest NHI idea from the point of view of consumers and providers of care: everybody goes right on doing what he was doing, and the government pays the bills. But anybody who has tried seriously to understand and implement the Medicare regulations knows that ultimately this must be the most complex approach. For this system would be "modified Medicare for everybody." The government would have to process over a billion claims a year. If costs were to be controlled, each would have to be reviewed for appropriateness. Arbitrary numerical criteria would have to be used. Rules for retrospective cost finding would become increasingly complex as institutions sought to interpret them to their advantage while the government sought to control the costs.

This approach would set in concrete the third-party reimbursement principle, which experience and economic reasoning indicate is not a rational way to finance medical care. By making scarce resources free, or nearly so, to the user, third-party-reimbursement insurance gives people economic incentives to use them excessively. Third-party-reimbursements insurance relieves the consumer of the additional cost of the services he receives, and therefore the incentive to conserve resources, without putting the incentive on the provider. A rational economic system of health-care financing would tie the physicians to the economic consequences of their decisions and hold them responsible for using total health-care resources wisely. It would also allow consumers to realize the full benefits from choosing less costly systems of care.

The worst effect of universal third-party insurance would be to destroy the incentive of consumers and physicians to reorganize the delivery system in more cost-effective ways.[24] It would deny consumers the opportunity to reap the benefit from choosing less costly systems or styles of care. Consumers would be relieved of most of the costs implicit in their choices, and larger reimbursements would be made on their behalf if they chose more costly providers. Similarly, with government-financed, open-ended demand for services where and when they wanted to deliver them, physicians would see little gain from accepting the discipline of an organized system.

"Kennedy-Mills" would not produce a stable equilibrium in health-care financing. The cost growth induced by the third-party-reimbursement incentives would have to be restrained by ever tighter controls. Eventually, the government would be forced to impose a "top-down" limit on health-care spending, with regional caps, negotiated prospective budgets for institutions and negotiated totals on spending for physician services by state or NHI region. Within a decade or less, "Kennedy-Mills" would become indistinguishable from health security. "Kennedy-Mills" would add more than $60 billion to federal outlays in fiscal 1978 costs.

The Comprehensive Health Insurance Plan, or "CHIP,"[25] proposed by the Nixon Administration in 1974, would have established a three-part national program including mandated employer-employee health-benefits programs meeting certain standards, a state-operated "assisted health-care program" providing coverage for low-income families and for families and employment groups who are high medical risks, and a federal program for the aged—in effect, expanded Medicare.

The employee plan would require employers to offer full-time employees a health plan including hospital, medical and preventive services and protection against catastrophic illness. Coverage would be implemented through private health insurance, and financed through employer and employee premium contributions. The assisted plan was designed to make health insurance available to all persons not otherwise insured. There would be income-related deductibles, coinsurance and a limit on each family's liability. Premiums would be income related, and tied to the state average for the employee plan.

CHIP is very appealing to federal officials because its costs are largely kept off the federal budget. (Its costs to the federal budget would be roughly $8 billion in fiscal 1978.) And it has the important advantage of keeping much of the management and underwriting in the private sector.

But CHIP has important weaknesses. It reinforces the link between job and health-plan coverage, with all the failings of that system mentioned earlier. Moreover, mandated employer coverage works as a strong disincentive to hiring people with low job skills and productivity. Combined with the recently signed minimum wage, and increases in Social Security payroll taxes, it would mean that by 1981, a person could not get a full-time job unless his services were worth well over $8,000 per year.

CHIP's fatal flaw is that it shares with "Kennedy-Mills" the error of seeing NHI solely as a matter of providing third-party-reimbursement insurance coverage for everybody, not a matter of incentives for cost control or reform of the delivery system. Thus, CHIP would leave to direct economic regulation the overriding problem of cost control. CHIP would not break down a main barrier to competition (i.e., that most employees are offered a single health-benefits plan, usually based on third-party reimbursement). Thus, it would not realize one of the main advantages offered by the private sector. Employers would have to offer membership in one prepaid group practice and one individual practice association, if available, as required by the HMO Act. But that leaves out much potential competition from health-care alliances, variable-cost insurance and other innovative ways that providers and consumers might organize to use resources wisely. The market should not be limited to HMO's meeting the present rigid detailed legal definition. There is no way of knowing whether these are the "best" or the only good means of organizing care. And the legal requirements add greatly to the time, cost and difficulty in starting such an organization. Moreover, CHIP would not correct the inappropriate cost-increasing incentives in Medicare, Medicaid and the tax laws. By continuing to subsidize more costly systems of care, the government would have failed to create the essential fair-market test among competing alternatives.

Ultimately, the need for cost controls would force the government to impose "top-down" limits on spending. And within a decade or less, the system that started with CHIP would also begin to resemble health security.

The fourth alternative is known as "Long-Ribicoff"[26] in honor of its two senatorial sponsors. The federal government would take over the acute-care part of Medicaid, providing essentially full insurance coverage for low-income families—for example, up to an income of $4,800 for a family of four. (Above that income, a family could become eligible if its medical expenses were large enough to cause it to "spend down" to an income net of medical expenses of $4,800.) For nonpoor families, "Long-Ribicoff" would provide insurance against catastrophic medical expense It would add about $12 billion to the federal budget.

"Long-Ribicoff" has the important strength that it targets the available funds on the areas of greatest urgency—i.e., full coverage for the poor and insurance against catastrophic expense for the nonpoor.

But as it stands, it too has important weaknesses. For one thing, it has a big work disincentive for a low-income family at the cutoff income. There would not be much point for such a family working to earn more than $4,800 if it expected substantial medical bills. This part of the bill could and should be revised to reflect the lessons and decisions that went into the Carter Administration's welfare-reform proposal (that is, the loss of benefits as earned income rises should be gradual, so as to preserve work incentives).

Secondly, it locks in the third-party-reimbursement principle. Not only does this step perpetuate the cost-increasing incentives, but also it denies to institutions that would serve the poor a predictable source of capitation financing. Like everyone else, the poor should have choices among competing alternative health plans, and should be able to buy into good plans that serve the middle class. And the poor should be allowed to benefit from economizing choices. Thus, a voucher system for Medicaid is clearly preferable to an inflexible commitment to third-party reimbursement.

Thirdly, assuring that everyone has full protection against catastrophic medical expense is a good idea. But again, "Long-Ribicoff" locks in the third-party-reimbursement system that rewards providers for cost-increasing behavior and provides no restraint on cost once the catastropic expense threshold is reached. Instead, people should be allowed to have the actuarial value of their catastrophic expense protection paid to the qualified health plan of their choice in the form of a fixed prospective per capita payment—provided the qualified health plan provides catastrophic expense protection.

Finally, "Long-Ribicoff" does not correct the cost-increasing incentives in Medicare and the tax laws. And it does not assure every American a choice among competing plans.

If the costs are to be brought under control in a system that seeks consumer and provider satisfaction, and respects individual preferences, millions of Americans must be made interested in and well informed about the cost and quality of their health care, and allowed to benefit from choosing less costly systems and styles of care. The second part of this article will describe a new NHI proposal that meets these requirements.

Consumer-Choice Health Plan

(Second of two parts)

(By Alain C. Enthoven, Ph. D.)

A national-health-insurance proposal based on regulated competition in the private sector.

Abstract: Medical costs are straining public finances. Direct economic regulation will raise costs, retard beneficial innovation and be increasingly burdensome to physicians. As an alternative, I suggest that the government change financial incentives by creating a system of competing health plans in which physicians and consumers can benefit from using resources wisely.

Main proposals consist of changed tax laws, Medicare and Medicaid to subsidize individual premium payments by an amount

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based on financial and predicted medical need, as well as subsidies usable only for premiums in qualified health insurance or delivery plans operating under rules that include periodic open enrollment, community rating by actuarial category, premium rating by market area and a limit on each person's out-of-pocket costs. Also, efficient systems should be allowed to pass on the full savings to consumers. Finally, incremental changes should be made in the present system to alter it fundamentally, but gradually and voluntarily. Freedom of choice for consumers and physicians should be preserved.

In the first part of this article, which appeared last week, I reviewed the causes of inflation in health-care costs and the inequities in financing today, explained why direct economic regulations will not make things better and reviewed the limitations in the main previous proposals for national health insurance. In this part, I explain the main ideas of, and reasons for, Consumer-Choice Health Plan, a new national-health-insurance proposal.

There is an effective alternative to direct economic regulation. It is to change the financial incentives—i.e., to create a financing framework in which physicians and consumers can benefit from forming and joining organized systems that use health-care resources wisely. In such a system costs can be controlled with freedom of choice that respects each person's preferences. Because the distinctive idea of this proposal is to let consumer preferences guide the reorganization of the health-care delivery system, I have called it "Consumer-Choice Health Plan (CCHP)." Its main ideas are as follows.

ORGANIZED SYSTEMS WITH INCENTIVES TO USE RESOURCES WISELY

To achieve comprehensive care of good quality for all, at a cost we can afford, we must change the fundamental structure of the system of health-care financing and delivery. Instead of today's fragmented system dominated by the cost-increasing incentives of fee for service, we need a health-care economy made up predominantly, though not exclusively, of competing organized systems. In such systems, physicians would accept responsibility for providing comprehensive health-care services to defined populations, largely for a prospective per capita payment, or some other form of payment that rewards economy in the use of health-care expenditures. They are by far the best qualified to make the difficult judgments about need and cost effectiveness. Because of the personal, uncertain, often intangible nature of medical care, physicians' judgment is a far more appropriate basis for resource allocation than arbitrary numerical standards are. So it makes sense for physicians to accept the main responsibility for keeping health-care costs within the limits desired by society. I believe that accepting that responsibility is the only way in which the medical profession can maintain its autonomy in the United States.

The government cannot reorganize the health-care economy by direct action. People would resist such changes involuntarily imposed. And nobody can bring about such a change quickly. But the government can change the underlying economic incentives so that consumers and providers of care can benefit from forming and joining organized systems that use resources wisely. The delivery system would then be forced to reorganize itself in response to consumers who are seeking out and choosing what is in their own best interest. CCHP seeks to accomplish this transformation by voluntary changes in a competitive market.

To date, we have not had a great deal of experience with alternative forms of organization and payment of physicians that reward economy in the use of resources. The tax laws, Medicare and lack of competition have discouraged their development. So we are not in a good position to prescribe how this can best be done. We should seek to learn more about the possibilities by establishing an overall system that rewards desirable innovation—i.e., by a fair market test among competing alternatives in which systems that do a better job for a lower cost survive and grow. Many types of systems might succeed in such a competition. One is prepaid group practice, in which groups of physicians practicing together accept responsibility for providing comprehensive health-care services to defined populations for a fixed prospective per capita payment, and the individual physicians receive a salary, sometimes augmented by a bonus based on the overall success of the program. Another might be the individual practice association, in which the physicians as a group accept responsibility for providing comprehensive services for a fixed prospective per capita payment, but practice individually and are paid fee-for-service.

However, the cost-control record of such associations so far has not been impressive. In another model, individual primary-care physicians agree to provide all the necessary office-based primary care to enrolled members who have chosen them, for a fixed prospective per capita payment, and to manage all referral services for a cost-control incentive payment related to the per capita cost experience of their patients. This system makes the family doctor the "general manager" of his patient's health care, a role that should be attractive to many. This plan is comparatively new and exists only on a small scale. Other successful models might include "health-care alliances" as proposed by Ellwood and McClure,[27] and "variable-cost insurance" as proposed by Newhouse and Taylor,[28] in which premiums reflect the cost-control behavior of providers. In such an economy, pure fee-for-service practice would ultimately be reduced to a comparatively small percentage of the total, but it would probably have a secure place, both for specialty services bought by health plans not large enough to have their own full-time specialists and for consumers who preferred to continue to buy their health care and insurance on a fee-for-service third-party reimbursement basis, as most do today, and who would be willing to pay the extra cost above the subsidy level associated with that mode of financing.

INFORMED CHOICE AMONG COMPETING ALTERNATIVES

CCHP is designed to assure that all people have a choice among competing alternatives, that they have good information on which to base their choice, and that competition emphasizes quality of benefits and total cost. CCHP would resemble the Federal Employees Health Benefits Program (FEHBP) and similar plans. It would extend to the whole population and to all qualifying health plans FEHBP's proved principles of competition, multiple choice, private underwriting and management of health plans, periodic government-supervised open enrollment and equal premiums for all similar enrollees selecting the same plan and benefits.

EQUITY AND INCENTIVES FOR ECONOMIZING CHOICES

CCHP seeks to correct inequities and cost-increasing incentives in the tax laws, Medicare and Medicaid. Today, the tax laws exclude employer contributions to health insurance, no matter how large, from the employee's gross income and, within limits, they allow the employee who itemizes to deduct his contributions. This setup has important implications for incentives and income distribution. For example, if a married employee has $25,000 taxable income and his employer pays $1,600 per year for his health insurance, the exclusion saves him $512 in federal income taxes, not to mention savings in Social Security taxes (given the recently enacted rates) and state income taxes. If he sought out and joined a health plan with a $1,500 premium, and asked his employer to pay him the $100 difference in cash, the tax laws would let him keep less than $68 of it. Obviously, this situation weakens his incentive to seek out a less costly plan. At the same time, a self-employed or intermittently employed person earning $6,000 or $7,000 per year is likely to have no employer contribution to his health insurance and no help from the tax laws or other public assistance. This inequity can be corrected by replacement of the present exclusion and deduction with a refundable tax credit that is the same for the high-income and the low-income person. In other words, the employer contribution would be included in taxable income, but the resulting tax would be reduced by a tax credit. ("Refundable" means that the taxpayer gets a cash refund if he has no tax liability.) In CCHP, the tax credit would be based on actuarial cost—i.e., the average total cost of covered benefits for persons in each actuarial category (e.g., men 45 to 64 years of age). Thus, persons in higher-risk groups having higher predicted medical need would get larger tax credits. But people would not get extra subsidies for joining more costly health plans.

In CCHP, Medicaid would be replaced by a system of vouchers for premium payments, integrated with the Carter Administration's proposed cash-assistance welfare reform, and reaching 100 per cent of actuarial cost for basic benefits for families with no income other than welfare. Medicare would be changed to give each beneficiary the right to have the average cost for his actuarial category paid to the qualified plan of his choice as a fixed prospective periodic payment.

Thus, CCHP would take money now used to subsidize people's choice of more costly systems of care, and use it to raise the floor under the least well covered. It would give people an incentive to seek out systems that provide care economically by letting them keep all the savings. While government assures that people have enough money to join a good plan, above the subsidy-level people would be using their own net after-tax money, which should motivate them to seek value for it.

These changes would also permit continuity of coverage regardless of job status.

INCREMENTAL CHANGES

CCHP is not an immediate radical replacement of the present financing system with a whole new one. Rather, it is a set of incremental "mid-course corrections" in the present financing and regulatory system, each one of which is comparatively simple and familiar taken by itself, but whose cumulative effect is intended to alter the system radically, but gradually and voluntarily, in the long run. CCHP corrects the faulty incentives produced by present government programs, and seeks to correct known market imperfections. CCHP preserves flexibility. If these changes do not produce the desired results, after experience has been gained, more corrections can be made. CCHP recognizes that there is no "final solution" to problems of health-care financing, as experience in countries with national health insurance clearly demonstrates. CCHP is not necessarily incompatible with some proposed regulation such as health planning, hospital-cost controls and physician-fee controls. On the contrary, CCHP would increase the effectiveness of the Health Systems Agencies

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by giving them the incentives to control costs that they now lack. But CCHP would reduce the need for such regulation and, if successful, render it superfluous.

CCHP can be thought of in two related parts: a financing system and rules to create a socially desirable competition.

THE FINANCING SYSTEM

Actuarial categories and costs

The flow of government subsidies to individuals to help them buy health insurance in CCHP would be based on actuarial cost—i.e., the average total costs of covered benefits (insured and out-of-pocket) in the base year, updated each year by a suitable price index, for persons in each actuarial category. For persons not covered by Medicare, the actuarial categories might be the simple and familiar three-part structure of "indivdual, individual plus one dependent, and individual plus two or more dependents." However, in a competitive situation, this classification might give health plans too strong an incentive to attempt to select preferred risks by design of benefit packages (e.g., good maternity benefits to attract healthy young families), location of facilities, or emphasis in specialty mix (strength in pediatrics, weakness in cardiology). Carried to a logical extreme, such a system could lead to poor care for high-risk persons (though open enrollment—described below—would always assure the right of high-risk persons to join any qualified health plan). So experience might show that a more complex set of actuarial categories is desirable. For example, the three-part structure might be supplemented by special categories for persons 45 to 54 and 55 to 64 years of age. In the limit, one might go to a structure based on individual age (e.g., in 10-year steps) and sex, though I doubt whether this development would be necessary.

Actuarial cost would also reflect location, because there are large regional differentials in health-care costs. The appropriate geographic unit would probably be the state. However, regional differences in real per capita subsidies based on actuarial cost would be phased out over a decade.

The approximate price index for updating actuarial cost would probably be the "all-services" component of the Consumer Price Index.

The average per capita cost for physician and hospital care in 1978 will be about $200 for people under 19, and about $475 for people 19 to 64 years of age (1976 costs inflated to 1978 at 10.3 per cent per year).[29] So, if these are the covered benefits, actuarial cost for a "typical" family of four would be $1,350. A higher or lower amount, based on a more or less generous benefit package and on broad political judgments about priorities, might be chosen.

In CCHP, premiums would be set by each health plan for each actuarial category and benefit package, on the basis of its own costs and its own judgment of what it can charge in a competitive market. Thus, persons in more costly actuarial categories would pay higher premiums. This step is desirable because we want competing plans to be motivated to serve them and is made socially acceptable by giving such people higher subsidies through tax credits or vouchers.

Tax credit

The present exclusion of health-insurance premium contributions by employers (and health and welfare funds) from employees' taxable incomes, and the deductibility of individual premium contributions, would be replaced by a refundable tax credit equal to 60 per cent of the family's actuarial cost. (The deductibility of direct medical expenses would be limited to those in excess of 10 per cent of adjusted gross income instead of today's 3 per cent.) Tax withholdings would be adjusted to make the taxpayer's estimated net remaining tax liability at the end of the year approximate zero, so that he would not have to wait until the end of the year to receive the cash. Employers and health and welfare funds would continue contributing to employee health insurance under existing agreements, but they would report such contributions as part of total pay on W-2 forms. The tax credit is allowed only if spent on premiums for a qualified health plan. To the ordinary employee, then, CCHP would appear initially as a quite simple change in the way in which his compensation is taxed.

Consider a typical employee with a family whose employer is contributing, say, $1,600 per year to his health-benefits plan. Under CCHP, his personal income tax would increase roughly $480 because of the inclusion of the $1,600 in taxable income (assuming he is in the 30 per cent bracket), and decline by $810 (60 per cent of the estimated actuarial cost of $1,350) because of the tax credit, for a net saving of $330. The $330 would, of course, have to be financed through some combination of special taxes and federal general revenues. The importance of the change is that the $810 subsidy would be the same for people with higher and lower incomes (above the welfare line), and that the subsidy would not increase if the employee chose a more costly health plan.

The choice of 60 per cent of actuarial cost as the level for the tax credit is based on a judgment that balances a number of factors.

The first is that if the tax credit were too low (e.g., below 25 per cent of actuarial cost), many low-risk employee groups might find it advantageous to form a nonqualified plan and stay out of the system. For the incentive effects of the system to be pervasive, most people must find it to their interest to join qualified plans. Moreover, a tax credit at least as large as the tax benefit in the present law for middle-income taxpayers would help to minimize political opposition to the change from that group. Secondly, if the tax credit were too high (e.g., over 80 per cent of actuarial cost), the incentives of health plans to be truly efficient would be weakened. There would be no point in plans reducing premiums below the tax-credit level. But Medicare experience suggests that prepaid group practices can deliver comprehensive health-care services for an average of 73 per cent of the cost of their fee-for-service counterparts.[3] Similarly, if the tax credit were too high, middle-class consumers would see too little of their own money going into premiums to be motivated to shop for or help form more efficient systems. A tax credit at 60 per cent of actuarial cost would limit the potential for people to manipulate the system to their advantage by taking a minimum-cost "catastrophic insurance" plan when they expected to be healthy, and then switching to a full-benefit plan when they anticipated elective surgical procedures or pregnancy. This level approximates the FEHBP, which has worked well. However, other levels could be chosen, depending on the availability of funds. For example, it could start at 30 per cent, with higher levels phased in as revenues permitted.

Vouchers for the poor

The poor need more subsidy to assure their access to an acceptable plan. CCHP would provide them with a voucher usable only as a premium contribution to the qualified plan of their choice. It should be administered through the reformed cash-assistance welfare system proposed by the Carter Administration, or whatever program is chosen to assist low-income people. The value of the voucher should be related to family income, and should decline gradually with increasing income on a sliding scale that preserves work incentives. Here is one example. The Carter Administration welfare reform would guarantee a family of four a minimum cash income of $4,200; the cash assistance would be reduced 50 cents for each dollar of earned income until it reached zero at a family income of $8,400 (the "cash assistance breakeven" point). Related to this, one could set the health-insurance premium voucher at $1,350 for a family with a total income, including cash assistance, of $4,200 (i.e., zero earned income), and phase it down to $810—the tax-credit level for nonpoor families—at a total income of $8,400. The result would be a "benefit-reduction rate" (i.e., the cents worth of cash assistance and voucher lost for each additional dollar earned) of 56 per cent, which would not be inconsistent with the goal of preserving work incentives underlying the Administration's proposed welfare reform. (If the voucher exceeded the family's health-insurance premium, the extra money could be used to buy additional health benefits such as dentistry, or left on deposit to offset cost sharing.) The voucher system can be integrated with the tax system and the unemployment-insurance system.

To illustrate how the voucher system might work, suppose that the rates now in effect for childless couples in the California Public Employees' health-benefits plan were the rates in effect in CCHP. They include $55.88 per month for Kaiser Northern California, $73.17 for the Family Health Program, $92.00 for the United Foundations for Medical Care, $93.15 for Blue Cross-Blue Shield, and others. Suppose a couple were totally dependent on reformed welfare. Using the Administration's proposed amounts for welfare plus CCHP, they would receive a voucher worth $79.17 per month ($950 per year) for health premiums, and cash assistance of $183.33 per month ($2,200 per year). They could elect the Kaiser plan and have $23.29 per month left over for additional health benefits (such as copayments, dentistry and eyeglasses), elect Family Health Program and have $6 per month for such additional benefits, or elect the Foundations plan and have to contribute $12.83 per month out of their cash assistance. If, instead, their income were at or above the "cash assistance breakeven" for childless couples of $4,400, their voucher could be worth $47.50 per month, and they would have to contribute $8.38 per month of their own money to join Kaiser, or $44.50 to join the Founadtions plan. (These numbers are illustrative; the actual voucher level might be different, depending on such factors as political judgments and regional cost levels, and I would expect competition to narrow the difference in premiums.)

Medicare would be retained for the aged, disabled and victims of end-stage renal disease. Eligibility would be expanded to all legal residents 65 years of age and over for Part A (institutional services) and Part B (physicians' services). The benefits should be expanded to conform to the benefits for the rest of the population. The 150-day limit on hospital days should be removed—in effect providing catastrophic coverage. Better still, an annual limit on out-of-pocket expenses on covered benefits by any individual subscriber should be enacted.

The most important change needed in Medicare is a freedom-of-choice provision that would permit any beneficiary to direct that the "Adjusted Average per Capita Cost" (AAPCC) to the Medicare program for people in his actuarial category be paid to the qualified plan of his choice in the form of a fixed prospective periodic payment. If done properly, this change would end the Medicare subsidy to those who choose a more costly system of care, and would permit beneficiaries to reap the benefit of their economizing choices in the form of reduced cost sharing or better benefits.

Footnotes at end of article.

For example, I pointed out in the first part of this article that in 1970, Medicare paid $202 per capita on behalf of beneficiaries cared for by Group Health Cooperative of Puget Sound, but paid $356 on behalf of similar beneficiaries in the same area who got their care from the fee-for-service sector. Nevertheless, as far as Medicare was concerned, the Group Health members were liable for the same deductibles and coinsurance and limitations on covered hospital days as their fee-for-service counterparts. They received no reward from Medicare for choosing a less costly system. If CCHP had been in effect, they would have been allowed to designate that $356 be paid by Medicare as a premium contribution on their behalf to Group Health or other qualified health plan. In a competitive situation, Group Health would have been able to pass on the extra $154 to the beneficiaries in the form of reduced or eliminated coinsurance and deductibles, removal of the limitation on hospital days covered, increased scope of benefits (e.g., outpatient drugs) or reduction in supplemental premium, as an inducement for those beneficiaries to join Group Health. In CCHP, this option would be available to Medicare beneficiaries not only with respect to HMO's, but with respect to any qualified health plan.

About 7.7 million aged, blind and disabled persons receive Medicaid supplements to assist with costs not covered by Medicare. (Medicare pays about 71 per cent of hospital costs and 55 per cent of physician costs for aged beneficiaries.) Under CCHP, there supplements for acute care would be replaced by a voucher similar to that for the nonaged poor. This substitution would assure the ability of the poor Medicare beneficiary to pay the premiums for a policy to supplement Medicare. In 1978 the average per capita hospital and physician costs for the aged not covered by Medicare will be about $385. This would be an appropriate level for the full voucher.

RULES TO CREATE A SOCIALLY DESIRABLE COMPETITION: CRITERIA FOR QUALIFIED HEALTH PLANS

To qualify to receive tax credits, vouchers or Medicare payments, a health plan would have to operate according to a set of rules intended to create a fair and socially desirable competition based on quality and cost effectiveness. (The actual rules that I have proposed in my report to Secretary Califano are somewhat more complex; the essentials are reported here.)

Open enrollment

Each plan must participate in a periodic government-run open enrollment in which it must accept all enrollees who choose it, without regard to age, sex, race, religion, national origin or, with possible minor exceptions prior health conditions. Each September, for example, every family would receive an informative booklet published by the administrative agency. The book would give an understandable presentation of the costs, benefits and limitations of each qualified health plan in the area.* During October, each head of household would make an election for the coming year, through his employer, welfare office or local office of the administrative agency. This step would greatly enhance competition by giving each person a choice from among competing plans, and it would assure that every person could enroll in a qualified plan.

The enrollment process should be run by a government agency for several reasons. First of all, an impartial regulatory agency is needed to assure that the information presented is complete, balanced and fair. Secondly, such an agency is needed to assure that every eligible person is truly given an opportunity to enroll in the plan of his choice. Thirdly, this apportionment obviates the need for each health plan to have its own salesmen, reducing cost and possibly preventing the marketing abuses associated with the Southern California prepaid-health-plan scandals.

Community rating

A qualified plan must charge the same premium to all persons in the same actuarial category enrolled for the same benefits in the same area, to preclude prohibitive rates for poor risks and to spread health-care costs over the whole population. (As noted earlier, each plan can set its own community rates.)

Rating according to market area

Qualified plans must set community rates according to market area (such as Health Service Areas or groups of contiguous Health Service Areas). This rule is to prevent anticompetitive cross-subsidies from one area to another, and to "internalize" the costs of health services by Health Service Area so that a decision by a Health Systems Agency to permit construction of a new health facility will be fully reflected in the premiums paid by citizens in that area, thus giving the area a more balanced set of incentives to control costs.

Low option

Qualified plans must offer a low option limited to the basic benefits defined in the national-health-insurance law. This requirement is to prevent plans from limiting membership to the well-to-do by offering only plans with costly supplemental benefits.

A limit on each person's (or family's) out-of-pocket costs

Qualified plans must publish a clearly stated annual limit on individual (or family) out-of-pocket outlays for covered benefits (e.g., $1,500 per year). Out-of-pocket outlays include deductibles, copayments and any differences between indemnity payments and the actual cost of covered services. Beyond the limit, the plan must pay all costs for covered benefits. This requirement would help assure that plans do not compete by offering inadequate benefits that would leave the seriously ill uninsured and a burden on the public sector. It would provide full protection against catastrophic medical expenses and prevent medical bankruptcies.

Qualified plans would be permitted to require that their members obtain all their covered benefits from participating providers with whom they have made agreements concerning fees and utilization controls (except for out-of-area emergency treatment). Indeed, the pressure of economic competition would gradually force health plans to make such agreements. But if a plan did not have an agreement with a participating provider in a needed specialty, it would nevertheless have to pay the cost and "hold the consumer harmless" within the agreed cost-sharing limits.

A program to provide meaningful, useful information on the features and merits of alternative health plans would be an essential part of CCHP and a major departure from present practice. To aid consumer choice, each plan would be required to publish total per capita costs, including premiums and out-of-pocket costs. The administrative agency would have authority to review and approve (for accuracy and balance) promotional materials, including presentations to be included in the booklet available to all eligible persons at "open season." The administrative agency would also have authority to review and approve "endorsed options" and contract language so that all options offered would either conform to a standard contract or be able to be described by a standard contract and a manageable number of additions and exclusions. This supervision would force plans to publish their terms in a format that is understandable to consumers and that facilitates direct comparison among plans without forcing the consumer to master and compare a lot of fine print. Uniform financial disclosure would be required—comparable to what the Securities and Exchange Commission requires of public companies. Data on patterns of utilization, availability and accessibility would be required, as is required of HMO's in the HMO Act.

Other

In CCHP, as in any system of national health insurance, there would be requirements for grievance procedures, safeguards for civil rights and against fraud and conflict of interest and quality standards for participating providers.

In the language of economic regulation, these criteria for qualified health plans are "performance standards," not "design standards." They say what a health plan must do to be qualified, not how it must organize to do it. In particular, a health plan would not have to be an HMO or other direct service plan to qualify. Even pure third-party reimbursement-insurance plans could qualify, although their lack of effective cost controls would be likely to put them at a competitive disadvantage.

BENEFITS AND ELIGIBILITY

Any plan for national health insurance must include definitions of covered benefits and eligible persons. The choices are largely political judgments. The principles of CCHP can be applied to any of a broad range of benefit packages and eligibility criteria, including coverage of essentially every legal resident of the United States. The philosophy of CCHP suggests that, beyond the essentials that must be specified by law, what is included in health benefits plans should be determined by the consumer desires expressed in the marketplace, rather than by provider interests.

FEDERAL-STATE ROLES IN FINANCING AND ADMINISTRATION

CCHP is compatible with many possible ways of splitting federal and state financing responsibilities. The choice must be considered in the context of federal-state burden sharing in general (of which acute-medical-care financing is only one piece), and it must rest largely on political judgments. Because states are potentially important factors in health-facilities planning and cost controls, the federal government should not pay more on behalf of states that have higher real per capita health-care costs in such a way as to weaken their incentive to control costs.

CCHP could be administered entirely by the federal government or jointly by the federal government and the states under federal standards.

SPECIAL CATEGORIES: DOD (CHAMPUS), VETERANS, INDIANS, MIGRANTS, UNDERWORLD, ILLEGAL ALIENS, INCOMPETENTS, NON-ENROLLERS

Special measures can be designed for the special problems of each of these categories within the context of CCHP. CCHP will not, by itself, solve the special problems of each of these groups, but it does provide a framework that helps. Special programs are required for special problems. Under any of the proposals for national health insurance being considered, there would need to be a residual system of public providers of last resort.

TRANSITION

The enactment of CCHP would cause no sudden wrenching upheaval in medical-care delivery or financing. There would be a transition period, of perhaps two years, during which health plans intending to qualify would prepare for the first open enrollment. To many plans, this would be a familiar procedure because they already participate in

* The best example of such a booklet that I have seen is the one published by the State of California, Public Employees' Retirement System, Health Benefits Division, P.O. Box 1953, Sacramento, CA 95809.

the FEHBP or other multiple-choice systems. Some insurance companies would seek to obtain signed participation agreements with physicians covering fees and assignment similar to those already used by Blue Shield. Some would seek to sign up physicians to participate in capitation-payment arrangements or other cost-controlling incentive systems. Physician groups would doubtless accelerate efforts already under way to form independent practice associations. Various groups would seek to form qualified direct service plans such as HMO's. In all probability, Blue Cross-Blue Shield would offer a qualified plan in each national-health-insurance market area.

Some physicians would sign agreements to participate in several plans. Some would decide to devote their efforts to one plan. Some would decide that the demand for their services was such that they would not need to sign any agreements, although that stance might become economically disadvantageous quite soon. In the first few years of CCHP, most physicians would continued to practice in their same offices and hospitals and care for the same patients as before.

Gradually, however, competitive economic pressures would have their effect. If capitation or other similar incentive payment systems were effective in reducing cost while maintaining consumer satisfaction, health plans would seek to extend them to more of their participating physicians. Newly trained physicians in specialties in excess supply in a given area would find no health plans interested in signing them up, and they would have to look for work in areas where their services were needed. Primary-care physicians would assume more of the responsibility for the total costs of care of their patients, and specialists whose costs were judged by such primary-care physicians to be excessive would find themselves obliged to negotiate lower fees to retain their referrals. Independent practice associations would tighten utilization controls and more carefully balance the specialty mix of their membership to the needs of their enrolled populations. Prepaid-group-practice HMO's would continue to grow. In short, the competitive market would generate cost controls, but they would be private market controls based on individual and group judgments about cost versus value received and not public controls based on arbitrary numerical standards, insensitive to the quality or value of the services.

PUBLIC POLICY TOWARD DELIVERY-SYSTEM REFORM

CCHP would create a competitive economy whose rules were fair to cost-effective organized systems. It would correct the biases against them in the tax laws, Medicare, Medicaid, employer-employee financing arrangements and elsewhere, and it would give them the opportunity to reach their whole potential markets through the government-run open enrollment. It would allow them to pass on to consumers the full benefit of their savings in the form of reduced premiums, which would help them to attract new members. But CCHP would not, in itself, create those systems. If such systems are to come into being, many local efforts to organize them will be required. Such initiatives might be led, as they have been in the past and are being today, by employers, unions, universities, consumer co-operatives, foundations, insurance companies, physician groups, hospitals and local governments. If additional public policies to encourage such efforts prove to be needed, they should be the subject of separate legislation.

I would not place much confidence in proposals for special grants and subsidies for HMO's. Experience with the HMO Act shows that they come at an extremely high price. The HMO Act promised large grants and loans to HMO's on the basis of which many costly restrictions were justified—burdens that were not placed equally on their competitors. The list includes an annual 30-day open enrollment, community rating, data reporting, a requirement that they offer such benefits as mental health, infertility services and preventive dental care for children, as well as complex constraints on staffing. The financial help actually delivered fell far below the amounts originally authorized.[11] This deficiency is typical of Department of Health, Education, and Welfare programs, and is readily understandable in terms of the political process. Given a truly fair market test as proposed in CCHP, health plans demonstrating the economic superiority of many HMO's will prosper without help. Even the investment capital needed for startup will be far easier to raise if people can be confident that the basic economic ground rules will allow an efficient system to compete successfully.

An antitrust strategy specifically designed for the peculiar economics of the health-care industry is needed. Ordinary antitrust theory, developed for other industries, does not fit very well in health care. It is easy to imagine some noncompetitive outcomes in CCHP. For example, a county medical society might form an independent practice association and use it as a price-fixing arrangement, and keep out would-be competing physicians through control of hospital privileges. Or a market might continue to be dominated by multiple third-party plans, all paying the same providers the same fees and costs. Continuing research, policy analysis and possibly more legislation would be needed. What is clear is that boycotts of qualified health plans, or ostracism or denial of staff privileges to physicians participating in them, would have to be outlawed. The medical profession would have to agree to live by the competitive rules accepted by American business in general.

COSTS AND THE FEDERAL BUDGET

The costs will depend on the benefits and the amount of the tax credits and vouchers. Here are some illustrative examples using fiscal 1978 dollars.

Assume that actuarial cost is $200 for a person under 19 years of age, $475 for persons 19 to 64 and therefore $1,350 for a "family of four." Actuarial cost for a Medicare beneficiary will be $1,150. On the average, Medicare pays about 67 per cent of this amount. Therefore, a poor Medicare beneficiary needing 100 per cent public support would need a voucher worth $385. (In addition, he would have the right to designate that the $765 of actuarial cost for which Medicare is liable be paid on his behalf to the qualified health plan of his choice.)

Now, assume that the tax credits for families that are not poor is set at 60 per cent of actuarial cost (e.g., $810 for a family of four). Let the voucher for a poor family with no income other than cash assistance (welfare) be 100 per cent of actuarial cost (e.g., $1,350 for a family of four). Let the voucher's value be reduced 12 cents for each dollar of family income, including cash assistance, above the income-guarantee level (e.g., above $4,200 for a family of four), until it reaches the $810 available to the nonpoor at a family income of $8,700. The total cost to the federal budget for these tax credits and vouchers, including the supplemental vouchers for poor Medicare beneficiaries, would be $46.2 billion.** (This figure does not include the costs of the Medicare program, which are assumed to continue unchanged in the short run.) Offset against the tax credits and vouchers would be the extra revenues gained from the proposed changes in the tax laws (eliminating the so-called federal income and Social Security "tax expenditures") worth $10.1 billion, federal Medicaid of $11.8 billion and other programs of $1.9 billion that would be replaced by the tax credits and vouchers, for a total of $23.8 billion. (The states would be relieved of Medicaid acute-care costs but would pay for all costs of long-term care; this revision would maintain approximately the present federal-state division of costs.) Thus, the net additional cost to the federal budget for the full CCHP proposal would be about $22.4 billion. Initially, total national health-care spending would be unchanged, but the federal contribution would be increased.

Alternatively, as the low-cost start of a program to phase in CCHP, let the tax credit for the nonpoor be set at 30 per cent of actuarial cost (i.e., $405 for a family of four). Let the voucher for the poor be 100 per cent of actuarial cost for a family at the income-guarantee level. Let the voucher's value be reduced 20 cents for each dollar of family income (including cash assistance) above that, until it reached the $405 available to the nonpoor at a family income of $8,925. The total cost to the federal budget for these tax credits and vouchers would be $26.9 billion. The net cost to the federal budget, after subtraction of the above-mentioned offsets, would be $3.1 billion.

From a fiscal point of view, CCHP would make the government's contribution to personal health services a "controllable" expenditure that could be set at a level in balance with other priorities, instead of today's open-ended commitments through the third-party intermediary system. Moreover, in CCHP, those who wanted more health services would have the option of using their own net after-tax income to buy them, which would result in less pressure on the Congress than there would be if all the costs were paid by the federal government.

Most important, by establishing strong incentives for cost effectiveness, CCHP promises in the long run to reduce total national health-care costs below what they otherwise would be.

WHY CCHP? SOME ISSUES

Will the desired reorganization of health services take place fast enough?

Reorganization of heath services will take a long time, a decade or more before half the population is served by some kind of organized system with incentives for economy, even under the most favorable conditions. This is a very long time by political standards. Doctors and patients are understandably wary of new organizational schemes. They will want to see how each innovation works before they can be confident that it is a change for the better. The health-services industry is based on many institutions with long traditions and deep roots in their communities. Many people will change their health plans and providers only reluctantly and slowly. There are no easy routes to health-services reorganization. It will take time and a great deal of effort by many people in many localities.

Direct regulatory approaches to reorganizing health services promise fast results—but all the evidence shows that the promises are false. Health security and universal third-party insurance would freeze the system in its present patterns. A judgment in favor of the CCHP approach must be based, in part, on a realistic appraisal of the alternatives.

The main reason for optimism about the prospects for a reorganization, given a fair market test among competing alternatives, is that the economic advantage of orga-

**The estimates of the costs of the tax credits and vouchers were prepared by Mark Worthington, Office of Income Security Policy, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, whose valuable assistance is gratefully acknowledged.

Footnotes at end of article.

nized systems can be large. A recent review of the many comparison studies over the past 25 years concluded, "The evidence indicates that the total costs (premium and out-of-pocket) for HMO enrollees are 10–40 percent lower than for comparable people with health insurance." [30] A Social Security Administration comparison of Medicare reimbursements for beneficiaries served by six group-practice prepayment plans and a matched sample served by fee for service in 1970 found that the former cost 73 percent of the latter.[8 31] The point is not that all HMO's cost a lot less; in any industry there will be more and less efficient producers. The point is that a substantial number of HMO's have shown that the savings can be large. Moreover, these HMO's have achieved large savings even in the absence of real competition from similar organizations.

The creation of organized systems of care would not have to take the many years of institution and facilities building characteristic of the leading prepaid group-practice plans. If there were a market, simpler organizations, based on existing institutions, facilities and practice styles, might be developed fairly quickly on the individual-practice-association model, the heath-care alliance, or other broadened definition of HMO. In an individual practice association, the physicians agree to provide comprehensive benefits, largely for a fixed prospective periodic payment, under the following arrangements.[32] First of all, they agree among themselves on a fee schedule. When they render a service to a member of the plan, they bill the plan, not the member. Secondly, they accept peer review of the appropriateness of services. Thirdly, they agree to accept a pro rata reduction in fees if the money runs low. Fourth, the association pays hospital costs or teams up with an insurance company that offers a hospital-insurance policy. The premium for that policy reflects the hospitalization experience of the members of that plan, which is, of course, controlled by the doctors in the individual practice association. So if the total premium for physician and hospital services is determined by the market, the less the hospitalization, the lower the insurance premium, and the more left over for the doctors.

Individual practice associations, like other HMOs, have not grown rapidly in the past for reasons explained below. Moreover, there is evidence that they have been less effective than prepaid group practices at control of hospital utilization. I believe the reason has been a lack of competitive necessity. If they had to develop good utilization controls to survive. I believe they would do so.

Individual practice associations like this could be operative within a fairly short time. They could start with physicians already established in fee-for-service solo practice, with existing doctor-patient relations, existing facilities and without the need for large initial investments. I believe that, to survive in the long run, they would have to strengthen internal controls and carefully balance specialty mix. But these changes could come gradually.

Similar arrangements can be created by physicians and insurance companies. Ellwood and McClure call them "health-care alliances," a looser concept than HMC.[27] In one variation on the theme, an insurance company makes capitation payments to family physicians for providing primary care and for managing total medical-care costs of the enrolled beneficiaries. The range of such interesting possibilities is large; we have hardly begun to see what could be done with cost-control incentives in an appropriately restructured private market.

In CCHP, physicians would be under economic pressure to form or sign up with qualified health plans, where the consumers will be. This pressure will be intensified by the coming doctor surplus. In 1959, there were about 1.49 physicians per 1000 population in the United States. By 1973, the ratio had reached 1.73. And by 1990, it has been projected to reach 2.37.[33] (The specific ratio depends on definitions and assumptions, but by any definition, the relative increase will be large.) The fact that prepaid group-practice plans care for their members with about one physician per 1000 (of course reflecting in part, a membership that is younger, healthier and busier than the population at large) gives some indication that in a world of efficient organized systems, there will be more doctors than needed. Therefore, given the economic framework created by CCHP, the process of forming organized systems is likely to be accelerated by physicians who are seeking a place to practice. Thus, I do not believe that one should estimate future membership in organized systems with some incentives for economy by applying a plausible growth rate to today's HMO membership of roughly six million. Rather, there is reason to expect that many new organizations would be formed quickly.

If HMO's are superior, why haven't they grown faster?

The main answers are, first, the monopolistic practices of some physicians described earlier, and second, the strong and pervasive anti-HMO bias in the policies of the federal government, and the consequent lack of incentives for consumers and providers to join HMO's under existing financial arrangements. The tax laws, the Medicare law, the planning laws, and the HMO Act all have important anti-HMO biases.[34 35] And the anti-HMO bias in state laws is notorious. Most people do not have a choice between an HMO and a third-party, fee-for-service plan, or if they do, the tax laws, Medicare and employer financing arrangements do not let them keep the savings. HMO's have done very well in competitive multiple-choice situations. For example, Kaiser-Permanente of Northern California serves 37 per cent of the federal employees, 43 per cent of the state of California employees, and 37 per cent of the University of California employees in its service area. And, despite the obstacles, the growth rate of HMO's in areas where they are established is impressive. From 1960 to 1976, Kaiser's California membership increased from 720,000 to 2,617,000, a compound annual growth rate of 8.4 percent, despite the fact that in many years, they had to limit new enrollment because of the time and cost required to plan, build and staff new facilities.

The "consumer-choice" issue

Proposals to rely on consumer choice to guide the health-services system are invariably subjected to the attack that consumers are incapable of making intelligent choices in health-care matters. So it seems worthwhile to make clear exactly what is being assumed. Admittedly, the element of ignorance and uncertainty in health care is very large; that is true for physicians and civil servants as well as ordinary consumers. CCHP does not assume that the ordinary consumer is a good judge of what is in his own best interest. Consumers may be ignorant, biased and vulnerable to deception. CCHP merely assumes that, when it comes to choosing a health plan, the ordinary consumer is the best judge of it. The theory of optimum allocation of resources through decentralized markets does not assume that every consumer is perfectly informed and economically rational. Markets can be policed by a minority of well informed rational consumers. And we are seeking merely a good and workable solution, not a theoretical optimum. CCHP provides consumers with substantially better information than they get now and much stronger incentives to use it. If there were a demand for it, much could be done to organize better consumer information. In any case, the key factor is the incentive that CCHP gives to providers—i.e., provider systems will get their money from satisfied consumers rather than from the government. In CCHP, above the tax credit/voucher level, consumers would be working with their own money, not somebody else's.

Critics of the consumer-choice position usually are not very explicit about whom they consider to be better qualified than the average American to choose his health plan for him.

Presumably every national-health-insurance scheme under consideration would allow each consumer choice of physician and free choice of whether or not to accept recommended medical treatment—decisions that could be aided by technical knowledge. What distinguishes CCHP from the others is that it seeks to give the consumer a choice from among alternative systems for organizing and financing care, and to allow him to benefit from his economizing choices. The issue, then, is whether consumers can be trusted to choose wisely when it comes to picking health plans—some of which cost less than others.

Part of the "consumer-choice" issue is resistance to the idea of letting the poor, because of their poverty, choose a less costly health plan that might not meet their medical needs. There is appearance of a conflict here with the principle of CCHP that people must be allowed to benefit from their economizing choices. (There is, of course, the issue of how much the poor should be forced to accept their share of society's assistance in the form of costly medical technology of doubtful value, as opposed to leaving them free to spend the resources on other things like food and housing known to be good for health.) The problem can be resolved in CCHP by setting the premium vouchers (usable only for health care) at a high enough level to assure access to a plan with adequate benefits—always letting plans that do a better job attract members by offering less cost sharing or more benefits.

Equity issues

CCHP uses the most effective way to redistribute purchasing power for medical care—i.e., directly. It takes money from the well-to-do and pays it to lower-income people in the form of tax credits and vouchers. By this method, the amount of redistribution is clearly visible, and one can be sure the money reaches its intended target. CCHP can thus be used to bring about whatever income redistribution for medical purchases the political process will support. By contrast, third-party insurance systems are an exceedingly ineffective way to redistribute income. Medicare pays more on behalf of rich than poor.[9] In a bureaucratic system, individuals and organized groups who are forceful and skillful at getting their way come out ahead.

Will CCHP perpetuate a two-class system of care for rich and poor? The question should be judged realistically in terms of where we are today, in which direction CCHP would move us, and where we are likely to go as a society. CCHP focuses on raising the quality of care available to the poor by assuring that they have the money (through vouchers) and the access (through the government-run open enrollment) to the health plans serving the middle-class. Competition is likely to keep the cost of many of these plans in reach for many low-income people. Moreover, unlike the present tax law, under CCHP, the well-to-do would have to pay the extra cost of more expensive health plans out of net after-tax income. Thus CCHP would be a large step toward equalization of health-care purchasing power, without enforcing absolute equality. I believe it would be foolish to reject it on the grounds that it does not reach a hypo-

Footnotes at end of article.

thetical egalitarian ideal that has never been attained in any society and is surely not supported by the American people today.

Is a multiple-choice system feasible?

The feasibility of a competitive model for national health insurance has been demonstrated by the Federal Employees Health Benefits Program (FEHBP) and numerous other choice-of-plan systems. The FEHBP was authorized in 1959. It now provides health benefits for 10.5 million people. The government pays essentially 60 percent of the average premium of the six largest participating plans, or, in 1978, $58.72 per month for a family. The employee pays the rest. There are now 79 participating plans, including the government-wide indemnity-benefit plan offered through the Aetna Life and Casualty Company, government-wide Blue Cross-Blue Shield service benefit plan, numerous employee organization plans (e.g., letter carriers), and comprehensive medical plans (e.g., HMO's). The administrative expense is very low. A 1964 report of the FEHBP noted:

"The program finally authorized by Congress permits a wide range of choice of plans by all employees and was, in effect, a negotiated compromise among many divergent and highly organized interests. It was the only approach which at any time during the legislative process gained acceptance by all of the principals: the American Medical Association, Blue Cross-Blue Shield, insurance companies, employee unions, group and individual practice prepayment plans, and the Federal Government as the employer. Although there can be no doubt that the "single plan" approach would have been most desirable from the standpoint of administrative simplicity, now that we have learned to live with the administrative problems which stem from multiple choice, it becomes equally clear that the wide choice of plans has produced a program which is more effective in meeting the needs of Federal employees and their dependents. . . . It was anticipated by many that serious administrative problems would develop that would require continual legislation of a perfecting and remedial nature. This has not been the case." [26]

The California State Public Employees' System has been in operation for almost as long as the FEHBP. It provides benefits for about 425,000 people. It has proved so successful that non-state public employee groups are now joining it. And it has helped the growth of HMO's in California.

Underserved rural areas

CCHP would not "solve" the problem of underserved areas, but it should help. It would provide assured medical purchasing power to people in rural areas, many of whom have low incomes, and by ending the open-ended tax subsidy in the well served areas, it would put some financial pressure on physician location decisions. The best way to provide good care in rural areas is through organized systems that can provide outreach (e.g., through physician extenders) and that can provide financial and professional support to physicians working in such areas. For example, Kaiser-Permanente operates remote outposts in Hawaii, including a single-physician clinic on the northern shore of Oahu. Though far from the main medical center, this doctor can easily consult with his specialist partners by telephone, and can refer patients if necessary.

The "HMO underservice" issue

Some allege that HMO's achieve financial success by underserving their members. The established HMO's like Kaiser-Permanente and Group Health of Puget Sound have for many years served such educated middle-class groups as federal and state employees, university faculties and other teachers. If there were a substantial amount of underservice, one would think that the word would get around and that these people would switch at the next open season. I have been unable to find any documented case of a pattern of underservice among such HMO's. On the contrary, the main selling point of such organizations is usually improved accessibility. A recent study comparing patterns of use of ambulatory-care services in five health-care delivery systems in Washington, D.C., found that "taking patient factors into account . . . preventive use is lowest in the OPD/ERs (out-patient department/emergency rooms) and highest in the prepaid group (Group Health Association). Rates of initiating care are also highest in the prepaid group. Medication is most likely in the OPD/ERs, while volume of follow-up care is greatest in fee-for-service groups and moderately high in the prepaid group. Services are more equitable delivered within the prepaid group than within the fee-for-service systems, in relation to income, education, and medical need." [27] The allegations of underservice arose for the Medicaid prepaid health plans, mainly in Southern California. There, a state government was trying to cut costs in a hurry, and accepted unrealistically low bids for Medicaid contracts and enrollment practices that interferred with free choice. The underservice problem arose from the state government's politically motivated purchasing policies, not from the nature of HMO's. If we assure that every family has the purchasing power to buy membership in a good plan, and a free choice among competing plans, organizations that make a practice of underserving members will not last long.

This statement is not to imply that the financial incentives in the existing HMO's are perfect or that their performance is without shortcomings. We simply do not know what are the "right" financial incentives; there is no logical or empirical basis for such a determination. CCHP proposes to find out what are good incentives through experience in a competitive market. And good incentives do not guarantee good performance. Medical care is full of judgment and uncertainty; mistakes are made in any setting, including HMO's. HMO's may have replaced financial barriers with institutional barriers to care. The most effective pressure to perform to satisfy consumers is competition.

CONCLUSIONS

CCHP's design principles were equity, practicality and rational economics. But it was developed with an appreciation of the broad political realities. Although it may not be a first choice for any group, like the FEHBP, it might well be an acceptable "second best" for many. CCHP offers the *medical profession* the surest basis for maintaining its autonomy. Without an effective system of economic competition to control and legitimize costs, a system of direct government economic controls is inevitable. Such controls would inevitably be based on arbitrary numerical standards applied across the board without respect for individual preferences or quality. They would involve increasing paper work of a frustrating and unproductive kind. The Medicare regulations give a taste of what is in store down that road. The politicizing of the negotiating process over physician fees would inevitably be damaging and unpalatable. By contrast in an effective system of economic competition, such as that proposed in CCHP, medical-care costs could be controlled by the judgment of physicians. Individual preferences would be respected. For this system to work, physicians would have to accept responsibility for managing the total health-care costs of their enrolled population groups. Acceptance of such a role would enhance the social contribution and recognition of the profession.

In addition to offering the best prospect for bringing costs under control, CCHP offers substantial attractions to various important groups in society. This characteristic should give it broad political appeal. For the poor, it offers continuity of subsidized health-plan coverage that is independent of job or Medicaid eligibility, access to health plans that serve the middle class and an increased supply of doctors resulting from the "capping" of demand in well served areas. CCHP would be especially helpful to the working poor. For workers, it offers an expanded range of choice, improved efficiency and reduced cost through competition and assured continuity of coverage in the face of job changes or unemployment. Medicare beneficiaries would be able to obtain protection against catastrophic expense and reduced or eliminated cost sharing by joining an efficient health plan. For the well-to-do, CCHP offers a finite "controllable" government commitment to personal health-care services versus today's open-ended commitment, less of a tax increase than for some of the main alternatives, less of a tax burden in the long run than would be entailed by the status quo, and a private-sector solution with a limited government role. For hospital administrators, CCHP could mean relief from burdensome, frustrating government regulations and a chance to succeed by offering better services at lower cost rather than today's increasing emphasis on beating the regulations. CCHP offers private health insurers continued existence and a meaningful role.

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HEALTH INCENTIVE REFORM ACT OF 1979

[Introduced by Senator Dave Durenberger]

	Senator Durenberger	Senator Long, S. 350, 351	Senator Long, S. 760	Senators Dole, Danforth, and Domenici, S. 748	Senator Kennedy, HCAA	Administration	Senator Schweiker
Employer plans	Employers with 25 or more employees offer 3 plans from 3 different carriers, 2 of which are qualified health plans, if available. Employers pay equal dollar, fixed limit contributions to each plan. Standard benefit packages are based on HMO Act. Copayments negotiable.	(Tax provisions only) Employers must cover employees through a public or private plan.	Employers must provide catastrophic coverage to full-time workers 30 days. Extend to spouse and dependent children to age 26. Approved plans include S. 350 hospital and medical deductibles (60 days and $2,000) and cover medicare program services.	Employer must provide catastrophic coverage to full-time employees/30 days. Plans must meet changes re: divorce, death, new dependents. 60 day/$5,000 deductibles and coverage of medicare program services.	Employers must offer private or HMO plans with certified benefit package. Rebates to employers and employees for choosing cost-effective HMO's.	Employers offer private plan or "Health-Care" with its $2,500 deductible (excepting maternal and child health) and coverage of children to age 26 and disabled (prior to age 22 disability req.) Death, divorce, etc., contingencies required.	Employers with 200-plus workers must offer 3 plans from 3 different carriers, at least one with 25 percent hospital copayment to 20 percent of family income. Employee receives rebate from employer for copayment choice. Medicare benefits plus preventive package. Firms must offer catastrophic coverage with 20 percent of family income deductible with 6 months grace period.
Premium payment	Shared premium costs not mandated.	Employer responsible for premium costs of private plans.	Employer responsible for premium costs	Employer responsible for 75 percent premium.	65 to 75 percent employer payment negotiated.	Employer pays 75 percent, equal amount to each plan.	
Tax credits	Tax exemption for employees contingent on offering 3 plans, standard benefits package and equal contributions. Tax free contribution limited to median HMO rate.	50 percent tax credit against mandatory 1 percent catastrophic health insurance payroll tax; replaces present business expense deduction tied to 90 day grace period for unemployed.	Straight tax decuctions for premiums. Employers with payrolls at less than $250,000 opt for 50 percent tax credit of premium costs rather than deduction as business expense.	Straight tax deduction for premiums; claim allowed for self-employed as well, both contingent on catastrophic coverage.	Employer tax credit for premium costs.	----------	Tax deduction for employer tied to offering three plans and preventive package (immunizations, check-ups, etc.)
Hardship clause	No subsidy for additional expenses.	----------	----------	Tax credit allowed to 50 percent of total amount over 2 percent increase in payroll costs in 1st year on diminishing need scale in subsequent years.	Application to National Board for financial relief for excessive economic impact of marketed premiums.	5 percent of payroll limit on costs to employer with subsidy available through HC or to purchase private coverage.	
Penalties	Noncompliance means benefits are taxable income to employee.	No penalties.	Employers failing to provide catastrophic are liable to tax of 150 percent of estimated premiums they would have paid.	Employers failing to provide catastrophic are liable to civil penalty. Employee guaranteed right of legal action.	Violations handled through State and Federal boards via negotiations, hearings, etc.	Employers can be subject to noncompliance fine.	No penalties.
Unemployment	Grace period of 90 days, with first 30 paid by employer, next 6 months paid by employee at no more than 100 percent group rate. Subsequent conversion to individual plan allowed at end of 6 months.	Covered under public plan (federally administered).	Coverage for 6 months after termination of employment (must be employed 30 days).	Grace period of 90 days. Permits conversion to individual policies prior to termination of group coverage. Coverage extends for three months following separation from employment.	Automatic coverage through health insurance card.	Continuity of coverage of 90 days. Individuals can buy coverage at national community rates, with Federal subsidies available to cover 25 percent.	States assign small firms, self-employed, high-risk, and individuals to private carriers with limit to 125 percent of group coverage premiums.
Medicare	Qualified health plans and insurance companies to be paid 95 percent of average per capita Medicare costs in an area to enroll beneficiaries. Savings returned to beneficiaries in form of addit onal benefits.	Expanded institutional and medical benefits for those meeting the catastrophic illness test.	Same as S. 350.	Catastrophic provisions, expanded hospital and medical benefits.	Expanded hospital and medical benefits.	Expanded benefits set on 55 percent of FPL.	Catastrophic and expanded hospital and preventive medical benefits.

	Senator Durenberger	Senator Long, S. 350, 351	Senator Long, S. 760	Senators Dole, Danforth, and Domenici, S. 748	Senator Kennedy, HCAA	Administration	Senator Schweiker
Financing	Competitive incentives, shared premium costs.	1 percent payroll tax.	Employer pays for premiums.	Employer pays most of premium costs; government assistance.	Medicare payroll and premiums; general revenues; employers pay up to 70 percent of premiums.	Medicare payroll tax; premiums for public plans with Federal general revenues; private plans require at least 75 percent premium payment by employer.	Shared premium costs, savings on competition.

● Mr. BOREN. Mr. President, because of my firm belief that our country must stop its drift down the path toward more and more regulation of the health care industry which will ultimately result in a system of socialized medicine, I am pleased today to join as the principal cosponsor with Senator DAVE DURENBERGER of the Health Incentives Reform Act of 1979. The bill provides an alternative method of attacking cost increases without more reliance upon controls.

This bill, which I refer to as the "Health Care Competition Act." addresses head-on the misguided incentives of cost-plus reimbursement which is the largest contributor to rising health care costs in this country. It introduces, through competition, incentives which will place downward pressure on these costs.

The per capita cost of health care in this Nation has tripled in the last 10 years, and the amount of total medical care expenditures in the United States has risen from $38.9 billion in 1965 to $206 billion this year. In 1979, cost for medical care will rise to over $900 per capita compared to a per capita cost of $198 in 1965.

These startling statistics prove that something must be done to prevent further rapid increases in the future.

The answer, however, must not be increased governmental regulation of the health care industry. This bill gives us a real alternative by addressing the causes of rising costs and curing the disease of only treating the symptom through increased governmental regulation.

There is a total lack of competition in today's health care system. Under today's system, over 75 percent of all wage and salary workers are covered by health insurance financed by employer-paid premiums. Many more are covered by employer-related health insurance programs which require some employee contribution.

Under such a system, consumers have little or no opportunity or incentive to "shop" for the least costly and best health plan to provide for their individual needs.

Generally speaking, employers offer to employees only one health plan. The Durenberger-Boren bill would make it mandatory that employers of 25 employees or more, in order to maintain tax-free status of medical benefits. must offer a choice of at least three health insurance plans. This feature is further strengthened by a requirement that the employer contribution must be the same for whichever plan the employee chooses. If an employee chooses a plan below the employer's contribution, the employee must receive the difference in cash or increased medical benefits. If, on the other hand, the employee chooses a more expensive plan, the employee must pay the difference in cost.

It is easy to see how this feature introduces competition into the health care system and gives the consumer an incentive to shop around for the best health care bargain. We must not only give consumers an incentive to make selective purchases, but we must also induce more competition among providers.

One provider-related competitive component of our bill is to increase incentives for use of HMO's. Where they now exist, HMO's have proven to be successful in delivering health care in an efficient and effective manner.

The Durenberger-Boren bill will result in more participation in HMO's by medicare recipients through changes in the medicare payments system. It also requires employers to include HMO health plans where they are available. It is anticipated that many new groups offering health care will develop, competing with each other to offer quality care at lower prices.

Another problem the bill addresses is one of insufficient health care coverage. A significant portion of persons not now covered by any health care plan are dependents in families where only the wage earner is covered by the plan offered by his or her employer.

Our bill requires that plans offered by the employer include coverage of other family members.

One of the most crucial problems in today's health care system is the devastating financial impact on a family faced with catastrophic illness.

While our bill encourages cost-sharing by the consumer, it also protects the consumer from catastrophic costs by placing a limit on the maximum amount of his or her out-of-pocket expenses.

The insurance plan must provide for total coverage of health care costs when the individual or family medical expenses exceed $3.500 in 1 year.

I am convinced that this alternative approach to the serious problem we now face in health care in this country is realistic and effective. It changes the path in which we are traveling from one of increasing governmental regulation to one of increased competition in our health care system.

This moves us toward the shared goal of dealing with the devastating increases in health care costs which our country has faced over the last two decades.

I urge my colleagues to join with me and Senator DURENBERGER in supporting this bill.●

By Mr. CHURCH (for himself, Mr. BOREN, Mr. HAYAKAWA, Mr. ROTH, Mr. DOMENICI, and Mr. ZORINSKY):

S. 1486. A bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Resources.

EXEMPTING FAMILY FARMS AND NONHAZARDOUS SMALL BUSINESSES FROM OSHA

● Mr. CHURCH. Mr. President, the legislation I have introduced today will exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act (OSHA). It amends OSHA to read:

This Act shall not apply to any person who is engaged in a farming operation and employs 10 or fewer employees.

This Act shall not apply to any person who is engaged in a non-hazardous business and employs 10 or fewer employees.

The term "non-hazardous business" means any business included within a category having an occupational injury/illness incidence rate which does not exceed 7 per 100 full-time employees as set forth in the 1976 Bureau of Labor Statistics survey of three-digit Standard Industrial Classification Code industries, and for each subsequent year.

The first part of my legislation codifies the family farm exemption originally passed by Congress in 1976 on the OSHA appropriations bill, and passed again each year thereafter.

The second part of my legislation exempts small businesses whose safety and health records have amply demonstrated them to be nonhazardous.

This legislation, Mr. President, is very similar to an amendment I joined in offering with the late Senator Dewey Bartlett last year. It was passed by the Senate by a substantial majority to a bill amending small business programs.

I have long felt, Mr. President, that the most serious defect in the Occupational Safety and Health Act was the attempt to regulate conditions of safety and health in every American business, regardless of the type of business, the size, or the presence of hazards in the nature of the business.

When Congress originally passed the OSHA Act, insufficient consideration was given to the inability of any Federal agency to undertake a task of such magnitude, and do it fairly. The result is to be found in the maze of regulations and chaotic enforcement history of the act. Farmers and small businessmen have rightly been up in arms over this potshot assault and the cases of arbitrary enforcement are legion.

Mr. President, I know of no law intended for so salutary a purpose which has caused so much distemper, dis-

gruntlement, and dismay as OSHA. Actual inspections have been spotty; enforcement action has frequently been harsh. There will never begin to be enough inspectors to change this condition, since the price would skyrocket out of sight.

Congress has sought for years to rectify its original mistake. If we could get the OSHA Act back on the floor of the Senate, we might be able to repair it by confining its application to work of a hazardous nature, which was clearly what Congress had in mind at the time of its enactment. But so far, we cannot get the act out of committee.

Years have passed. The only opportunity we have had to limit the application of the law, such as excluding family farms, which never should have been under it in the first place, or attempting to exclude mom-and-pop stores, which also should never have been included, is the annual effort to restrict appropriations.

This is an admittedly awkward and unsatisfactory way to proceed, but we succeeded on one occasion at least to eliminate, through an appropriations restriction, the money to enforce the act, as it related to farmers who hire 10 or fewer employees.

Last year, Senator Bartlett and I finally succeeded in passing an amendment which reached the OSHA Act itself. That amendment, like the legislation I offer today, takes 10 or fewer employees as its benchmark.

I believe that it is perfectly fitting to consider my legislation as a small business measure. Our small businesses certainly see it that way. In a recent poll, the National Federation of Independent Business, the largest small business organization in the country, reported that its members favor a small business exemption from OSHA 9 to 1. The NFIB strongly supports my legislation, and joined with the Council of Small and Independent Business Associations (COSIBA), an umbrella group for small business organizations, in unanimously endorsing it. I ask unanimous consent that the list of COSIBA members be printed at the conclusion of my remarks.

I am introducing this legislation as a bill today in order to furnish Senators an opportunity to join in cosponsorship, and I urge the Senate to support it again.

My legislation does differ in some respects from the proposal adoption by the Senate last year. For one thing it specifically codifies the farm exemption, as part of organic law. But it does not differ on its standard for defining nonhazardous businesses.

The latest BLS rate report for the classification scheme in this legislation is drawn from the year 1976. In that year, scores of businesses exceeded the 7 per 100 standard set for "nonhazardous." Just as commonsense would dictate, hazardous businesses, which would remain covered under OSHA even after enactment of my legislation, are mainly in construction and manufacturing.

Under present law, Mr. President, whole industries, like finance, real estate, insurance, and the wholesale and retail trade, are subject to inspections and recordkeeping, just as though they were as hazardous as construction and manufacturing. In my judgment, that is the inherent flaw in the OSHA Act which calls out for correction. At the moment, however, the best we can hope to do is to exempt family farms and nonhazardous small businesses from the scope of the act.

I have chosen to utilize the 10-or-fewer employee criterion and the 1976 BLS survey for other important reasons, as well. Since this survey has been in the public domain for years, and the 1976 survey for more than a year itself, there is no requirement for delay, for any interpretations or further regulations. Upon enactment of my legislation, every business will know whether or not it has been excluded from OSHA.

In addition, by specific reference to the 1976 survey, and the provision for surveys in subsequent years, my legislation offers an incentive for businesses whose injury/illness rate presently classifies them as hazardous to improve their health and safety record. Any business category that improves its injury/illness record in future BLS surveys will be exempted. Almost all authorities agree that providing incentives to do what should come naturally—operating safe and healthful workplaces—is superior to the present system of crime and punishment.

American small businessmen and farmers have resoundingly sent their message to Congress, and the Senate should hear it. We must finally take OSHA off their backs. Our sights must be set on enacting relief into law, for false starts and empty promises are simply no longer enough.

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

COSIBA: COUNCIL OF SMALL AND INDEPENDENT BUSINESS ASSOCIATIONS

1. National Federation of Independent Businessmen.
2. National Small Business Association.
3. National Business League.
4. National Association of Small Business Investment Companies.
5. Small Business Association of New England.
6. Independent Business Association of Wisconsin.
7. Smaller Manufacturers Council of Pittsburgh.
8. Syracuse Business Council of New York.
9. Council of Smaller Enterprises of Cleveland.●

● Mr. BOREN. Mr. President, family farms and small businesses are locked in a struggle for survival. The future of the free enterprise system itself is riding on the outcome of this struggle.

The more people we have in the United States who have the experience of being responsible for the ultimate decisions in their own businesses, the stronger our Nation will become. The preservation of small business is essential to keeping alive a spirit of individual initiative and responsibility.

The trend is alarmingly against small businesses. Since 1935, the concentration of business has grown. Today, 2 percent of all U.S. corporations control 89 percent of net profits. The heavy hand of Government has helped to stifle and kill small businesses.

Excessive Government regulation hits small businesses and family farms especially hard. They cannot afford to hire extra people to fill out forms and to provide compliance with costly regulations. This year it is estimated that the cost of Government regulations will increase 30 percent over last year and will exceed $100 billion.

I am pleased today to join with Senator CHURCH in cosponsoring his bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act. At a time when the American people are demanding less Federal regulation and control of their lives, this bill is a step in the right direction.

The Church bill is of special significance to the people of Oklahoma. As many in this distinguished body know, it was the late Senator Dewey F. Bartlett of Oklahoma who first introduced legislation to exempt family farms and small businesses from OSHA regulations. Senator Bartlett was keenly aware of the frustrations and burdens experienced by our Nation's smallest businesses as a result of rules and regulations issued by OSHA. His efforts to free small business from the grip of overregulation shall long be remembered by those of us who knew him, and I can think of no finer tribute to the memory of Senator Bartlett today than to see his work on this bill completed.

I urge my colleagues to join with me in voting for this bill. In so doing, we will lift a costly, unnecessary Federal burden from the backs of our Nation's family farms and small businesses.●

By Mr. NELSON:

S. 1488. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

Mr. NELSON. Mr. President, American families' savings are being eaten up by inflation and Government taxes. Given today's double digit inflation, Americans are penalized for saving and encouraged to spend.

America is the only major industrialized Nation which fails to encourage savings, consequently Americans currently save only 5.3 percent of disposable income. According to the National Savings and Loan Foundation, the British save 13 percent of their disposable income, the West Germans save 15 percent, and the Japanese 25 percent. Each of these countries encourages savings through national tax laws.

The Individual Savings Act of 1979 would allow any interest earned from savings accounts in excess of the previous years to be tax free up to a total of $500. Persons filing a joint return would be allowed a $1,000 exclusion.

Inflation is sapping the American family's ability to save for the future.

Moreover, inadequate savings is bankrupting our economic system by starving it of the dollars needed for necessary investment. Without savings, there can be no money loaned for new home construction or for capital investment.

Without investment, productivity declines, inflation increases, and no new jobs are created.

It has become a vicious circle. Inflation encourages people to buy now by pushing prices higher and higher. Unfair taxation discourages people from saving now by taxing the interest they receive. The consumer is left with no choice but to buy, buy, buy, leaving the economy bankrupt of savings dollars and fueling inflation even further.

For example, with stable prices, the same automobile that could be purchased today for $5,000 could be purchased next year for $5,000. With 10-percent inflation it would cost the consumer an additional $500. It is cheaper to buy now and save the $500 in spending power.

Alternative approaches to exempt savings from taxation, while worthwhile, do not create the incentive for people to continue to increase their savings. In addition, they involve a much greater revenue loss for the Government.

The following two tables, prepared by the Joint Committee on Taxation, indicate the cost effectiveness of the Individual Savings Act. The first table shows the revenue loss created by allowing a taxpayer to exclude the excess of his interest income over the previous year but no more than the amount shown in the first column—twice the amount for joint returns. This is the approach embodied in the Individual Savings Act.

The second table shows the revenue effect of certain interest exclusions where there is no test for increase over the previous year.

TABLE 1.—INDIVIDUAL SAVINGS ACT OF 1979, REVENUE LOSS FROM THE EXCLUSION OF INCREASES IN INTEREST INCOME

[In millions of dollars]

	Exclusion per individual [1]—$500				
	[2] 1980	1981	1982	1983	1984
CY	932	1,025	1,127	1,240	1,364
FY	140	1,032	1,132	1,254	1,287

[1] Joint returns receive twice this amount.
[2] Assuming a Jan. 1, 1980, effective date.

TABLE 2I.—FLAT EXCLUSION REVENUE LOSS FROM THE EXCLUSION OF INTEREST INCOME

[In millions of dollars]

	Exclusion per individual [1]—$50				
	[2] 1980	1981	1982	1983	1984
CY	810	891	980	1,078	1,186
FY	122	889	985	1,090	1,119

[1] Joint returns receive twice this amount.
[2] Assuming a Jan. 1, 1980, effective date.

As can be seen from these tables, the Individual Savings Act, providing a maximum $500 exclusion, would potentially provide the individual taxpayer with 10 times the benefit of the flat $50 exemption; would encourage individuals to increase their savings from year to year; and, would cost the Government a comparable amount of money when compared with the flat $50 exclusion. That is 10 times the benefit at a comparable cost.

In the table below, it is easy to see that the consumer benefits considerably from adopting a "buy now" philosophy during an inflationary period. During a period of stable prices, a consumer could make a $1,000 purchase now or a year from now without suffering a price increase. If prices are increasing at a 10 percent rate, the benefit to the consumer for purchasing is greater now than if he made the same purchase next year while leaving the money in savings.

HOW INFLATION ENCOURAGES SPENDING

	Zero inflation	10 percent inflation
Purchase price today	$1,000	$1,000.00
Purchase price 1 yr later	1,000	1,000.00
Incentive to buy now	0	100.00
Cost of foregone purchasing power	−40	+43.18
Benefit of buying now	−40	+143.18

This benefit increases substantially when the consumer uses his borrowing leverage to make a major purchase—for example, a $75,000 house.

TABLE 3.—HOW INFLATION ENCOURAGES "BUYING NOW"

HOME PUCHASING

	Zero inflation	10 percent inflation
Purchase price now	$75,000	$75,000
Purchase price after 1 yr	75,000	82,500
Benefit of buying now	0	7,500
Cost of foregone real interest on downpayment	−600	−787
Mortgage interest cost:		
1960 equals 6 percent	−3,600	−6,765
1979 equals 10.25 percent	−4,050	+9,525

With 10-percent inflation, a house costing $75,000 today will cost $82,500 the next year. The benefit of buying now is $7,500 saved. This cost is further compounded when we consider that in times of high inflation interest rates will also be higher. Thus, to buy the same house with prices soaring at a 10-percent inflation rate will cost the consumer $9,525 more. Even if we assume a 30 percent marginal tax rate on the interest, the cost of buying next year would still buy $8,493 more. During a period of price stability the consumer can defer his purchase and still buy a comparable house at a comparable price.

But, inflation is not the only disincentive to save. Higher prices and the current tax system, which is based on dollar incomes, further discourages saving.

TABLE 4.—HOW TAXES DISCOURAGE SAVINGS

	Zero inflation	10 percent inflation
Purchasing power	$1,000	$1,000.00
Interest income in 1 yr	1,040	1,052.50
Federal taxes (30-percent rate)	12	15.75
After-tax dollars after 1 yr	28	36.75
After-tax purchasing power after 1 yr	1,028	942.50
After-tax purchasing power benefit	+28	−57.50
After-tax breakeven interest rate (percent)	12.5	

During a period of price stability the saver in the 30-percent tax bracket would pay $12 on $40 of real benefit. In contrast, during a period of 10-percent inflation, the same saver would pay $15.75 in taxes, even though he loses real purchasing power.

If prices are increasing at a 10-percent rate, while saving rates remain constant, the real benefit is to buy now rather than save. To save now and foresake consumer spending would result in a loss of purchasing power while, at the same time, prices are increasing at a 10-percent rate.

This "buy now" philosophy and the resulting reduction in savings only tend to worsen our current inflation problem. The consumer is finding himself in a vicious circle. This "buy now" attitude to avoid higher prices in the future, only pushes prices up. Borrowers bid up interest rates as the supply of savings declines. "Buy now" means greater demand for the same amount of goods. All these pressures translate into higher consumer prices.

The inflation and tax disincentives to save clearly show up in our declining savings rate.

The rate of saving as a percent of disposable income has dropped from 7.7 percent in 1975 to 4.8 percent in the fourth quarter of 1978, according to the U.S. Department of Commerce. At the same time, consumer prices have risen at a 10.8-percent annual rate.

This alarming decline in savings means reduced capital investment, lower productivity and higher interest rates. In order to increase savings during a period of higher prices, some action must be taken to offset the disincentives to saving that accompany rampant inflation. If current savings and buying trends are to be reversed, substantial savings incentives must be created.

The tax relief measure I am introducing today provides such incentives and would substantially benefit all savers, while helping to spur economic growth. By increasing the flow of dollars to savings accounts it would relieve pressure on the high interest rates which are preventing young Americans from purchasing a house. In addition, by making savings more attractive, it would help shift dollars spent on consumption to dollars put in savings accounts, thus helping to relieve demand inflation.

Every portion of society would benefit from the bill. It would help stabilize consumer prices. It would help stabilize housing prices by stimulating more home building. It would help provide increased dollars for needed capital investments and help spur productivity growth. And, it would help protect the savings of our elderly and retired who now see those savings dwindled by the ravages of inflation.

By Mr. CHURCH (for himself, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, and Mr. MCCLURE):

S. 1489. A bill to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho; to the Committee on the Judiciary.

UPDATING THE BEAR RIVER COMPACT

● Mr. CHURCH. Mr. President, I am pleased to introduce legislation giving congressional consent to amendments to the Bear River Compact that have been agreed to by the States of Idaho, Utah, and Wyoming. Senators GARN and HATCH of Utah, Senators WALLOP and SIMPSON of Wyoming, and Senator

MCCLURE of Idaho join me in asking that the Senate give its early consent to this amended compact.

Water in the West is crucial. With careful management and foresight, this limited resource can continue to fulfill its vital role in Western life. The future of our Western farms, factories, wildlife, recreation, and energy production are inextricably dependent upon water. The demands placed on our streams and lakes are multiple and can lead to a complex array of difficult issues.

The original Bear River Compact, consented to in 1958, sought to resolve difficult issues of water use, development, and apportionment among the contracting States of Idaho, Wyoming, and Utah. The Bear River drainage area is a unique mix of mountains and farms, forests and homes. While the original compact has been useful and productive to the area, changes in water use patterns and evolving future demands pointed to the need to review and amend the compact. Because of the key role water plays in the area, detailed discussions were required to arrive at equitable solutions. It is commendable that local citizens and State representatives were able to resolve these difficulties and produce an amended compact which has been approved by the legislatures of the three States.

Mr. President, I ask unanimous consent that the text of the bill consenting to the amended Bear River Compact 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. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

"The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a division dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. 'Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal.

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25, North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly dircetion to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the

Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in co-operation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

"2 Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Utah Section Diversions—40.5 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversion in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commision alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1), and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

"B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

	Acre-feet
"Idaho	324
"Utah	11,850
"Wyoming	2,150

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

"C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservior capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

"Additional storage (acre-feet):	*Lake surface elevation, Utah Power & Light Co., Bear Lake datum*
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in ob-

taining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

"ARTICLE X

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

"Name of Canal	Date of priority	Primary right 2d-feet	Lands irrigated: Acres	Lands irrigated: State
Hilliard East Fork	1914	28.00	2,644	Wyoming.
Chapman	Aug. 13, 1986	16.46	1,155	Wyoming.
	Aug. 13, 1986	98.46	6,892	Utah.
	Apr. 12, 1912	.57	40	Wyoming.
	May 3, 1912	4.07	285	Utah.
	May 21, 1912	10.17	712	Utah.
	Feb. 6, 1913	.79	55	Wyoming.
	Aug. 28, 1905	[1] 134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah.

[1] Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed

"1 To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provisions, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.

"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."●

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; to the Committee on Environment and Public Works.

HENRY D. PARKINSON FEDERAL BUILDING

● Mr. DOLE. Mr. President, today Senator KASSEBAUM and I are introducing legislation to designate the Federal Building in Scott City, Kans., as the "Henry D. Parkinson Federal Building."

Renaming this local Federal Building in honor of Mr. Parkinson is particularly appropriate, because he contributed so much time and effort in bringing this building to Scott City.

This proposal has the enthusiastic support of all Scott City residents. The

mayor of Scott City, the Honorable E. S. Gene Henderson, and over 15 leading civic organizations have endorsed resolutions to name the building for Mr. Parkinson. Mr. Parkinson's influence in the development of this community and his efforts are deeply appreciated. He worked unselfishly in local, State, and national affairs, and truly loved this country and the principles under which it was founded.

Born at Wellsville, Utah, on September 5, 1907, his active career in agriculture, banking, and politics spanned over four decades. He died in Wichita, Kans., on June 25, 1977, after a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president, and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank board of directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and Isis Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson, as proposed by the mayor and citizens of Scott City, will do much to encourage others to pursue the principles of community commitment, sound conservation of our agriculture resources and responsible business practices. I join with the overwhelming majority of the citizens of Scott City in stating that there can be no more deserving recognition than to give this building his name.

The Senators from Kansas encourage the Environment and Public Works Committee to give this bill prompt and favorable consideration. Henry D. Parkinson meets all of the criteria for such an honor. This legislation has the support of the entire Kansas congregressional delegation. Most importantly, naming the Federal building for him will recognize his many contributions to Scott City and the State of Kansas.●

By Mr. NELSON (for himself, Mr. DURENBERGER and Mr. PROXMIRE):

S. 1492. A bill to save the Milwaukee Road's freight-carrying capacity; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON. Mr. President, along with my distinguished colleague from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Minnesota (Mr. DURENBERGER), I am introducing today this companion bill to H.R. 4686, which was introduced in the House on June 28 by Congressman HENRY REUSS and 18 cosponsors. The bill provides a legal framework within which the essential core of the Chicago, Milwaukee, St. Paul, and Pacific Railroad—"The Milwaukee Road"—can be preserved.

The Milwaukee Road's current state of near collapse is profoundly dangerous to the economy of the entire Midwest. At present, the bankrupt road is losing approximately $10 million per month. It is being kept alive only by a recent loan of $20 million by the Federal Railroad Administration. This loan will probably allow the Milwaukee to survive through the summer and into the fall. Most observers agree that another winter like the last one may force the Milwaukee into liquidation. The Milwaukee's creditors are already urging U.S. District Judge Thomas McMillen, who is presiding over the Milwaukee's bankruptcy proceedings, to liquidate the railroad's assets lest their "estate" be eroded by further losses.

What is to be done? Various proposals have been made. Some in Congress have proposed that we explore the feasibility of employees and shipper ownership of the railroad. This does not seem to me to be a possible alternative. The Milwaukee is losing hundreds of thousands of dollars a day. It is deferring thousands of dollars worth of needed maintenance every month. Its accumulated capital needs are huge, in excess of $1 billion. In its present state, it is not a reasonable investment for anybody, especially its hard-pressed employees.

In my view, the Milwaukee's only hope lies in the proposed reorganization plan proposed by Stanley Hillman, the Milwaukee's able former trustee in bankruptcy. This plan would preserve the essential core of the railroad and would include routes in Illinois, Indiana, Iowa, Minnesota, Wisconsin, South Dakota, North Dakota, and west to Miles City, Mont. Negotiations are now underway which may provide for the assumption of other Milwaukee routes by other railroads, particularly the Northwestern in Iowa, the Rock Island in Iowa and Missouri, and the Burlington Northern and Union Pacific in Montana, Idaho, and Washington. However, there is no question that totally uneconomic routes will have to be abandoned. This reorganized "core" would contain approximately one-third of the Milwaukee's present 9,800 miles of lines.

Judge McMillen, on June 1, 1979, held that under current law he lacked the power to implement the trustee's reorganization plan. This legislation will give him the power to do so and also provide adequate protection for the Milwaukee's employees.

Section 1 of the bill would amend the Federal bankruptcy law to allow Federal judges to order abandonment of uneconomic lines for railroads already in bankruptcy at the time the Federal Bankruptcy Act amendments were passed in 1978. This provision would bring the Milwaukee Road under the aegis of the expedited abandonment procedures provided by the Bankruptcy Reform Act.

Section 2 of the bill would provide that the ICC could direct another railroad to operate for up to 240 days a line abandoned by a railroad pursuant to the order of a Federal bankruptcy judge. Under present law, "directed service" can only be ordered after a line has been ordered pursuant to ICC proceedings. Section 2 would also permit the ICC to direct service by truck or water transportation if this would be "less costly or more energy-efficient than directing rail service." Public money is required to subsidize directed service and we want that money to be spent as efficiently as possible. Section 2 also states that railroad employees need only transfer to other transportation modes "to the extent feasible." The present directed service law only provides for one railroad assuming temporarily the routes of another and employees generally transfer. It would not make sense for, say, a barge company to have to accept railroad employees who were either unable or unwilling to learn barge work. Likewise, it would be ill-advised to require that railroad workers make a sudden adjustment to the very different job demands of other transportation modes.

Section 3 provides the labor protection which is generally made available after other officially approved abandonments. What will be provided to discharged employees is either one lump sum payment or 6 years of payments, both based on previous salary. What this will cost the taxpayers is at present uncertain. It has been estimated that the services of approximately 2,000 of the Milwaukee's 10,000 employees would no longer be required when reorganization was complete. Payments to them might amount to $125 million, according to preliminary estimates. Obviously, much more detailed cost estimate need to be made during the committee process. Section 3 would require that the reorganized railroad would have to repay to the Government such funds as it can. However, in all candor, I doubt that much, if any, labor protection payments will ever be repaid to the U.S. Treasury, as even a reorganized Milwaukee Road will not possess many excess dollars.

It is terribly regrettable that any employees will lose their jobs. And there are dangers in Government rescuing failing corporations. But allowing the Milwaukee to fail will cause all employees to lose their jobs and inflict far greater costs on our economy than would this bill. It would, in fact, be an unthinkable catastrophe.

The time is short. I urge the speediest possible consideration of this measure and its early enactment by the Senate. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ABANDONMENT OF RAILROAD LINES

SECTION 1. Section 77(o) of the Bankruptcy Act (11 U.S.C. 205(o)) is amended by striking out "or as it may be hereafter amended" and inserting in lieu thereof "unless a peti-

tion had been filed between December 18, 1977 and November 6, 1978."

SHIPPER PROTECTION

SEC. 2. (a) Section 11125(a) of title 49, United States Code, is amended by adding after the first sentence thereof the following new sentence: "The Commission may also negotiate with, and issue directions to, a willing provider of truck or water transportation to transport the traffic of shippers using a railroad line abandoned pursuant to court action under section 77 of the Bankruptcy Act, if the Commission finds that such transportation would be less costly or more energy efficient than directing rail service."

(b) Section 11125(b)(4) of title 49, United States Code, is amended by inserting "(but only to the extent feasible in the case of a directed carrier by truck or water)" immediately after "A directed carrier shall".

LABOR PROTECTION

SEC. 3. Section 11125 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Any employee displaced from his employment by an abandonment pursuant to court action under section 77(o) of the Bankruptcy Act who does not receive employment under subsection (b)(4) of this section or otherwise in the railroad industry, and any such displaced employee whose employment under subsection (b)(4) of this section is terminated at the conclusion of directed service, shall be provided a fair arrangement at least as protective of his interests as the terms imposed under section 11347 of this title before February 5, 1976, and the term established under section 565 of title 45.

"(2) Any rail carrier required to provide protective arrangements for employees under this section shall be reimbursed for the cost of such arrangements by the Railroad Retirement Board. At such time as the Board determines that the financial condition of such rail carrier so permits, the Board shall direct such carrier to repay the Board for such reimbursement.

"(3) There are authorized to be appropriated to the Board such sums as may be necessary for making reimbursements under this subsection.".

Mr. DURENBERGER. Mr. President, I rise today with my distinguished colleague from Wisconsin, Senator GAYLORD NELSON to introduce a bill that will restore stability to the financially troubled Milwaukee Road.

The financial difficulties encountered by the Milwaukee have been widely publicized, and their effect on the economy of the Northwest cannot be overstated. The Milwaukee Road provides the commercial lifeline through one of America's richest agricultural areas. In my State alone, the railroad services 48 of the 100 most productive agricultural counties in the world, according to the 1974 farm census. Approximately 75 percent of the production from these counties is exported to national and international markets, and the railroad is a critical link in this national—international food cycle.

In addition to its role as an agricultural hauler, the Milwaukee Road is a key link between Minnesota utilities and the coal fields of Montana and North Dakota. Interruption of service along Milwaukee's northern or Miles City main line could mean a loss of electrical service for at least 43,000 Minnesota homes and businesses, and an even greater number in our sister States of North and South Dakota. In the longer run, deterioration of this main line would yield increasingly serious results. The recently published report of the National Transportation Policy Study Commission points out that between today and the year 2000 our national dependence on coal will increase dramatically. Before the turn of the century, the center of our coal production will shift from eastern to western fields, a trend which will magnify the importance of railroads, like Milwaukee, with the capability of hauling coal from the Rockies to Mideastern and Midwestern States. These same energy and agricultural considerations apply to most of the States along the Milwaukee's road, and the line is simply too valuable a national asset to abandon.

But as devastating as that loss might be, it is becoming increasingly imminent with each passing day. Four weeks ago, the Federal Court administering the Milwaukee's bankruptcy rejected a proposed reorganization that would have addressed the railroad's long-term problems by focusing its limited resources and rolling stock on the system's most viable lines. The tragedy of this decision is illustrated in the words of the court itself, which recognized the rejected plan as the best if not the only way to assure the railroad's survival. But while recognizing the need to implement the plan, the court found itself without jurisdiction to order its adoption because of technicalities in the Bankruptcy Reform Act. Left with no alternative, the judge ordered the railroad to continue present operations until its financial resources were exhausted, and left it to Congress to make a final decision on whether the Milwaukee would live or die.

This ruling truly represents the worst possible alternative. As my colleague in the House, Congressman HENRY REUSS remarked, the railroad is literally bleeding to death, and unless some action is taken, it will cease operation before the end of September. For the farmers, this is a disastrous situation, because it threatens their ability to move fall crops to the market. For the hundreds of grain elevators along the Milwaukee lines, this situation is equally critical, since loss of the railroad would cut their commercial lifeline to State, national, and international markets. For a Federal Government attempting to balance its accounts, this bankruptcy has been an inordinate expense, draining tens of millions of dollars in operating subsidies from emergency railroad funds. But the cruelest loss is falling on the railroad's employees, who stand to lose their livelihood with only a bankrupt railroad to look to for security. Taken together, these events are rending both the social and economic fabric of the many agricultural communities dependent on Milwaukee Road.

The bill we propose today will remove the legal obstacles to the railroad's reorganization. In doing so, it will also provide directed rail, truck, and barge service to protect shippers along the embargoed lines, while creating a strong labor protection program to safeguard the financial well-being of railroad employees. It will return stability to the Milwaukee by permitting it to reorganize to a more geographically compact and economically sound system, an achievement which will yield benefits for every person dependent on the railroad's service.

First, for farmers and shippers, the bill will result in a stabilized commercial environment, insuring that this year's harvest will reach State, national, and international markets.

For those dependent on coal-powered utilities—both now, and in the next quarter century—the bill insures continuation of service, and preservation of an energy-efficient lifeline to the coal fields of Montana and North Dakota.

For the families of 10,000 employees faced with the bankruptcy or liquidation of their employer, the bill will provide a more financially certain future. It will preserve the jobs of the vast majority of Milwaukee employees, while endowing displaced employees with both guaranteed employment in the directed service system, and a strong, long-term labor protection package.

For the Federal Governemnt, the bill provides a fiscally responsible alternative to endless railroad subsidies. At present, the Milwaukee is living off Federal dollars, using tax moneys to sustain daily losses in the hundreds of thousands of dollars. Twenty million dollars in emergency railroad funds are already gone, and unless action is taken, the Milwaukee will have bled the Nation's emergency railroad funds dry by the end of this year.

In addition to these subsidy dollars, State and Federal Governments will sustain millions of dollars in tax losses, economic losses, and unemployment compensation payments as the railroad slips into insolvency. This is an entirely unsatisfactory arrangement. These millions of dollars in subsidies have done nothing to bring about a solution to Milwaukee's problems; despite such massive expenditures, we are ending up exactly where we started—with a bankrupt railroad.

The bill we file this afternoon alters that philosophy. Instead of wasting Federal dollars on subsidies, it invests those same dollars in a long-term solution to the railroad's problems. By creating structures that will facilitate the railroad's reorganization, it shifts the Federal role from subsidy to solution, enabling a public service industry to solve its own problems.

The course we advocate is certainly not an easy one. Some lines will be abandoned, including miles of trackage in my own State of Minnesota. But these are the same lines whose financial performance is draining the railroad, and a problem this complex cannot be resolved without facing these difficult choices. I want to make it plain, however, that I do not advocate abandoning shippers on the abandoned lines. The bill provides directed service on an interim basis, and I will do everything within my power to fashion long-term solutions for those lines, facilitating acquisition of the better routes by other

railroads, and working with private industry to fashion transportation alternatives in other cases.

In advocating this approach, I am not ruling out the other solutions now under employee-shipper railroad. But that is discussion, including the option of an a complex option which will require long-term planning and substantial risk for both the Federal Government and the employees and shippers who must stake their personal finances against the long-term performance of the railroad. That plan provides an option, but it would be dangerous to view it as the only solution.

The bill we file this morning provides an immediate opportunity to fashion long-term solutions for the railroad's problems. And while this will involve some costs, they are minimal in comparison to the financial, economic, and human costs of continued inaction. I urge my colleagues to give the bill expeditious consideration and join in the effort to fashion a real solution to a very critical problem.

By Mr. STEVENSON:

S. 1493. A bill to create the Department of Commerce, Trade, and Technology, to consolidate in such department various functions of the Government with respect to commerce, international trade, and technology, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF COMMERCE, TRADE, AND TECHNOLOGY ORGANIZATION ACT

● Mr. STEVENSON. Mr. President, I introduce a bill to create a new Department of Commerce, Trade, and Technology with functions at present dispersed among a number of agencies and offices. The Department of Commerce would be merged into the new Department of Commerce, Trade, and Technology.

The purposes of the bill are twofold. First, by consolidating trade functions into a single department, international trade and investment policy will be elevated to a status reflecting their importance to our economic well-being. Second, by uniting trade functions with the responsibilities for industrial policy and technology which already exist within the Department of Commerce, this bill develops an institutional framework in which technological innovation, industrial competitiveness, and export growth can all be promoted more effectively.

The United States alone among the major industrial countries has no single Government agency with authority and responsibility to advance its trading interests. Yet these trading interests are substantial—international trade and investment flows already mean one-third of a trillion dollars for this country annually. Other nations, more dependent upon maximizing their share of international commerce, have long organized for successful and aggressive competition in the world. In the United States we have been slow to awaken to the importance of overseas markets and laggard about competing. In the fast-growing trade with developing countries, for example, the Japanese over the past two decades have more than doubled their market shares in the export of manufactures—from 12.6 percent to 27.1 percent—while the U.S. share has declined. We cling to a quaint notion that Government policy has no role to play in promoting industrial well-being or trade expansion. We persist in casting Government and business as adversaries while foreign competitors find an integrated approach to industry, trade, and investment the key to economic success.

Today there is scarcely an industrial sector in the United States which does not face vigorous competition from abroad. In three decades, the Japanese and Europeans have recovered from World War II to challenge our dominance even in those industries where we had no peers—electronics, communications, and aviation.

Technology is the basis of our ability to compete. Technology-intensive products, measured by R. & D. input, account for approximately 40 percent of U.S. exports. By contrast, R. & D. intensive exports comprise only 28 percent of the total exports of Germany, Japan, France and the United Kingdom. Improved export competitiveness is tied clearly to support for technological innovation.

But even superior products do not market themselves. Successful competition in the world arena increasingly depends upon financing, marketing, and servicing. U.S. institutions like EXIM and OPIC lack the resources, clout, and policy backup to organize export "packages" as attractive as those proffered by foreign competitors. The trade promotion unit of the Commerce Department is unable to exploit fully the on-the-spot services of commercial attachés, who are State Department officers with only minimal career experience and commitment to trade. As a result exports remain the province of major corporations in part because information about market opportunities and direct assistance with languages and customs are not aggressively extended to small and medium sized firms, which constitute a virtually untapped pool of export potential.

Most importantly, a central U.S. Government department responsible for export expansion, domestic industrial growth and maintenance of our long term innovative advantage is needed to provide the mix of expertise, flexibility, control and perspective with which to formulate coherent and effective trade policy.

Inconsistencies and impediments in the treatment of U.S. industrial and agricultural exporters have been, in some instances, crippling. U.S. exporters face a web of controls—antitrust, antibribery, human rights, environmental review—and other restrictions which their counterparts abroad do not. The absence of an advocate with the visibility and clout to fight for consistent policies and minimal bureaucratic restrictions has seriously undermined U.S. export competitiveness in both agriculture and industry.

As chairman of the International Finance Subcommittee, I have been concerned about U.S. export policies for some time. It is gratifying to note that the bill I am introducing today is the fourth proposal regarding a Department of Trade to be introduced this session. I am glad to see that concern about our trade position and recognition of the need for institutional reform is spreading.

All four proposals—S. 377, introduced by Senators ROTH and RIBICOFF; S. 891; introduced by Senator BYRD; S. 1471, introduced by Senator DURENBERGER, and my bill—share the same objectives. My bill is similar in many respects to H.R. 4567 introduced by Representatives JONES, FRENZEL, and others in the House. Creation of the Department I contemplate would not entail an additional Cabinet post or department, unlike some of the proposals.

Mr. President, this bill goes further than the other proposals before the Senate. I believe that if we are to consider seriously the twin questions of Commerce reorganization and creation of a Trade Department, we must work from a proposal which is comprehensive in its incorporation of trade offices and functions.

My bill strives for comprehensiveness. It unites responsibility for the following areas in one Department for the first time:

Export promotion and financing;
Import monitoring and relief;
International investment policy;
International trade negotiating authority;
Industry and trade economic analysis; and
Trade policy and coordination.

The bill draws in the Office of the Special Trade Representative, the International Trade Commission, the Export-Import Bank, and OPIC, in addition to consolidating responsibilities presently scattered throughout six different departments.

World trade has expanded sixfold since Bretton Woods and adoption of the GATT. Over this period, the dependence of this Nation on access to the markets and supplies of others has grown no less rapidly. Effective participation in multilateral trade negotiations is critical if we are to continue to push back the protectionist barriers which constantly threaten the world commerce.

Yet we remain the only nation whose negotiators come from six different, uncoordinated departments, equipped with neither the overall perspective, nor the clout, to advance the interests of U.S. exporters. An STR maintained in the White House has access to the President, we are told. Yet access to the carrots—such as export financing—and sticks—such as countervailing duties—employed by other international negotiators, are the province of three different agencies in this country. Nor is the STR the effective and knowledgeable advocate of U.S. industrial and agricultural producers which the Secretary of Commerce, Trade and Technology could be.

The United States is paralyzed at the negotiating table by competing agency interests which often cannot be resolved in the existing framework. By uniting within one department the responsibil-

ities and powers which at present are scattered, this bill creates one strong voice out of a weak and disparate chorus.

The bill also offers a framework for concomitant reform of the Commerce Department's programs relating to industry and technology. I have already introduced a bill—S. 1250, the National Technology Innovation Act of 1979—that would improve the ability of universities and industries to collaborate in generating new technological ideas that could reach the market and would improve the U.S. Government's capability to identify specific sectoral problems and opportunities to advance socially and economically important technologies. I have also joined with Senator SCHMITT and Senator CANNON in sponsoring S. 1215, the Science and Technology Research and Development Utilization Policy Act of 1979, that establishes a coherent Federal policy to encourage the use of inventions developed under federally-supported research and development. Hearings on S. 1250 have been held before the Subcommittee on Science, Technology, and Space; hearings on S. 1215 are scheduled for July 23 and 27, 1979.

The administration has also initiated a domestic policy review of industrial innovation. The Secretary of Commerce and her Assistant Secretary for Science and Technology have convened a score of task forces to study innovation, ranging from tax and regulatory policy to patent administration and information services. This review and its recommendations are presently under consideration by the White House; I am hopeful that President Carter will soon announce his decisions on these proposals.

An effective policy to promote industrial innovation may well require further institutional changes. We might want to look at agencies which would be appropriately moved out of the reorganized Department of Commerce, Trade and Technology. These possibilities will be examined in detail once the administration's proposals are released and as we consider further the legislation already introduced. This bill, by underscoring the inseparable relationship between technology and trade, creates a frame within which to proceed.●

By Mr. HELMS:

S. 1494. A bill to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; to the Committee on Armed Services.

PANAMA CANAL DEFENSE ACT OF 1979

● Mr. HELMS. Mr. President, so that the Committee on Armed Services might have another alternative during the markup of the proposed implementation legislation for the Panama Canal Treaty, I am today introducinng S. 1494. This bill consists of the House bill, H.R. 111, with certain additional amendments which would protect the interests of the U.S. taxpayer.

As Members of the Senate are well aware, many, many statements were made that the Panama Canal legislation would not cost the taxpayers any money whatsoever. The truth, however, has turned out to be quite different. According to figures compiled by the House Merchant Marine and Fisheries Committee, after 8 weeks of hearings, the total bill for implementation of the treaties will be over $4 billion, including both payments to Panama (which otherwise could have gone to the U.S. Treasury to reduce the taxpayers' burden) and costs that have been paid or will be paid directly by taxpayers.

My bill, therefore, will insure that the maximum possible protection of the taxpayer will be achieved.

Mr. President, I ask unanimous consent that a table of costs prepared by the House Merchant Marine Committee be printed in the RECORD at the conclusion of my remarks.

Under my bill, Mr. President, the costs saved would be about $1.3 billion, or all those costs other than those listed as "General Costs" in the committee's list.

Mr. President, I also ask unanimous consent that a side-by-side comparison of the relevant changes between my bill and H.R. 111, as enacted by the House, be printed in the RECORD for the convenience of the Senate. My bill is identical in all other respects other than those listed in the comparison.

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

COST OF 1977 TREATY

(1979 Dollars in Thousands)

Panama Canal Costs:	
General	
Payments to Panama	$2,157,146
Relocation of facilities	14,279
Transition costs	1,455
Inventory loss	2,716
Loss of net revenue terminals and shipyard	122,060
Disinterment and reinterment	3,200
Book value property transferred	648,000
Subtotal General	$2,948,856
Employee related	
Early retirement	314,000
Severance pay	4,690
Commuted leave of separated employees	2,500
Repatriation	4,284
Cost of living allowance	154,161
Elimination of tax factor in pay of non-citizens	11,856
Social Security payments to Panama	1,400
Expanded training programs	6,560
Rotation of Employees	5,000
Subtotal employee related	$504,391
Department of Defense	
Base operations, military construction, etc.	$757,000
Retirement non-appropriated fund employees	2,000
Subtotal Dept. of Defense	$759,000
Department of State	
Consular services	3,700
Joint Committee expenses	3,800
Foreign Military sales reserve	5,000
Subtotal Dept. of State	$12,500
Battle Monuments Commission	900
U.S. Treasury	
Loss of depreciation of Canal Zone Government assets	54,860
Total	$4,280,507

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE)

S. 1494	H.R. 111 (AS ENACTED BY HOUSE)	COMMENT
SEC. 4. AUTHORITY.(a) This legislation protects the interests and expresses wishes of the taxpayers of the United States as as espoused by the United States Senate in its ratification of the Panama Canal Treaty of 1977. It assists the United States Treasury in providing for a balanced Federal budget and requires that all funds used to implement the Panama Canal Treaty of 1977 be expended only with the express consent of the Congress of the United States; and to specifically exercise those rights which the United States is authorized to exercise by Article III, section 2(d) of the Panama Canal Treaty for 1977, for the purpose of allocating the cost of maintaining that treaty in force and to provide limits to the economic consequences to the United States and to users of the Panama Canal.	No comparable provision.	Helms bill specifically cites the authority in the Panama Canal Treaty for allocating costs to protect taxpayers. Protects the historic exercise of sovereignty by the United States up until the effective date of the 1977 Treaty from retroactive legal attack.
(b) Acceptance of payments by Panama under the provisions of this Act constitutes recognition by the Republic of Panama that the United States rightfully exercised sovereignty in the Canal Zone under the terms of the treaties between the United States and Panama of 1903, 1936, or 1955.		

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE)—Continued

SEC. 373. DISPOSITION OF PROPERTY OF THE UNITED STATES.—The Congress, in exercise of its authority under article IV, section 3, clause 2 of the Constitution of the United States, authorizes the President to convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transferred pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States. *Provided,* That, prior to the entry into force of that treaty, the Republic of Panama shall agree to the terms and conditions set forth in section 374 of this Act: *Provided further,* That the President shall notify the Congress not less than ninety days prior to the proposed date of any such transfer. Final transfer is authorized to be made of the Panama Canal and all those portions of the Zone which are not otherwise ceded to the Republic of Panama, to occur not earlier than December 30, 1999, at 12 o'clock noon local time: *Provided,* That each of the following conditions shall have been met on or before that date.	SEC. 373. DISPOSITION OF PROPERTY OF THE UNITED STATES.—No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress. SEC. 374. TRANSFER OF PROPERTY TO PANAMA.—On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transferred pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States.	The Helms bill specifically cites the Constitutional authority of Congress to authorize the President to dispose of U.S. territory and property. Authorizes the President himself to make such disposition, rather than delegating this important Constitutional function to the Secretary of State. Requires that transfer of property be conditioned on Panamanian acceptance of the conditions in Section 374, i.e., the "conditions for transfer." Requires the President to notify Congress 90 days before transfer. Property authorizes to be transferred is the same in both bills.
SECTION 250(f)		
(f) All previous expenses incurred by the United States to implement the Panama Canal Treaties of 1977 during fiscal years 1978 and 1979 shall be treated as an expense of the Panama Canal Commission. The Commission shall make full reimbursement to the United States Treasury for all such expenses.	No comparable provision.	This proposal would re-indemnify the American taxpayers for costs associated with the treaty which took place before the effective date of the treaty, e.g. military construction which will be turned over to Panama at the end of 1999, but which was effected with funds appropriated before the Panama Canal Commission comes into being.
SEC. 374. CONDITIONS FOR TRANSFER.—(a) That the entire net investment cost of the construction of the Panama Canal shall have been paid to the Treasury of the United States prior to that date. (b) That all interest upon the net investment cost shall have been paid on or before December 30, 1999, as required by the reservation numbered 6 (the Cannon Reservation) to the Panama Canal Treaty as consented to by the Senate of the United States on April 18, 1978. (c) That the Republic of Panama shall have borne, out of the revenues it receives pursuant to the terms of Article XIII of the Treaty, all costs incurred by the United States which are incidental to carrying the Treaty into effect; not allocated by the Treaty and prohibited from being derived from tax revenues of the United States by the terms of the Treaty, in Article III, paragraph 2, section (d),	No comparable provision.	The Helms bill sets up conditions for transfer of U.S. property to Panama: (1) That the cost of the construction of the Panama Canal ("net investment cost") be repaid to the Treasury before the canal is transferred at the end of 1999; (2) that the Cannon reservation is implemented before the end of 1999; (3) that Panama has borne, out of canal revenues, all costs incurred by the United States which are incidental to carrying the Treaty into effect—costs of services formerly borne by the Panama Canal Company; costs of personnel changes required by the terms of the Treaty; costs of construction and refurbishing of military buildings and bases; expenses of the Panama Canal Commission, and all the payments otherwise specified in the Treaty. Furthermore, if Panama fails to pay its obligations, such obligations become a charge upon the Commission's payments to Panama.

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE)—Continued

S. 1494	H.R. 111 (AS ENACTED BY HOUSE)	COMMENT
the reservations and understandings added to the Treaty by the Senate of the United States, and representations relied upon during the deliberations concerning the Treaty. Such costs shall include but not be limited to costs of services formerly borne by the Panama Canal Company; costs of personnel changes required by the terms of the Treaty; costs of construction and refurbishing of military buildings and bases; expenses of the Panama Canal Commission and all payments required in (a) and (b) above. Certification of such costs by the Comptroller General of the United States shall be binding upon the Republic of Panama. Such costs shall not include (1) those non-Treaty related items regularly (as formerly) incurred by the United States by reason of its obligation to defend the Panama Canal; (2) nor costs related to providing a final resting place for those deceased whose interment is disrupted by the Treaty. (d) All obligations to be paid by the Republic of Panama pursuant to this section shall be paid within three months of certification by the Comptroller General; otherwise such obligation shall thereafter be and become a charge upon any payments to be made to the Republic of Panama pursuant to the Treaty by the Panama Canal Commission and shall be deducted from each such payment until the obligation is discharged.		
SECTION 412(d)		
(d) Irrespective of subsections (b) and (c), supra, tolls charged for passage through the Panama Canal shall not exceed those tolls charged on July 1, 1979, together with— (1) adjustments to allow toll increases equal to rises in the cost of living as set by the United States Department of Labor in its consumer price index, and (2) that minimum increase in the percentage of rate of tolls sufficient to provide funds necessary to make those payments required by Article XIII, section 4 (a) and (b) of the Panama Canal Treaty and as limited by Understanding Numbered 3 thereto as consented to by the Senate of the United States on April 18, 1978 (the Danforth Understanding).	No comparable provision.	The Helms bill provides the tolls charged for passage through the Panama Canal shall be held to the very least possible minimum, without unduly raising such tolls in order to make payments to Panama, thereby protecting Canal users to the greatest extent possible.

By Mr. HATFIELD:

S. 1495. A bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline; to the Committee on Energy and Natural Resources.

● Mr. HATFIELD. Mr. President, today I am introducing a bill to resolve the debate surrounding proposals to renew the Georgetown waterfront.

The intention of this legislation is to insure that the area south of K Street, between the Key Bridge and Rock Creek in Georgetown, becomes a greenway flanking the Potomac River. At present, this area is an acknowledged eyesore detracting from the beauty of our Capital City. A group of interested individuals representing citizens' groups, the government of Washington, D.C., the Interior Department, the Transportation Department, and private developers has been meeting for several months to plan the conversion of the waterfront into a useful and esthetically pleasing area.

Any plans for the riverfront area must take into account the existing development in Georgetown, south of M Street. Planners have been quoted as stating that given existing development plans, the population in the area between M Street and K Street in Georgetown will increase by 10,000. Such an increase is incomprehensible in light of the congestion that presently exists in that part of the city. Nevertheless, that increase will occur according to plans that have already been set in motion.

For this reason, I am adamantly opposed to any development plans for the area south of K Street which would include any commercial or residential buildings. This is the area which is the subject of my bill and it includes only 20 acres, stretching along 4,200 feet of the Potomac riverbank. At some points, this strip of land is only 160 feet wide. There is absolutely no reason for destroying this beautiful area forever by piling upon it concrete and glass structures, such as those which have been constructed north of K Street.

Even a small area of development on this ribbon of land along the river cannot be justified. We must take bold action not simply to renew the Georgetown Waterfront, but to preserve it for people. It is the most beautiful spot of Potomac River frontage in the Capital. The Potomac bends at this point, and the views up the river and downstream are unmatched for their scenic drama.

A people's park on this land would provide the type of waterfront development that is so important for the integrity of Washington as a city of beauty. It would provide for the true needs of the citizens of the city, who will soon find that there is less and less space for "getting away" from the hustle and bustle of the urban environment.

The legislation I am proposing will enable the Interior Department to acquire the portion of the Georgetown waterfront which is not publicly owned at present. It is inconceivable that we should allow this opportunity to preserve the riverfront, and to avoid more crowded development, to pass.

For these reasons, I urge my colleagues to support this legislation and I ask unanimous consent that it be printed in the RECORD.

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

S. 1495

Be ti enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) effective on the date of the enactment of this Act, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all of the following described lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by a line four hundred feet west of Key Bridge.

(b) Such area shall be administered by the Secretary of the Interior in a manner so as to assure the preservation and protection of the Potomac River shoreline and for recreational and other compatible purposes. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

(c) Any action against the United States for the recovery of just compensation for the lands and improvements herein taken by the United States shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. Just compensation shall be determined as of July 12, 1979. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this Act, he may revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this Act, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid.

Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. INOUYE:

S. 1496. A bill to amend the Interstate Commerce Act to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1497. A bill to amend title 49, United States Code, transportation to encourage motor carrier efficiency and to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER REGULATION

● Mr. INOUYE. Mr. President, today I am introducing legislation designed to make specific reforms in the Nation's motor carrier transportation regulatory system. While motor carrier regulation has served the Nation well, the time has come for a serious review of the regulatory structure with a view toward instituting changes that will update the system.

Decisions on this matter ought not to be made until all the proposals are considered and all the ramifications of their enactment are explored. It is in this spirit that I am introducing two bills representing the positions of the trucking industry and the Teamsters Union respectively. And, while I have not made my decision on the issues involved, I believe both bills merit very serious consideration.

The bill developed by the American Trucking Associations, Inc., was developed after several years of negotiations between member motor carriers, the 51 ATA affiliated State associations, and the 13 affiliated ATA conferences which comprise the organization. The bill developed by the International Brotherhood of Teamsters is also the product of an equally arduous process. Both bills contain provisions on collective ratemaking, rate bureaus, entry regulation, and other important issues. They are more similar than different. In fact, some of the provisions are identical. There are, however, some differences—most notably on the issues of hauling by private and contract carriers.

Substantive reforms are proposed in ratemaking; for example, both bills would allow carriers to raise or lower rates by 7 percent annually without suspension by the Interstate Commerce Commission. In the area of collective ratemaking, new provisions would reform the voting process within rate bureaus, and add to the law provisions guaranteeing the right of any carrier to set its rates independent of the rate bureau's without interference by the rate bureau. Concerning entry controls, the degree of competition and fuel efficiency would become major factors in granting certificates, and frivolous carrier protests would be prohibited. Many other substantive proposals are included in these detailed bills.

I congratulate the IBT and the ATA for developing these proposals. Both bills merit a close look by the Congress. Introduction today assures that.

I ask my colleagues to review these proposals, as I will, before deciding what reforms are necessary.●

By Mr. MATSUNAGA:

S. 1498. A bill to amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year; to the Committee on Finance.

● Mr. MATSUNAGA. Mr. President, today I am introducing a bill to correct an anomalous situation which occurs in applying the social security retirement test to formerly self-employed persons such as retired farmers, independent insurance salesmen, and business partners. The bill addresses an unintended problem resulting from the Social Security Amendments of 1977.

Prior to the 1977 amendments, social security benefits were payable to any retired person in full for any month in which that individual did no substantial work, regardless of the recipient's annual earnings. This made it possible for an individual to receive earned income in 1 month and still be eligible for social security benefits in the other 11 months.

As a result of a Senate floor amendment, the 1977 social security legislation mandated a change from a monthly retirement test to an annual test for earned income. This annual test sought to end various abuses occurring under the old test and to determine when a person is actually retired.

At that time, however, we overlooked the problem of the self-employed person who, after retirement, received compensation for work previously performed. For example, a retired farmer might receive payment for his past year's work, or a retired insurance salesman might receive commission payments for policies sold in the previous year. However, the retired farmer and the retired insurance salesman may well find themselves disqualified from any social security benefits, because of the annual earnings test. This adverse effect was not intended by the Congress.

The problem, arises, because the social security program considers income from self-employment to have been earned in the year in which it is received, even if the income resulted from service performed in prior years. Consequently, previously self-employed persons who are actually retired can be disqualified for social security benefits, if they receive continuing payments for services rendered in prior years. By contrast, an employee's wage is considered to be earned income for retirement test purposes only in the year in which the work is actually performed.

It should be stressed that the social security program benefits are payable not on the basis of need as measured by an income test but as a matter of social insurance payable in relation to prior earnings upon the individual's retirement. The annual earnings test seeks to determine whether retirement has actually occurred. However, the test does not work fairly for self-employed individuals. It is inappropriate to apply the earnings test to strip people of social security benefits even when they have completely retired but continue to receive the fruits of their earlier labors. The real test as to whether someone is retired should depend upon a person's activity—whether he continues to perform self-employment services. The test should be based on when the work is performed, not on when payment is received. In the case of retired farmers, insurance salesmen, and others, payments for past services continue over a period stretching into postretirement years.

In the last session of Congress, the Senate Finance Committee unanimously approved a measure for farmers and insurance salesmen similar to the one I am proposing today. The committee included the provision as part of H.R. 12380, and the bill as amended passed the Senate. Unfortunately, in the great rush at the end of the session, the House-Senate conference committee never met, and the measure died. The

bill I am presenting today will complete the job started in the last session.

My bill is broader in scope than previously introduced measures; it applies not just to farmers or to insurance salesmen, but to all persons who are similarly situated. The strict requirements of my bill allow the exclusion to be claimed only under the following conditions: First, at least 50 percent of the individual's self-employment earnings for the year would have to be of the type attributable to prior-year services. Second, the individual would have to be willing to accept a complete loss of benefits for any month of the year in which he does, in fact, engage in substanital work activity. Lastly, the annual benefits total would have to be increased even after one or more months of benefits are lost, because of substantial work activity. These safeguards will insure that abuse does not occur as it did prior to the amendments.

My bill seeks to treat retired persons who were self-employed in an equitable manner, consistent with the goals and policy of the social security program. It should be noted that the Senate did, in fact, approve an earlier version of this legislation. For the reasons stated and to meet the urgent need of those affected by the present restrictions, I urge quick Senate action on this measure.

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. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5) of the Social Security Act is amended—

(1) in subparagraph (B)(i), by striking out "shall be determined" and inserting in lieu thereof "shall (subject to subparagraph (E)) be determined", and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E)(i) If, of the total of an individual's net earnings from self-employment for any taxable year, an amount equal to at least 50 per centum thereof is substantially attributable to such individual's engagement in self-employment for a period prior to such year, such amount shall be excluded in determining, for purposes of this subsection, the total of such individual's net earnings from self-employment for such year.

"(ii) If, during any month of a taxable year with respect to which an amount is excluded pursuant to clause (i) from an individual's net earnings from self-employment, such individual—

"(I) renders substantial services with respect to a trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection, but without regard to this subparagraph) his net earnings or net loss from self-employment for such taxable year, or

"(II) renders services for wages (determined as provided in the preceding provisions of this paragraph) of more than the applicable exempt amount as determined under paragraph (8),

such individual shall, for purposes of subsection (c) be deemed to be charged with excess earnings for such month—

"(III) in case such individual is entitled to benefits for such month under a provision of section 202 other than subsection (a) thereof, equal to such individual's benefit or benefits under such section for such month, or

"(IV) in case such individual is entitled to old-age insurance benefits under section 202(a) for such month, equal to such individual's old-age insurance benefit for such month plus the monthly benefits for such month of all other persons under section 202 based on such individual's wages and self-employment income.

Amounts of excess earnings for which an individual is deemed to be charged for any month under this clause shall not operate to reduce the total of the excess earnings for which he is chargeable under this section as determined without regard to this subparagraph.

"(iii) The provisions of this subparagraph shall not be applicable, in the case of any individual for any taxable year, if the application of such provisions would result in the aggregate of the deductions under subsection (c), on account of excess earnings with which such individual is charged or deemed to be charged, being greater than would have been the case without the application of such provisions.".

(b) The amendments made by subsection (a) shall be applicable, in the case of any individual, only in the case of taxable years of such individual which begin after the date of enactment of this Act.●

By Mr. ROTH:

S. 1499. A bill to promote and encourage the formation and utilization of export trade associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT TRADE ACTIVITIES ACT

● Mr. ROTH. Mr. President, I am introducing the Export Trade Activities Act which replaces the Webb-Pomerene Act. This bill increases the effectiveness of export trade associations while adequately protecting nonassociation members. This bill is only one of many steps I believe necessary to restore the U.S. competitiveness in the world markets.

The U.S. share of world markets has dropped from 18 percent in the early 1960's to less than 12 percent today. Our export of manufactured goods has been declining in recent years. Between 1975 and 1978, the U.S. trade account in manufactured goods dropped from about a $20 billion surplus to a $5.8 billion deficit. The massive trade deficits of the past few years have caused unemployment, have increased inflationary pressures and have contributed to the erosion of the dollar.

The Webb-Pomerene Act was enacted in 1918 to allow producers of goods to join together to export without fear of antitrust or anticompetitive action provided the association's actions do not adversely affect its domestic trade. It was the intent of Congress that American exporters could combine to meet the aggressive competition of powerful foreign competitors.

There was a need for the Webb-Pomerene Act in 1918, and today there is a need to improve and update it. Government sponsored or controlled exporting activities of other countries are still prevalent. Webb-Pomerene associations have never been as effective as hoped. Although they were more widely used at one time, today they account for less than 2 percent of the total U.S. exports. Given our trade problems, we must try to increase the effectiveness of our trading vehicles.

Export trade associations should be more effective under this bill because of three significant changes. First, the bill includes the exporting of services under the antitrust exemption. Second, the Department of Justice's ability to bring an antitrust action has been curtailed. This will assuage the reluctance of producers to join together to export. Third, an individual injured by an association's unlawful activities is limited to suing for compensatory damages only.

The Export Trade Activities Act would increase the effectiveness of our export trade associations. We must encourage the exportation of our services and goods.

Mr. President, I am under no delusion that the Export Trade Activities Act is the elixir to our trade problems. However, it should enable our producers to more ably compete with their foreign competitors for world markets.

Mr. President, I ask unanimous consent that the text of the bill and section-by-section explanation of the bill be printed in the RECORD.

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

S. 1499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Export Trade Activities Act".

SEC. 2. FINDINGS; DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) exports account for one out of every six jobs in the manufacturing sector and 8 percent of the gross national product of the United States;

(2) every billion dollars in new exports is estimated to provide 40,000 jobs, $2,000,000,000 in national income, and $400,000,000 in government revenue;

(3) there is increasingly fierce competition to American goods and services in international markets;

(4) the ability to pool resources and expertise would help equalize the bargaining position of American businesses in international transactions, particularly of small- and medium-sized businesses; and

(5) the existing legislation involving export trade associations is outdated and needs to be changed to make export trade associations more useful.

(b) PURPOSE.—It is the purpose of this Act encourage and promote the formation of export trade associations, and to enable businesses to share the costs of export trade. The Federal Trade Commission shall consider and process applications submitted under section 6 as expeditiously as possible. The Secretary of Commerce shall take appropriate measures to encourage the establishment and use of such associations.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) EXPORT TRADE.—The term "export trade" means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States to any foreign nation, but does not include—

(A) trade or commerce in any such goods, products, or merchandise subsequently imported into the United States for sale for consumption or resale, without regard to whether they are imported in the same con-

dition as when they were exported from the United States or in a changed condition by reason of remanufacture or otherwise, or

(B) trade or commerce in patents, licenses, trade secrets, or technology (except to the extent that technology is incidental to the sale of such goods, products, merchandise, or services).

(2) EXPORT TRADE ACTIVITIES.—The term "export trade activities" includes any activities or agreements which are incidental to export trade.

(3) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(4) ASSOCIATION.—The term "association" means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any State or of the United States, or corporations which are created under and exist pursuant to the laws of any State or of the United States.

(5) ANTITRUST LAWS.—The term "antitrust laws" means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12) and section 4 of the Federal Trade Commission Act (15 U.S.C. 44), any other law of the United States in *pari materia* with those laws, and any State antitrust or unfair competition law.

(6) COMMISSION.—The term "Commission" means Federal Trade Commission.

(7) CHAIRMAN.—The term "Chairman" means the Chairman of the Federal Trade Commission.

(8) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

SEC. 4. ANTITRUST EXEMPTION.

An association certified under section 6 of this Act, entered into for the sole purpose of engaging in export trade, and engaged in export trade activities, and its members, are exempt from the application of the antitrust laws except to the extent that the existence of the association, or the activities in which it and its members are engaged, result in—

(1) restraint of trade within the United States,

(2) a substantial decrease in competition within the United States, or

(3) a substantial restraint of the export trade of any domestic competitor.

SEC. 5. ENFORCEMENT.

(a) EXCLUSIVE JURISDICTION OF COMMISSION.—The Commission shall have exclusive jurisdiction to determine whether an association certified under section 6—

(1) has failed to comply with the terms and conditions of its certification, or

(2) has taken any action which is inconsistent with the requirements of section 4.

(b) DETERMINATIONS.—The Commission shall make a determination under subsection (a) after an investigation commenced after receipt of a complaint, filed with it at such time and in such manner as it may require, or upon its own motion, and after notice to the association and an opportunity for a hearing on the record.

(c) REMEDIES.—If the determination of the Commission under subsection (a) is affirmative, then it may—

(1) in the case of an affirmative determination under subsection (a)(1)—

(A) require the association to file an amended application for certification under section 6(c),

(B) require the association to modify its organization or operations,

(C) revoke, in whole or in part, the certification of the association, or

(D) refer the matter to the Attorney General for prosecution under the antitrust laws, or

(2) in the case of an affirmative determination under subsection (a)(2)—

(A) require the association to modify its organization or operations, or

(B) revoke, in whole or in part, the certification of the association.

(d) Civil Actions by Injured Parties.—

(1) STANDING REQUIREMENT.—No person shall have standing to bring an action against an association certified under section 6 for injuries arising out of the export trade activities of that association unless—

(A) the Commission has made an affirmative determination under subsection (a) with respect to the activities of the association to which the action relates, and

(B) those activities have, as a purpose or as a primary effect, a result described in section 4.

(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law to the contrary, damages in excess of the amount necessary to compensate the injured party for losses suffered may not be awarded in any action brought against an association certified under section 6 for injuries arising out of its export trade activities.

SEC. 6. CERTIFICATION.

(a) APPLICATION.—In order to become certified as an association engaged solely in export trade, a person shall file with the Federal Trade Commission a written application for certification setting forth the following:

(1) The name of the association.

(2) The location of the association's offices or places of business in the United States and abroad.

(3) The names and addresses of the association's officers, stockholders, and members.

(4) A copy of the certificate or articles of incorporate and bylaws, if the association is a corporation; or a copy of the articles or contract of associations, if the asssociation is unincorporated.

(5) A description of the goods, wares, merchandise, or services which the asscciation or its members export or propose to export.

(6) The methods by which the association conducts or proposes to conduct export trade in the described goods, wares, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association.

(7) The names of all countries where export trade in the described goods, wares, merchandise, or services is conducted or proposed to be conducted by or through the association.

(8) Any other information which the Commission may request concerning the organization, operation, management, or finances of the association; the relation of the association to other associations, corporations, partnerships, and individuals; and competition or potential competition, and effects of the association thereon. The Commission may not request information under this paragraph which is not reasonably available to the person making application or which is not necessary for certification of the prospective association.

(b) ISSUANCE OF CERTIFICATE.—Based upon the information obtained from the application, the Commission shall certify an association within 90 days after receiving the association's application for certification if the Commission determines that the association and its members and the proposed export trade activities meet the requirements of section 4 of this Act. The certification may be issued subject to such terms and conditions as the Commission determines to be appropriate to ensure that the association and its activities meet the requirements for certification during the period for which the certification is in effect, and that all members of the association are treated equitably.

(c) MATERIAL CHANGES IN CIRCUMSTANCES; AMENDMENT OF APPLICATION.—

(1) VOIDING OF CERTIFICATION.—Whenever there is a material change in—

(A) the domestic and international conditions, circumstances, and factors which make an association useful for the purpose of promoting the export trade of its goods, wares, merchandise, or services, or

(B) the association's membership, export trade, export trade activities, or methods of operation which would cause the association to fail to meet any requirement of section 4, then the association shall apply to the Commission for an amendment of its certification.

(2) AMENDMENT OF APPLICATION.—The request for amendment shall be filed within 30 days after the date of the material change and shall set forth the requested amendment of the application and the reasons for the requested amendment. Any request for the amendment of an application shall be treated in the same manner as an original application for certification. If the request is filed within 30 days after the material change which requires the amendment, and if the requested amendment is approved, then there shall be no interruption in the period for which certification is in effect.

(3) AMENDMENT UPON RECOMMENDATION OF COMMISSION.—After notice to the association involved and the opportunity for a hearing on the record, the Commission may, on its own initiative, or upon the recommendation of the Attorney General or any other person—

(A) require that an association's certification be amended,

(B) require that the organization or operation of the association be modified to correspond with the association's certification, or

(C) revoke, in whole or in part, the certification of the association upon a finding that the association, its members, or its export trade activities do not meet the requirements of section 4 of this Act.

SEC. 7. GUIDELINES.

(a) INITIAL PROPOSED GUIDELINES.—The Commission and the Attorney General shall publish proposed guidelines for purposes of determining whether an association, its members, and its export trade activities meet the requirements of section 4 of this Act.

(b) PERIODIC REVISION.—After publication of the guidelines, the Commission and the Attorney General shall meet periodically to revise the guidelines as needed.

SEC. 8. CERTIFICATION FOR EXISTING ASSOCIATIONS.

The Commission shall certify any export trade association registered with the Federal Trade Commission as of the date of enactment of this Act if such association, within 180 days after that date, files with the Commission an application for certification as provided for in section 6 of this Act, unless such application shows on its face that the association is not eligible for certification under this Act. If the application submitted by such an association shows on its face that the association is not eligible for certification under this Act, its registration under the Webb-Pomerene Act shall cease to be effective 30 days after the date on which the Commission notifies the association of its determination of ineligibility.

SEC. 9. REVIEW OF DETERMINATION.

Whenever the Commission makes a determination under this Act with respect to an

application for certification, the amendment, modification, or revocation of a certification, or the modification of the organization or operation of an export trade association, it shall—

(1) notify the association of its determination and the reasons for its determination, and

(2) upon request made by the association, afford the association an opportunity for a hearing.

SEC. 10. ANNUAL REPORTS.

Every certified association shall submit an annual report to the Commission on January 2 of each year, in such form as it may require, setting forth the information described by section 6(a) of this Act.

SEC. 11. MODIFICATION OF ASSOCIATION TO COMPLY WITH UNITED STATES OBLIGATIONS.

At such time as the United States undertakes international obligations by treaty or statute, to the extent that the operations of any export trade association, certified under this Act are inconsistent with such international obligations, the Commission or Attorney General may require such association to modify its operations so as to be consistent with such international obligations.

SEC. 12. REGULATIONS.

The Commission, in consultation with the Attorney General, shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

SEC. 13. REPEAL OF WEBB-POMERENE ACT.

The Webb-Pomerene Act (15 U.S.C. 61–66) is repealed as of the 90th day after the date of enactment of this Act.

SECTION-BY-SECTION EXPLANATION

Section 1. Short Title: Export Trade Activities Act.

Section 2. Findings: Declaration of Purpose.

This section sets forth the findings and declaration of purpose.

Section 3. Definitions.

This section defines the pertinent terms. The term "export trade" includes both goods and services exported from the United States, but does not include trade in goods which are subsequently imported back into the United States nor trade in patents, licenses, trade secrets or technology. The term "export trade activities" includes any activities or agreements which are incidental to export trade. The term "United States" is specifically defined. The term "association" means any combination, by contract, or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any state of the United States, or corporations which are created under and exist pursuant to the laws of any State or of the United States. The term "antitrust laws" includes all antitrust laws of any state or of the United States.

Section 4. Antitrust Exemption.

This section provides that a certified association is exempt from the application of the Antitrust laws provided that the association or its export trade activities do not result (1) in restraint of trade within the United States (2) in a substantial decrease in competition within the United States or (3) in a substantial restraint of the export trade of any domestic competitor.

Section 5. Enforcement.

This section grants to the Federal Trade Commission the exclusive jurisdiction to determine whether a certified association has failed to comply with the terms and conditions of its certification or whether its actions or agreements have been inconsistent with the requirements of Section 4. Such an investigation can be in response to a properly filed complaint or it can be initiated by the Federal Trade Commission.

If it is determined that the association has failed to comply with the terms and conditions of its certification then the Commission can:

(1) require the association to file an amended application for certification;

(2) require the association to modify its organization or operations;

(3) revoke, in whole or in part, the certification of the association; or

(4) refer the matter to the Department of Justice.

If it is determined that the association's actions have become inconsistent with the standards of Section 4 although in conformance with its registration, then the Commission can (1) require the association to modify its organization or operations or (2) revoke, in whole or in part, the certification of the association.

No person can bring an action against a certified association unless the Commission has determined that the association has failed to comply with the terms and conditions of its certification and its activities have become inconsistent with the requirements of Section 4, and in no case shall the damages be more than compensatory.

Section 6. Certification.

This section sets forth the procedure for certifying an association. It lists the required information to be filed with the FTC, most notable are the descriptions of the goods or services to be exported, the methods by which the association proposes to conduct its export trade, and any other needed information that is reasonably available.

Within ninety days after receipt of the association's application, it shall be registered subject to the terms and conditions established by the Commission as long as the proposed export activities meet the requirements of Section 4.

If there is a material change in circumstances, the association shall apply to the Commission for an amendment to its certification within thirty days of the material change. If the request for the amendment is approved, there shall be no interruption in the period of certification.

After an opportunity for a hearing on the record for the association, the FTC may require that the association's certification be amended, order that the organization or operation of the association be modified to correspond with the association's certification, or it may revoke, in whole or in part, the certification of the association upon a finding that the association, its members or its export trade activities do not meet the requirements of Section 4.

Section 7. Guidelines.

This section requires the FTC and the Department of Justice to publish proposed guidelines for the purposes of determining whether an association, its members, and its export trade activities, meet the requirements of Section 4. These guidelines shall be periodically revised.

Section 8. Certification For Existing Associations.

This section allows an existing association 180 days after the enactment of this bill to file with the Commission to continue its immunity from the antitrust laws. The association shall be registered unless the application shows on its face that the association is not eligible for certification, in which case 30 days after the association becomes aware of the FTC's decision any immunity for future conduct shall cease.

Section 9. Review of Determinations.

This section provides that whenever the Commission makes a determination under this Act affecting the certification of the association, it shall notify the association of its determination and the reasons for its determination and afford the association an opportunity for a hearing.

Section 10. Annual Reports.

This section requires the certified association shall submit an annual report to the Commission on January 2 setting forth the information listed in Section 6.

Section 11. Modification of Association To Comply With The United States Obligations.

This section authorizes the FTC and the Department of Justice to modify its operation so as to be consistent with future international obligations of the United States set by treaty or statute.

Section 12. Regulations.

The Commission in consultation with the Attorney General shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

Section 13. Repeal of Webb-Pomerene Act.

This section repeals the Webb-Pomerene Act 90 days after the enactment of this Act.●

By Mr. BENTSEN:

S. 1500. A bill to amend the Federal Rules of Criminal Procedure to provide certain sentencing requirements in any case in which a person commits a felony while admitted to bail; to the Committee on the Judiciary.

S. 1501. A bill to prohibit the pretrial release of any person charged with an act of aggravated terrorism; to the Committee on the Judiciary.

BAIL REFORM LEGISLATION

● Mr. BENTSEN. Mr. President, in the wake of recent crime statistics showing a 17-percent increase in violent crime, it is appropriate to take a few moments to consider what I believe is the new realism in crime control, and how that new realism can enable our Nation to respond to this important problem.

Today I will introduce legislation to reform Federal bail laws, and call on the Senate Judiciary Committee to consider major reforms and to hold hearings that can help focus a national debate and analysis of this difficult and complex topic. I believe we can reform our criminal law in a manner that can increase the odds that society will be protected from dangerous criminals, and we can make the administration of justice more fair and effective.

The problem of bail is just one of a number of serious issues that must be faced if we are to move closer toward a just and safe society. The criminal justice system is overworked and understaffed. Courts are clogged, prosecutors strapped, prisons jammed, and the criminals know it. Indeterminate sentencing often provides neither certainty nor fairness of punishment. Career criminals careen through revolving doors and emerge on the streets where they continue their violent habits. Inadequate and sometimes brutal prisons serve neither society nor justice nor the offender. Bail laws often allow some of the most dangerous criminals to commit additional crimes as they await trial for previous offenses.

Today I introduce legislation that will bring the new realism on crime control to bail reform. These are modest proposals that can begin a movement toward wider reform.

The first bill would provide increased punishment for persons convicted of felonies committed while they were on bail for previous crimes. The second will allow judges to detain offenders accused of terrorist violence where such persons pose a serious danger to community safety. I call on the Judiciary Committee to conduct hearings on the general sta-

tus of bail laws, to determine how we can best reduce the amount of violent crimes in this country while maintaining the basic protections guaranteed by the Constitution.

I want to commend the recent remarks by Senator KENNEDY, the distinguished chairman of the Senate Judiciary Committee, before the National Governors Conference on Crime Control. I am in strong agreement with the general drift of his presentation, and with many of the specific proposals he mentions. He recognizes, correctly I believe, that we must do more to protect community safety, and that current bail laws simply fail to do an adequate job and, therefore, allow many dangerous people to commit violent crimes that can be prevented. I have long advocated bail laws that would provide increased protection for the public, and while there may be some areas of difference, Senator KENNEDY's speech is symptomatic of the kind of new consensus that is now possible on the issues of crime control. At the outset, I ask unanimous consent that his speech be printed in the RECORD at the conclusion of my statement today.

Mr. President, an analysis of the career criminal program in Dallas indicates that over 36 percent of the repeat offenders involved in that program were on bail for previous crimes at the time of their most recent arrests. The number of crimes committed while on bail is somewhat less for the most part—perhaps 15 to 20 percent, but the far higher number for violent career criminals demonstrates the need for reform in a clear and decisive manner.

The first bill I introduce today will mandate consecutive sentences for persons convicted of felonies while on bail for previous crimes. Under current law, judges often give concurrent sentences for these crimes. Since the sentences then run together, there may be no additional punishment for the second offense, and in effect, the criminal receives two crimes for the price of one.

I have long advocated major sentencing reforms, changes that would bring uniformity to sentencing by allowing sentences to vary with the seriousness of the offense and the criminal history of the defendant. In any rational scheme of sentencing, crimes committed while on bail should be treated severely. The bill I introduce today incorporates this notion. It increases the price. To some degree, it will increase the deterrence to the criminal, and the assurance to society that he will be punished with a sentence he deserves.

The second bill will allow judges to detain persons accused of terrorist violence if he finds, assessing the information before him, that a major threat would be posed to the community by the person's release. Under current law these people could be released if they were likely to show up for trial, even if they had committed the most vicious crimes and even if they pose a severe threat to public safety.

I first introduced this bill in the wake of the Hanafi kidnap murder case, where the persons involved were released before the funeral of the victim, before all of the hostages had been returned home. I understand the limits of the community safety standard, but I also deplore the senselessness of releasing violent terrorists in the midst of their self-declared war against society.

I would hope that the Senate Judiciary Committee can carefully evaluate my bills and the general question of bail reform. Surely we can do much more to protect our citizens. Surely there is considerable room for improvement. Surely we can reduce the number of violent and even deadly crimes committed by dangerous people who continue their criminal careers while on bail for previous crimes. Surely we can somehow restrict this unregulated license to do violence, through limitations on release, through more rational consideration of who should and who should not be released, through more restrictions on those who are released, and through tougher sentencing of those who commit additional crimes when they are released.

Mr. President, this must be part of our overall effort to improve and renovate the Federal Criminal Code, to bring fairness and rationality to the criminal law in an effort to improve our system, and to restore public respect for it. This effort will take a broad consensus that can compromise in the pursuit of improvements. It will take joint efforts by people with diverse views and interests, but it can be done, and I pledge to work hard as we seek to enact reforms to improve the criminal law.

We need sentencing reforms to make punishment more certain and more fair, to bring uniformity to the system, to assure both society and the offender that the punishment will fit the crime.

We need increased support for career criminal programs, which have helped to identify, prosecute, and imprison those repeatedly violent individuals who now spin their way through the revolving doors of justice.

We need improved efforts against drug smuggling and organized crime. I have introduced legislation to close loopholes in currency smuggling laws, loopholes now used by major drug smugglers and organized crime to avoid apprehension and conviction.

We need strict sentencing provisions for terrorists, and a more unified governmental program against terrorism.

We need reform of the bail laws, along the lines that I have discussed today.

I understand that this effort will be long and difficult, but I believe that it can be successful and that if it is, we will have performed a great service to the American people.

I urge my colleagues to join in this new consensus, which can bring important changes and progress in our battle against crime.

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

ADDRESS OF SENATOR EDWARD M. KENNEDY

I appreciate the opportunity to participate in this important Conference and to join with the National Governors Conference and the National Institute of Law Enforcement and Criminal Justice in discussing some of the current problems that affect the administration of criminal justice in our Nation.

The Governors Conference has been a continuing source of advice and assistance to Congress and the Nation. It was more than 60 years ago that the Governors first convened in a collective effort to "influence the development and implementation of national policy and apply creative leadership to state problems." And that leadership has grown over the years.

From your new headquarters in the Hall of States, you have offered valuable advice and assistance concerning the major issues that confront our Nation. Your Committee on Criminal Justice and Public Protection has been especially active in dealing with such important issues as criminal code revision, juvenile delinquency, organized crime, drug abuse, compensation for victims of crime and white collar crime.

Your recommendations—especially in the area of reforming the Federal Law Enforcement Assistance Program—have been particularly constructive and helpful. I owe a special thanks to the Chairman of the Committee, Governor Hunt, for his assistance with the LEAA legislation that passed the Senate last week. And I look forward to working closely with you during the next few months as Congress completes final action on this comprehensive bill to reform and restructure LEAA and make it more responsive to state and local needs.

Crime is primarily a state and local problem that will not be solved in Washington. The most appropriate federal role is to try to put our own house in order, and to encourage the fifty states to experiment, to retain their historic individuality, and to seek innovative responses to the problem of crime control. Ultimately, the answers you produce are likely to be applicable to the Federal Government as well.

And that is the purpose of this Conference. Your workshops—on court congestion, prison overcrowding, sentencing reform, violent juvenile crime and alternatives to incarceration—are designed to encourage new approaches and develop more effective criminal justice policy.

The Nation is about to enter the decade of the 1980's with its criminal justice system in disarray. We lack a consensus on purposes and methods. We are unsure of what works and what ought to be done. Priorities are confused and resources misallocated. And, meanwhile, our crime rates are the highest in the western world. If recent trends continue, at least three Americans in every hundred will be the victim of a violent crime during this year and one household out of every ten will be burglarized.

When traveling around the Nation, I find that the problem of crime ranks alongside inflation and energy as the chief concerns of the American people. Crime is not confined to our urban ghettos: it stalks everyone, everywhere. The inner city resident refuses to open the door to anyone after nightfall. The suburban family's neighborhood stroll is a thing of the past. The farmer in the great plains locks his door to secure his family and property. The elderly couple wait for police escorts before venturing out to the local supermarket.

Nor is our preoccupation with crime a recent phenomenon. Criminal violence has debased the quality of life in America since the founding of the Republic. In one of the earliest speeches that brought him public attention, Abraham Lincoln spoke of "the increasing disregard for law that pervades the country." Over a century ago a Senate Committee investigating crime in the District of Columbia lamented that "riot and bloodshed are of daily occurrence; innocent and unoffending persons are shot, stabbed, and otherwise shamefully maltreated, and

not infrequently the offender is not even arrested." And in 1893, one out of every eleven Chicago residents was arrested for some crime!

Yet, Congress has done little about the problem in recent years. We have had committee after committee involved in the issues of the economy and energy, but there wasn't much discussion about crime. Unsure of what could work, unconvinced that anything meaningful could be done, Congress quietly sidestepped the issue.

This attitude is slowly beginning to change—a result in large part of the dedicated work of organizations like the National Governors Conference and LEAA. A few of the most important recent steps would include developments like these:

A new Federal Criminal Code is closer to enactment than at any time in our Nation's history. The current federal criminal law, never before codified, is a random assembly of inconsistencies, a Tower of Babel, laced with ambiguities and archaic provisions. It constitutes a serious impediment to effective, fair law enforcement.

Comprehensive criminal sentencing reform enjoys broad, bipartisan congressional support. Sentencing today is a national scandal. There are no guidelines to aid judges and little appellate review of sentences. And we have an arbitrary, unfair parole system that deceives the public, the victim and the offender alike.

A new Charter for the FBI is about to be introduced to define the permissible conduct of the Bureau and proscribe the sort of abuses that occurred in the recent past.

And, of course, there is the LEAA Reform bill, just adopted overwhelmingly by the Senate, which will simplify the grant process, reduce waste, and target limited resources. We need LEAA: but we need a program that works for, not against the best interests of our local communities.

These are all vital, constructive signs that Congress is beginning to shoulder new responsibilities in the crucial areas of crime control and criminal justice. But we also need to deal effectively with significant challenges in other important areas—such as gun control, the plague of juvenile violence, and white collar crime. And, Congress and the states must also turn their attention to the festering problem of bail.

BAIL

The public is rightly concerned about current bail practices. After more than a decade of experience with bail reform, it is apparent that the reform effort has serious flaws. It has failed to deal effectively with the problem of crimes committed by defendants released on bail. With increasing frequency, persons on bail are being arrested and charged with serious felonies—especially burglary, robbery, larceny and drug offenses. A recent study by the Institute of Law and Social Research found that over fifteen percent of all persons arrested for crimes committed in the District of Columbia were on bail at the time. This arrest rate is over ten times the rate of arrest for the general population.

And this is only the tip of the iceberg. In one study, sixty-five percent of the offenders arrested for auto theft and subsequently bailed were rearrested for another auto theft! The figures are forty percent for larceny, thirty-three percent for robbery and twenty-seven percent for burglary!

Our current bail procedures are not working. In particular, they pose an unnecessary threat to the safety of the community. It is time to recognize that these procedures need substantial revision, within the scope of what is permissible under the Constitution.

Most federal and state bail statutes now specify that, in deciding whether to permit a suspect's release on bail, judges must consider only what is necessary to secure the suspect's appearance at trial. Flight is the only stated test. The law does not permit a judge to consider the defendant's potential dangerousness to the community in reaching the bail decision. Bail is designed only to insure the presence of a defendant in court. Preventive detention—the jailing of people not for what they have done in the past, but for what they might do in the future—is contrary to most existing bail statutes and offends the Bill of Rights.

The 1966 Federal Bail Reform Act was enacted with this principle in mind. It attempted to narrow the distinction between the rich and the poor by mandating a presumption in favor of release for all those arrested. This presumption could be overcome; but it was designed to assure a more even-handed, non-discriminatory approach to bail and was premised on the belief that the poor were no more likely to flee the jurisdiction than the wealthy, who could afford to post high bail.

A decade of experience has vindicated the assumption of the Bail Reform Act. Flight is not as serious a problem as some had predicted. For example, in one major study of persons released on bail, less than four percent willfully failed to appear. There is no evidence that the poor—the prime beneficiaries of recent bail reform efforts—are more likely to flee.

Recent bail reforms at the state level confirms this fact. Kentucky has replaced the traditional bail system—where the defendant pays a bail bondsman to secure release—with one that permits the defendant himself to post ten percent of the bond. The deposit is then returned to the defendant at the conclusion of his case. Similar laws are also in place in Illinois, Oregon and the City of Philadelphia. The advantage of this "defendant's option" system is twofold. First, the defendant himself as a financial incentive not to flee, unlike the traditional system where the risk is on the bondsman once the bond is posted. Second, the defendant has no reason to commit additional crime on bail to pay the bondsman's bond. In Kentucky, recent statistics actually demonstrate a drop in the burglary rate attributed to the fact that some defendants are no longer committing crimes to pay the bondsman.

For the Nation as a whole, however, the problem of crimes committed by persons on bail continues to be a critical one. Statistics show that the likelihood of a person committing additional crimes while on bail is much higher than flight of the suspect. Although federal and state bail laws largely ignore this fact, the judges do not. Although they publicly deny it, many judges concede in private that they set high bail or jail a suspect because they feel the suspect is dangerous and will commit another crime if released. In effect, they nullify the law. They jail offenders because of danger, while adopting the transparent pretext that the offenders pose a risk of flight. But this approach is neither candid nor fair. Almost forty percent of the persons jailed in lieu of bail in the District of Columbia were deemed in one study to pose little risk of committing additional crimes if released!

Another serious problem involves the sentencing of offenders convicted of crimes on bail. Today, if an offender commits a second offense while on bail and is later convicted of both offenses, he usually receives a concurrent sentence. Public cynicism and frustration mount as the offender commits two crimes for the price of one. Meanwhile, court congestion and trial delay prevent speedy disposition of cases involving bailed persons, who roam local streets in no hurry for their cases to be called.

Preventive detention—the simplistic response to the bail problem—is not the answer. It is unsound as a matter of constitutional law, because it flies in the face of the due process clause of the fifth and Fourteenth Amendments, and the prohibition against excessive bail under the Eighth Amendment. Preventive detention is also unsound as a matter of public policy, because it is based on the erroneous premise that accurate predictions of future danger can be made.

We know that such predictions cannot be made when it comes to indeterminate sentencing or parole release. Bail is no different. One limited study of the District of Columbia's preventive detention law shows that only one out of twenty persons who could have been detained were actually rearrested for a dangerous or violent crime. Theoretically, nineteen defendants who would not commit crime on bail could be detained in order to prevent one from committing a crime on bail.

The experience of the District of Columbia proves that preventive detention doesn't work. The District has a preventive detention statute; it also has one of the highest arrest rates in the Nation of persons on bail. Of some 1,500 cases in the District last year when preventive detention could have been used, it was actually invoked only thirty-six times. Prosecutors and judges alike are reluctant to use the statute, partly because of its detailed due process requirements and expedited hearing schedule. Nor is there any reason for them to use preventive detention. Prosecutors simply ask for high bail which the defendant cannot afford. The judges go along, and the result is the same—preventive detention in disguise.

The goal of bail reform must *not* be to jail more defendants pending trial, but to develop a more rational policy for distinguishing who should be released and on what conditions. A recent study by the Institute of Law and Social Research concludes that if bail procedures were more rational and fair, no more defendants would be jailed pending trial, yet a thirty percent decrease in the rate of crime committed by persons on bail could be achieved.

The challenge is to develop a bail policy that takes into account the legitimate concern of the public about community safety. Innovative and effective alternatives should be studied and tested in at least four areas:

1. Restricted Bail:

First, bail should not be an all-or-nothing decision. A range of stringent restrictions should be considered in cases where bail is granted.

Under most current procedures, substantial money bail is the sole condition of release. Yet, in too many cases it has the effect of assuring preventive detention. In my view, judges should be permitted to consider danger to the community, not in the initial decision to grant bail, but in the subsequent decision whether, once the defendant is released, additional restrictions should be imposed based on predictions of dangerousness.

This power of the court to set bail release conditions based on the fact that a defendant poses a risk to the safety of the community has no parallel in existing federal law. If such a consideration were permitted at the time of the initial bail decision it would constitute unacceptable preventive detention. But once the defendant has been ordered released, a new balance can be struck. Although constitutional issues may be raised, they are much less substantial than those involved in preventive detention. Once a defendant has been released, I believe that the community's safety can and should be legitimately considered, and that reasonable restrictions can be designed that fairly meet the requirements of the Constitution.

Several types of conditions may be suggested—certainly, one condition would be

that the defendant will not commit a crime while on bail. Many other conditions can easily be suggested, depending on the facts of particular cases:

The defendant will report to appropriate law enforcement agencies on a regular basis;

That he will avoid all contact with witnesses;

That he will avoid specific neighborhoods and personal associations;

That he will not possess a weapon;

That he will participate in a drug rehabilitation program; or

That he will seek employment.

Indeed, in rare cases involving offenders perceived to be especially dangerous, release might be severely restricted by placing the defendant under severe custody restrictions.

To some extent, such conditions are currently found in existing statutes but they cannot be used effectively because they are not sufficiently related to risk of flight. By allowing the court to consider the risk of crime in setting conditions of bail release, judges will acquire an effective tool that is lacking today. The defendant's movements, associations and activities can be intensively monitored and restricted. Prosecutors and judges can draft bail orders which limit the permissible conduct of the defendant. Restricted bail can have a significant impact in reducing danger to the community. Yet it does not suffer from the grave constitutional infirmities and arbitrariness of preventive detention.

2. Revocation of bail:

Second, if a defendant is charged with an offense on bail, the court should make better use of the power to hold him in contempt. Today the contempt power is rarely used in this context; usually, the court deals with the new offense in isolation, and makes a new finding as to bail. The previous case is ignored. Often, the court is not even aware of the prior charge. If the defendant seems likely to appear for trial, bail may again be granted and the revolving door of crime takes yet another senseless spin.

This must change. A defendant arrested on bail should be brought before the court which initially granted release. That court can then hold the defendant in contempt for violating the conditions of bail and order him jailed. This finding of contempt is based on the fact that the defendant has breached his bail contract. Preventive detention is not the issue. The defendant faces jail for violating the previous conditions of his bail, not because he is perceived to pose a danger to the community. Contempt can be carried out with an adequate hearing to determine the facts, but without the necessity of a full trial. In this way, the concept of swift punishment can be brought home with force.

Obviously, due process guarantees must be observed. The contempt power should be limited to situations where the defendant has been charged with a serious crime or has breached a major condition of his bail. A probable cause finding as to the validity of the new arrest should be made. Once these requirements are met, use of the contempt power to compel compliance with a bail order would be an effective weapon in deterring those released on bail from committing additional crimes.

3. Consecutive sentencing:

Third, conviction for a crime committed on bail should result in a sentence consecutive to any other sentence which might be imposed. Today a habitual criminal who commits a crime on bail often receives a sentence concurrent with the sentence for other convictions. Such a result actually encourages the offender on bail to commit other crimes, since the likelihood of a concurrent sentence offers him an opportunity to commit additional crimes without fear of additional sanctions. Currently, there is little statutory penalty for committing crimes on bail. The law should mandate that an offender's conviction for a crime on bail shall give rise to a consecutive sentence.

4. Speedy trials:

Fourth, defendants on bail should be brought to a speedy trial. One of the most glaring defects of the current system is the scandalous delay in bringing the bailed offender to trial. Yet such delay constitutes one of the major causes of additional crime on bail. In the District of Columbia, trial delays in excess of a year are commonplace. And yet the District has a better record in this area than many metropolitan courts.

Legislation should require that offenders on bail—especially those high risk offenders on restricted bail—must be given a trial priority second only to defendants actually detained in jail. Neither the community nor the offender should be made to wait on the vagaries of the court calendar. Each day a defendant on restricted bail is free in the community, the likelihood increases that an additional crime will be committed. Bail reforms cannot be considered without also taking more effective steps to assure prompt disposition of the charges.

These four reform proposals—restricted bail, contempt procedures for revocation of bail, consecutive sentencing, and prompt trials—are not etched in stone. Further study and research are required. Attention must also be paid to other innovative proposals—like the recent bail reform study bill proposed by Mayor Koch of New York City.

Nor can these proposals succeed in a vacuum. In the coming weeks, I intend to consider this problem of bail in the context of the new criminal code effort. I look forward to the advice and comments of the Governors Conference and all other interested groups.

Substantive reforms, however, are not enough. We must also provide our criminal justice system with the financial and technical resources needed to make bail reform work. The concept of restricted bail, for example, is undercut from the outset if the offender cannot adequately be supervised and monitored by the court, marshals, or other agencies geared to monitor defendants on bail. Similarly, speedy trials for offenders will require that the courts and prosecutors be given the modest resources to dispose of cases on a priority basis. Without this type of additional financial commitment, true bail reform probably cannot be implemented effectively.

We also need better data on how bail is working, what factors are considered by the court in granting bail, and which offenders are most likely to flee or commit another crime if released. Judges, prosecutors, defense lawyers and others, like the highly respected District of Columbia Pretrial Services Agency, should be encouraged to conduct a systematic study of the strengths and weaknesses of bail and the reforms that are achieved. The ultimate success or failure of our system of bail will depend on the adequacy of this oversight and evaluation.

What is at stake is not whether we are labeled "hard" or "soft" on crime. What is at stake is our competence, our ability to reduce criminal violence in ways that reflect our basic legal values. In any nation suffering from violence, the danger is understandable that the passion for safety and security may override traditional principles and lead to harsh solutions that only make the problems worse. Sometimes, as we learned in the early 1970's, government itself inflames the problem by encouraging simplistic solutions and law and order rhetoric. The test for our generation and for the decade of the 1980's is whether we can shed these shibboleths and develop workable alternatives to bring the crime rate down. As I have tried to indicate, bail reform must be a useful part of our new, more responsible arsenal in the war on crime.

As Governors, you have a paramount role to play in the current debate. I look forward to continuing our partnership, to working with you to improve the fairness and effectiveness of our criminal justice system. I congratulate all of you for the past role you have played so well in this debate, and I am confident you will be making an even greater contribution in the years to come.

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

S. 1502. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

CONVENTION ON CULTURAL PROPERTY IMPLEMENTATION ACT

● Mr. MATSUNAGA. Mr. President, today I am introducing a bill to implement articles 7(B) and 9 of the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

The Convention's chief purpose is to combat the illegal international trade of national art treasures. The parties to the Convention undertake to prohibit importation of cultural property stolen from museums, public monuments, and similar institutions, and also undertake to recover and return such property to the rightful owners.

The United States played an active role in negotiating this convention and it was adopted by the United Nations Educational Scientific and Cultural Organization (UNESCO) on November 14, 1970. The U.S. Senate approved the convention by a vote of 77 to 0 on August 11, 1972. Despite the U.S. role in bringing about this Convention and our commitment to the Convention's purpose, the U.S. Congress has still to enact the implementing legislation.

Today the illegal traffic in stolen art objects has soared to unheard of levels. Recently, we in the United States had an experience demonstrating the important of and deep attachment to our cultural patrimony. The Smithsonian Institution National Portrait Gallery announced the acquisition of the Gilbert Stuart portraits of George and Martha Washington from the Athenaeum of Boston. The removal of these famed portraits from Boston raised an outpouring of indignation from Boston citizens, and several public officials have sharply criticized the removal of Boston's cultural patrimony by the Smithsonian Institution.

This uproar over Gilbert Stuart's portraits seems quaint when viewed in light of the pillaging and plundering occurring abroad to satisfy antique and art collectors. If the Stuart portraits had been stolen from the Boston Museum of Fine Arts and later exhibited in the National Portrait Gallery, these stolen portraits would have been quickly returned to Boston.

Yet, that same situation is occurring regularly today. The cultural patrimony of various foreign countries are being stolen from museums, public monuments, and similar institutions, only to turn up in the hands of private collec-

tors and museums in the United States and other Western countries.

Bronze figurines and marble reliefs from the archaeological sites of Herculaneum and Pompeii in Italy have been stolen; amber, glass, and bronze ornamental jewelry dating from the fourth century B.C. have been robbed from a museum in Yugoslavia; numerous bronze and gold artifacts from the tomb of the legendary King Midas have been taken from the Gordion Museum in Turkey; important archaelogical sites in Thailand have been plundered. The cultural patrimony of these countries, equal in importance to the Stuart portraits to the United States, are being pillaged and sold to satisfy the acquisitiveness of private collectors.

In some areas, this rape of cultural patrimony has been devastating. In the Mayan ruins in Mexico, huge sculptures are broken into pieces that can be carried away and sold in the illegal international traffic in antiquities. Huge statutes have been battered with sledge hammers, sliced into pieces with stone saws, and mutilated for clandestine shipment and sale abroad. Mayan walls decorated with larger-than-life size models of human and animal forms have been blasted into fragments, so that pieces may be transported out of Mexico and illegally sold. This pillaging could be compared to the blasting and removal of the statuary in the U.S. Capitol to satisfy the acquisitiveness of some European collector or some museum in the Middle East. We certainly would not allow it.

To prevent the wholesale rape and plunder of the various nations' cultural heritage, the United States advocated the adoption of the UNESCO Convention and the U.S. Senate approved the Convention on August 11, 1972. Those good intentions must be translated into hard action, and I believe that it is high time that the Congress adopted the implementing legislation to end the continued trafficking in this country of stolen art objects which has encouraged the unconscionable plundering and pillaging abroad. Just as we seek to protect our own cultural heritage and the cultural patrimony of the citizens in Boston, we should be willing to help other nations protect and maintain their own cultural heritage.●

By Mr. HEFLIN (for himself, Mr. STEWART, Mr. GOLDWATER, Mr. GLENN, Mr. TOWER, Mr. HEINZ, Mr. CHILES, and Mr. DECONCINI):

S.J. Res. 95. A joint resolution to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of Gen. Daniel "Chappie" James, Jr., and for other purposes; to the Committee on Labor and Human Resources.

DANIEL JAMES MEMORIAL CENTER FOR PREVENTIVE HEALTH EDUCATION ACT

Mr. HEFLIN. Mr. President, I am very pleased to introduce today for Senators STEWART, GOLDWATER, GLENN, TOWER, HEINZ, CHILES, and myself the Daniel James Memorial Center for Preventive Health Education Act. This legislation would authorize funds for the construction of an educational facility at Tuskegee Institute in Alabama as a permanent tribute to the late Gen. Daniel "Chappie" James, Jr.

Needless to say, the concepts embodied in the establishment of this Center are nonconventional in the health field. The Center will represent the first such effort not only in the South, but perhaps also in the country. It will usher in the new direction that health care must take in the remaining years of this country. It will emphasize the preventive health education and effective health maintenance. The program components will be designed to instruct, communicate, develop, convey and practice total health. The facility will also serve as the repository for General James' memorabilia and as the Tuskegee Institute Art Museum.

This is a pioneering effort honoring a man who was a great American patriot. The late General James fought in military conflicts as a member of the U.S. Air Force in the Pacific in World War II, in Korea, and in Vietnam, and received numerous military decorations for his distinguished leadership and valor in combat.

He rose from service as a pilot, was appointed Commander in Chief of the North American Air Defense Command, and became the first black person to hold the rank of four-star general in the Armed Forces of the United States.

Tuskegee Institute in Alabama established the first airplane pilot training program for black trainees, and provided the late General James with the education and the aviation training that encouraged him to pursue and enabled him to achieve an outstanding career of service and dedication to his fellowman and to his country.

Mr. President, I hope that the Congress of the United States will see fit to honor this great American in the way that my named colleagues and I are proposing.

Mr. President, I yield to the senior Senator from Alabama, the Honorable DONALD STEWART, who wishes to make a supporting statement at this time. When he finishes, Mr. President, I will send this bill to the desk and ask that it be referred to the appropriate committee.

Mr. STEWART. Mr. President, I am very pleased to join my colleague, Senator HEFLIN, in introducing the Daniel James Memorial Center for Preventive Health Education Act of 1979.

This bill would establish the Daniel James Center for Preventive Health Education at Tuskegee Institute in Alabama.

The Daniel "Chappie" James Memorial Center for Preventive Health Education is an especially fitting tribute to the late Gen. Chappie James. It is also fitting that this Center be located on the campus of Tuskegee Institute. It is Tuskegee which prepared General James for a lifetime of service to this country. General James was a 1942 graduate of Tuskegee Institute and received his pilot training at the Tuskegee Army Airbase. He was truly an honorary son of Alabama. Throughout his life Chappie James was a model alumnus, forever grateful for the fine preparation Tuskegee had given him for a lifetime of leadership.

General James received his commission in the U.S. Army Air Corp shortly after leaving Tuskegee. He went on to fly nearly 200 combat missions in Korea and Vietnam. He became one of the most decorated airmen in the history of the U.S. Air Force. By virtue of his courage and leadership, Chappie James rose to the rank of four-star general, becoming the first and only black to attain that rank. His last assignment in active service was Commander in Chief of the U.S. Air Force—North American Air Defense Command. Clearly, General James built an exemplary record of service and patriotism. Moreover, Chappie James showed that we live in a society in which character counts more than color and that ability is the ultimate determinant of achievement in America.

Chappie James was a true pioneer and the Chappie James Memorial Center for Preventive Health Education represents a truly pioneering effort. With the new focus in our medical community on preventive health, the James Memorial Center for Preventive Health Education will be an important resource in the uphill struggle against illness and poor health in this country. Chappie James would be proud that this center bears his name.

Chappie James dedicated his life to serving this country. We have a unique opportunity to express our gratitude to this great American by authorizing this worthy tribute to the late General James. I ask my colleagues on both sides of the aisle to support the Daniel Chappie James Memorial Center for Preventive Health Education Act.

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BENTSEN, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code to encourage greater individual savings.

S. 378

At the request of Mr. BELLMON, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 736

At the request of Mr. DOLE, the Senator from Iowa (Mr. JEPSEN) was added as cosponsor of S. 736, the Employment Tax Act of 1979.

S. 1056

At the request of Mr. JEPSEN, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 1056, a bill for the relief of Artemio C. Santiago, M.D., and Josefina Santiago, husband and wife.

S. 1068

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1068, a bill to amend title XVI of the Social Security Act to continue the disabled children's program another 3 years.

S. 1107

At the request of Mr. STEVENSON, the Senator from North Carolina (Mr. HELMS) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1107, the Youth Opportunity Wage Act of 1979.

S. 1274

At the request of Mr. PRESSLER, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1274, a bill to make postsecondary vocational institutions offering 6-month programs of training to prepare students for gainful employment eligible for certain Federal student assistance programs.

S. 1328

At the request of Mr. HATFIELD, the Senator from Vermont (Mr. STAFFORD), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 1328, a bill to amend the Water Pollution Control Act.

S. 1420

At the request of Mr. HATFIELD, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1420, a bill to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects.

S. 1421

At the request of Mr. HATFIELD, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 1421, a bill to authorize the Secretary of the Interior to engage in feasibility studies of various potential hydroelectric power projects.

S. 1435

At the request of Mr. NELSON, the Senator from Missouri (Mr. DANFORTH) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1435, the Capital Cost Recovery Act of 1979.

S. 1467

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 1467, a bill to amend the Internal Revenue Code of 1954 to provide that the retirement-replacement-betterment method of accounting for property used by a common carrier is an acceptable method for determining depreciation allowances for income tax purposes.

AMENDMENT NO. 210

At the request of Mr. SASSER, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of amendment No. 210 intended to be proposed to S. 712, the Rail Passenger Service Authorization Act.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1020

AMENDMENT NO. 316

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

Mr. SIMPSON submitted an amendment intended to be proposed by him to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM—S. 1309

AMENDMENTS NOS. 317 THROUGH 320

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

Mr. HELMS (for himself, Mr. DOLE, Mr. HAYAKAWA, Mr. LUGAR, Mr. ZORINSKY, Mr. COCHRAN, Mr. BOREN, Mr. JEPSEN and Mr. PRYOR) submitted four amendments intended to be proposed by them, jointly, to S. 1309, a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

Mr. HELMS. Mr. President, when S. 1309 is taken up for consideration by the Senate, I intend to offer four amendments. These amendments involve moderate changes in the administration of the food stamp program to be effective in 1979. With minor technical changes, the first three of these amendments are identical to provisions in S. 1310, the administration's bill amending the Food Stamp Act of 1977. My fourth amendment is a direct response to points raised by State food stamp administrators who have complained that current regulations bind their hands in verifying eligibility of program applicants.

Mr. President, I might say that some of the most cogent complaints came from constituents of the distinguished occupant of the chair (Mr. BOREN), who have found great difficulty in administering the food stamp program.

I will briefly explain each amendment.

First. State share of recoveries. This amendment permits States to retain 50 percent of the value of all funds or food stamp allotments the States recover from those who have fraudulently obtained food stamps. This amendment will increase the low recovery rate in the food stamp program by providing an incentive for States to pursue fraud cases.

Second. Repayment for fraudulent participation. This amendment establishes the principle that the recipient of food stamps who has committed fraud shall have to compensate the Government for benefits illegally received before resuming participation. It provides two alternatives for repayment of the value of wrongfully acquired food stamps: The recipient may agree to a moderate reduction in the food stamp allotment to the household of which the defrauding person is a member; or the recipient may agree to a cash repayment of the value of the fraudulently obtained food stamps over a reasonable period of time. This amendment will provide a meaningful deterrent to fraud in the program and save millions of dollars.

Third. Provisions for information. This amendment authorizes USDA and State administrators to require social security numbers of participants. It provides for the same standards and procedures as are now employed by HEW in administering the Aid for Families with Dependent Children (AFDC) program. In addition, the administrators are granted access to data pertaining to supplemental security income recipients under the same terms and conditions as the Secretary of HEW. This amendment simply provides USDA and State administrators with the authorization to obtain information already in the possession of HEW so that the eligibility of those applying for food stamps may be better verified, thus reducing fraud and saving millions of dollars.

Fourth. Eligibility verification. This amendment permits States to employ additional procedures to verify the eligibility of households applying for food stamps. In many ways the Federal regulations inhibit the States from taking sound measures to verify eligibility, and yet other Federal regulations penalize State agencies for having ineligibiles on the rolls. This amendment will simply permit State agencies to employ additional procedures to assure the eligibility of applicants.

Mr. President, I ask unanimous consent that my amendments be printed in the RECORD.

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

On page 7, between lines 2 and 3, insert the following:

"STATE SHARE OF RECOVERIES

"SEC. 4. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: 'as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection'.".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, between lines 2 and 3, insert the following:

"ELIGIBILITY VERIFICATION

"SEC. 4. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, between lines 2 and 3, insert the following:

"PROVISIONS OF INFORMATION

"SEC. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

'(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under Part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the

Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, lines 2 and 3, insert the following:

"REPAYMENT FOR FRAUDULENT CONDUCT

"SEC. 4. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayment in cash under the provisions of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

MILITARY CONSTRUCTION AUTHORIZATIONS—S. 1319

AMENDMENT NO. 321

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

Mr. EXON submitted an amendment intended to be proposed by him to S. 1319, a bill to authorize certain construction at military installations, and for other purposes.

AMENDMENT NO. 322

(Ordered to be printed.)

Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. RANDOLPH, Mr. PELL, Mr. KENNEDY, Mr. CRANSTON, Mr. RIEGLE, Mr. HART, Mr. MELCHER, Mr. MOYNIHAN, and Mr. LEVIN) proposed an amendment to S. 1319, supra.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold a hearing on the following nominations: Leroy D. Clark to be General Counsel of the Equal Employment Opportunity Commission; Charles J. Chamberlain, who has been nominated for reappointment as Labor Member of the Railroad Retirement Board; and Mrs. Frankie Muse Freeman to be Inspector General of the Community Services Administration. The hearing will be held on Wednesday, July 18, 1979, at 2:30 p.m. in room 4232 Dirksen Senate Office Building.●

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

● Mr. MELCHER. Mr. President, I wish to announce that the Subcommittee on Environment, Soil Conservation, and Forestry of the Senate Agriculture Committee will hold an oversight hearing on the impact of proposed geothermal steam recovery for energy on the planning and management of the Targhee National Forest.

The subcommittee has invited representatives from the U.S. Department of Agriculture, U.S. Department of the Interior, and the U.S. Department of Energy to testify. Public witnesses have also been invited.

The hearing will be held at 10 a.m., Monday, July 16 in room 324. Anyone wishing further information should contact the Agriculture Committee at 224–2035.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs will hold the following hearings during the month of July:

July 17, 10 a.m., room 6226: To examine the question of State and local government compliance with the President's wage-price guidelines.

July 18, 10 a.m., room 6202: Intergovernmental fiscal impacts of tax-exempt single family housing mortgage bonds.

July 24, 10 a.m., room 6202: Oversight hearing on General Revenue Sharing.

July 26, 9:30 a.m., room 357: Grant reform legislation with focus on S. 878, the Federal Assistance Reform Act; and S. 904, the Federal Assistance Reform and Small Community Act of 1979.

July 27, 10 a.m., room 457: Grant reform legislation with focus on S. 878, the Federal Assistance Reform Act; and S. 904, the Federal Assistance Reform and Small Community Act of 1979.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Subcommittee on Antitrust, Monopoly and Business Rights has scheduled hearings on the "failing company" intitrust defense. Under this judicially created doctrine, companies which are competitors are allowed to merge in circumstances which normally violate section 7 of the Clayton Act.

The hearing will begin on July 19, 1979, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification of the Agriculture Committee has scheduled hearings on S. 850, sponsored by Senator MCGOVERN. S. 850 would authorize the Secretary of Agriculture to guarantee loans for the construction and operation of fuel alcohol plants, provide for a secure supply of feedstocks for the operation of such plants, and amend the Agricultural Act of 1949 with respect to the set-aside program for feedgrains.

The hearings will begin at 9:00 a.m. on Tuesday, July 17 and Thursday, July 19 in room 324. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the committee staff at 224–2035.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold 2 days of hearings on July 17 and 19, 1979, on section 810 of the Military Construction Authorization Act, 1980. (S. 1319)

The hearing is scheduled to begin at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building. Questions concerning this hearing should be directed to Jerry Lindrew at 224–3674.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a hearing which will be held by the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs.

On Thursday, July 19, 1979, at 9:30 a.m., the subcommittee will hold a hearing on S. 1096, a bill to extend the phasing of rates charged for mailing of commercial and nonprofit mail matter. The hearing will be chaired by Senator TED STEVENS, a member of the subcommittee, and will be held in room 1224 of the Dirksen Senate Office Building.

If you have any questions regarding this hearing, please contact Jamie Cowen of Senator STEVENS' staff at 224–2254, or Anne Boni of the subcommittee staff at 224–1477.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Research and Development Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on S. 1308, the Energy Supply Act.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Tuesday and Wednesday, July 17 and 18, 1979, to hold hearings on S. 1377, Synthetic Fuel and Alternate Fuels Production Act.

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

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate today—beginning at 2:30 p.m.—to hear testimony on S. 339, a bill concerning trade with Communist countries.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Friday, July 13, 1979, to consider the Federal Election Campaign Act Amendments and other administrative business.

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

SUBCOMMITTEE ON AVIATION

Mr. HART. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on the certification and inspection of DC-10's.

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

ADDITIONAL STATEMENTS

CAPTIVE NATIONS WEEK

● Mr. DOLE. Mr. President, while the recent release of five dissidents from the Soviet Union has been a happy development in which the free world has rejoiced, it should not overshadow the fact that oppression and repression continue to take place within the Communist-dominated nations of the world. The arrest of 10 members of the Charter 77 Group in Czechoslovakia on May 29, even though it went practically unnoticed in the U.S. press, served to remind us that violations of human rights are a daily occurrence in the lives of the citizens of satellite countries.

Captive Nations Week has become an important landmark on our calendars in that it serves to focus attention on the plight of nations who are pursuing their dream of freedom in a daily struggle for human rights and self-determination, strengthened by indomitable courage and sustained by undaunted hope.

It is only in nations where citizens participate in the decisions that affect their daily lives, by being full partners in their governmental system, that a people's own destiny and the guarantee that its human rights will be observed, can be accomplished. In nations where man is the servant of the state, human rights become an irrelevant issue and the "pursuit of happiness" that is integrated in our own Constitution a futile chimera—an unreachable illusion of the mind.

The Russian people hoped that a revolution, in 1917, would lead to a more just society. That dream was shattered by the realities of the Bolshevik regime which imposed a new form of autocratic rule from that which the Russians had attempted to obliterate. The formation of the Union of Soviet Socialist Republics in the 1920's marked the beginning of a new brand of Russian imperialism based on ruthless repression of individual, religious, and national rights. The United States has never recognized the forced Soviet incorporation of the Baltic Republics of Estonia, Latvia, and Lithuania which followed their invasion by the Soviet forces after Stalin and Hitler reached an understanding concerning spheres of influence in Eastern Europe.

The imperialistic pursuits of the Soviet Union continued with the annexation of Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia who, rendered helpless by the invaders, were forced to submit to a Communist regime. The pattern of Communist domination was to be repeated in Asia and in Africa.

That those who live under Communist domination rebelled time and again, from East Germany in 1953, Poland and Hungary in 1956, to Czechoslovakia in 1968, is a demonstration of man's inherent need for freedom and a tribute to man's courage and tenacity in pursuing the fight for justice and human rights.

The Helsinki Final Act in 1975 offered new hope to those trying to free themselves of their Communist yoke. Ways to implement expectations into realities have yet to be devised. Will Madrid in 1980 complete the task begun in Belgrade in 1977?

Pope John Paul II's visit to his native Poland focused attention on religious freedom and on the commitment of Eastern European citizens to the spiritual values of the Catholic Church. The enthusiasm of the crowds demonstrated that their religious aspirations were alive and well, in spite of the barriers erected against them.

Privileged as we are to living in a democratic society, we tend to take for granted the freedom of speech, of thought, and of worship that we enjoy. The 20th anniversary of Captive Nations Week is a reminder that some of our fellowmen are still struggling to gain access to those same freedoms that to us are simply a given right. In observing that anniversary, let us pledge our continuing support of the countless prisoners of conscience, of the dissidents who persevere against all odds in shaking the foundations of regimes built on the destruction of the spirit of independence.●

THE HIGH COST OF REFUGEE RESETTLEMENT

● Mr. HUDDLESTON. Mr. President, there is increasing evidence that our overenthusiastic policy on refugees is rapidly propelling us toward a major confrontation between the interests of the refugees and the interests of our own poor and unemployed. While we should continue to offer assistance to refugees, we must realize that the United States has limitations in this regard and that efforts to do more than our fair share will ultimately result in depriving our own needy citizens of their opportunity to have a better life. We still have a great deal of hardcore poverty and unemployment in this country and our efforts to balance the budget will mean that efforts to alleviate these problems will be shortchanged if we commit ourselves to accepting endless numbers of refugees. The $1 billion price tag that is already attached to our Indochinese refugee program will seem like small change compared to future expenditures at present projected admission levels of 14,000 per month.

We already have 6 million unemployed in this country and this number will increase by approximately 1 million if we have the economic recession later this year which most economists are predicting. The hardest to be hit by high unemployment are blacks, who consistently have higher than average unemployment rates.

Our commitment to improve the lives of disadvantaged individuals in this country is still not fulfilled and will require a great deal of additional work on our part. However, our policy of trying to outdo every other nation in the world in our refugee program will have a serious impact upon our domestic programs. Two noted journalists, Carl Rowan and William Raspberry, recently raised serious questions about our refugee program. I agree completely with Mr. Rowan's assessment that:

> Americans—especially minorities—who are suffering from both unemployment and inflation will find it hard to dismiss as "humanitarian" Mr. Carter's decision to accept 7,000 more Vietnamese a month.

This same concern was also reflected in a recent Wall Street Journal article depicting the success of the Iowa refugee program. While I commend the people of Iowa for the outstanding job they have done in this area, there is definitely another side to this whole issue. The undertone of this article strongly indicates that serious problems exist with the expanded refugee program and that these problems will intensify if the United States continues to assume primary responsibility for resettling the hundreds of thousands of refugees streaming out of Southeast Asia.

The article notes that the problems go beyond the high welfare expenses. It states:

> But the costs go beyond dollars. "Local citizens are reluctant to welcome any more refugees, and the refugees are having a hard time feeling at home," the welfare official says. "Whenever the federal government phases out the program, and the states have to pay, tempers will rise even higher."

The article goes on to say that—

> There has been grumbling in the black community that the refugees are taking jobs away from blacks. The Iowa unemployment rate is about 4 percent; in some areas of Des Moines, say Arzania Williams, director of the Gateway Community Center in a black section of Des Moines, the unemployment rate for young blacks is 40 percent. "I'm not saying don't do anything for the refugees," Mr. Williams says. "It's just that charity begins at home and spreads abroad."

Although our rush to assist the refugees is motivated by the best of intentions, I am extremely concerned that we may be creating serious economic and social problems for the United States by attempting to do too much too fast. These are the types of problems which we should be fully investigating and evaluating. Unfortunately, they are being ignored or glossed over.

I ask unanimous consent that the transcript of Mr. Rowan's comment on

station WDVM, Mr. Raspberry's article in the Washington Post, and the Wall Street Journal article by Mr. Rout be printed in the RECORD.

There being no objection, the articles follow:

ASIAN REFUGEES

President Carter's decision to double to 14,000 the number of Vietnam refugees the U.S. will accept each month was designed to shame Japan, France and other industrial nations into doing something for the homeless boat people.

While this may appear to be Carter leadership in Tokyo, it will cause the already-beleaguered President some new headaches in the United States.

Americans—especially minorities—who are suffering from both unemployment and inflation will find it hard to dismiss as "humanitarian" Mr. Carter's decision to accept 7,000 more Vietnamese a month.

As Sen. Frank Church pointed out recently, the U.S. already was taking 70 per cent of the Vietnamese, at an annual cost of $200 million a year for resettling them. The Tokyo decision will cost taxpayers another $150,000,000 a year.

Mr. Carter will find that this outrages especially some black members of Congress who note that black unemployment in America is still a dreadful 11.6 percent, and who argue that these refugees add to the prospect of joblessness among blacks. Blacks ask why Mr. Carter was so bold in Tokyo in standing up for the Vietnamese when he has been so indifferent to the economic woes of black Americans, without whose votes he would not be President.

Add to this the prospect that the increase in oil prices ordered by OPEC will reduce American jobs by 800,000 by the end of next year, and the outlook becomes grim for black America.

Not just blacks, but a majority in Congress, may try to override the President's recent outburst of humanitarianism.

This is Carl Rowan.

[From the Washington Post, July 4, 1979]

OUR OWN "WRETCHED REFUSE"

(By William Raspberry)

The United States, obviously moved by the sad spectacle of the homeless "boat people," has doubled, to 14,000 a month, the number of those poor souls it will take in as refugees.

This big-heartedness, even during a time of economic uncertainty at home, is one of the things I admire about America.

But with unemployment among black Americans running at twice the rate for whites, with blacks losing ground to whites in terms of family income—and with this depressing discrepancy certain to grow worse as a result of the energy shortage—we are told not to expect much more by way of catch-up help for blacks.

This is one of the least admirable things about America. It is also one of the most mystifying.

Racism doesn't quite suffice as an explanation. When the favored refugees were Europeans—freedom-seeking Hungarians, for instance—some of us were convinced that it was their whiteness that triggered American sympathy.

But the Indonesian "boat people" aren't white. Nor do they share the American language and culture.

Is it our assumptions about a group's industriousness that tilts the scales of welcome? Unquestionably, the Indochinese have a reputation for being willing to work hard at low pay.

But that isn't the whole explanation either. Surely blacks who toiled so hard and for so little as share-croppers in the American South, and who fled to the industrial North for a chance at low-skill factory jobs, cannot be said to have been congenitally lazy.

In fact, most of the negative traits assigned to poor blacks can be read not as the cause but as the outcome of the denial of opportunity.

Perhaps it is the angry insistence of black Americans on a better chance, or their present-day unwillingness to take the worst—and worst-paid—of the jobs that triggers resentment.

But, then, how do we account for the comparable resentment against Mexican migrants, who enter this country illegally for the privilege of performing back-breaking stoop labor? Or against Haitian peasants, who look to the lowliest of American jobs as their chance for a better life? Why do we round up these wretched opportunity-seekers and send them packing while we welcome the Indochinese?

The "boat people" are, of course, a special case, since America's only choice, finally, was to admit them or condemn them to death.

But weren't we welcoming Vietnamese refugees long before there were "boat people"?

Maybe a sense of national guilt growing out of the Vietnamese war, has something to do with it. But that only raises the question of how this country has managed to overcome its sense of guilt regarding the plight of black Americans, or of American Indians.

Why do we hoist the welcome sign for some wretched outsiders but not for others?

A major part of the explanation may have to do with perceptions: Perceptions of the basic qualities of a group of people, perceptions as to the degree of threat they represent, perceptions as to how easily they will fit in.

A thousand and one things conspire to create negative perceptions of America's black poor. If the jobless rate among blacks is twice as high as among whites, doesn't that suggest that blacks are only half as willing to work as whites? And if the jobless rate among black teen-agers soars to 30, 40 or 60 percent, doesn't that tell you that black teen-agers perfer to hang out on street corners?

Unfortunately, these perceptions fulfill themselves.

I am proud of America for opening its doors—and its hearts—to the "boat people." But I do wish that we could save some of our sympathy—and our cash—for our own "wretched refuse" who, no less than Hungarians or Cubans or Vietnamese, want a chance at the good life the country has to offer.

[From the Wall Street Journal, June 27, 1979]

HAVEN FOR BOAT PEOPLE: IOWA DOES SO WELL BY ITS INDOCHINESE REFUGEES THAT IT'S GAINING A REPUTATION IN ASIAN CAMPS

(By Lawrence Rout)

DES MOINES, IOWA.—It's Saturday night here, and three young men, in skin-tight bell-bottom pants and shoes with two-inch heels, flail away at electric guitars. Dozens of couples fill the dance floor.

The music, however, isn't anything like the top 40. These tunes, musicans and dancers are from Laos. And while the younger couples hustle to a faint disco beat their parents, as if keyed to a different ryhthm, glide about the floor doing the traditional Lamvong dance.

This curious blend of the East and West is becoming increasingly commonplace in this Midwestern state. Since the fall of Saigon in April 1975, about 3,700 refugees have settled here. At least 1,000 more are due to arrive this year. Iowa seems to be absorbing these refugees without the social and economic costs that have been paid elsewhere.

With some 235,000 Indochinese refugees in the U.S., and over 5,000 more coming each month, all 50 states are, to some extent, touched by such problems. The latest available figures show the number of resettled refugees ranging from under 100 in Vermont to over 45,000 in California. Yet no matter how many refugees they have in their states, most state governments have made few, if any, special efforts to find them jobs.

WELFARE PAYMENTS

"It has meant a lot of refugees on welfare," says a welfare official in one Eastern state. Last year the federal government, under a special program, spent $43.9 million in welfare money for the refugees.

But the costs go beyond dollars. "Local citizens are reluctant to welcome any more refugees, and the refugees are having a hard time feeling at home," the welfare official says. "Whenever the federal government phases out the program, and the states have to pay, tempers will rise even higher."

But probably not in Iowa. "Any refugee we put in this state will eventually get a job," says Colleen Shearer, director of the Iowa Refugee Service Center and of the state's Department of Job Service.

Iowa's success has been noted elsewhere. Some other states, Michigan and New Jersey for instance, are developing similar programs. And when Iowa Congressman Jim Leach visited a refugee camp in Thailand recently, he found that "everyone in this forlorn part of Thailand knew of Iowa, and their first preference was to go there."

What Iowa does to warrant this praise isn't so different from what private organizations, such as the U.S. Catholic Conference and the Luthern Immigration and Refugee Service, do in all the states. Iowa puts the power and resources of the governor's office behind the refugees.

"GLAD TO BE HERE"

Tran Vinh Kiet is glad it does. Last April 29, after an escape by sea from Vietnam and a seven-month stay in a Malaysian refugee camp, the goateed Mr. Tran, 31 years old, arrived in Des Moines with his 24-year-old sister and their nephew. Five days later, both Mr. Tran and his sister had jobs, and their nephew, seven-year-old Tran Kien Nghiep, was in a day-care center. "All things are very different than in my country," Mr. Tran says in broken English. "But we are very glad to be here."

Such success wasn't easy; the wheels started turning when Mr. Tran was still in Malaysia. To begin with, a sponsor, someone to help Mr. Tran adapt to his new life, had to be found, a task that is typically left to private agencies. In Iowa, however, the state gets involved, too, tapping sponsors outside the church groups that are the bread and butter of the private organizations. Kenneth and Kristen Tharp of Grimes, Iowa, were persuaded to sponsor Mr. Tran.

Mrs. Tharp, a 25-year-old social worker, explains that her husband had met some refugees in his job as a real-estate agent in Des Moines. Then, when Gov. Robert Ray went on television earlier this year to ask Iowans to "open our hearts," she says, "we decided it was something we wanted to do."

First, though, they had to learn how, and the state's 12-member Refugee Service Center was ready to teach them. A meeting of old and new sponsors was set up a few weeks before the refugees' arrival, and there the Tharps were given a glimpse of the future. The advice ranged from the mundane (many of the refugees have never slept in beds) to the enigmatic ("Laotians don't show emotion," staff member Khuyen Baccam told the sponsors. "A smile can mean they're happy, but it could also mean they're unhappy.").

The sponsors were given $150 per refugee—federal money that could be used for rent deposits, clothes and other necessities before the refugees arrived. The Tharps, after three days of looking, found a $150-a-month, one-

bedroom apartment on the edge of a lower-class section of Des Moines and furnished it with gifts from friends and relatives. They had to buy some clothes, Mr. Tharp says, "because the refugees are smaller than most people." (Mr. Tran is five-foot-three.)

Mostly, though, the couple, egged on by the refugee center, went looking for jobs. "Try to exhaust all job possibilities before you apply for cash assistance," Jonann Wild of the center told the sponsors. "If your back is against the wall," she said, "come to us and we'll try to work it out."

A JOB IS FOUND

Two days after Mr. Tran arrived by plane, Mr. Tharp did just that, and the center, conveniently situated in a corner of the Department of Job Service, placed Mr. Tran in a $3.50-an-hour job making aluminum windows at Corn Belt Aluminum Inc., of Des Moines.

John Graham, one of the owners of Corn Belt Aluminum, had already contacted the refugee center. "I called them because I knew they would be taking care of the refugees and we had been happy with the ones we've employed in the past," he says. The company employs about 30 workers, 10 of them refugees.

Most employers end up pleased with the refugees. "They are good workers and dependable, and that's hard to find," says Walter Henderson, owner of Nimble Thimble, a tailor shop here that hired Mr. Tran's sister to work as a seamstress.

While Mr. Tran was grateful for his job, he was keenly aware that screwing together four sides of a window frame didn't fit the skills he acquired in Vietnam as an assistant manager in an import-export firm. "It's simple work, menial," he said. "I'd like to get a better job in the future." Recently he did get a better job, doing electrical repair work on home appliances in a local shop. He is still paid $3.50 an hour, but the job requires more skill.

GRIND BOTHERS SOME

For many refugees, the 9-to-5 grind is a problem in itself. "Over here you have to work all the time just to have this," says Cam Ngo Ngiem through a translator, referring to his four-bedroom house in a lower-class section of Des Moines. He recalls that in Laos, where he was a commander in the army, "once you have a cow, a water buffalo, and a little rice, you only have to work once in a while."

A few refugees complain that the state goes overboard in promoting the Western work ethic. Khamma Van Chau Luong, 52, another former Laotian army officer, came to Des Moines in October 1975 and was immediately given a woodcutting job in a furniture factory. "They don't ask what kind of job you can do, but they just say you have to do anything," he says. Mr. Luong lost his index finger in an accident at the factory soon after he started.

The slender Mr. Luong recently quit his job to study accounting and went on welfare. Since the state's refugee center periodically gets a list of all refugees on welfare, Mr. Luong has been receiving much of the staff's attention. "They chew me out every day" is the way he puts it.

There has been grumbling in the black community that the refugees are taking jobs away from blacks. The Iowa unemployment rate is about 4 percent; in some areas of Des Moines, says Arzania Williams, director of the Gateway Community Center in a black section of Des Moines, the unemployment rate for young blacks is 40 percent. "I'm not saying don't do anything for the refugees," Mr. Williams says. "It's just that charity begins at home and spreads abroad."

AIDS SEVEN FAMILIES

Gateway Center itself has sponsored seven refugee families. "We were amazed at how quickly we were able to get them jobs," Mr. Williams says. "The employers took them much quicker than they would the black male." The reason for that, he surmises, is that "Americans have opened up their hearts to these people." They haven't, he says, for the blacks.

Mr. Williams and others are also impressed with the fact that the state stays involved even after the refugees have jobs. The refugee center is constantly giving advice on legal matters, housing problems and ways of dealing with the bureaucracy. Lawrence James, an assistant vice president at United Federal Savings & Loan in Des Moines, says that when he lived in Chicago, "processing a loan for these people was a devil of a chore—I had to hunt around to find translators." In Des Moines, he says, he just calls the refugee center.

Of course, problems crop up each day that the refugee center depends on the sponsors to solve. Some are easy: "We've had to show them how to put on socks—like where the heels go," Mr. Tharp says. Others are more difficult: "The refugees," one sponsor says with exasperation, "don't trust banks. They stuff all their money into their mattresses." Mr. James confirms this account, noting that he often gets $2,000 down payments from the refugees in cash.

THE COOLNESS OF THE CHILDREN

Many refugees are put off by the eagerness of their children to adapt to the American way of life. "The way the boys act, the 'coolness,' it's seen as a sign of disrespect," says Somsak Saythongphet, a Laotian refugee who works for the refugee center.

Most parents, however, seem to be resigned to such a change. "Our daughters have to go with where they are. They have to keep with the pace," says Mr. Ngiem, the former commander in the Laotian army.

The parents hope that their children will get better jobs someday than they themselves have. Such hopes may be inflated, though, particularly for the older children who know little English and have only a short time to learn.

"The 18- and 19-year-old kids, they say they want to go to college," Jay Laughman, a teacher at the Des Moines Technical High School, says with a sigh. "But they have no idea what college is, or why they want to go there, and most of them can't speak English well enough to get by anyway."

Siang Bacthi, 25, a Laotian refugee who works for the state, agrees. "We know that the people over 15 don't have hope," she says. "Most of them will come out of school and work like their parents." ●

ELDERLY IOWANS' FEAR OF CRIME

● Mr. CULVER. Mr. President. I would like to bring to the attention of my colleagues a recent Des Moines Register article about elderly Iowans' fear of crime.

It is generally well known that senior citizens are especially vulnerable to crime. But what is less well known is that their suffering from crime reaches into all areas of our Nation. Elderly victimization by crime is not confined to the eastern region of the United States or our big cities. Unfortunately, they are also plagued by crime in many of Iowa's cities, as this article documents.

Several factors combine to render older Americans particularly susceptible to the incidence and aftermath of crime. The elderly are often less able to defend themselves or flee from an assault, and may be more likely to suffer serious injury. Due to their longstanding home-ownership and limited incomes, many senior citizens live in older, possibly deteriorating, and crime-prone neighborhoods. Simply living alone, as many retired people do, can tend to lessen one's sense of safety and heighten fears and insecurities. Also, the predictable arrival of a regular monthly social security or other pension check tends to make senior citizens easy prey to the theft of these vital checks.

The elderly often suffer more from crimes in terms of financial devastation and emotional trauma. For people living on limited incomes, who must continually struggle to cover basic necessities, the loss of even a modest amount of money can inflict serious hardship. Many have little or no savings and literally depend on each check for their very survival. So losses through theft or costly medical treatment are significant setbacks.

This informative but sobering article relates how serious crime has affected the elderly in several Iowa cities. Several tragic deaths, as well as numerous robberies and muggings, have understandably instilled fear in the survivors and their neighbors. Such incidents tend to further isolate these senior citizens, who are often afraid to go outside for even the most common errands. Fortunately, the article notes, police departments and senior citizens groups are beginning to organize neighborhood watch programs and other needed measures for self-protection and crime prevention.

The article also cites several surveys which indicate that crime is a predominant concern of the elderly, ranking along with finances and health. Ninety-five percent of retired persons considered crime a serious problem according to a Des Moines Tribune metro poll.

Mr. President, I urge my colleagues to closely read this article which illustrates how our senior citizens are victimized by crime in the Midwest. I ask that the following Des Moines Register article be printed in the RECORD.

The material follows:

FEAR OF CRIME MAKES PRISONERS OF THE ELDERLY

(By Sherry Ricchiardi)

The crime is fear.

It doesn't appear in Iowa law books. But it could, because every time an elderly Iowan is beaten or robbed, others become victims.

The fear of crime forces them to live isolated existences behind barricaded windows and locked doors. They become increasingly reclusive . . . and silent. Some—especially women living in metropolitan areas—are afraid to go to supermarkets, to a doctor's office or even to take the garbage out alone.

Crime, surveys show, ranks as a major concern of the elderly along with money, health and loneliness. Fear of reprisal in some neighborhoods is so strong that elderly citizens refuse to be seen talking with reporters or uniformed police officers. They are afraid to give their names. Afraid to give their addresses. Afraid something might happen to them . . . again.

Many already have been victimized or know others who have been mugged, robbed, conned, or in some cases, killed. Until recently, little was being done to curb this paralyzing fear the elderly have of crime. "People expect it to happen in New York City, but not here," said Des Moines Police Lt. Jaspers Trout.

In Iowa, with nearly 13 percent of the population over 65, law enforcement agencies are just beginning to address the problems elderly have with crime. In some cities, the police are helping the elderly marshal forces to carry out crime prevention activities like block-watching, telephone reassurance and peer support in court.

REASON TO WORRY

Police records, especially in Iowa's larger cities, show the elderly have reason to worry. Among crimes involving older citizens during the past year:

In February, Mildred White, 80, of Sioux City, died of brain damage after being beaten and robbed by a gunman in a garage near her house. His take: several rings and a brooch.

In August, Clara Schiele, 90, of Davenport, died of injuries received during a purse snatching that occurred just outside her home. A few months later, Schiele's neighbor, Martha Kistemacher, 74, also was attacked and later died from the injuries in a nursing home.

Last fall, Ruby Boyd, 88, of Des Moines, suffered a fractured hip, leg injuries, cuts and bruises when she was thrown to the ground by a mugger in an alley in back of her house. She was found by a 15-year-old neighbor who called for help.

In January, Lucile Littler, 91, of Des Moines, awakened to find a man in her bedroom. Crippled and unable to move, she listened in terror as the man roamed the house finally stealing a television set. It was the second time in a year that her home had been burglarized.

Dessie Parrish, 83, of Council Bluffs, was beaten with her cane and robbed in February. Parrish was hospitalized for more than three weeks after the incident.

"EASY PICKINGS"

Older citizens are more vulnerable not only to malicious mischief, but to violent crime, according to police officials. Many are physically weak and slow on their feet, few constitute a serious threat to attackers. In street slang, they are called "crib jobs" or "easy pickings." Police records show the offenders often are juveniles.

According to Trout, director of Des Moines' Crime Prevention Program, catching the criminal is only part of the job. "The hardest task is relieving the terrible fears and frustrations the elderly have. It's horrible when they lose money, especially since most are on tight fixed incomes. They're not only frightened of being harmed, but of not having enough money left to survive," Trout said.

"Unfortunately, the victimizers know too well when the Social Security checks arrive. One 80-year-old woman struggled with an assailant in an attempt to save her purse. The attacker pulled her arm right out of its socket. Later, she confided she only had $1.15 in the purse, but didn't want to lose photographs of her grandkids."

POLL FINDINGS

The Des Moines Tribune's Metro Poll found that 95 percent of the retired persons interviewed rated crime a serious problem. A study by the Omaha, Neb., police department revealed that only finances worried the elderly more than crime in that city. According to a national Harris Poll, fear of crime ranks as a major concern of the elderly along with money and health.

A 71-year-old Des Moines woman, who requests anonymity, tells of her home being burglarized four times in one year, the worst occurring while she cleaned chickens for a food concession at the Iowa State Fair in August. "It was the hottest time of the year, and they took my air conditioner and TV," the woman said.

"Another time, they hit my garage and tried to steal my car, but I heard them and flicked the lights on. They broke into a shed and stole all my good tools. Every night, I ask God to be with me while I sleep. I can't afford to constantly live with fear. I have heart trouble. When I get excited, I pass out."

The woman hasn't considered moving because, "I've lived in this house for 52 years." Two of her elderly neighbors, however, moved to care centers after being burglarized several times.

In 1976, the U.S. Crime Control Act provided funds and specifically encouraged programs for the elderly. Since then, police departments in Iowa, and around the United States, have organized programs aimed at solving a lingering problem between the elderly and the police: personal communications.

DES MOINES PROGRAM

A purse snatching incident this spring in Des Moines spurred a group called "Prime Time Senior Citizens" to request meetings with police foot patrol units in the neighborhood. "When the police officers first came, it was touchy. The people didn't relate with them at all. But, we kept at it and finally, the barriers fell," said Glynn Jones, director of nutrition for the Prime Timers.

Now, police drop in at least once a month to lunch with the senior citizens. Sometimes, they even attend parties with the oldsters. Along with fostering better personal communications, the Des Moines police have organized "neighborhood watch" groups in high crime areas.

"The elderly are perfect for this because they're often home during the day," said Trout. "Besides, it's good for them to take a break from watching TV and get up and peek out the window to see what's going on once in awhile."

To counteract fear of reprisal, police issue secret watch numbers that allow callers to remain anonymous and avoid direct contact with them. Des Moines police recently began marking the property of elderly citizens with special indentification numbers to discourage burglars.

"We paste stickers on windows and doors informing would-be burglars that items in the house are marked. We've actually seen a decline in burglaries in areas where we're utilizing this," Trout said.

But, some social workers say that Des Moines police aren't visible in certain high crime areas. Paul Walley, director of the Southeast Neighborhood Development Agency, believes foot or jeep patrols would help curb crime in that area. "I know they're doing it in other parts of the city and we would welcome it here. It seems to be a deterrent when the police are more visible. I'd like to see them come to our center where the kids, who often might be involved in some of these crimes, could get to know them."

AROUND IOWA

Neighborhood watches are in the planning stage in Davenport, according to Police Sgt. Richard Zoeckler. The Davenport police conduct home security checks for the elderly and help them secure facilities at a minimum cost. Zoeckler's own mother was burglarized last year.

"My mother is a widow who lived on the good side of town. They ransacked her house while she was in church one Sunday. She couldn't adjust to living there alone after that. She sold the house and moved to a security controlled apartment," Zoeckler said.

"I know some elderly people in this town who have been burglarized five and six times. The most pitiful part is that some are assaulted and even die of the injuries they receive. It's pretty hard to tell them their fears aren't justified."

The Waterloo police department is in a "holding pattern" awaiting for confirmation of a $90,000 Law Enforcement Assistance Administration grant for crime prevention, according to Bill Hermanson of police community relations there. That police department, like many others in the state, has developed special programs on safety for the elderly.

During these presentations, Hermanson tells senior citizens to "be disciples and learn to take care of each other. Go out and share what you learn here today." He tells them to "use common sense and don't be greedy if you want to avoid being ripped off by con men. The world isn't like it used to be 40 years ago. You can't just be trusting, you have to check things out. That's sad, but it's a fact of life."

Chris Harshbarger, director of the Hawkeye Valley Area Agency on Aging in Waterloo, recently applied for a Health, Education and Welfare grant to organize "Victim Pact," a program aimed at researching the effect of crime on the elderly and improving the ability of neighborhoods to protect the elderly in their midst. His proposal, however, was turned down, and Harshbarger is angry about that.

"The federal government provides money to study the freckles on the backside of gnats, but they take a different stand on this type of issue. I followed it up, but couldn't get any solid reasons for the denial," he said.

Senior citizens in some Waterloo neighborhoods back off from reporting crimes, Harshbarger believes, because "they literally fear for their lives." He relates the story of a partially blind woman, in her mid-80s, who barricaded herself inside a small roach-infested hotel room, too fearful even to walk to the bathroom at the end of the hall.

"She heated what little food she ate on a radiator and spent most of her life in bed," Harshbarger said. "We finally relocated her in a cleaner, safer place, but she spent years living life petrified by fear.

"It's absolutely criminal for society to sit back and let human beings exist that way."●

THE CLASSIFIED INFORMATION PROCEDURES ACT

● Mr. HUDDLESTON. Mr. President, I would like to congratulate Senator BIDEN on the role he has played in formulating this important bill.

The use of classified information in litigation is an area fraught with difficulties. Of course, I am very concerned that each defendant in a criminal trial be afforded the right to public adjudication guaranteed by the sixth amendment. At the same time, it is intolerable that those with access to classified information can use their positions of trust to frustrate justice. By threatening to release national security information, they can often get off scot-free. Currently, the Government must often choose between disclosing classified information and allowing criminal conduct to go unpunished. I think the Biden bill goes a long way toward ending this perversion of justice without damaging constitutional rights.

Currently, we on the Intelligence Committee are trying to work out charter legislation that would provide a firm legal basis for intelligence activities. While the charters will guarantee that the Government has the authority to undertake needed actions in the intelligence area, at the same time it should protect the American people against abuses of this authority. I fear that without the procedures contained in the Biden bill, many of the charter provisions would become unenforceable as

violators threaten to disclose sensitive information during trial.

I am pleased with this bill; it goes a long way toward closing a gap in criminal procedures that has become increasingly obvious and harmful.●

THE HOME NEWS CELEBRATES A CENTURY OF SERVICE

• Mr. WILLIAMS. Mr. President, for a century one of the vigorous voices of New Jersey journalism has been the Home News of New Brunswick, N.J.

With a circulation of 58,000 daily and 72,000 Sunday, the Home News serves one of our State's most important cities and its residents with a blend of excellent local, State, and national news coverage.

The paper is the oldest family-owned newspaper in New Jersey; a fact which testifies to the strength, persistence, and business acumen of the Boyd family.

From the paper's founder, Hugh Boyd, to William M. Boyd, the current editor and publisher, the Home News has been blessed with wise and creative leadership in the best of America's journalistic tradition.

On Sunday, June 24, the Home News marked its 100th anniversary with a special issue and the editorial from that day's paper captured the hopes and goals of the newspaper in a most eloquent way.

In an accompanying article, Ken Jennings, a former Home News editor and retired journalism professor chronicled the fortunes of the paper over its first century.

Mr. President, I was particularly touched by the portions of the article which dealt with the late Hugh N. Boyd, who served as publisher of the Home News for 21 years until 1976. I was an admirer of Hugh's forthright and exceptional leadership of the Home News and if there is a sad note to this otherwise happy occasion, it is that Hugh's untimely death last May 14 prevented him from sharing in this special celebration.

Mr. President, in an era when the family newspaper seems to be a vanishing breed, our entire Nation can be proud that we still have fine community newspapers like the Home News of New Brunswick, N.J.

I ask that the editorial from the Home News of June 24, 1979, be printed in the RECORD along with excerpts from the accompanying article by Ken Jennings.

In addition, Mr. President, a fine new magazine in our State, New Jersey Monthly, printed a most eloquent tribute to Hugh Boyd in its most recent issue. I would ask that this editorial letter, written by the magazine's Editor-in-Chief Christopher F. Leach and Publisher Hendrix F. C. Niemann, also be printed in the RECORD.

The material follows:

REFLECTIONS ON OUR 100TH

In the newspaper business, history is yesterday's news. We chronicle today's events, and our favorite tense is the future. A knowledge and a sense of the past are essential to the presentation of today's news, of course, in order to bring it into focus and perspective, for what happens today and what will happen tomorrow are rooted in what happened yesterday—and the day before that.

It isn't often, though, that we reach back to our own beginnings as a daily publication to seek an understanding of how we have changed and of how those changes have shaped and effected the way we—and you—view the world.

We've been doing that lately, however, in preparing the special 100th anniversary edition of The Home News which is contained in today's paper. We've been reading crumbling and yellowed copies of our old newspapers, and it has been a delightful—and a sobering—experience.

The Home News has come a long way, in a lot of ways, in its first one hundred years. The most immediately apparent change has been in our face; bigger type, multi-column headlines, photographs. And the technological changes in production methods, particularly in the last few years, have been breathtaking—and we're only beginning to see the effects of 21st century technology on our operation.

But what has really fascinated us, amused us—and given us pause—is our change in style.

Long gone are the days of breathless headlines and unabashedly subjective stories in which the writers routinely reported the happenings of the day in a context of the day's mores. Woe betide the miscreant of yesteryear whose deeds came to the attention of correspondents and editors in the long ago time when the community was small and insular and when the views of the community were widely held and generally unchallenged ones!

Gone, too, are the days when a crusading editor of The Home News (one J. Dark Chandlee by name) could crystallize public sentiment for a new Albany Street bridge over the Raritan River through a hoax—an elaborately false story describing the catastrophic crash of a steamroller through the old wooden bridge.

And gone are the days when a private garden party or a fist fight on the corner or the purchase of a particularly handsome new horse carriage were vital nuggets of information for readers who were likely to know, first-hand, those involved.

But if our style has changed, it is because the world has changed—and you have changed. Newspapers do not exist in a vacuum, and ours reflects and is reflective of the growth and change of Central New Jersey and its residents. Not all of the changes are unequivocably for the better; there's a lot to be said for the chatty, even gossipy, tone of those early editions which mirrored and amplified the sense of community and friendliness and caring. And there are times and issues when Editor Chandlee's unethical tactics bring a momentary gleam to a frustrated editorial writer's eye.

We believe—we hope—however, that The Home News today remains a publication which serves its readers as they need to be served and as they wish to be served. Forty years ago, in a 60th anniversary editorial the editor of The Home News wrote, "We look back upon ourselves and as we do so we find cause for only a smallness in contentment, for only a humbleness in pride. Much perhaps has been done, but much more certainly could have been done."

We can say the same today.

And on that 60th anniversary date, the editor vowed that The Home News stands "in solemn rededication" to work in "helpful cooperation toward the common goal—a greater New Brunswick, a greater Middlesex County."

We renew that pledge today. But on this 100th anniversary, we must expand it, dedicating ourselves to serve better the greater community of Central New Jersey, to produce papers that are relevant to society's needs, to present news fairly, accurately and in depth, and to be the public's watchdog, advocate and spokesman.

For at least another century.

PAPER'S HISTORY IS STORY OF GROWTH

(By Kenneth Q. Jennings)

Newspapers, as are people, are born, live and breathe. Unlike people, some of them never die. Their growth usually fluctuates with the community in which they live.

So has it been with The Home News.

Because his straitlaced Presbyterian father refused to allow him to work on the Sabbath when the Belfast News-Letter started a Sunday edition, Hugh Boyd, a journeyman printer, left his native North Ireland for fame and fortune in the United States.

Ten years later, Hugh Boyd was the sole proprietor of a nine-month-old daily newspaper which its backers were glad to sell him for the $200 borrowed from them to launch it.

This was on Dec. 1, 1879.

Now, 100 years later, the fifth generation of the Boyd family, and the third named Hugh, is a member of the board of directors. His father, William M. Boyd, is president of the Home News Publishing Co. This lineage makes The Home News the oldest family-owned daily newspaper in New Jersey and one of the most venerable in this American tradition.

In Hugh N. Boyd, the best traits of three generations of Home News publishers were evident. He inherited his father's business acumen and the writing ability of his uncles, Elmer and Arthur. The latter was evident in his popular Sunday column entitled, "A Boyd's Eye View" and the personality profile of Mamie Eisenhower in 1953 which won wide acclaim.

In guiding the course of bringing more news and services to the reader, Hugh N. Boyd expanded the influence of The Home News to other areas during the past decades. Under his direction, as chairman of the board, the Home News Publishing Co. owns two television outlets from Connecticut to Florida. They are:

Housatonic Publishing Corp., which publishes weekly newspapers in Brookfield, New Milford and Litchfield, Conn., and Pawling, N.Y.; the Housatonic Broadcasting Co., which operates AM and FM radio stations in Brookfield, Conn.; the Holston Valley Broadcasting Corp., which operates an FM radio and a television station in Kingsport, Tenn.; Northwest Connecticut Broadcasting Corp., which operates an AM station in Torrington, Conn., and Caloosa Television Corp., operator of the television station in Naples/Fort Myers, Fla.

Luckily for New Brunswick, Hugh N. Boyd, like his predecessors, was active in civic affairs. He served on every important board of directors associated with all facets of community life. In addition, his sphere of public service covered the state level being appointed there three times by New Jersey governors to serve on commissions. His interests were even wider, with association with Freedom of Information groups which gave him international acclaim. Throughout his lifetime, Hugh Boyd maintained a deep interest in young people, especially those involved in journalism. His interests journalistically and religiously were heightened when, just before his death, Bishop George Ahr of Trenton appointed him to the editorial board of the official diocesan publication.

Hugh Boyd's untimely death last May 14, at age 67, ended abruptly what was to be the most rewarding year of his life. After stepping down in 1976, after 21 years as publisher and 44 years as a staff member, he remained active as chairman of the board and editorial head of the newspaper looking

forward to the centennial anniversary of The Home News.

The long Home News tradition of community coverage and service will continue under the stewardship of William M. Boyd, who succeeded his father three years ago as editor and publisher. After graduation from the School of Journalism at Stanford University, Bill Boyd joined the staff of the San Diego Union-Tribune, in California. After becoming a director and member of the executive committee of The Home News, he became general manager in 1960.

It is interesting to note that The Home News in its three moves during the past century has continued to publish within the city limits.

The Home News has never changed in another respect. A reader has always been able to look with pride and satisfaction on the success of independent journalism in New Brunswick first demonstrated 100 years ago by pioneer Hugh Boyd.

[From the New Jersey Monthly, July 1979]

THE TALENT SCOUT

The last time I saw Hugh Boyd alive was at a McDonald's in New Brunswick on Friday, May 4. We met by chance, had a quick lunch, and talked for an hour about New Jersey Monthly, the problems of parochial school, New Brunswick politics, and an idea he had cherished for years—a national newspaper that would compile the best thinking from opinion pages of newspapers all over the country for national circulation. In a very real way, the last item on the agenda tells the most about the kind of man Hugh Boyd was—a man of ideas and a nourisher of dreams. One dream he helped nourish into life was this magazine, as a founding partner in NJM Associates, the group that owns the New Jersey Monthly.

Mr. Boyd died eight days after suffering a cerebral hemorrhage on the evening of the same day we met for lunch. His death was a profound shock to the communities he had known so well for varying periods during 67 years of life—to the staff of the New Brunswick Home News, of which he was publisher for twenty years; to the people who ran the two television stations, the radio stations, and the weekly newspapers he had either acquired or built during his career; to all who knew and respected his knowledge and judgment throughout New Jersey and all over the country. And to Drix Niemann and myself, two young men to whom he gave a chance that resulted in this magazine.

At Mr. Boyd's funeral mass those who spoke of him gave little time to his many physical monuments. They spoke, rather, of his ability to dream. As was said of Robert Kennedy, he asked "Why not?" when others would ask "Why?" Hugh Boyd was described by one of his eulogists as a talent scout, a man who sought and cultivated young people with ideas. His legacy, to us at least, is the notion that nothing is so valuable as a person or an idea given an opportunity to mature, a legacy we have tried to incorporate into the way we run New Jersey Monthly.

Hugh Boyd cared deeply about quality, too, which is why I think he would have been proud to know that, shortly before he died, New Jersey Monthly won two Sigma Delta Chi awards for outstanding journalistic achievement—the second year in a row we have been so honored. What we do here is really a tribute to his faith, and of him it can truly be said, "If you seek his monument, look around you."

We will miss you, Hugh. And although words are hollow substitutes, there's one we have to say: "Thanks." ●

WORLD ADMINISTRATIVE RADIO CONFERENCE

● Mr. GOLDWATER. Mr. President, this fall an important international conference that could have a profound effect on our Nation is convening in Geneva, Switzerland. Unlike our negotiations on SALT or the Law of the Sea, this Conference has received little attention from the general press. As a result, most Members of Congress and the American people are generally unaware that it will take place.

Mr. President, I am describing the World Administrative Radio Conference (WARC) to be convened by the International Telecommunications Union, and attended by 154 ITU member states. It will have the authority to make major modifications in the existing international radio regulations, the laws governing international telecommunications. General WARC's such as this one are convened only once every 20 years. Thus, the decisions made there will establish the direction and parameters of global telecommunications into the next century. A broad spectrum of significant foreign policy and security interests will be affected by WARC 1979.

As a member of the Communications Subcommittee, I have been concerned with the growing politicization of the ITU as a result of the efforts being made by Third World nations to accomplish political objectives in what has been in the past, a forum for technical discussion. Because of this concern, in January, Senator HARRISON SCHMITT and I requested the Congressional Research Service to evaluate U.S. preparations for WARC 1979. That study has been completed and its conclusion confirms my fears. I ask that a copy of the CRS study be printed in the RECORD at the conclusion of my remarks. After reviewing the CRS study, I wrote to Deputy Secretary of State, Warren Christopher, asking him to advise me of the actions being taken to protect the interests of the United States at WARC. I ask that the letter also be printed in the RECORD. Because the Congress must be in a position to evaluate U.S. preparations and to analyze the results of the Conference, including perhaps proposing reservations to the treaty, I requested the Commerce, Science, and Transportation Committee to hire an outside consultant. That is being done and the committee will make the findings of this study available to Members of the Senate in an effort to assist them in meeting their responsibilities next year.

If the Senate's schedule permits me to do so, I hope to attend the WARC to assess the problems faced by the United States and personally evaluate our delegation's efforts to protect U.S. interests. I will report to the Senate on my findings.

The material follows:

JULY 9, 1979.

Hon. WARREN M. CHRISTOPHER,
Deputy Secretary of State
Department of State
2201 C Street
Washington, D.C.

DEAR MR. SECRETARY: As you know, I have been concerned that U.S. interests may be adversely affected by decisions made at the 1979 World Administrative Radio Conference.

In order to determine what the Congress can do to help protect U.S. interests, Senator HARRISON SCHMITT and I requested the Congressional Research Service to report on U.S. preparations. That report has been completed; I am enclosing a copy for your information.

The report concluded that the Department of State now anticipates there will be areas of "potential confrontation" despite the Department's previous emphasis on the areas of agreement between U.S. and foreign proposals.

If the Department recognizes, as Ambassador Robinson predicted to a House Foreign Affairs Subcommittee on June 14, that the U.S. will encounter "considerable resistance" and "great controversy" at WARC, what action is being taken to coordinate the interests of the U.S. in this forum with other foreign policy objectives? Further, please advise me of the specific action being taken by the U.S. delegation to coordinate fall-back positions on controversial issues with Departmental and agency policy-level personnel.

I look forward to a continuing dialogue on this very important matter.

Sincerely,

BARRY GOLDWATER.

WASHINGTON, D.C.,
June 29, 1979.

Hon. BARRY GOLDWATER and
Hon. HARRISON SCHMITT,
Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATORS GOLDWATER AND SCHMITT: In response to your request, I am submitting a report on U.S. preparations for the World Administrative Radio Conference of 1979.

As you requested, the report includes an assessment of U.S. preparatory efforts, an analysis and evaluation of the substance of the U.S. position, and an overview of the major policy positions and the principal foreign positions, with particular emphasis on the positions of the developing countries.

The report was written by Dr. Joel M. Woldman, Specialist in U.S. Foreign Policy, Foreign Affairs and National Defense Division, with the execption of a section on Allocation Issues, which was written by Marcia S. Smith, Analyst in Aerospace and Energy Technology, Science Policy Research Division.

We hope this report will serve your needs. Please feel free to call on us if we can be of further assistance.

Sincerely,

GILBERT GUDE,
Director.

THE WORLD ADMINISTRATIVE RADIO CONFERENCE OF 1979: U.S. PREPARATIONS AND PROSPECTS

EXECUTIVE SUMMARY

The International Telecommunication Union (ITU) has scheduled the first general World Administrative Radio Conference (WARC) in twenty years for ten weeks from September 24 through November 30, 1979 in Geneva, Switzerland. To be attended by most of the 154 ITU member states, the WARC will have the authority to modify significantly the existing International Radio Regulations, the laws governing international telecommunciations. Since general WARCs are convened only once every twenty years, the changes in the Regulations resulting from the meeting may set the direction and parameters for global telecommunications until approximately the year 2000.

Significant questions affecting U.S. security interests, industry, and official overseas information programs will be decided at WARC 79. Since Conference decisions will

be reached on a one-country, one-vote basis, however, and over two-thirds of the members are less developed countries (LDCs) from the Third World, the Conference may prove a considerable challenge to U.S. policy makers and representatives. Moreover, in the United States, as in other countries, the Regulations have treaty status; therefore, any changes made by the WARC will have to be approved by the Senate.

Radio broadcasting is only the most familiar use of radio (electromagnetic) waves. Others include television; telegraphy; telephone; telex; fixed or mobile point-to-point communication between ships or aircraft, taxis or police; radar; microwave relay; radio astronomy; and all forms of satellite and cable communication. Since the electromagnetic spectrum is finite, there must be both international rules governing its use and national regulations for communications services within the borders of each country. Otherwse, each country's signals would constantly be interrupted by both domestic and foreign interference.

U.S. participation at WARC 79 can be viewed in a matrix of four general sets of issues—technological, economic, legal, and political/national security—which may or may not cause problems for us:

1. Technological

The technological issues include the U.S. proposals for an expanded High Frequency band permitting significant improvement in international shortwave broadcasting; for increasing allocations in the Ultra High Frequency band for land mobile services to be shared with broadcasting services; and several satellite-related problems, including the question of the right of equatorial countries to charge rent for use of the space above them for the positioning of geosynchronous communications satellites, the already highly politicized Direct Broadcast Satellite issue, and the Remote Earth Sensing Satellite issue.

2. Economic

Any changes in the ITU International Radio Regulations are of special interest to the U.S. telecommunications industry, both the manufacturers of hardware and software and the international communications carriers. Significant change could render existing equipment obsolete or, at least, require expensive retooling. The multibillion dollar U.S. communications industry could also be seriously affected by changes in the basic groundrules governing the use of and access to the spectrum on which their livelihood depends. Understandably, specific companies and branches of the industry have tended to view the process from their own perspective, and not necessarily from the same vantage point as U.S. Government planners.

3. Legal

Questions have been raised by those who foresee the possibility that the Regulations might be revised along lines which the United States would find difficult to accept. Like all ITU members, the United States has the option of footnoting or taking a reservation on a particular clause or section to indicate that the provision will not be considered binding. While in the past, the U.S. has emphasized harmony and refrained from following this practice except on one occasion, it may be advisable to attach reservations this year if the WARC accepts provisions that could be considered unwise or a threat to U.S. national interests.

It appears to be generally agreed that it would be difficult and even unproductive to opt out of the entire WARC agreement, since it governs orderely cooperation in spectrum use and global telecommunications, and the U.S. has more at stake in this regard than any other country. This relates to the dominant international role played by U.S.-owned information carriers, telecommunication equipment manufacturers, and news media. It also relates to the confusion and chaos that might develop in telecommunications if there were not some international regime governing spectrum use. In the event that new Regulations could not be finalized by the conference, the existing Regulations would remain in force until acceptable changes were agreed upon at a subsequent meeting.

4. Political/national security

After the conclusion of the WARC, it will be possible to enumerate the changes in the Radio Regulations and to quantify the consequences for the U.S. telecommunications industry or the additional or reduced frequencies that will then be available to U.S. international broadcasters such as the Voice of America and Radio Free Europe/Radio Liberty or military communications. It might be noted in this context that the Department of Defense is a major consumer of U.S. spectrum assignments and has become increasingly dependent upon satellite technology for surveillance and communications coordination.

It will be more difficult to define the wider implications for U.S. global interests of drastic changes in the Regulations. These concerns relate to possible barriers to accustomed U.S. access to foreign markets, audiences, and computerized data banks, and the concept of information as a basic resource in the conduct of international relations.

There is growing apprehension that Third World countries, which now comprise over two-thirds of the membership of the ITU (like all U.N. agencies) and therefore command a majority if they choose to vote en bloc, might use the occasion of WARC 79 to attempt to win a round in what they see as the continuing conflict between the developed countries of the "North" and the developing countries of the "South."

In the area of international communications, the Third World has voiced a number of grievances under the general heading of the "New World Information Order." These concerns include a more "balanced" flow of information between North and South; the prior consent of governments before their people are exposed to foreign "propaganda" or cultural influence (in anticipation of the future development of direct broadcasting by satellite); and the demand—more relevant in the WARC context—that portions of the increasingly crowded spectrum be reserved for developing countries that might not be able to use it until some unspecified future time. Only the latter issue could legitimately be considered an item on the WARC 79 agenda, but the others will nevertheless also probably be raised in general debate.

A 64-member U.S. delegation will participate in WARC 79, under the direction of law professor and former FCC commissioner Glen O. Robinson. The delegation, partially appointed in early 1979, and with additional appointees named in late May, includes representatives of both Government and the private sector. There will also be 4 representatives from each House of Congress. Some concern has been voiced by the U.S. telecommunications industry that because of a reinterpretation of conflict of interest legislation, private industry representatives will no longer be able to act as delegation spokespersons or to their committees or working groups. A recent amendment to the State Department authorizing legislation by the Senate—but not yet passed by the House—would permit the Secretary of State to waive this regulation, but apprehension persists that the original legislation could limit U.S. effectiveness by restricting the activities of the most knowledgeable members of the delegation.

The U.S. proposals for changes in the Regulations were submitted to the ITU in January, following extensive discussions within the U.S. Government and telecommunications industry, both of which are spectrum users and would therefore be directly affected by the outcome of the conference. The Government discussions were led by the State Department and the Interdepartment Radio Advisory Committee (IRAC) of the Department of Commerce's National Telecommunication and Information Administration (NTIA), representing the eighteen Federal agencies and departments that are major spectrum users. The Federal Communications Commission chaired similar deliberations for the private sector and the general public.

There were some differences within the Government on the U.S. proposals, notably the one which dealt with the High Frequency band. While the International Communication Agency, the parent body of the Voice of America, and the Board for International Broadcasting, which oversees Radio Free Europe/Radio Liberty, favored increased allocations for international shortwave broadcasting, the Department of Defense opposed such a move because it would require reduction of some of the frequencies now assigned to DOD communications. Ultimately, the dispute had to be referred to the National Security Council, where it was reportedly decided in favor of the broadcasters.

The basic U.S. objectives as stated in the proposals are:

(1) to continue to support the ITU as the best means of maintaining order in global telecommunications;

(2) to achieve minimal change in spectrum allocations or procedures based on present or predictable needs;

(3) to support spectrum management procedures that permit a flexible approach to solving problems as they arise; and

(4) to accommodate the needs of all countries—developing *and* developed—to the maximum degree possible.

Among other changes, the U.S. has proposed the following:

(1) An expansion of the AM radio band that would make possible an additional 700 stations;

(2) Co-equal sharing by broadcasting and land mobile services (e.g., Citizen's Band) in the UHF band;

(3) Future consideration of changes that would provide for inexpensive two-way voice and data communications via satellite to remote areas where terrestrial facilities are not available

(4) Expansion of fixed satellite service

(5) Splitting the satellite service in the 12 GHz band into two sub-bands for fixed satellites and direct broadcast satellites, effectively tripling the number of orbital positions available to each; and

(6) Expansion of the number of frequencies available to the amateur service.

Since the submission of the U.S. proposals in January, the United States has participated in over 50 bilateral and multilateral discussions to measure foreign reactions and gain some background to the proposals prepared by others. Although the U.S. delegation staff at the State Department reported in mid-May that foreign reactions to date had been largely positive, later public statements indicated significant areas of controversy both on the use of specific frequencies and on certain procedural issues. The LDCs, for example, are most interested in the High Frequency band and below. All the LDCs want to retain the fixed services in that band and question the U.S. proposal to reduce fixed service allocations in order to expand shortwave broadcasting and alleviate crowding and interference. They also disagree with the U.S. position on right of access to the spectrum and the geostationary orbit. On the

other hand, most countries support the U.S. proposals to expand the amateur and fixed satellite services.

At this writing, the basic outlook of the U.S. delegation is one of cautious apprehension and an apparent feeling that there could be considerable politicization or confrontation between North and South at WARC 79. It is difficult to confirm whether or not such views are justified.

Now that the U.S. delegation has been named, the remaining months before the opening of WARC 79 offer continuing opportunities for both the executive branch and Congress to prepare for what may be ahead. The executive branch can continue to consult with foreign governments and multilateral organizations to better anticipate the reactions of other countries to the U.S. proposals, as well as to analyze foreign proposals in advance of the conference.

The relevant Committees of Congress could schedule investigative and educational hearings to provide a forum for both Government and private views to be expressed. This would be an opportunity for the exercise of legislative oversight and also increase public exposure to the complex but important issues raised in the context of WARC 79. The results of the conference will necessarily be examined by the Senate to determine whether U.S. national interests have been sufficiently protected within a system of harmonious global telecommunications for the last 20 years of this century.

I. INTRODUCTION

A. The International Telecommunication Union (ITU) and WARC's

The International Telecommunication Union, oldest affiliate of the United Nations family of agencies, traces its origins back to the founding of the International Telegraph Union in 1865. Throughout the years, it has served as a forum for achieving international cooperation in telecommunications.

In recent years, international agreement on telecommunications matters has been achieved through the convening of ITU meetings called World Administrative Radio Conference (WARCs). While most WARCs have dealt with limited agendas focused on such specific issues as maritime satellites, the ITU also sponsors general WARCs approximately once every 20 years. The last such conference in Geneva (1959)—like its predecessor in Atlantic City in 1947—was tasked with general adjustment of the International Radio Regulations governing the basic technical rules, operating procedures, and radio frequency allocations covering the flow of global telecommunications. This was necessary because of the changes in technology and usage since the previous general WARC.

B. The general WARC of 1979

On September 24, 1979, the ITU will convene another general WARC in Geneva. It will be one of the largest international conferences ever held. This 10-week conference will be attended by representatives of most of the 154 ITU member states and will once again have the authority to modify significantly the existing International Radio Regulations. As is the case with most U.N. agencies, each member-state has one vote, and this results in preponderant representation for the over 100 developing and/or nonaligned countries belonging to the ITU.

Since general WARCs are held only once every twenty years, the Regulations which result from the 1979 WARC will set the direction for global telecommunications until approximately the year 2000. In the United States, as in other countries, the Regulations have treaty status; therefore, any changes made by the WARC will require approval by the Senate.

It might be recalled that radio broadcasting is only the most familiar type of service dependent on the use of radio (electromagnetic) waves. Others include television; telegraph; telephone; telex; fixed or mobile point-to-point communication between ships or aircraft, taxis or police; radar; microwave relay; radio astronomy; and all forms of satellite and cable communication. While radio and television are normally intended for public reception, most of the other services cited are for more limited audiences. Since the electromagnetic spectrum is finite, there must be both international rules governing its use and national regulations for communications services within the borders of each country. Otherwise, each country's signals would constantly be interrupted by both domestic and foreign interference. This problem has been growing in recent years despite the existence of the ITU and the International Radio Regulations.

The potentially contentious, as well as more prosaic, issues for the United States which might arise fall into four general categories:

1. Technological

The technological issues include increasing High Frequency (HF) international shortwave broadcasting allocations and sharing those portions of the band with the fixed services; increasing allocations in the Ultra High Frequency (UHF) band for land mobile services to be shared with broadcasting services; allotment plans for distributing frequencies and orbital satellite positions on a country-by-country basis; a plan by Colombia and some other Third World equatorial countries to allocate orbital "parking spaces" for geosynchronous communications satellites and/or to establish a fourth (equatorial) ITU region—there are now three for the entire globe*—to enable these states to function like a cartel and perhaps to exploit their unique resource, the equatorial airspace needed for geosynchronous satellites; and several satellite-related problems, including the highly politicized Direct Broadcast Satellite (DBS) issue, and the Remote Earth Sensing (Earth Environmental) Satellite issue, in which, respectively, the right of foreign states to directly send information *to* or gather and disseminate it *from* other states without the prior approval of the host governments is being questioned.

2. Economic

Any changes in the Radio Regulations are of special interest to the U.S. telecommunications industry, both the manufacturers of hardware and software and the international communications carriers. Significant change could render existing equipment obsolete or, at least, require expensive retooling. U.S. manufacturers produce equipment for both the home and foreign markets, especially in the high technology satellite field. The multibillion dollar domestic U.S. communications industry could also be seriously affected by changes in the basic groundrules governing the use of the spectrum on which their livelihood depends. Unlike many countries which may be as small as individual U.S. states, the physical expanse of the United States allows for a huge domestic and largely self-contained market with uniform operating procedures and a large, basically unilingual audience.

3. Legal

Questions have been raised by those who foresee the possibility that the Regulations might be revised along lines which the United States would find difficult to accept and implement. The United States, like all ITU members, has the option of footnoting a provision or taking a reservation on a particular clause or section to indicate that the provision will not be considered binding. In the past, however, the United States has emphasized compromise and refrained from following this accepted practice except on one occasion in 1974. In this regard, Ithiel de Sola Pool has suggested that the United States should be prepared to attach reservations on any aspect of the 1979 agreement that we see as unwise or a serious challenge to our national interests, rather than compromise in the interest of harmony as we have usually done in the past.[1]

The United States would find it difficult to opt out of the entire WARC agreement, since it governs orderly cooperation in spectrum use and the wide range of global telecommunications, and the United States has more to gain from such an agreement than any other country. This relates to the dominant role played by U.S. information carriers, telecommunications equipment manufacturers, and news media. Moreover, although the ITU provides no sanctions for noncompliance with WARC decisions, there are strong unofficial political and economic incentives for U.S. agreement.

Some observers have suggested that if the results of the WARC were so unacceptable that the United States could not live with them, we would have the ultimate option of withdrawing from the ITU, as we did from the International Labor Organization (ILO), and perhaps trying to regulate telecommunications on a regional, rather than a global scale. The problem with this solution relates to the different nature of the two international agencies. While the United States can function perfectly well without participating in ILO activities, considerable confusion and chaos could develop in the field of global telecommunications if there were not some international regime governing the use of the spectrum. At any rate, the U.S. Government is not currently considering opting out of the ITU as a practical alternative.[2]

WARC agreement would undoubtedly include provisions for the convening of future general and specialized WARCs to consider the unresolved issues.

Pool suggests that even the worst scenario, a deadlocked WARC unable to resolve many specific issues, would still result in some kind of an agreement, however limited and tentative.[3] The consequence of such a development would be a continuation of the *status quo ante*, and a stable global telecommunications structure would continue to operate until resolution of the outstanding issues could be achieved. Such a tentative WARC agreement would undoubtedly include provisions for the convening of future general and specialized WARCs to consider the unresolved issues.

4. Political/National Security

The foreign policy and national security implications of the outcome of the 1979 WARC are both tangible and intangible. It would not be difficult—once they are known—to enumerate the specific changes in the ITU International Radio Regulations which will result, and quantify most consequences for the U.S. telecommunications industry or the additional or reduced frequencies that will be available to U.S. Government international broadcasters (the Voice of America, Radio Free Europe, and Radio Liberty) or military communications.

It will be more of a problem to define the implications of a drastic revision of the Radio Regulations for U.S. global interests. The United States has grown accustomed to relatively unrestricted access to foreign telecommunications markets, audiences, and data. This has permitted the development of something approaching a cultural/economic "sphere of influence" for the United States in many countries, even some with which we have political tensions. Critics of the cultural aspect of this impact have called it "cultural imperialism" or "information dependency," while its proponents

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view it more positively as a catalyst in the creation of a "global village." The foreign policy implications of such influence are difficult to quantify, but its disappearance would, it would seem, diminish or curtail the U.S. role in the world. In this context, the broad definition of information as a basic resource central to the conduct of international relations permits us to view these concerns from a broader perspective.

A specific U.S. concern in the area of international information flows is European legislation already enacted or being considered that would restrict the export of computer data and other transborder data flows.[4] These restrictions are being discussed by the OECD, the Council of Europe, the Nordic Council, and a number of individual European governments because many of them store vital data in instantaneously accessed U.S. computers. They apparently fear that these data could be—or are already being—used by the United States for purposes that they perceive as potentially injurious to their own national interests. Moreover it is possible that there could be an incursion by a foreign state—in the name of protecting its own privacy or sovereignty—into the kind of encrypted information on foreign operations and movements being sent down by U.S. military satellites, as well as other sensitive international data transmissions such as State Department of Department of Defense (DOD) cables.

In addition, John Clippinger has recently suggested that it would be inconceivable that this country would compromise or jeopardize its current or future capability in the area of Department of Defense use of spectrum through any form of restrictive WARC agreement.[5] He saw such a development as the catalyst for sovereignty issues at WARC becoming "paramount, and, in effect, nonnegotiable [for the U.S.]." While the DOD may find the final WARC 79 agreement perfectly acceptable and nonrestrictive, an agreement that they consider to be too limiting for their purposes might require a U.S. decision to restrict private sector use of a particular band or portion of the spectrum in order to permit increased DOD access.

II. MAJOR POLICY ISSUES AND PROBLEMS

A. Technical/procedural

1. New and Changed Frequency Allocations to Meet Changing Needs

Increases may be sought by various countries in frequencies allocated to broadcasting, amateur, land mobile, maritime, and satellite services, among others. Most increases agreed upon would, of necessity, require decreases in allocations for other services, although some could be accommodated through sharing of frequencies among different services. Yet sharing is opposed by many of the developing countries because it requires more planning and imposes more discipline on the co-users than non-sharing.

Any changes in frequency allocations arrived at by WARC 79 in the International Radio Regulations would first be felt by U.S. Government users of the spectrum. This includes the U.S. international broadcasters—the Voice of America (VOA), Radio Free Europe (RFE), and Radio Liberty (RL)—and the Departments of State and Defense. New frequency allocations for the U.S. international broadcasters could require changes in broadcasting schedules, possible reductions in or additions to broadcast time, and realignment of transmitters and antennae. The DOD, in particular, is a major consumer of U.S. spectrum assignments and is becoming increasingly dependent upon satellite technology for surveillance and communications coordination, and for advanced applications.[6] Examples include the DOD worldwide communications network, the NAVSTAR satellite system for pinpointing plane and ship locations, as well as planned laser-based satellite systems. At the same time, it has been argued that "military uses are particularly wasteful of the spectrum, because they are redundant—with several channels available in the event equipment is demolished or jammed."[7]

Non-Federal Government use will only be affected following possible negotiations with neighboring nations in ITU Region 2 (the Western Hemisphere) and Federal Communications Commission (FCC) rulemaking. The American public will then begin experiencing directly the impact of WARC 79 in frequency allocation changes involving AM broadcasting, the various land mobile services (two-way radio), direct broadcasting from satellites,[8] and the further use of satellites to facilitate point-to-point communications for business and personal use. Many of the proposed changes—if implemented—would require redesign and adjustment or replacement of existing equipment. The implications for both the public and the telecommunications industry are significant.

2. Review and Possible Revision of Technical Standards for Sharing of Frequencies

The suggestion has been made that frequencies now reserved for only one type of service be shared to the maximum extent technically and administratively possible. Sharing occurs when two or more different services have legitimate access to the same frequency and is based on the presumption that competing services can be kept from using the same spectrum at the same time in the same geographic area. Such a goal requires procedures that give careful attention to technical standards to prevent interference. Without such attention, the resulting interference would make the remedy worse than the problem. Once these steps have been taken, the main issue becomes the added costs of administering the closer coordination required among users by the sharing of previously unshared frequencies.

3. Review and Possible Revision of General Principles for Allocations, Orbital Utilization, and Procedures for Coordination, Notification, and Registration of Frequencies

Proposals will probably be made by some countries to revise existing procedures to make them clearer, simpler, and more efficient. The practice of giving recognition and priority to use to those countries which have first registered ("first come, first served") frequency assignments with the ITU will most likely be raised. Alternative proposals may include the establishment of allotment plans for the distribution of frequencies and/or orbital satellite space slots on a country-by-country basis, regardless of present or anticipated requirements.

Under the present system, when a broadcaster needs a frequency, he makes a request to the ITU International Frequency Registration Board (IFRB) and is assigned one allocated to his specific purpose that is not being used by another broadcaster; the principle of "squatter's rights" applies. But the growing demands of established broadcasters and newcomers for existing frequency assignments and the relatively new and—in the United States—unpopular concept of "a priori" advanced planning of telecommunications facilities have created pressures on the system to change traditional methods of allocation. Some observers fear that growing demands by the developing countries and other users of spectrum will require an as yet unknown degree of change in existing frequency allocations. How much change is one of the issues to be taken at WARC 79.

The WARC 79 agenda also includes a review of the report of the ITU International Frequency Registration Board (IFRB)—the permanent body charged with frequency registration—and revision, where necessary, of its methods of work and internal regulations under Articles 8 and 11 of the International Radio Regulations. It is possible that some countries may propose changes which would strengthen the authority of the IFRB over individual country spectrum users.

B. Political/cultural

1. North-South

Unlike the previous set of issues, the political/cultural group is far less specific and more in the nature of modalities. Often termed "demands," they range from the all-encompassing "New World Information Order" to the more finite issue of prior consent by foreign governments to information transmission or collection and dissemination by other states. In addition, these issues are not formally on the agenda of WARC 79, but most observers expect that they will be raised primarily by LDC representatives, with support on certain aspects of the problem from communist governments.

a. New World information order

The call for a "New World Information Order" has been termed the umbrella issue for the Third World ("South") in its approach to the solution of international communications problems. In this view, the less developed countries (LDCs) view the domination of international communications by the developed countries ("North") led by the United States as part of a conscious effort to keep the Third World in a subordinate and exploitable position for the foreseeable future. If the rhetoric sounds familiar, it may be because the information order demand is simply the extension to the communications field of the more wide ranging LDC demand for a "New International Economic Order" articulated in recent years. It is under this general and non-specific rubric that many Third World demands can be subsumed.

b. Communications assistance for LDS's

A number of developed countries have suggested countering some of these grievances by offering development assistance to help the Third World countries develop more adequate communication infrastructures. Such an offer by the United States—an AID commitment of $25 million over a period of six years for the use of satellites to assist in communications development in rural areas of LDCs—helped to calm LDC concerns at the 1978 UNESCO General Conference.

2. "Cultural Imperialism" and a "Balanced" North-South Information Flow

As a consequence of the underdeveloped state of communications capacity in most LDCs, citizens of the Third World tend to find themselves most often in the position of information consumers, rather than producers. Communications hardware, software, and the information transmitted often originates in the developed countries. Because the major news media— radio, television, the press, and the wire services—are dominated by a few global giants, LDC representatives charge that they suffer from "information dependency" or a permanent imbalance in the flow of information. They couple such charges with complaints about the phenomenon they call "cultural imperialism," by which they mean an allegedly conscious policy by the developed countries to achieve various ends (primarily political and economic) by attempting to impose their culture and cultural values on the Third World. The LDCs feel that they hear and read too much about the developed countries, and that the scant information transmitted from the Third World back to the developed countries—as well as to other LDCs—by these foreign media tends to be highly selective and biased, and emphasizes the bizarre and sensational, rather than national accomplishments. It is expected that

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some LDC representatives will raise the issue in general debate, if not actually try to achieve changes in the Radio Regulations that would somehow contribute to redressing these grievances.

3. The Free Flow of Information

As noted above, spokesmen for various interests, including LDCs, many communist states, and even some developed countries have challenged the position taken primarily by the United States that there should be a basically free flow of information around the world. While the free flow issue is a matter of principle for the United States arising from cherished traditions of freedom of expression and the American tendency to treat information as a commodity in the market place, rather than a resource to be controlled by government, many foreign governments—especially in the Second (Communist) and Third Worlds—view U.S. support for free information flows in more conspiratorial terms. For example, the first (interim) report of the UNESCO Commission for the Study of Communications Problems finds:

"The concept of free flow of information as it has been invoked for the past thirty or so years, and as it is applied today, can serve to justify a doctrine serving the interests of the powerful countries or groups which all too frequently enables them to ensure or perpetuate cultural domination under the cloak of generous ideas.[9]

4. The Prior Consent Principle

The issue of prior consent derives from a differing approach to the international flow of information. A number of countries, particularly those with authoritarian forms of government, but also many developing countries that observe varying degrees of democratic freedoms, feel some need for controls over the kinds of information flowing in and out of their borders. It is reasoned that their national sovereignty is challenged unless they have the right to approve or disapprove of various forms of information that could either influence their peoples or in which they have some kind of proprietary interest.

The issue has surfaced in the past with special regard to two phenomena that could conceivably be discussed at WARC 79—Direct Broadcast Satellites and Remote Earth Sensing Satellites. Both are now under consideration in the United Nations Committee on the Peaceful Uses of Outer Space, where the prior consent demand has been spearheaded by the Soviet Union. As Pool has suggested, "were the principle of prior consent to be accepted, and the right of sovereignty in the airwaves recognized, it would be hard to justify rejection [by WARC 79] of a technical orbital plan assigning positions appropriate to domestic transmissions." [10]

Pushed to its logical extreme, prior consent could ultimately be applied to international radio broadcasts and result in troublesome restraints on all broadcasters.

If the prior consent principle were applied to the Earth Sensing issue, it would have greater impact on the United States than on most countries, because of our extensive sensing activities. It is based on the concern of some governments that information on ecology, agriculture, geology, natural resources, etc., obtained through the remote sensing satellite program could be used by the United States or other countries for purposes counter to the target country's national interests. The United States has as a matter of policy made much of the data obtained through this program available to the public both here and abroad.

The head of the U.S. delegation to WARC 79, Professor Glen O. Robinson, has frequently reiterated the U.S. position on prior consent, that we would not accept it as a political principle. He has also indicated that although the United States had reluctantly agreed to some prior consent conditions for technical coordination purposes at the 1977 Broadcast Satellite WARC, we continue to be mindful of the danger that technical consent clauses might be proposed with political objectives. The U.S. thus maintains its philosophical opposition to prior consent in the face of an opposite trend in many other countries.

III. U.S. PREPARATIONS TO DATE FOR WARC 79

A. Participants and interested parties

Unlike most other countries, whether capitalist or communist, the United States does not have a Ministry of Information or Post, Telephone and Telegraph Department or comparable, unified, official policy-making structure for international telecommunications. Reflecting the almost unique structure of our polity and economy, with its system of checks and balances, there is considerable sharing of power between government and private industry, a consequent built-in tension between the two sometimes opposing sets of interests. Similarly, considerable tension exists among constituent organizations within each of the two categories. Private sector ownership of various kinds of telecommunications facilities is spread among a number of large corporations. Government control is also divided into several agencies and levels with sometimes competing interests, although an attempt was made at improving this situation through presidential reorganizations of certain agencies in 1978.

1. The U.S. Delegation

The U.S. delegation is chaired by University of Virginia law professor and former FCC commissioner Glen O. Robinson, who was appointed January 6, 1978. He reports directly to the Deputy Secretary of State. In its initial phase, the delegation consisted of 20 representatives of federal agencies active in telecommunications activities and WARC preparations. It has responsibility for advising the Secretary of State on all WARC matters and for developing the U.S. position and negotiating strategies that it will use at the conference in Geneva.

As of May 30, 44 additional members were named, bringing the total to 64 members and approximately 30 technical and administrative support staff.[11] As such, it will be the largest of the 140 or so delegations to attend the conference, although it will still be smaller than U.S. delegations to previous general WARCs because of Department of State directives to keep costs as low as possible. Of the 64, 20 represent industry and the private sector (e.g., broadcasting, satellites, amateur and mobile users, and general public interest groups). In addition, the delegation will ultimately also include some eight Members of Congress.

Due to a recent Department of Justice Interpretation of existing legislation (the Ethics in Government Act) governing conflict of interest,[12] the State Department had determined that unlike the case at previous general WARCs, private industry representatives on U.S. delegations to international meetings would not be permitted to chair committees or act as U.S. spokespersons.[13] In the case of WARC 79, some industry representatives then charged that this would reverse previous practice and have the effect of precluding some of the delegation members most knowledgeable on certain technical points from being official spokespersons, and that they would be restricted to providing technical advice to the delegation during the WARC. They also charged that the purview of WARC being highly technical and involved, and because most of the work of the conference will be done at sessions of committees and working groups, the U.S. delegation should not only include more than its 13 industry representatives, but more members in general in order to more adequately handle the heavy work load.[14]

Senator Harrison Schmitt submitted an amendment to the Foreign Relations Authorization Act of 1980 and 1981 to exempt the industry representatives to WARC 79 from the abovementioned sections of the Ethics in Government Act, "provided that: (1) The Secretary of State or his designee certifies that no government employee on the delegation is as well qualified to represent U.S. interests with respect to such matter, and (2) such designation serves the national interets. All such representatives shall have on file with the Department of State the financial disclosure report required for special government employees." [15]

The amendment was offered and passed by the Senate on May 10, 1979. Senator Schmitt subsequently expressed concern that the amendment would still not guarantee an appropriate role at WARC for private sector experts, since it only gave the Secretary of State the *option* of waiving the applicable section of the Ethics in Government Act and did not require him to do so.[16] Moreover, at the time of this writing, the bill had not yet been enacted into law.

2. The U.S. Government

a. Department of State

The policymaking role of the State Department with respect to WARC was strengthened by President Carter's Reorganization Plan No. 1 of 1977. Under Sec. 5-201 of Executive Order 12046 implementing the Plan, the Secretary of State was given primary authority for the conduct of foreign policy relating to telecommunications, including the determination of United States positions, and the conduct of United States participation in negotiations with foreign governments and international bodies.

Subsequently, the White House ordered a comprehensive review of State's communication policymaking apparatus in mid-1978 and assigned the Deputy Secretary responsibility for coordinating international communications activities in the future.

Within the Department, the Office of International Communications Policy in the Bureau of Economic and Business Affairs has responsibility for international telecommunications matters, and it is that office which has been handling preparations for the 1979 WARC. It includes the head and staff of the U.S. delegation and will continue to grow in sizes as the date of the WARC approaches.

b. National Telecommunication and Information Administration (NTIA)

Headed by an Assistant Secretary of Commerce for Communications and Information, the NTIA is the successor to the former Office of Telecommunications Policy (OTP) which was located in the Executive Office of the President prior to the implementation of Reorganization Plan No. 1 of 1977. As a result of the reorganization, the erstwhile OTP was shifted to the Department of Commerce and given an essentially advisory role, especially in international matters.

Under the terms of the reorganization, the NTIA works primarily with the State Department, the Federal Communications Commission (FCC), and the White House "to coordinate economic, technical, operational, and related preparations for U.S. participation in international telecommunications conferences and negotiations." Its Office of International Affairs performs these functions, while its Office of Federal Systems and Spectrum Management is responsible for certain WARC preparations and for coordinating the Interdepartment Radio Advisory Committee (IRAC). IRAC consists of representatives of over 18 Federal agencies and departments that are the major Government spectrum users.

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c. Federal Communications Commission (FCC)

The Federal Communications Commission has primarily a regulatory authority with regard to international telecommunications, derived from the Communications Act of 1934 and the Communications Satellite Act of 1962. One of its functions that will be affected by the results of WARC 79 includes the power to assign commercial frequencies. The FCC offices administering these responsibilities are those of the Chief Engineer and of the Foreign Affairs Advisor. In addition, its Offices of Plans and Policy and of the General Counsel advise on the interpretation of regulations and the implementation of international agreements such as the International Radio Regulations. With fifteen delegates, the FCC is the most heavily-represented single institution in the public *or* private sector on the U.S. delegation to WARC 79.

The FCC is primarily a regulatory body, but has often taken the lead in communications policymaking. This may be because of the relative lack of interest in the State Department in international communications policy matters, despite its mandate under the recent reorganization, and because of the far greater depth of technical expertise on the part of the Commission; communications is only one of a myriad of issues on which State must act, while it is the major focus of the FCC. In addition, the FCC tends to approach problems from the perspective of the powerful U.S. tele-communications industry, the views of which are also sometimes supported by the Department of Defense, the major Government user of both commercial and official telecommunications.[17]

d. Department of Defense (DOD)

As the largest single U.S. user of telecommunications in both the public and private sectors, the DOD is a force to be reckoned with whether or not it has a formal role as a communications policymaker. As mentioned above it has its own satellite system and leases commercial cable and satellite facilities at an annual cost of over $50 million.[18] The DOD uses approximately 60 percent of U.S. Government spectrum space and this makes it a powerful force on the Interdepartment Radio Advisory Committee (IRAC), an important government agency chaired by a representative of NTIA. There has been speculation that the DOD may gain additional influence on the IRAC because of the "demotion" of the former OTP from the status of a element of the Executive Office of the President to that of an obscure subdivision of the Department of Commerce (under terms of Reorganization Plan No. 1 of 1977).

DOD controls the National Communications System (NCS), a 16-year-old Government communications network intended to facilitate interconnection of official U.S. telecommunications facilities. The Secretary of Defense is the Executive Agent of the system and the Director of the Defense Communications Agency (DCA) is responsible for its daily management. Another result of the reorganization of the Executive Office of the President was to shift the responsibility for policy guidance from the OTP (now NTIA) to the National Security Council.[19]

e. Other executive agencies

Since the International Communication Agency (ICA), the former U.S. Information Agency, operates the worldwide broadcasts of the Voice of America, it has both an interest and a voice in determining U.S. policy for WARC 79. ICA also has an international communications policy office which has contributed to the preparation of the U.S. WARC proposals. The staff director for the U.S. delegation is an ICA official on detail to the State Department. In addition, the Board for International Broadcasting (BIB), a quasi-official, but nearly wholly U.S. Government-backed entity which oversees and funds the broadcasts of Radio Liberty and Radio Free Europe to the USSR and Eastern Europe, respectively, has contributed to the preparation of that part of the U.S. proposal dealing with international broadcasting in the high frequency band.

Among other agencies that play a less significant role in communications policymaking are the National Aeronautics and Space Administration (NASA), the National Science Foundation, the Department of Transportation, the National Oceanographic and Atmospheric Administration (NOAA), the Maritime Administration, and the Office of Science and Technology Policy.

f. Congress

A number of congressional committees have either expressed interest in or have a potential interest in U.S. preparations for and participation in WARC 79. They include the Communications Subcommittees of the Senate Commerce, Science and Transportation Committee and the House Interstate and Foreign Commerce Committee.[20] In addition, the Senate Foreign Relations Committee and the House Foreign Affairs Committee have an interest in the results of international conferences like WARC 79 because of their long-term foreign policy implications. The Senate Foreign Relations Committee—and ultimately, the full Senate—will have to review the changes made in the International Radio Regulations at WARC 79, since the Regulations have treaty status and will have to be approved by the Senate before the United States is legally bound by them.

In addition, individual members including Senators Schmitt, Goldwater, and Percy and Representatives Van Deerlin and Fascell have taken an interest in the process of developing U.S. WARC proposals and in the role of the United States in the conference. Under current plans, there will also be congressional membership on the U.S. delegation.

3. Private Industry

As might be expected, there has been keen interest by the U.S. telecommunications industry in proposals and preparations for WARC 79. U.S. ownership of international telecommunications facilities is divided between COMSAT for satellites and four major U.S. owners of undersea cables, AT&T, RCA Globcom, ITT Worldcom, and Western Union International (WUI). In addition, AT&T has a monopoly over voice communications and RCA, ITT, and WUI control record traffic including telegraph, telex, and leased channel services.

Moreover, U.S. manufacturers of communications equipment of all kinds for both the domestic and international markets have long played a leading role, especially in the high technology satellite field. Major telecommunications users, such as the air transport industry, have also scrutinized U.S. preparations and ground rules for WARC 79.

4. Public and Consumer Interest Groups

Various non-governmental or -industry groups with an interest in the preparations, operation, and results of WARC 79 have also expressed judgments. They include the National Council of Churches, the United Nations Association, the World Federalists, the Consumers Union, the National Education Association, to mention only a few—in a word, a wide variety of associations with direct or indirect interests in the broad range of issues to be decided at the conference.[21] Of these groups, only the Consumers Union and the Citizens Communication Center will actually be represented on the delegation. In addition, Professor David Honig of Howard University, an early critic of U.S. preparations for WARC, and representatives of the Booker T. Washington Foundation and the National Black Network will presumably speak for minority interests.

B. Ongoing processes

1. Consultative Meetings

The State Department has organized at least four consultative meetings of the Advisory Committee on the 1979 World Administrative Radio Conference, originally formed in May 1978. The Committee is chaired by delegation head Glen Robinson and represents industry and the general public. It has 38 members and is organized into five working groups which report to the full committee and the delegation. The working groups cover such issues as high frequency broadcasting, satellite allocations, coordinating procedures, and special concerns of the LDCs. Its meetings have been open to the public and provide a forum for interests that may not be represented on either the delegation or adivsory committee. There has been some criticism voiced by advisory committee members that they have been ignored by the Initial (Government) Delegation Group in U.S. WARC preparations. Some 14 advisory committee members were named to the delegation when the additional appointments were announced on May 30, 1979.

The "Ad Hoc 144" subcommittee of the Interdepartment Radio Advisory Committee did the bulk of the government sector preparatory work for WARC 79. The *U.S. National Committee of the International Radio Consultative Conference (CCIR)*, under the chairmanship of the Department of State, also was charged with some responsibility for developing recommended U.S. proposals,[22] assisting in the preparation of U.S. positions, and planning for U.S. implementation of the final acts of the conference. The U.S. CCIR committee generally assists the Secretary of State in meeting treaty responsibilities under the International Telecommunication Convention and advises him on matters concerning U.S. participation in the CCIR, a permanent organ of the ITU. CCIR activities relate to technical standards and operating practices for radio equipment and systems, and thus, are directly linked to the scope of WARC 79.

The *Federal Communications Commission* has established an internal steering committee as well as structure of Service Working Groups for the private sector. The FCC's Office of the Chief Engineer (OCE) is one of its major operating bureaus. Among many other responsibilities, the OCE participates in technical aspects of international telecommunication the U.S. proposals and either support or oppose foreign proposals.

The Assistant Chief Engineer (International and Operations Division) is responsible for OCE management actívities. He has been designated the FCC Liaison Representative to the IRAC and works with the OTP, IRAC, and executive branch agencies on matters of mutual concern, including WARCs.

The FCC and the NTIA have developed a sense of the differing needs and requirements of non-Federal and Federal Government spectrum users, respectively, through close consultation with each other and with the State Department. Industry and general public concerns have been solicited by means of a series of nine public notices of inquiry issued by the FCC in coordination with the IRAC. The notices treated different aspects of WARC planning, especially changes in the international table of frequency allocations and procedures governing frequency assignments. The notices culminated in an FCC report and order, which represented the FCC's recommendation for proposals to the WARC. NTIA's position was represented through the FCC report when agreement was reached be-

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tween the two agencies or through separate policy statements where appropriate.

2. Bilateral and Multilateral Discussions

a. With foreign governments

The United States began a series of bilateral consultations on WARC in 1977. The talks were intended to explain U.S. views as they were evolving and to obtain information on foreign positions to help us in our own planning. In the course of these discussions, U.S. representatives have consulted with spectrum managers, broadcasters, foreign offices, and anyone connected with the Non-Aligned movement, as well as with academics that have been influential in UNESCO. Individual consultative meetings have been held or are scheduled to be held with as many as fifty countries in various regions. They include a number of LDCs, many of which—especially the smaller and less well prepared—have reportedly been genuinely grateful to the United States for taking the time and effort to hold these talks.

b. With multilateral organizations

The United States has participated in multilateral discussions in such forums as NATO, the European Conference of Postal and Telecommunications Administrations (CEPT), and the Inter-American Telecommunications Conference (CITEL), an organ of the OAS. The United States has also participated in ITU-sponsored seminars on WARC preparations in Panama City, Sydney, and Nairobi, using these meetings as opportunities for extended contact with Third World countries.

IV. U.S. PROPOSALS AND POSITIONS

A. Overall U.S. policy objectives

The United States prefaced its submission to the ITU for WARC 79 with the following statement of objectives based on U.S. requirements: [23]

(1) To support and maintain the central thrust of the ITU and its Radio Regulations as the principal international vehicle to ensure a high degree of order in this increasingly complex field, in the belief that the radio spectrum cannot be managed on anything less than a global basis;

This objective reflects the official U.S. view that the ITU is the best long-range means of maintaining order in international communications, and that, contrary to some observers, global rather th an regional management will continue to be the most effective approach to these problems.

(2) to provide incremental changes to the Radio Regulations based on shifts in the pattern of radio use, improvements in technology, the efficiencies to be gained by change, and the need to amortize existing communications equipment;

The United States favors minimal change in spectrum allocations or procedures, based on present needs or those that are reasonably predictable over the next twenty years. This objective runs counter to demands by some ITU members for change in either allocations or procedures that would "reserve" spectrum or guarantee future adjustments in procedure not presently required.

(3) to increase the flexibility built into the Radio Regulations so that all administrations are better able to meet the changing demands for telecommunications services and to take advantage of the rapid improvements in technology; and

The United States stresses the need for flexible rather than rigid management procedures regarding frequency allocations and regulatory controls. This anticipates demands by some ITU members for establishing rigid procedures based on existing technology and reflects the U.S. view that it should not lock itself into situations which might look quite different in the face of future and as yet unforeseeable breakthroughs or different social and economic conditions.

(4) to accommodate the requirements of all administrations to the maximum extent practicable.

The United States favors accommodating the needs of other nations and achieving a broad consensus of developed and developing countries by adhering to flexible procedures and a spirit of international accord on technical requirements. This posture of flexibility stands out in sharp contrast to the rigid positions expected to be taken by other countries more suspicious of the motives of the "haves" of the international telecommunications world, and desirous of guaranteeing themselves a share of the spectrum while there is still some left and under safeguards which would protect their future interests.

B. Suggested changes in the international radio regulations

1. Allocation Issues [24]

The U.S. proposal as finally submitted to the ITU is the culmination of many months of deliberations and negotiations among Government agencies, private industry and public interest groups. The Interdepartment Radio Advisory Committee (IRAC), which operates within the National Telecommunication and Information Administration (NTIA, part of the Department of Commerce), is responsible for decisions regarding Government use of the spectrum, while the Federal Communications Commission (FCC) deals with non-governmental usage.

IRAC consists of representatives from eighteen Government agencies: Agriculture; Air Force; Army; Coast Guard; Commerce; Energy; Federal Aviation Administration; General Services Administration; Health, Education and Welfare; Interior; International Communication Agency (formerly United States Information Agency); Justice; National Aeronautics and Space Administration; Navy; National Science Foundation, State; Treasury; and Veterans Administration. The FCC has a non-voting liaison representative on the Committee.

The proposals for WARC 79 concerning government usage of the spectrum were made by NTIA through IRAC. If a Government agency vehemently disagreed with an IRAC decision on a certain matter, that agency could appeal the IRAC decision to the head of NTIA, then to the Secretary of Commerce, and then to the State Department, which would make the final decision in consultation with the Office of Science and Technology Policy and the National Security Council. Ultimately, the President himself could have been called upon to make the final decision, although this did not happen. Some of the issues were contentious enough to be brought as high as the National Security Council for determination (specifically, that regarding the High Frequency portion of the spectrum in a dispute between the Department of Defense and the International Communication Agency) although the vast majority of issues were decided within IRAC.

For non-Government users of the spectrum, the FCC did not have an IRAC counterpart but rather used a group of service committees dealing with specific subjects, such as AM broadcasting, to make inputs to an advisory committee consisting of the chairmen of all the service committees. Input from the public was received primarily through issuance of ten notices of inquiry. Deliberations over information obtained from these various inputs resulted in FCC's "Report and Order" to the State Department delineating its positions.

Throughout the process, the FCC and NTIA maintained close communication so their positions would conflict to as small an extent as possible. In the two cases where NTIA and FCC disagreed (over maritime mobile allocations and how to deal with passive sensors on satellites) the Department of State made the final determination, in consultation with the National Security Council.

The electromagnetic spectrum is a finite natural resource, and considering the large number of competing demands for this resource just within the United States, not to mention to rest of the world, it is inevitable that there were some "winners" and some "losers" in the deliberations over the U.S. proposal for WARC. Appeal routes did exist for those who felt certain decisions were intolerable, and a very small number of appeals were made to higher levels of authority than the FCC or NTIA. The resulting proposal, therefore, is a consensus of those involved, even if some of the interested parties support certain parts of the proposal less enthusiastically than others.

It is important to remember that the U.S. proposal is just that, a proposal. As discussed elsewhere in this study, no guarantees exist that any part of the U.S. proposal will emerge victorious from the WARC. Some of those involved in U.S. WARC preparations felt there was little point in fighting battles now, before the U.S. proposal had been acted upon at WARC. After WARC is completed, the Senate must still approve the resulting treaty, and it is conceivable that U.S. interests dissatisfied with a certain aspect of the treaty will then seek to have the U.S. take a reservation regarding that portion of the treaty.

a. Very low, low and medium frequencies (VLF, LF and MF) (3–3000 KHz)

The United States has proposed the expansion of AM broadcasting for region 2 (North and South America) to accommodate new broadcast stations. The proposal specifically asks for new MF broadcasting allocations in the band 1605–1860 kHz to satisfy a projected demand in the United States for an additional 1300 commercial stations and 1000 educational and public broadcast stations by the year 2000. The United States is also proposing a number of changes in other services including radio determination to satisfy the worldwide growth in air, sea, and land operations, and improved accommodation of amateur frequencies.

b. High frequencies (HF) (3–30 MHz)

It is anticipated that changes proposed by the United States for the High Frequency (HF) bands will be controversial. The United States has proposed significant increases in HF allocations for international broadcasting and maritime mobile services plus some increased accommodation for amateur services. These increases would require a reduction in some of the present exclusive HF allocations for the fixed services. Such reductions would affect foreign countries—especially the LDCs—that still have substantial demand for the lower technology and less costly HF fixed service (especially for domestic point-to-point communications).

It has been suggested that the opposition to this change might be lessened by establishing a long transition plan, possibly with interim sharing of the band by both fixed service and broadcasting users. This could minimize disruption of existing services and phase in the changeover only as the LDCs were able to shift from fixed service to higher frequencies by gaining access to satellite facilities. If this could be accomplished through technical assistance from the developed countries, it might set a precedent for the way in which such technological tradeoffs might ameliorate North-South tensions over the use of communications resources.

In addition, there was considerable difference of opinion within the U.S. Government itself. The DOD feared it would lose the use of frequencies which it felt vital to U.S. security, while the broadcasters felt that they needed additional frequencies to surmount the significant interference in their program-

Footnotes at end of article.

ming caused by the growing authorized and unauthorized usage congesting the global airwaves. Because of this difference, the issue ultimately had to be resolved at the National Security Council level in favor of the international broadcasters, delaying the submission to the ITU of U.S. Document 4 (Bands below 27.5 MHz) until April.

c. Very high and ultra high frequencies (VHF and UHF) (30–3000 MHz)

The United States favors increased allocations for land mobile services to be shared with the broadcast service in this band. This change recognizes the explosive growth in the use of such services as citizens' band (CB) radio by permitting sharing in the upper UHF bands with the broadcasters who had exclusive use of these bands until recently. Such a move reportedly has been opposed by U.S. broadcasters. The purpose of this U.S. proposal is to align the international table of allocations in ITU Region 2 (the Western Hemisphere) with the U.S. domestic table, in which such changes have already been adopted. This proposal recognizes the desirability of coordinating such usage with close regional neighbors, especially Canada, in order to minimize U.S. interference with television broadcasting or other telecommunications services in adjacent border areas.

The United States has also proposed and strongly endorsed a frequency allocation to accommodate the NAVSTAR Global Positioning Satellite, a new DOD satellite navigation system that, in the words of the U.S. WARC delegation head, "promises to revolutionize radionavigation." [25] In addition, provisions for a land mobile satellite and also for aural (radio, in addition to television) broadcasting by satellite have been proposed. Other U.S. proposals include provisions to accommodate increased needs for amateur, maritime mobile, and aeronautical services.

Another possibly controversial U.S. proposal in the upper UHF portion of the spectrum is for a small frequency band for the experimental transmission of solar-generated electricity from a satellite to earth by microwaves. The development of such a system is still in the study stage. This proposal could be opposed by foreign administrations because of the potential for harmful biological and environmental effects, as well as possible interference with existing radio communication, even though the proposal states that such use "shall not cause harmful interference to stations in other bands which are operating in accordance with these regulations." [26]

d. Super high and extremely high frequencies (SHF and EHF) (3–300 GHz)

(1) Fixed Satellite Service

INTELSAT, the global communications satellite network, has claimed major additional frequency requirements that have not yet been fully accommodated. The United States, as a major shareholder in INTELSAT, has proposed several allocations to meet these requirements, especially in the 2, 3, and 6 GHz bands. It is anticipated that some of these will be controversial because of potential conflicts with terrestrial microwave services in certain European countries.

The United States is also proposing "very significant changes" in the fixed satellite allocations for both the fixed service and the broadcast satellite service frequencies at 12 GHz.[27] A problem relating to the broadcast satellite service arose after the 1977 WARC on that service. Because of the concern of many countries that they be assured access to the spectrum for satellites that they might develop in future years, ITU Regions 1 (Europe and Africa) and 3 (Asia and Australasia) adopted prior allocation plans in the 12 GHz band. Although the United States was successful in postponing implementation of an orbital plan for Region 2 until 1983, we did agree to an arc segmentation plan as part of the overall plan for Regions 1 and 3. The effect of this was to place severe constraints on the use of both broadcast and fixed satellites in Region 2. In the interim, the United States has developed a possible means of easing these constraints by expanding the band (now 11.7 to 12.2 GHz) and separating the two services (broadcast satellite and fixed satellite) into sub-bands (11.7–12.2 and 12.2–12.7 GHz, respectively).[28] However, we foresee controversy with Canada on this proposal, since it could conflict with their plans for future terrestrial microwave services.

The U.S. plan is especially interesting because, if implemented, it could more than triple the orbital positions now available for both fixed and broadcast satellite services. While broadcast satellite technology is still in the experimental stage, the fixed satellite service is becoming increasingly crowded and the additional space would be very welcome.

This plan would affect only Region 2, but it would still have to be approved by all ITU members. Although most nations outside the region would probably approve, support from other Western Hemisphere nations less technologically developed than the U.S. and therefore less likely to use these bands in the near future must also be obtained.

(2) Mobile Satellite Service

Similarly, the United States has proposed a mobile satellite service in the 7 and 8 GHz band; this is also controversial because of potential conflicts with terrestrial services.

(3) Earth Exploration and Space Research Satellites

In another potentially controversial move, the United States has proposed allocations for satellite sensing of environmental and earth resources throughout the SHF and EHF bands. Such allocations could conflict with other satellite and terrestrial systems. In addition, as noted above, remote sensing of other countries by U.S. satellites is a politically sensitive issue, and it has been much debated in the U.N. Committee on the Peaceful Uses of Outer Space, as well as in other international forums.

(4) Advanced or Experimental Services above 30 GHz

Allocation needs in the upper reaches of the spectrum are considered speculative by most observers. Only the United States and a small number of other countries have the technology to use these frequencies. Nevertheless, the United States is proposing several specific allocations for advanced or experimental services in these bands. They include new allocations for fixed service, fixed satellite, mobile service, mobile satellite, space research, radio astronomy, earth exploration, radiolocation, aeronautical mobile, martitime mobile, maritime and aeronautical radionavigation, and amateur services. Unlike some other U.S. proposals, these are less likely to cause controversy.

2. Non-Allocations Issues

a. Flexible notification and coordination procedures

The United States feels that present procedures are basically fair and reasonable, but that they could be clarified and simplified in the interests of greater efficiency. The review of frequency assignment procedures is a specific WARC 79 agenda item. It has been suggested both in the U.S. and abroad that a panel of experts be convened to review these procedures and propose changes for consideration by a future limited agenda WARC, rather than try to resolve them at WARC 79. Nevertheless, the U.S. agrees that specific proposals to insure equitable spectrum access by all nations must be considered carefully.

The U.S. proposals in this regard relate directly to overall U.S. policy objectives. They have been prompted by the anticipation that other countries will seek to revise existing procedures based on first registration (the "first come, first served" principle) and to substitute the future establishment of allotment plans for frequency distribution and/or orbital satellite space slots on a country-by-country basis. Such plans, from the U.S. perspective, would not give sufficient weight to critical evaluation of a country's demonstrated foreseeable need for the frequency or orbital slot. Moreover, plans based on the fixed country-by-country allotment system might not allow optimal utilization of the spectrum, or provide adequate incentives for adoption of spectrum and orbit conserving technologies and patterns of use.

b. The responsibility and authority of the IFRB

Although the WARC 79 agenda provides for reviewing the report of the International Frequency Registration Board (IFRB), the United States does not consider this a mandate to change the board's basic role, but only to review IFRB internal procedures. The U.S. would probably not support changes which may be proposed at the conference by other governments to enhance IFRB authority in relation to particular countries.

V. PRINCIPAL FOREIGN PROPOSALS AND REACTIONS TO U.S. PROPOSALS

At the present time, the United States delegation believes it has a fairly clear view of both the proposals and reactions of most foreign countries to U.S. proposals for WARC 79, although thus far, U.S. representatives have had wider contacts in this regard with technicians or technocrats, rather than political or government leaders.[29] While the United States was not one of the first countries to submit proposals, the U.S. proposals are among the most comprehensive. This reflects the high level of U.S. expertise, technological development, and long-term interest in the broad range of issues to be considered at WARC 79.

Some other countries have apparently decided to submit group proposals, or have only submitted proposals on issues in which they have an interest. This does not mean, however, that they will not also actively participate in the debate on other issues at the conference. Many groups are trying to develop regional positions and to help identify their collective needs over the next 20 years. To some extent this process has been encouraged by three regional seminars sponsored and funded by the ITU as a basic introduction to the WARC process for LDCs.

It does not now appear that the Third World will speak with one voice at WARC. In addition, it might be useful for U.S. planners to separate LDC rhetoric from anticipated requirements and to differentiate between spokesmen and real decision-makers. As noted above, however, there may be some regional alliances and countries at similar stages of development or sharing the same former colonial overlord may tend to have like views on issues they think will be of importance to them.

Some—but not all—observers feel that vocal LDC representatives at UNESCO meetings are not likely to be key players at WARC because they lack the necessary technical expertise, and that the country spectrum managers will play the dominant role. It is these technical experts with whom the United States has been establishing contacts through bilateral discussions and meetings at ITU regional seminars over the past two years, and with whom the U.S. delegation feels it is in a good position to work productively during the conference session. Moreover, even if the spokesmen attend part of the conference to deliver a political broadside, the work of WARC over its six-week

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duration will be completed by technical specialists.

In the view of the Department of State, there are widely differing reactions to many of the U.S. proposals, both on operating principles and on the use of specific frequencies. The LDCs, for example, are most interested in the High Frequency (HF) band and below. All the LDCs foresee a need to retain the fixed services in the HF band and consider that goal is very important. They know it is insignificant internationally because of growing access to communication satellites, but need it for low-cost domestic communications. Reacting to the U.S. proposal to reduce the fixed services to increase HF international shortwave broadcasting, they respond, "you have to understand our needs also." Sharing in the HF band is not generally favored by the LDCs because this requires a self-inventory and bilateral agreements. The United States agrees it is not desirable, but argues that it is necessary because the spectrum is becoming too crowded.

There is a general consensus in favor of the U.S. proposal for an increase in the amateur services. The proposal is especially popular in Latin America, where the amateur service is widely used in time of natural disaster, in Asia (particularly Japan), and Western Europe.

It is also widely held that there should be an increase in the fixed satellite service, but there is some conflict between the U.S. and European positions in the 12 GMz band. Many countries accept the frequency bands suggested by INTELSAT for expansion of the fixed satellite service, but the United States has some problems with this request and is proposing alternative bands to satisfy this documented need.

A. Non-Communist Third World

1. Asia

a. India

India takes an essentially technical rather than political approach to the conference. It wants to retain a large portion of the fixed service and maritime mobile service and to increase broadcasting by 1000 kHz; it does not wish to expand beyond that range because it would have to be at the expense of the fixed service. In addition India supports the U.S. proposal for direct aural (radio) satellite broadcasting.

b. Japan

The U.S. WARC proposals are in substantial agreement with those of Japan. There has been close consultation throughout and the Japanese have taken a very flexible stance. They favor an increase in the HF band similar to the U.S. proposal, an increase in the maritime frequencies to be shared with the fixed service, and an increase in the amateur service.

2. Africa

In general, the Africans are cool to the U.S. proposals, especially on sharing or deletion of the fixed service in the HF band because it is still vital to their domestic communications. Some relatively more developed countries with well-developed ocean shipping such as the Ivory Coast favor a reduction in the fixed service in order to increase maritime mobile.

While most African states do not object to the U.S. proposal for an increase in the amateur service, they do not use it much themselves. In fact, amateur radio is even illegal in some African states, although they are beginning to see its uses and some influential states such as Senegal, the Ivory Coast, and Nigeria view the proposal as acceptable.

Many of the less developed African states strongly prefer to meet in regional conferences before committing themselves on a particular point. This reflects their general lack of expertise and familiarity with some of the finer technical points. In addition, there is much regional cooperation in telecommunications in Africa, e.g., microwave, because it is more cost-effective if an expensive system is shared by several countries. In addition, Britain and France have been actively conferring on WARC with their former African colonies. Interestingly, technically advanced but politically ostracized South Africa has given a good deal of technical assistance and advice on establishing regional telecommunications to neighboring black states, including not only Lesotho, Botswana, and Swaziland—with which it has always had close ties—but also front-line Zambia.

3. Middle East

There is less information available about reactions and proposals from Middle East states. Two of the more radical members of the non-aligned group, Algeria and Iraq, are in the region but neither has been active in the ITU in the past. While Egypt has been influential in the past, its role after the signing of the peace treaty with Israel is difficult to predict; the recent efforts at the Yaounde and Colombo non-aligned meetings to discredit Egypt could be repeated at WARC and could surface at the very beginning of the conference as part of the credentials process. The political changes in Iran have also made its potential WARC 79 role more murky.

Saudi Arabia has very narrow interests in the issues covered by WARC 79; its proposals deal only with broadcasting, possibly because only broadcasting interests participated in their drafting. The Saudis tend to agree with the U.S. proposals because, like us, they have (and can afford) the latest technology. While the Arabs had been discussing a regional shared ARABSAT communications satellite that would eliminate the need for many HF allocations, there has not been much activity, especially since the Egyptian-Israeli treaty.

4. Latin America

a. Brazil

Brazil straddles the developed and developing worlds. While it has the expertise, technology, industrial development, and almost enough money to be in the first world, it is clearly looked up to as a leader by the Latin American LDCs. In the communications world, the Brazilians have experienced and knowledgeable satellite people; they support both the U.S. LANDSAT and earth environmental sensing programs.

Because of the size of the country, they have to retain the fixed service, but they are sophisticated enough to realize that they can share the fixed with the maritime mobile service. They favor an increase in the amateur service and in the fixed satellite service and support the U.S. proposal to split the fixed satellite and broadcast satellite services in the 12 GHz band. Since they do little international broadcasting, they see no need for an increase in HF, but they do support a domestic increase in the medium wave (AM) service. They are satisfied with the functioning of the ITU and its International Frequency Registration Board (IFRB), although the feel the two bodies could be more efficient.

On the controversial issue of geostationary orbit space, Brazil did not sign the Colombian-sponsored Bogota Declaration of 1977 claiming equatorial orbit sovereignty and does not agree with that position. The Brazilians are satisfied that the U.S. proposal for the 12 GHz band is the best solution to the problem of crowding.

b. Argentina

Like Brazil, Argentina is moderate in telecommunications policy and a leader in Latin America. Unlike Brazil, Argentina is not as advanced in higher spectrum technology. Nevertheless, the Argentines have in general reacted favorably to the U.S. proposals. They support our fixed service and amateur proposals, as well as that for an increase in AM broadcasting.

c. Peru

The Peruvians have been enthusiastic about the U.S. proposals for splitting the fixed and broadcast satellite bands and have suggested that the United States raise the proposal at CITEL (the Inter-American Telecommunication Conference of the OAS) and then notify the ITU.

d. Colombia

The Colombians, who were very vocal at the ITU regional pre-WARC seminar, adamantly oppose any reduction in the HF fixed service. Although they have little need for such service because broadcasting is not important to them, they do not want to eliminate any broadcasting from the fixed service. The Colombians might, however, support the U.S. proposal for splitting the fixed and broadcast satellite services, since it does not compromise their orbital sovereignty claim, reduces the need for planning, and postpones the date of confrontation. At the same time, in the best possible Colombian scenario, acceptance of the U.S. proposal could eventually result in three times as much space rent!

B. Communist and socialist countries

1. Soviet Union and Soviet Bloc

There is general agreement between the United States and the Soviet Union on basic proposals, since our levels of technological development and worldwide interests and requirements are similar. The Soviets favor the current system and, like most developed countries, are satisfied with ITU procedures. It is unlikely that any of the Soviet bloc countries (East Germany, Czechoslovakia, Hungary, Poland, and Bulgaria) would take a different line. Romania is unpredictable.

Their proposals touched the HF band only lightly with no increase for international broadcasting. They see HF broadcasting as a sensitive issue and would prefer not to conflict with the LDCs on it. They have also been consulting with the LDCs in advance of the conference. At the same time, they continue to broadcast out-of-band, where they have little competition; this perpetuates a practice they began in 1959, when they took a reservation to that effect. They apparently prefer the status quo so they can continue to broadcast on the cheap low-power frequencies. It is not clear whether they will continue the reservation or request additional conventional broadcast frequencies. Their broadcasting in higher nonbroadcast bands—which is probably for military use—does cause some unintended interference with non-broadcast signals in Scandinavia and Africa.

Soviet proposals for microwave and satellite frequencies are similar to ours. They would probably support U.S. maritime mobile proposals, since they also have a large navy and merchant fleet.

2. Yugoslavia

Yugoslavia, as a leader of the Non-Aligned Movement, will undoubtedly go its own way at WARC vis-a-vis the Soviet Union.

3. People's Republic of China

The Chinese are reportedly well prepared and have documented their requirements. They have not made any radical proposals.

They recognize the differing HF broadcasting needs of the LDCs, but have not yet formulated their own proposals except that they favor an unspecified increase. They have told the U.S. that they think our proposal for conversion to single sideband is premature and are concerned about the cost of conversion to new equipment. They do not favor our proposal for power limitaton to reduce interference because they feel that their large

land mass requires high power broadcasting; it is more economical for them to have stronger signals and fewer transmitters and relay stations. The Chinese do, however, support the U.S. proposal to use only one frequency per band per target area.

They agree with the U.S. proposals to share HF with maritime mobile and to expand the amateur service.

While they tend to like planning for HF broadcasting, they agree with the U.S. opposition to permanent orbital assignments for broadcast or fixed satellites. They do, however, support consideration of HF planning at a future limited agenda WARC.

They have submitted a proposal for fixed satellites in the 10–11 GHz band similar to the U.S. proposal supporting INTELSAT recommendations to expand the fixed satellite service. They are also interested in and do not oppose the U.S. LANDSAT program and have expressed interest in the U.S. proposal for an experimental solar power satellite.

In addition, they have indicated that they would like us to review currently unused assignments originally registered for our military forces in Taiwan and to either reregister them in the United States or to drop them.

C. Developed countries

1. Australia

Except in the area of international broadcasting, the Australians have many of the same interests as the United States. They support the sharing of HF fixed service with mobile because of their need to communicate with their remote "outback." They agree that the ITU system is functioning basically well. Many other U.S. proposals have no bearing on their needs because of their isolated geographical position. This position, however, and their developed economy permit them to play a dominant telecommunications role in the immediate vicinity and they provide technical support and advice for many of their smaller neighbors such as Papua-New Guinea and other island states.

2. Canada

There have been a number of differences between Canada and the United States in the telecommunications field in recent years. For example, there have been interference problems between U.S. and Canadian land mobile and UHF television; most have been resolved bilaterally without recourse to the ITU. The Canadians prefer that we footnote domestic frequency changes bilaterally, rather than through changes in the ITU Regulations.

The largest current area of conflict is in the GHz band, especially the fixed satellite and broadcast satellite services. Canada is planning a terrestrial microwave relay system and does not want to share the band with the satellite services. Since the U.S. has put forward the potentially mutually beneficial band-splitting proposal for that band, it hopes that compromise could be achieved to accommodate both our needs, but the matter is not yet resolved. A hardline Canadian position on this proposal could also put it at odds with many South American countries.

In terms of specific WARC 79 concerns, Canada does support increased allocation for HF broadcasting and the amateur service.

3. Western Europe

The United Kingdom, West Germany, France, and other NATO members generally agree with the U.S. proposals on HF broadcasting, amateur service, aeronautical mobile, and ITU registration procedures. There is also a common position on maritime mobile, perhaps because the heaviest shipping in the world is in the north Atlantic.

There is potential conflict on the U.S. proposals for the 1–2 GHz fixed satellite band, where the West Europeans already have terrestrial services, are also some problems with our proposal to expand land mobile into the UHF bands because some of the Europeans may wish to shift their VHF television into the less crowded UHF bands. This could probably be resolved regionally without interference, but the United States feels that it might be better to have uniform allocations in terms of standardization of equipment; resolution of this issue will probably require compromise. In addition, we differ on Earth Environmental Sensing by satellite. Countries such as the United Kingdom have terrestrial microwave systems with which they fear sensing might interfere. These are not insurmountable problems, however, and adjustments can be made.

VI. THE AGENDA: WHAT REMAINS TO BE DONE

A. The executive branch

1. Naming of U.S. Delegation

U.S. delegation head Glen Robinson stated as recently as April 4, 1979 that he expected public announcement of the remainder of the group—some 40 members—by mid-May. The actual announcement was made May 30. Some criticism was voiced of this apparent delay in the naming of the delegation for this important and complex conference, but it is not unusual for members of U.S. delegations to international conferences not to be named publicly until very close to the opening session of the meeting. By that measure, the late May announcement of the additional members of a delegation to a conference beginning in late September was ahead of the normal time frame for such action.

2. Continue Bilateral and Multilateral Discussions

The State Department has a continuing schedule of bilateral discussions with foreign governments on their preparations and proposals for WARC 79 up to the opening of the conference. These bilaterals run the gamut from the Soviet Union to small African and Latin American LDCs. Department sources feel that such discussions may help pave the way for a more smoothly functioning conference. In addition to establishing personal contacts between U.S. officials and their foreign opposite numbers, the process offers the option for the United States of working through these contacts with third countries, who, for a variety of reasons, might not welcome direct contact with the U.S. Government prior to WARC or with the U.S. delegation at the conference.

B. The possible role of Congress

1. Hearings

Although both the House Interstate and Foreign Commerce Communications Subcommittee and the House Foreign Affairs International Operations Subcommittee have already held hearings on U.S. preparations for WARC 79, other congressional committees with oversight responsibility for international telecommunications and its foreign policy aspects might also consider holding hearings in advance of the convening of the conference later this year. Those committees include the Communications Subcommittee of the Senate Commerce, Science, and Transportation Committee, and the Senate Foreign Relations Committee.

Perhaps because of the relatively short duration of the conference, U.S. delegation head Glen Robinson will have the personal rank of ambassador for only the period of the meeting. Such a designation does not require formal nomination, or confirmation since the President is empowered to grant individuals the personal rank of ambassador for periods of less than 6 months without Senate approval.

2. Participation in U.S. Delegation

Four members of each house of Congress are scheduled to be included in the U.S. delegation to WARC 79. While it might be difficult for a member to attend the entire 10-week session at Geneva, especially since the conference will likely overlap with the end of the first session of the 96th Congress, it might be useful for interested and available congressional participants to be present at as much of WARC 79 as possible. Such a presence would be a clear indication of congressional interest in the deliberations and outcome of the conference.

VII. CONCLUSIONS

Based on a series of discussions with and a study of statements by U.S. Government observers, as well as a survey of certain private assessments, the official U.S. approach to the 1979 World Administrative Radio Conference could be characterized as one of cautious apprehension. There has been a change in public stance since early May; until that time, Department of State officials, especially U.S. WARC delegation members, had been expressing a degree of optimism that earlier fears of troublesome politicization and Third World intractability at WARC 79 were misplaced and that it was more likely that that a measure of reason and harmony would prevail.

At a hearing on U.S. preparations for WARC held June 14 by the International Operations Subcommittee of the House Foreign Affairs Committee, however, U.S. delegation head Glen Robinson voiced more concern than he had at an earlier hearing in April that ideological rhetoric carried on too long could "sabotage the conference." He also mentioned the possibility that the United States might have to take "several" reservations if changes were voted by the majority which the United States could not accept.

The U.S. apparently still assumes that there will be little East-West conflict at WARC because the major world powers—the United States, the USSR, and the People's Republic of China—are in basic agreement on the means by which the spectrum is managed because it is to our mutual advantage that the ITU, a truly global agency, function efficiently and with relatively little friction.

Unlike UNESCO, which has been a locus of North-South conflict and politicization in recent years, the ITU actually manages a limited resource to which all nations must have access and which all must use cooperatively if a global telecommunications "babel" is to be avoided. At the same time, recent aggressive initiatives by leaders of the Non-Aligned Movement may have been interpreted as a signal by the State Department that the traditional harmony of ITU proceedings could be disrupted by certain Third World ideologues.

While there was an earlier emphasis in official on-the-record U.S. assessments on the extent of agreement between U.S. and foreign proposals, current statements seem to be somewhat more anticipatory of areas of potential confrontation. If these assessments are indeed accurate, it would appear that certain ITU members are strongly opposed to some of the U.S. proposals. Many of these proposals involve sharing of bands now allocated to single purpose use or the expansion of services to bands now allocated to other use.

In his statement to the House Foreign Affairs Subcommittee on June 14, Robinson predicted "considerable resistance" from LDCs to U.S. proposals to substantially increase HF broadcast allocations. He also foresaw "great controversy" over U.S. proposals to increase satellite allocations and called the problem of "fair and equitable access [from the U.S. perspective]" to the spectrum and the geostationary orbit "one of the most

vexing problems that will confront us at the Conference."

While individual countries or groups of countries may oppose these suggested changes in principle, the United States still hopes it can reach accommodation in fact by making the many small adjustments it realistically expects it will have to make anyway. The guiding maxim of the functioning of the ITU has always been cooperation. Barring an unmanageable epidemic of politicization in Geneva later this year, it is possible that such an atmosphere might again prevail.

There is always the possibility that individual countries or groups of countries will adamantly insist on a certain proposal or provision that the United States strongly feels is not in its own best interest. In that case, the United States has the option of taking a reservation on—refusing to abide by—the particular point, but still accepting most of the changes in the Regulations; based on the Robinson remark quoted above, the United States may be giving increasing thought to exercising the reservation option to a far greater extent than it ever has in the past. This would still leave open the chance of reaching a compromise in future, either through bilateral or regional negotiation, or by scheduling a limited agenda WARC on the specific unresolved point or points.

In addition, as was noted above, the failure of the Conference to reach agreement on new International Radio Regulations would not signal the total breakdown of the ITU regulatory system. The existing Regulations would continue in force until new ones could be fashioned.

There has been little if any praise, and some criticism, of the pace and scope of U.S. preparatory activity for WARC 79. The United States was not the first, but certainly was not the last either in submitting a very comprehensive set of proposals to the ITU. In addition, the U.S. did not name its full WARC delegation until the end of May. Only the operation and the results of the 1979 World Administrative Radio Conference will tell us whether enough was done in a sufficiently timely fashion to protect U.S. national interests and further the cause of harmonious global telecommunications in the last two decades of this century.

FOOTNOTES

* See Appendix 1 for chart showing the three existing ITU Regions. [Appendix 1 not printed in RECORD.]

[1] Ithiel de Sola Pool, The Problems of WARC, Journal of Communications, Winter 1979: 189–191.

[2] Glen O. Robinson [Head of U.S. Delegation to WARC 79], Statement before the House Interstate and Foreign Commerce Committee Subcommittee on Communications, April 4, 1979.

[3] Pool, Op. cit.

[4] Vincent Mosco, Who Makes U.S. Government Policy in World Communications? Journal of Communications, Winter 1979: 168.

[5] John H. Clippinger, The Hidden Agenda, Journal of Communications, Winter 1979: 202.

[6] John H. Clippinger, Op. cit.: 202.

[7] Anne W. Branscomb, Waves of the Future: Making WARC Work, Foreign Policy Spring 1979: 140.

[8] Direct broadcasting from satellites to home radio or television sets is still in the experimental stage, although the technology has been tested for broadcasts from satellites to small ground stations attached to receivers.

[9] UNESCO. International Commission for the Study of Communications Problems. Interim Report on Communications Problems in Modern Society. Paris, UNESCO, 1978. p. 64.

[10] Pool, Op. cit.: 192.

[11] See Appendix 2 for a list of the membership of the U.S. delegation.

[12] Secs. 203, 205, 207, and 208, Title 18, United States Code.

[13] 44 Fed. Reg. 17846 (March 23, 1979).

[14] Letter to Sen. Hollings from George F. Mansur, Aeronautical Radio, Inc., Enclosure 1.

[15] Congressional Record, May 10, 1979: p. 10580.

[16] U.S. Senate. Committee on Commerce, Science and Transportation. Subcommittee on Communications. Hearings on S. 611. May 11, 1979.

[17] Mosco, Op. cit.: 165.

[18] Ibid.

[19] Executive Order 12046, Sec. 4–2.

[20] The interest of the Senate Communications Subcommittee was the impetus to the preparation of this study. In addition, the House Communications Subcommittee has already held more than one hearing on WARC 79. The most recent such hearing was held April 4, 1979. The International Operations Subcommittee of the House Foreign Affairs Committee also held a hearing on U.S. preparations for WARC 79 June 14, 1979.

[21] See, e.g., Communication As Power: WARC 79, the Christian Century, May 2, 1979: 498–500.

[22] "Proposals" are the suggestions for changes in the International Radio Regulations which the United States has forwarded to the ITU, while "positions" are papers the delegation will bring with them to the conference, spelling out for them the degree of negotiating flexibility they have in trying to achieve activities.

[23] U.S. Department of State, Proposals of the United States of America for the World Administrative Radio Conference (Geneva, 1979), [multilithed] January 1979. Document 1, General Views, pp. 1–2.

[24] Prepared by Marcia S. Smith, Analyst in Aerospace and Energy Technology.

[25] Robinson Statement, Op. cit., April 4, 1979, p. 13.

[26] U.S. WARC 79 Proposals, Proposed footnote 3709A.

[27] Ibid., p. 15.

[28] Philip N. Whittaker, Beating the Band, Journal of Telecommunications, Winter 1979: 160–164.

[29] This section is based on discussions with U.S. WARC delegation staff at the Department of State in mid-May 1979.

UNITED STATES DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, SEPTEMBER 14–NOVEMBER 30, 1979

REPRESENTATIVE

Glen O. Robinson, Office of the Deputy Secretary of State, Department of State.

ALTERNATIVE REPRESENTATIVES

Wilson P. Dizard, International Communications Policy, Bureau of Economic and Business Affairs, Department of State.

Samuel E. Probst, Director, Spectrum Plans and Policies, National Telecommunications and Information Administration.

Kalmann Schaefer, Foreign Affairs Adviser, Federal Communications Commission.

Richard E. Shrum, International Communications Policy, Bureau of Economic and Business Affairs, Department of State.

William R. Torak, International and Operations Division, Office of Science and Technology, Federal Communications Commission.

Francis S. Urbany, Manager, International Communications, National Telecommunications and Information Administration.

SENIOR ADVISER

The Honorable William vanden Heuvel, United States Mission, Geneva.

ADVISERS

Dexter Anderson, Telecommunications Attache, United States Mission, Geneva.

Lewis Bradley, Spectrum Management Division, National Telecommunications and Information Administration.

Charles Breig, Office of the Bureau Chief, Broadcast Bureau, Federal Communications Commission.

Anna L. Case, Chief of the Frequency Division, Voice of America.

William J. Cook, Assistant to the Assistant Secretary of Defense, Department of Defense.

Anthony M. Corrado, Executive Secretary, Interdepartment Radio Advisory Committee, National Telecommunications and Information Administration.

Robert L. Cutts, Chief, International and Operations Division, Office of Science and Technology, Federal Communications Commission.

Harry A. Feigleson, Director, Electromagnetic Spectrum Management, United States Navy.

John Gilsenan, Policy and Rules Division, Private Radio Bureau, Federal Communications Commission.

Wendell Harris, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission.

Melvin L. Harrison, Office of International Communications Policy, Department of State.

Earl J. Holliman, Chief, Frequency Management Staff, United States Coast Guard.

Edward Jacobs, Chief, International Conference Staff, Office of Science and Technology, Federal Communications Commission.

George Jacobs, Director, Research and Engineering, Board for International Broadcasting.

Donald Jansky, Associate Administrator, National Telecommunications and Information Administration.

Raymond Johnson, Acting Chief, Spectrum Management Staff, Federal Aviation Administration.

Jay Kenneth Katzen, Office of International Communications Policy, Department of State.

Wayne Kay, Senior Policy Analyst, Office of Science and Technology Policy, White House.

Harold Kimball, Chief, Communications and Frequency Management National Aeronautics and Space Administration.

Ronald Lepkowski, International and Satellite Branch, Common Carrier Bureau, Federal Communications Commission.

Stephen J. Lukasik, Chief Scientist, Federal Communications Commission.

William Luther, Chief, Engineering Division, Field Operations Bureau, Federal Communications Division.

Robert May, Frequency Management Office, United States Air Force, Department of Defense.

Robert Mayher, Deputy Chief, Spectrum Engineering and Analysis Division, National Telecommunications and Information Administration.

Robert P. Moore, Head, Microwave Radiometry, United States Navy, Department of Defense.

Vernon I. McConnell, Frequency Manager, Department of Defense.

Neal McNaughten, Assistant Chief, Broadcast Bureau, Federal Communications Commission.

James E. Ogle, Director, Office of Radio Frequency Management, Department of Commerce.

Lawrence Palmer, International Conference Staff, Office of Science and Technology, Federal Communications Commission.

Richard Parlow, Acting Chief, Spectrum Engineering and Analysis Division, National Telecommunications and Information Administration.

Paul Phillips, Physical Scientist, Frequency Management, United States Army, Department of Defense.

Richard M. Price, Astronomy Research Section, National Science Foundation.

Thomas Tycz, International Conference Staff, Office of Science and Technology, Federal Communications Commission.

Arlan van Doorn, Deputy Chief, Private Radio Bureau, Federal Communications Commission.

Constantine Warvariv, Office of United Nations Educational, Scientific and Cultural Organization, Bureau of International Organization Affairs, Department of State.

Francis Williams, Chief, Treaty Branch, Office of Science and Technology, Federal Communications Commission.

PRIVATE SECTOR ADVISERS

Perry G. Ackerman, Manager, Systems Engineering Laboratory, Hughes Aircraft Company.

Ann Aldrich, Professor of Law, Cleveland State University Law School, Cleveland, Ohio.

George Bartlett, Vice President for Engineering, National Association of Broadcasters.

Herbert Blaker, Manager, Communications/Regulatory Policy, Rockwell International.

William Borman, Manager of Technical Programs, Motorola, Inc.

Nolan Bowie, Executive Director, Citizens Communications Center.

Charles Dorian, Director, Technical Planning, Comsat General Cororation.

James A. Ebel, Chairman of the Satellite Transmission Committee, ABC, CBS & NBC Network Affiliates Association.

E. Merle Glunt, Consultant, American Radio Relay League.

Robert E. Greenquist, Assistant Vice President for Technical Policy and Standards, Western Union.

David Honig, Assistant Professor, Howard University.

Marion Hayes Hull, Associate Director, Booker T. Washington Foundation.

Karyl A. Irion, Systems Analyst, Systematics General Corporation.

Eugene Jackson, President, National Black Network.

John J. Kelleher, Vice President, National Scientific Laboratories.

Sharon Nelson, Legislative Counsel, Consumers Union.

Edward Reinhart, Manager, CCIR and WARC Activities, Communications Satellites Corporation.

Ronald Stowe, Assistant General Counsel, Satellite Business Systems.

Hans Weiss, Director, Systems Studies, Communications Satellite Corporation.

H. E. Weppler, Engineering Director, American Telephone and Telegraph Company.

DEPARTMENT OF STATE,
Washington, D.C., July 6, 1979.

Hon. BARRY GOLDWATER,
United States Senate

DEAR SENATER GOLDWATER: The Secretary has asked me to reply to your letter of May 11 requesting a list of the U.S. Delegates to the 1979 World Administrative Radio Conference (WARC). As you requested, I am enclosing the list of the delegates which was approved by Acting Secretary Christopher on May 26. The list includes a description of the technical background of each of the delegates.

Sincerely,

J. BRIAN ATWOOD,
Acting Assistant Secretary for Congressional Relations.

Enclosure: List of WARC delegates.

UNITED STATES DELEGATION TO THE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Ackerman, Perry: Manager, Systems Engineering Laboratory, Hughes Aircraft. Holds BSME from Univ. of Michigan. ITU experience: Observer at 1977 Broadcasting Satellite Conference; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions; member of WARC Advisory Committee.

Aldrich, Ann: Professor of Law, Cleveland State University. Holds BA from Columbia University and LLB, LLM, and JD from New York U. School of Law. Served 9 years as staff attorney, FCC's Office of General Counsel. ITU experience: Delegate to 1959 General WARC.

Anderson, Dexter: Telecommunications Attache, U.S. Mission, Geneva. Graduate of Yale and George Washington Univ. Foreign Service Officer with overseas assignments in Africa, Europe, and USSR. ITU experience: Delegate to 1974 Maritime and 1977 Broadcasting Satellite Conferences; Vice Chairman, USDEL, to 1978 Aeronautical Conference; Delegate to 1978 and 1979 Sessions of the Administrative Council. WARC–79 participation: Delegate to 1978 SPM; bilateral discussions. Delegate to numerous CITEL meetings. Formerly Staff Officer, Office of International Communications Policy, Dept. of State.

Bartlett, George: Vice President for Engineering, National Association of Broadcasters. Graduate of Mass. Radio Institute, Boston, Mass. Holds BSEE from Brown University. Served 9 years as chief engineer of WDNC, Durham, N.C., 3 yrs as inspector for FCC. Also served in engineering capacity in private industry. Employed by NAB since 1954; appointed V.P. in 1965. Member of European Broadcasting Union. Officer of the Asia Pacific Broadcasting Union. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Blaker, Herbert T.: Manager, Standards and Certification, Rockwell International. Employed by Pan American World Airways, 1937–59. Participated in numerous meetings of International Civil Aviation Organization. Served as International Air Transport Association spokesman at Fourth Inter-American Radio Conference, 1949. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 8. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Borman, William: Technical Director, Motorola, Inc. Holds BSEE from Fournier Institute of Technology and MSEE from Illinois University. Served as Chairman, Land Mobile Services Group's Committee in International Allocations and Agreements. Member of NTIA's Frequency Management Advisory Council. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar; bilateral discussions; member of WARC Advisory Committee.

Bowie, Nolan: Executive Director, Citizens Communication Center. Holds AA from Los Angeles Harbor College, BA from Cal. State Univ. at Long Beach and JD from Univ. of Michigan Law School. WARC–79 participation: Member of WARC Advisory Committee.

Bradley, Lewis: Staff member, Spectrum Management Division, NTIA. Holds BSEE from Texas A&M and degree in Military Science from Univ. of Maryland. Former U.S. Air Force Officer. Convenor of IRAC Ad Hoc 144–Ic. WARC–79 participation: Sydney Seminar; bilateral discussions. Member, NATO/ARFA.

Breig, Charles: Electronics Engineer, Office of Chief of Broadcast Bureau, FCC. Holds BSEE from Pennsylvania State University. ITU experience: Delegate to 1977 Broadcasting Satellite Conference; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Case, Anna: Chief, Frequency Division, Voice of America. Holds BSEE from LSU and MS from George Washington Univ. Member of IRAC. Has represented VOA on International Frequency Coordination Committee for HF broadcasting since 1964. U.S. Army Signal Corps experience. Formerly employed by Radio Free Europe. WARC–79 participation: Nairobi and Sydney Seminars; bilateral discussions.

Cook, William: Assistant to Asst. Secretary for Communications Command and Control, Dept. of Defense. Holds BSEE from Drexel Univ. and MS from George Washington Univ. Formerly employed by Philco and Dept. of Navy, Electronic Systems Command. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar, bilateral discussions. Participated in NATO/ARFA.

Corrado, Anthony: Chief, Frequency Assignment and Interdepartment Radio Advisory Committee Administration Division, NTIA. Executive Secretary, IRAC. ITU experience: Involved in preparatory work for 1974 Maritime Conference; assisted ITU with introduction of computer techniques into the International Frequency Registration Board.

Cutts, Robert: Chief, International and Operations Division, FCC. Holds BSEE from U.S. Naval Academy and MPA from Indiana Univ. Former U.S. Navy Officer. FCC Liaison representative to IRAC. ITU experience: Participated in preparations for 1967 Maritime and 1971 Space Conferences.

Dizard, Wilson: Vice Chairman, U.S. WARC Delegation. WARC Staff Director, Office of International Communications Policy, Dept. of State. Holds BS from Fordham College. Foreign Service Information Officer with overseas assignments in Turkey, Greece, Iran, Pakistan, Poland and Vietnam. Assistant Dep. Director, U.S. Information Agency, 1966–67. Executive Director, White House Working Group on Communications Satellite Earth Stations, 1966. Executive Director, White House Working Group on Communications Satellite Applications, 1966–67. Attended INTELSAT Conferences, 1968–69.

Dorian, Charles: Director, Technical Planning, Communications Satellite Corporation. Graduate of U.S. Coast Guard Academy. Served 30 yrs. with Coast Guard. Chief of C.G. Communications 1964–67. Dep. Director, Office of Telecommunications, Dept. of Transportation. ITU experience: Delegate to 1959 General and 1974 Maritime Conferences; Delegate to 1971 Special Joint Meeting; active in CCIR Study Groups. WARC-79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee. Participated in numerous IMCO meetings.

Ebel, A. James: Chairman, Satellite Transmission Committee, ABC, CBS and NBC Network Affiliates. Holds BA from Iowa State Teachers College, BA from Univ. of Iowa and MSEE from Univ. of Illinois. Member of NTIA's Frequency Management Advisory Council. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences. WARC-79 participation: Member of WARC Advisory Committee. Presently Manager of KOLN-TV, Lincoln, Nebraska.

Feigleson, Harry: Director, Electromagnetic Spectrum Management, U.S. Navy. Holds BSEE from U.S. Coast Guard Academy and ME from American University. Navy representative to IRAC. ITU experience: Delegate to 1967 Maritime Conference; participated in preparations for 1971 Space Conference; active in CCIR Study Groups. WARC–79 participation: bilateral discussions.

Gilsenan, John: Electronics Engineer, Private Radio Bureau, FCC. ITU experience: Active in OCIR. WARC–79 participation: Nairobi Seminar; bilateral discussions. Participated in INMARSAT meetings.

Glunt, E. Merle: Consultant, American Radio Relay League. Graduate of U.S. Navy Radio and Communications School. Attended George Washington Univ. and Capitol Radio Engineering Institute. Employed by

FCC, 1940–45 and 1952–74. Retired from FCC as Asst. Chief, Treaty Branch (1974). Participated in IRAC for 30 yrs. Under AID contract in 1966 to develop plan to reorganize PTT of Thailand. ITU experience: Delegate to 1974 Maritime and 1973 Plenipotentiary Conference. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Greenquist, Robert E.: Assistant Vice President (Technical Policy and Standards), Western Union Telegraph Co. Holds BSEE from Cornell Univ. Continuously employed by Western Union since 1948. Served as Director of Western System Engineering, 1970–74; Deputy Program Manager, 1974–75; and Assistant Program Manager, Engineering, 1976–78. Served on Joint Technical Advisory Committee and ad hoc FCC Advisory Committees. ITU experience: Active in OCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Harris, Wendell: Electronics Engineer, Policy and Rules Division, Common Carrier Bureau, FCC. Holds BSEE from Howard Univ. Member of IEEE. ITU experience: Active in CCIR. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar.

Harrison, Melvin: Foreign Affairs Adviser, Office of International Communications Policy, Dept. of State. Holds BA from Univ. of Maryland; attended American Univ. Graduate School. Foreign Service Officer who has served in Quito, Ecuador, and Saigon, Viet Nam. WARC–79 participation: Panama Seminar; bilateral discussions. Participated in several CITEL meetings.

Holliman, Earl: Chief, Frequency Management Staff, U.S. Coast Guard. Holds BSEE from Texas A&M. 40 yrs. experience in maritime communication system design and spectrum planning. Coast Guard representative to IRAC. ITU experience: Delegate to 1959 General WARC; participated in preparations for HF Broadcasting and Maritime Conferences; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Honig, David: Assistant Professor, Howard University. Also Research Director, Black Media Coalition. Holds BA from Oberlin College and MA from Univ. of Rochester. Participated in several Congressional hearings on communications industry structure. Has also served on several FCC Advisory Committees. WARC–79 participation: Member of WARC Advisory Committee.

Hull, Marion Hayes: Director of Telecommunications Programs, Booker T. Washington Foundation. Holds BA, Long Island Univ. and MA, New York Univ. Has been employed as researcher and editorial assistant in publishing industry; college professor specializing in broadcasting and journalism; and as communications specialist for Dept. of Justice. Has worked for Booker T. Washington Foundation since 1973. Member of numerous public service, civic and professional organizations. WARC–79 participation: Member of WARC Advisory Committee.

Irion, Karyl: Systems Analyst, Systematics General Corporation. Holds BS from Duke Univ. ITU experience: Active in CCIR. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Jackson, Eugene: President, National Black Network. BSEE, Univ. of Missouri; MS in business, Columbia Univ. Worked previously as industrial engineer for Colgate Palmolive Company; as project coordinator for Black Economic Union; and as Director, Major Industries Program, Interracial Council for Business Opportunity. With National Black Network since its founding in 1972. WARC-79 participation: Member of WARC Advisory Committee.

Jacobs, Edward: Chief, International Conference Staff, FCC. Holds BSEE from Johns Hopkins Univ. ITU experience: Delegate to 1977 Broadcasting Satellite Conference; active in CCIR. WARC-79 participation: Panama Seminar; bilateral discussions. Delegate to numerous CITEL meetings.

Jacobs, George: Director, Research and Engineering, Board for International Broadcasting. Holds BSEE from Pratt Institute and MSEE from Univ. of Maryland. Joined Voice of America in 1949; BIB in 1976. Member of IEEE. Charter life member of Amateur Radio Relay League. Licensed radio amateur (W3ASK). ITU experience: Delegate to 1959 General and 1963 Space Conferences; Delegate to 1966 CCIR XIth Plenary Assembly and 1971 Special Joint Meeting; active in CCIR Study Groups. WARC-79 participation: Member of WARC Advisory Committee.

Jansky, Donald: Associate Administrator, NTIA. Holds BA in Engineering Science from Dartmouth College; BEE from Thayer School of Engineering; and MSE from Johns Hopkins Univ. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1971 Special Joint Meeting; active in CCIR Study Groups; U.S. Representative to Working Group on Orbit Spectrum Utilization of CCIR. WARC-79 participation: Delegate to 1978 SPM. Delegate to numerous CITEL meetings.

Johnson, Raymond: Chief, Spectrum Management Staff, U.S. representative to International Civil Aviation Organization for planning studies. FAA representative to IRAC. WARC-79 participation: Delegate to 1978 SPM. Delegate to numerous ICAO meetings.

Katzen, Jay: Political advisor, U.S. WARC Delegation. Presently in Office of International Communications Policy, Dept. of State. Holds BA from Princeton and MA from Yale. Foreign Service Officer who has served as political officer in Leopoldville (now Kinshasa, Zaire); Deputy Chief of Mission in Bamako, Mali; economic officer in Bucharest, Romania; and Charge d'Affaires in Brazzaville, Congo. Served as political advisor, U.S. Mission to the UN, 1973–77. WARC–79 participation: Nairobi Seminar.

Kay, Wayne: Senior Policy Analyst, Office of Science and Technology Policy, White House Colonel, U.S. Air Force. Holds BS from Wisconsin State Univ. and MS from Univ. of Maryland. WARC–79 participation: Nairobi and Panama Seminars.

Kelleher, John: Vice President, Systematics General Corporation. Graduate of U.S. Army Signal Corps Radio School and numerous other professional and managerial training programs. Employed by Systematics General since 1969. Previously with NASA, 1962–69; Office of Chief Signal Officer, 1943–62; and Signal Corps Laboratories, 1940–43. Member of IEEE. ITU experience: Delegate to 1963 Space, 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1966 CCIR XIth and 1970 XIIth Plenary Assemblies and Special Joint Meeting; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 4. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions; member of WARC Advisory Committee.

Kimball, Harold: Chief, Communications and Frequency Management, NASA. Holds BSEE from Wayne St. Univ. and MSEE from Univ. of Illinois. Served with U.S. Air Force. Convenor of IRAC Ad Hoc 144–Id. ITU experience: Delegate to 1978 CCIR XIVth Plenary Assembly; active in CCIR Study Groups; Chairman of U.S. CCIR Study Group 2. WARC–79 participation: Delegate to 1978 SPM; Nairobi and Sydney Seminars, bilateral discussions.

Lepkowski, Ronald: Supervisor, International and Satellite Branch, Common Carrier Bureau, FCC. Holds BSEE from MIT and MS from George Washington Univ. Employed by FCC since 1969. ITU experience: Delegate to 1977 Broadcasting Satellite Conference. WARC–79 participation: Delegate to 1978 SPM.

Lukasik, Stephen J.: Chief Scientist, FCC. Holds BS from Rennsselaer Polytechnic Institute, and MS and Ph. D from MIT. Private experience with Westinghouse (1955–57) and Xerox Corporation (1974–76). Also held teaching positions with MIT (1951–1955) and Stevens Institute of Technology (1957–66). Served as Director, Defense Department's Advanced Research Projects Agency (1971–74); and Senior Vice President, subsequently Chief Scientist, Rand Corporation (1977–79). Joined FCC as Chief Scientist in May 1979.

Luther, William A.: Chief, Engineering Division, Field Operations Bureau, FCC. Holds BSEE and MSEE from Drexel Univ. Employed by FCC since 1959. ITU experience: Active in CCIR Study Groups since 1968. WARC–79 participation: Delegate to 1978 SPM.

McConnell, Vernon J.: Frequency Manager, Department of Defense. Attended Los Angeles Trade-Technical College, 1948–51. Served as Marine Radio Officer. Serves as Chairman, Joint Frequency Panel's Permanent Working Group on Space Frequency Matters. Specializes in Radio Regulations dealing with satellite coordination procedures. ITU experience: Has participated in conference preparation since 1958. Participated in numerous NATO/ARFA meetings.

McNaughten, Neal K.: Assistant Chief, Broadcast Bureau, FCC. Employed with International Division, FCC, 1940–48. Served as Director for Engineering, National Association of Broadcasters; Manager of Market Planning, RCA; and Vice President, Ampex Corp. Returned to FCC in 1961. ITU experience: Vice Chairman, USDEL, 1977 Broadcasting Satellite Conference; delegate to 1978 CCIR XIVth Plenary Assembly; active in CCIR Study Groups; Chairman, U.S. CCIR Study Groups 10 and 11. WARC–79 participation: Panama Seminar. Attended numerous CITEL meetings.

May, Robert: Frequency Manager, U.S. Air Force. Holds BSEE and MBA from Univ. of Michigan. Formerly systems engineer for aerospace industry, 1945–64; government service in operations research, 1964–69. Air Force representative to IRAC. WARC–79 participation: Nairobi Seminar; bilateral discussions. Has attended numerous NATO/ARFA meetings.

Mayher, Robert: Deputy Chief, Spectrum Engineering and Analysis Division, NTIA. Holds BSEE from MIT. ITU experience: Active in CCIR Study Groups since 1974; Chairman of International Working Party 1/2. WARC participation: Delegate to 1978 SPM; Panama Seminar; bilateral discussions.

Moore, Robert: Physical Scientist with Microwave Radiometric Branch, Naval Weapons Center, Corona, CA. Employed as consultant on command, control and communications, Office of Chief of Naval Operations, U.S. Navy. Holds BS and MS from Univ. of Michigan. ITU experience: Active in CCIR Study Groups. Also participated in number of NATO study and advisory groups on millimeter wave matters.

Nelson, Sharon: Legislative Counsel, Consumers Union. Former staff member, U.S. Senate Committee on Commerce, Science, and Transportation. WARC–79 participation: Member of WARC Advisory Committee.

Ogle, James: Director, Office of Frequency Management, Department of Commerce. Commerce representative to IRAC. Former delegate to NATO/ARFA. Former Chief, U.S. Air Force Frequency Management Office. ITU experience: Delegate to 1959 General, 1971 Space, 1974 Maritime and 1973 Plenipotentiary Conferences.

Palmer, Lawrence M.: Communications Specialist, International Conference Staff, FCC. Holds BS from George Washington Univ. Served in U.S. Navy and specialized in communications field. Employed by U.S. Navy Frequency Management Office before joining FCC. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences. WARC–79 participation: Sydney Seminar;

bilateral discussions. Attended numerous NATO/AFRA and CITEL meetings.

Parlow, Richard: Chief, Spectrum Engineering and Analysis Division, NTIA. Holds BSEE from Univ. of Wisconsin and MEA from George Washington Univ. Formerly employed by Mitre Corp., Philco Corp., and U.S. Air Force (specializing in radio communications systems). ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi and Sydney Seminars; bilateral discussions.

Phillips, Paul: Physical Scientist, employed in Frequency Management Office, U.S. Army. Army representative to IRAC. Former U.S. Air Force Officer. WARC–79 participation: Panama Seminar; bilateral discussions. Delegate to NATO/ARFA.

Price, Richard M.: Radio Astronomer, National Science Foundation. Holds BS in physics from Colorado State University and Ph. D. from the Australian National University. NSF representative to IRAC. Formerly employed by Nat. Bureau of Standards Laboratory, Boston, Mass.; and National Radio Physics Laboratory, Sydney, Australia. Served 8 years as member of faculty, MIT Physics Dept. Employed by NSF since 1975. ITU experience: Delivered paper at 1976 IFRB Seminar.

Probst, Samuel E.: Vice Chairman, U.S. WARC Delegation. Director, Spectrum Plans and Policies, NTIA. Holds degrees in civil engineering and electrical engineering from Univ. of Kansas and Penn State. Chairman, IRAC and Ad Hoc 144. Former spectrum manager for U.S. Army, ITU experience: Delegate to 1971 Space and 1973 Plenipotentiary Conferences; Chairman, U.S. Delegation, 1978 SPM. WARC–79 participation: Panama Seminar; bilateral discussionss. Attended several CITEL meetings.

Reinhart, Edward: Radio Engineering Manager, Communications Satellite Corporation. Holds BA and MA from University of California. Formerly employed by Rand Corp. and Jet Propulsion Laboratory, California Institute of Technology. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1971 SJM. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions.

Robinson, Glen O.: Chairman, U.S. WARC Delegation. Holds AB from Harvard Univ. and LLB from Stanford. Member of D.C. Bar. Attorney associated with Covington and Burling, 1961–62 and 1964–67. Professor of Law, Univ. of Minnesota, 1967–74. Commissioner, FCC, 1974–76. Since 1976, Professor of Law, Univ. of Virginia. Appointed Chairman, U.S. Delegation, January 1978.

Schaffer, Kalmann: Vice Chairman, U.S. WARC Delegation. Foreign Affairs Advisor, FCC. Attended numerous CITEL meetings. Experienced with UNESCO MacBride Commission and UN Committee on the Peaceful Uses of Outer Space.

Shrum, Richard E.: Vice Chairman, U.S. WARC Delegation. Coordinator of Technical Affairs, Office of International Communications Policy, Dept. of State. Graduated from U.S. Coast Guard Academy (BS Eng.) and U.S. Naval Postgraduate School (MSEE). Former frequency manager for U.S. Coast Guard and FCC. ITU experience: Delegate to 1971 Space, 1974 Maritime, 1977 Broadcasting Satellite Conferences; Delegate to 1971 SJM; Delegate to 1976 and 1977 Sessions of Administrative Council. WARC–79 participation: Vice Chairman, U.S. Delegation, 1978 SPM; Nairobi and Sydney Seminars; bilateral Discussions. Delegate to NATO/ARFA.

Stowe, Ronald F.: Assistant General Counsel, Satellite Business Systems. Holds AB from Brown Univ. and JD from New York Univ. Formerly employed as attorney in Dept. of State Legal Adviser's Office; served with U.S. Mission to the UN. Delegate to several meetings of UN Committee on Peaceful Uses of Outer Space. WARC–79 participation: Delegate to 1978 SPM; Panama Seminar, bilateral discussions; member of WARC Advisory Committee.

Torak, William: Vice Chairman, U.S. WARC Delegation. Assistant Chief, International and Operations Division, FCC. Univ. of Pittsburgh, BSEE. WARC–79 participation: Vice Chairman, U.S. Delegation, 1978 SPM; Panama Seminar, bilateral discussions. Delegate to NATO/ARFA. Attended several meetings of CITEL.

Tycz, Thomas: Electronics Engineer, International Conference Staff, Office of Chief Scientist, FCC. Holds BSEE from Lowell Technological Institute, and MSEE from Univ. of Maryland. Previously employed by Air Force Systems Command and U.S. Navy Electromagnetic Compatibility Analysis Center (ECAC). Joined FCC January 1975. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Bilateral discussions in Africa, Middle East and Latin America.

Urbany, Francis: Vice Chairman, U.S. WARC Delegation. International Manager, Spectrum Plans and Policies, NTIA. Holds AB from Harvard and JD and MS Bus. Admin. degrees from George Washington Univ. ITU experience: Delegate to 1973 Telegraph and Telephone, 1977 Broadcasting Satellite and 1978 Aeronautical Conferences. WARC–79 participation: Nairobi and Panama Seminars; bilateral discussions. Attended various meetings of CITEL, INMARSAT and INTELSAT.

Vanden Heuvel, William: U.S. Ambassador to the European Office of the UN and Other International Organizations, Geneva. Graduate of Cornell Univ. and Cornell Law School. Former Special Asst. to Attorney General Robert Kennedy, 1963–64. Served as Acting Regional Administrator, Office of Economic Opportunity, 1964–65; Vice President, N.Y. State Constitutional Convention, 1967; Chairman, N.Y. City Board of Correction, 1970–73; and Chairman, N.Y. City Commission on State-City Relations, 1971–73. Partner in law firm of Stroock, Stroock, and Lavin since 1965.

Van Doorn, Arlan: Deputy Chief, Private Radio Bureau, FCC. Attended Univ. of Virginia and George Washington Univ. Previously employed as Senior Engineer, Western Development Laboratories and System Technology Center, Philco/Ford Corp. Serves as Vice Chairman, Radio Technical Commission for Marine Services. Participated as head of delegation in bilateral discussions with Mexico and Canada on various communications matters. WARC–79 participation: Panama Seminar; bilateral discussions.

Warvariv, Constantine: Agency Director, Transportation and Communications, Bureau of International Organization Affairs, Dept. of State. Holds MS in Pol. Sci. from Columbia Univ. Formerly Deputy Chief of Mission, U.S. Mission to UNESCO, Paris, 1973–78. Has attended numerous international conferences. Served as U.S. Spokesman on drafting group at UNESCO 20th General Conference, November 1978.

Weiss, Hans: Director, Systems Engineering, Communications Satellite Corporation. Holds MS in Physics from Univ. of Karlsruhe (Germany). Formerly systems engineer for RCA. Employed by ComSat since 1964. Responsible for definition, design, and integration of advanced space communications systems. ITU experience: Delegate to 1971 Space, 1977 Broadcasting Satellite and 1971 SJM; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Weppler, H. E.: Director, Technical Standards and Regulatory Planning, AT&T. Holds BSEE from Purdue Univ. Radio engineer employed by AT&T since 1959. Member, NTIA's Frequency Management Advisory Council, since 1967. ITU experience: Delegate to 1963 Space, 1971 Space, 1974 Maritime. 1977 Broadcasting Satellite, 1965 and 1973 Plenipotentiary Conferences; Delegate to 1966 CCIR XIth, 1970 XIIth, 1974 XIIIth, 1978 XIVth Plenary Assemblies and 1971 SJM; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 9. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Williams, Francis K.: Chief, Treaty Branch, FCC. Holds BSEE from MIT. Has attended numerous International Civil Aviation Organization meetings. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar; bilateral discussions.

ABBREVIATIONS USED

ITU—International Telecommunication Union.

CCIR—International Radio Consultative Committee.

SJM—Special Joint Meeting of CCIR Study Groups held in 1971.

SPM—Special Preparatory Meeting for 1979 WARC, held in 1978.

IFRB—International Frequency Registration Board.

CITEL—Inter-American Telecommunications Conference.

NATO/ARFA—North Atlantic Treaty Organization/Allied Radio Frequency Agency.

UNESCO—United Nations Economic and Social Council.

ICAO—International Civil Aviation Organization.

INTELSAT—International Telecommunications Satellite Organization.

INMARSAT—International Maritime Satellite Organization.

IEEE—Institute of Electrical and Electronics Engineers, Inc.

IRAC—Interdepartment Radio Advisory Committee.●

SKYLAB'S HOMECOMING

● Mr. STEVENSON. Mr. President, Skylab is home. And it is good news that its homecoming was accomplished without injury to person or property. Although we must await the accounting and verification of debris found in Australia to know precisely Skylab's final reentry path, it appears that, on balance, the last orbit was as favorable to a safe outcome as we could have hoped.

As NASA emphasized repeatedly, the risk of injury was always very small. In this era of Three Mile Island and DC–10 disasters, it is nonetheless a relief to know that the unlikely did not occur.

Did we learn anything from this event? I was impressed with the generally accurate reporting of the media, even though one might question the amount of attention directed to this story by print and electronic media. This balanced treatment occurred in large measure because from the outset the Government made a determined effort to tell the whole story. Preparations for reentry were drawn up carefully. Every effort was made to spell out, in detail, what was likely to happen and why. An equal effort was devoted to explaining what was not known and what could not be predicted with accuracy. As a consequence, most people kept the event in perspective. It is encouraging to discover that such behavior is still possible.

Some persons might still argue that we must never again run such risks, however remote. I disagree. A more sen-

sible approach, in my view, would be to recognize that almost any effort in life involves some risks and that we must evaluate the potential risks along with the benefits. We mave often overlooked the benefits of Skylab. For instance, important scientific knowledge was gained in understanding the physical and chemical processes of the Sun.

This knowledge, in time, will permit us to know a great deal more about the Earth's climate and weather. The benefits of understanding the dynamics of severe storms and climatic change, for example, are incalculable. The Skylab missions also expanded our knowledge of remote sensing from space of the Earth's resources and environment. This will benefit mankind in countless ways: Monitoring agriculture and forests, exploring for energy and minerals, controlling pollution, and producing more accurate maps, to cite only some of the more obvious applications. Skylab also broadened our understanding of human survivability in space, knowledge that will be valuable once we begin to use the Space Shuttle's capabilities for extended manned missions in space.

In short, the benefits of Skylab were real, and the risks associated with its reentry were small. With the wisdom of hindsight, it is clear that NASA reached a correct decision to initiate the project.

It also is true that every effort must be made to avoid exposing the Earth's population to needless risks. There is little reason to prolong the argument over whether Skylab should have been equipped with propulsion equipment to avoid an uncontrolled reentry. The decision not to provide such equipment was made nearly 10 years ago, for reasons that seemed acceptable at the time. What we should focus on today is that the space shuttle will provide the United States with a new capability to retrieve or revisit large objects in space. This should make it possible to avoid a situation such as the Skylab reentry from ever happening again.

My final thought is that Americans owe NASA and the other Federal agencies that participated in the Skylab reentry planning a vote of confidence for their handling of a very difficult situation. We are not hesitant to criticize the Government when things turn out badly. In this instance, so far as we know, the outcome was far more satisfactory—not only that Skylab's reentry caused no harm but also that the Government handled the situation well. We should have the intellectual honesty to acknowledge this success and to express our appreciation.●

SENATE RESOLUTION 188—TAX-EXEMPT MORTGAGE BONDS

● Mr. BRADLEY. Mr. President, I am pleased to join my colleague from Alaska, Senator GRAVEL, in cosponsoring a resolution to express the sense of the Senate that until Congress is ready to take definitive action regarding tax-exempt mortgage bonds, State housing agencies and local governments should not be precluded from continuing to finance their housing programs.

On April 25, 1979, H.R. 3712 was introduced in the House of Representatives. This bill would end the tax exemption for State and local government bonds used to provide mortgages for owner-occupied residences and restrict the use of housing related industrial development bonds to those bonds whose proceeds are used for low- or moderate-income rental housing. The bill's effective date is retroactive to the date of its introduction.

Since the introduction of H.R. 3712 the market for mortgage bonds has dried up. Wisely, the House Ways and Means Committee is currently considering transitional rules which would continue the tax exemption for bonds being prepared for issue on the date of the bill's introduction. The resolution which Senator GRAVEL and I are cosponsoring in effect expresses the Senate's support of acceptable transitional rules and sends a message to the bond markets that we will proceed in a manner which will not be unreasonably disruptive.

An example of the severe impact of H.R. 3712 can be seen in my State where the New Jersey Mortgage Finance Agency's $21 million bond issue, authorized on April 3 for a statewide home improvement loan program servicing low- and moderate-income homeowners, is in a stage of limbo. Bond counsel are unwilling to give clean opinions regarding tax exemption of bond issues until Congress has acted. The mere introduction of legislation has had the effect of prohibitory law. The bond industry has been stopped dead cold.

The investment community is waiting for definitive action from Congress. While we are deliberating on the best way of handling tax-exempt housing bonds we should free those deals caught in the pipeline as of April 25. That is what our resolution advocates.

In cosponsoring this sense of the Senate resolution, I do not foreclose the advisability of legislation regarding the issue of mortgage bonds. Varied opinions regarding the use of proceeds of such bonds and all of these views should be aired. My position on the issue is that the bond proceeds should be targeted so that they reach those in our society who most need assistance. However, until Congress has legislated, I firmly believe that the bond market should not be hampered. The adoption of the resolution forecloses no options.●

THE DECLINE OF PRIVATE PENSIONS

● Mr. ARMSTRONG. Mr. President, often Federal programs start out to help solve problems and end up creating new and more serious difficulties for the very people supposedly to be helped. This week Dennis E. Logue, associate professor of business administration at Dartmouth College, pointed out how Government interference has caused the decline of private pension plans throughout the country. His article in the Washington Star deserves the serious consideration of every Member of the Senate. I commend it to the attention of my colleagues:

THE DECLINE OF PRIVATE PENSIONS

(By Dennis E. Logue)

Despite repeated expressions of concern for senior citizens, the government itself has contributed to the termination of a large number of private pension plans.

Whether intended or not, the thrust of federal actions over the last decade has ensured that a greater portion of the retirement needs of older Americans will be financed from public rather than private sources.

This trend is a cause for concern both in the White House and on Capitol Hill. Last year the White House recommended changes to cut down on the blizzard of paper work generated by federal regulation governing corporate pension plans.

The House Government Operations Committee currently is drafting legislation aimed at encouraging the formation of new private pension plans. Presumably the new bill will be designed to offset some of the dampening effects of both the Employee Retirement Income Security Act of 1974 and the expansion of the Social Security system.

The intention of federal lawmakers apparently was to guarantee sufficient income to retired Americans both by providing larger Social Security benefits and by shoring up private pension plans.

Ironically, what the government has done is to make it more attractive to corporate planners either to terminate existing pension plans or not begin them at all.

The Employee Retirement Income Security Act of 1974 has tended to standardize the terms for vesting and eligibility requirements in pension fund contracts. It has established funding standards and created a new quasi-government pension insurance agency, the Pension Benefits Guarantee Corporation. In short, the law has changed the nature of pension in fundamental ways. The net effect has been to reduce the benefits to employers offering pensions to their employees.

ERISA also created the opportunity for employees who are not covered by private pension plans to save for retirement through their own tax-deferred savings plans or individual retirement accounts. As a result, the special tax-related attractions of private pension plans have been reduced.

The law appears to be based on an erroneous view of the private pension program. It has raised the cost of such programs and simultaneously reduced their benefits to firms. As evidence, between the end of 1974 and July 1977, nearly 30 per cent of all private pension plans were terminated.

The basic error embodied in the legislation is the theory that private pensions are simply deferred wages. But while private pensions are considered deferred income for tax purposes, they have a different and important role in the employment relation—that of providing incentives to employees.

To the extent that legislation has undermined the role of pensions as incentives, these laws may weaken the industrial pension system.

The Social Security system also is creating disincentives for corporate pension plans. The growth of private pension benefits has been dwarfed by growth in Social Security benefits in recent years. A retired person is now likely to receive more from Social Security than he does from his pension plan, a marked change from the early 1950s.

As expected Social Security benefits rise, the work incentives produced by a pension of a given dollar size tend to diminish. This in turn, reduces corporate incentives to provide pensions.

Similarly, as Social Security taxes rise, the individual's inclination to save declines, and this tends to reduce the employee demand for pension programs.

Two significant influences—ERISA and Social Security expansion—are acting in consort. Both have substantial potential for reducing the number and size of corporate pension programs.

Some would argue that the demise of the private pension system is welcome. However, the principal argument against that view is that employees should themselves be able to decide whether the pension contract they have is satisfactory.

If private pension plans get shoved aside because of restrictive legislation or increasingly generous Social Security benefits, the choices open to employees will diminish. This situation can never be viewed as desirable.

Nearly everyone agrees that efforts should be made to assure retired Americans a secure future. But federal lawmakers should be certain that adverse side effects of their attempts to help do not outweigh the benefits.●

REPORTS ON PIONEER VENUS MISSION

● Mr. STEVENSON. Mr. President, too often we watch with awe the success of a new endeavor in space exploration, only to lose interest in the results of that endeavor and how these results contribute to our understanding of the solar system. Last December the United States successfully directed five spacecraft through the atmosphere of Venus and placed another spacecraft in orbit about it. Data on the composition and temperature of the atmosphere were quickly made available to scientists around the world. But interpretation of data takes many months, and these interpretations must be analyzed and compared with other knowledge, theories, and data.

The July 6, 1979, issue of Science presents a collection of 30 reports on Pioneer Venus experiments. These 30 reports represent the published work of over 125 principal investigators representing approximately 33 different institutions. This breadth of involvement of the scientific community in a single mission testifies to the widespread interest and importance of planetary science.

The results of this research gives us a picture of a planet of nearly the same size and mass as Earth, but with major differences in the composition and structure of the atmosphere. Most notable are the larger amounts of rare gases on Venus, such as argon and neon, that suggests the primordial state of the planet's atmosphere. The differences with Earth are analyzed as to their consistency with various theories of the solar system's formation.

What emerges from this process are new ideas about the origin of the solar system—the distribution of elements and temperature in the solar system's early history and the mechanisms that must have taken place as the planets began to assume their present form. The larger amounts of argon and neon caused a reexamination of the evolution of the atmospheres of Earth, Mars, and Venus. Instead of the atmosphere developing after the planets formed, through solar processes, for instance, it now appears that the atmospheric components were contained in the material out of which the planets themselves were formed. This new view of the evolution of planetary atmospheres is important in analyzing the water history and chemical processes in those atmospheres.

The Pioneer Venus results thus demonstrate how planetary scientists are using the other planets as "laboratories" for understanding physical processes on Earth. It is no coincidence that some of the principal scientists on the Pioneer Venus mission are those who first analyzed the danger to our atmosphere of excessive aerosols, carbon dioxide, and sulfur compounds. These molecules are abundantly present on Venus and are affecting its atmospheric evolution.

Pioneer Venus does not end our exploration of this planet. The planet's surface has never been seen, for example. However, with the use of imaging radar, it will be possible to examine the Venusian surface and to learn more about atmospheric processes and planetary composition. The Venus orbiting imaging radar (VOIR) mission is a priority item on NASA's agenda of future planetary missions.

Pioneer Venus does not give us full understanding of the solar system's formation, but it does contribute an important increment to our knowledge. The significance of our emerging picture of Venus is discussed in an editorial by Philip Abelson that also appeared in the July 6 issue of Science. I ask that Mr. Abelson's editorial be printed in the RECORD.

The editorial follows:

VENUS

(By Philip H. Abelson)

The earlier romantic and the newer realistic views of Venus are in sharp contrast. This difference is typical of many situations that scientists deal with. They often find themselves in the position of demolishing illusions. On the other hand, the objectivity of scientists is usually narrowly confined, and even in their professional activities, illusion or self-delusion often surface. This is especially true when the information is limited and the area of possible speculation is large. For example, an ill-based belief in the possibility of life on Venus, the moon, and Mars was sufficiently strong for some scientists to alarm the public and force special precautions in the return of astronauts and samples from the moon.

In ancient times there were few constraints on imagination about Venus, and the very name of the planet reflected this. Later, it became evident that Venus was a body about the same size as Earth, that it had an atmosphere, and that it was cloud-covered. Nobel Laureate Svante Arrhenius believed that the planet supported luxuriant vegetation. His views are shared by others.

By 1960 Earth-based astronomers had determined that the atmosphere of Venus consisted principally of CO_2 with little H_2O evident. Nevertheless, confidence in the possibility of life on Venus persisted in some quarters.

Exploration of the moon and planets has left no room for little green men or microbes elsewhere in the solar system. This is especially true of Venus. Temperatures at the planet's surface range up to 400°C. The dense atmosphere consists mainly of CO_2 with an atmospheric pressure of 90 kilograms per square centimeter (90 times the total on Earth). The second most abundant component is nitrogen (about 3 percent). Water vapor is a minor constituent, being present in about the same concentration as SO_2 (of the order of 1000 parts per million). Other forms of sulfur include elemental sulfur and carbon oxysulfide. The atmosphere is acid and toxic, and the clouds probably consist largely of droplets of H_2SO_4.

Despite contrasts between their atmospheres, Earth and Venus share some important features. The abundances of nitrogen relative to the masses of the planets are comparable. The same is true of the amounts of CO_2 if one takes into account the amounts present in carbonate rocks on Earth. Within experimental error, the $^{13}C/^{12}C$ ratios are alike. The amounts of ^{40}Ar derived from decay of ^{40}K are also comparable, indicating similar contents of potassium in the two bodies.

In the current issue of *Science*, Pollack and Black discuss some of the compositional features of the atmospheres of Venus, Earth, and Mars. They also examine three hypotheses that have been advanced for the origin and evolution of these atmospheres. The view that best fits the available data is the grain-accretion hypothesis: Grains of material containing potential volatiles such as nitrogen and H_2O were accumulated into plantesimals that subsequently accreted to form planets. Later, as a result of internal heating, volatiles reached the surface. Since the amounts of CO_2 and N_2 which have reached the surface on Venus and Earth are comparable, it is possible that similar amounts of water likewise were outgassed. But little H_2O is present today in the atmosphere of Venus, and this absence must be explained. In any event, the comparative absence of water on Venus has profoundly affected weathering, the incorporation of CO_2 into solid carbonates, and the contrasting greenhouse effects on the two planets.

The results obtained from American and Soviet missions to Venus leave little room for romance. The same is true of missions to the moon and the other planets. Those who have yearned for evidence that forms of life exist on other bodies of the solar system have been disappointed. But their frustration is to a degree balanced by a positive factor. Exploration of our solar system is a triumph of human ingenuity—a triumph shared by all humans.●

CENTENNIAL COLORADO CONFERENCE V

● Mr. ARMSTRONG. Mr. President, each year since 1975 a group of Coloradans has convened in the Colorado Rockies to debate State and Federal public policy issues. The forum, called the Centennial Colorado Conference, was held earlier this month at Keystone, Colo.

Traditionally the 8 or 10 consensus resolutions adopted by the conferees are bellwethers to decisions made later by the Colorado General Assembly and the U.S. Congress. That is not surprising, given the fact that the conferees represent a cross section of a State which traditionally is a testing ground for new concepts.

What makes the Centennial Colorado Conference unique is the fact that its topics are not limited to any particular interest area, and that the attendees are about equal measures of Democrats, Republicans, and independents; liberals, conservatives, and independents; and high- and low-profile citizens. For example, both the Republican and Democratic State chairmen of Colorado attended the 1979 session.

By the way, no one is included or excluded because of who or what they are in the everyday world. The previous

year's conferees are the nominating committee.

Centennial Colorado Conference V, as the 1979 version was called, was attended by 132 persons. I would like to share with my colleagues the highlights of the conference positions.

The group passed resolutions opposing price and wage controls, endorsing State participation in funding of Federal water projects, and opposing ratification by the Colorado General Assembly of the District of Columbia representation amendment.

The conferees also recommended that Congress initiate a constitutional amendment which would require the Federal Government to operate on a balanced budget basis, and to make the social security system actuarially sound and limited to retirement and other pensions, and death benefits.

Other resolutions supported decontrol of crude oil prices by 1981 and the enforcement of antitrust laws to insure a free market and competition in the oil industry, called for the retention of Colorado's present system of designating and nominating candidates for public office, and opposed limitations on direct or indirect foreign investments in the United States but requiring full disclosure of such investments.

The text of all resolutions adopted by Centennial Colorado Conference V follows:

RESOLUTION

Resolved: That the Congress of the United States shall not enact legislation to limit increases in wholesale and retail prices, wages and rates charged by professional and technical services.

That Congress shall support the decision of the President to decontrol crude oil prices by 1981, and be it further resolved that Congress shall pass legislation directing the individual states to control the allocation and appropriate conservation of available refined petroleum products and derivatives within their states. Also, that wholesale gasoline prices not be regulated by the Federal Energy Regulatory Commission and that retail gasoline prices not be regulated by state entities such as the Colorado Public Utilities Commission, but that there be effective enforcement of anti-trust laws and other efforts to ensure a free market and competition in the oil industry.

That a Convention shall not be called to prepare a new Constitution for the United States, but that the Congress of the United States shall pass a constitutional amendment to be ratified by the states, which would require a balanced federal budget by prohibiting further increases in the national debt, except by a 60 percent vote of the members of the House and Senate present and voting.

That the Congress amend the Social Security System law to make it actuarially sound and to provide a fair system limited to a program of pensions, retirements, and death benefits.

That the Congress of the United States enact legislation which will allow each State to establish its own water storage and hydroelectric power generation project priorities, to be funded on a 90–10 federal-state or local matching basis, and with an amount annually to be appropriated by Congress for that purpose, with funds to be apportioned on the basis of the following formula: ¼ on the basis of population, ¼ on the basis of land areas, and ½ to be apportioned by each state's undeveloped entitlements.

That the present Colorado system of designation and nomination of candidates be retained.

That no limit be placed on direct or indirect foreign investments in the United States real properties and business, but that full public disclosure of all foreign investment be required.

That the Colorado General Assembly not ratify the District of Columbia Representation Amendment, which would afford voting membership in the United States Senate and House of Representatives on the same basis as that of states.●

SYMPOSIUM COMMEMORATING THE 10TH ANNIVERSARY OF THE APOLLO 11 MISSION

● Mr. STEVENSON. Mr. President, next week we observe the 10th anniversary of mankind's first visit to a celestial body other than Earth—the Apollo 11 lunar landing. While we recall this achievement with pride and nostalgia, this anniversary is also an opportunity to look ahead with the same self-confidence and vision that motivated President Kennedy to initiate the Apollo program.

The characteristic of Apollo that most distinguishes it from our current efforts is the Government's commitment to achieving a specific goal within a certain number of years. This approach permitted both Congress and the Executive to make informed judgments about the resources needed in any fiscal year to accomplish the job of landing a man on the Moon and returning him safetly to Earth before the end of the 1960's. Today our budgetary planning for the civilian space program is fundamentally a year-by-year process. We have no way of judging whether the resources in a given year are adequate because we have not identified, even in general terms, the longer run purposes of these annual expenditures.

I do not advocate a commitment of national resources on the scale of Apollo. But I do believe we should attempt to identify the basic goals of the U.S. civilian space program that will be achieved during the next decade. S. 244, the Space Policy Act of 1979, establishes such goals in space transportation, space science, and space application. It also provides a procedure for translating these broad objectives into annual program activities that would be reviewed and approved by Congress according to the established authorizing and appropriations process. It is my intention to seek passage of the legislation during the 96th Congress.

One occasionally hears the argument that space exploration should wait until more immediate problems on Earth are solved. Margaret Mead, the anthropologist, responded to this view by pointing out that, in her opinion, there was no reason to believe that any of the money spent on space exploration would have been available for other Earth-related problems. I agree with Margaret Mead. Also, it is important to remember that money for space activities is spent on Earth. These expenditures have brought considerable benefits to our society in terms of expanding scientific and technological knowledge, in strengthening our economy, and in broadening our cultural perspectives.

As we recall with pride this Nation's effort that led to the triumph of Apollo, it is appropriate to consider this country's future in space. Accordingly, the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology are sponsoring a symposium, "Next Steps for Mankind—The Future in Space." The symposium will be held on Thursday, July 19, 1979, 4 to 6:30 p.m., in the Senate caucus room. Prof. Carl Sagan of Cornell University, Dr. Noel Hinners, Director of the National Air and Space Museum, and Mr. George Jeffs of Rockwell International will make opening presentations. Discussion with Members of Congress and the audience will follow. Mr. Julyes Bergman of ABC News will moderate. The symposium is open to the public. Senators and staff are urged to attend.

One of the symposium participants, Carl Sagan, has written:

Centuries hence, when current social and political problems may seem as remote as the problems of the Thirty Years War are to us, our age may be remembered chiefly for one fact: it was the time when the inhabitants of the Earth first made contact wih the vast cosmos in which their small planet is imbedded.

This is the heritage of the Apollo program that will be recalled in numerous ceremonies next week here in Washington and across the United States. It is fitting that Congress in its observance will look to future opportunities and challenges of using space to serve the intellectual, cultural and economic needs of mankind.●

AMENDMENT 223 TO S. 689, VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1979

● Mr. BAYH. Mr. President, I am submitting a brief statement today in support of amendment number 223 to S. 689, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of indemnity compensation for their surviving spouses and children. Specifically, amendment 223 will provide to qualified veterans and their dependents a 10.8 percent increase in the rates of compensation they currently receive.

I can only agree with the chairman of the Veterans Affairs Committee when he indicated on June 7 that the service-connected disability program ranks first among the priorities we must consider in legislation affecting veterans and their dependents.

As my colleagues know, compensable disabilities are rated on a graduated scale ranging from 10 to 100 percent according to the VA's schedule of rating disabilities and payment is made on that basis to compensate somewhat for impaired earning capacity.

In December 1978, the number of veterans receiving service-connected disability compensation numbered 2,258,790. Of that number, 284,476 were rated

100 percent disabled. In Indiana about 59,004 veterans and their dependents receive some form of VA disability compensation from the Federal Government. In so many cases, the veteran who has incurred a service-connected disability relies on his compensation under the program as a major source of income with benefits ranging from $44 to $809 monthly.

This being the case, it is very important that the rates of compensation keep pace with increases in the cost of living. This will maintain the integrity of our promise and commitment to "care for him who shall have borne the battle and for his widow and orphan."

Eight public laws have been enacted from 1968 to 1978 to insure that service-connected disability benefits and the DIC program keep pace with the cost of living. Amendment 223 to S. 689 is intended to uphold that commitment by providing a cost-of-living benefit increase based on the actual increase in the cost of living. This is necessary because of the unanticipated increases in the cost of living which is evident because the President's original proposal called for an increase of 7.3 percent when the actual Consumer Price Index increase over the base period was 8.8 percent.

Economic projections now indicate that even this figure will need to be revised upward in the neighborhood of 10 or 11 percent. Only by the action proposed by this amendment will we have assurance that disability compensation will keep pace with the actual increases in inflation instead of projections which are often months behind the "real world."

For Indiana's 34,364 World War II, 9,389 Vietnam war, 4,055 Korean war, 835 World War I, and 3,805 veterans who sustained service-connected disabilities while serving in peacetime, such an adjustment will mean a great deal if we are to be sure that their purchasing power can be sustained as it has been our national policy to do.

At a time when national attention is correctly being focused on ways to balance the Federal budget that does not deny essentially services to provide for our legitimate defense and human needs, some would question the increases which the committee is considering today. However, I would argue strongly that a promise made by the Government to those who not only heeded the call of duty but sacrificed through physical disability resulting from that service should be a promise kept.

It is for this reason as well as those derived from brutal economic necessity that I hope the Senate will move to speedy approval of amendment 223 to S. 689.●

ORDER FOR CONSIDERATION OF S. 562, THE NUCLEAR REGULATORY COMMISSION BILL, ON MONDAY, JULY 16, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order and after any orders for the recognition of Senators, if such are entered in the meantime, the Senate proceed to the consideration of S. 562, the Nuclear Regulatory Commission bill.

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

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be the following time agreement on that bill: One hour on the bill equally divided between Mr. HART and Mr. SIMPSON, 30 minutes on any amendment, 1 hour on an amendment to be offered by Mr. McGOVERN dealing with State veto on nuclear waste, 1 hour on an amendment by Mr. KENNEDY which has to do with review of construction permits, 1 hour on an amendment by Mr. DECONCINI which deals with special powers for the NRC in certain cases, 1 hour on an amendment being joined in by Mr. HART and Mr. SIMPSON, and then 40 minutes on a second degree amendment to the Kennedy amendment which will be offered by Mr. HART.

Ordered further, that there be a 40-minute limitation on an amendment by Mr. JOHNSTON which deals with the moratorium evacuation plan, 40 minutes equally divided on an amendment by Mr. BUMPERS, and on a possible amendment in the second degree to that amendment by Mr. JOHNSTON.

The Bumpers amendment is an amendment to be offered to Mr. McGOVERN's amendment. There will be 40 minutes on that amendment, and 40 minutes on the possible amendment by Mr. JOHNSTON in the second degree.

That there be 20 minutes equally divided on other amendments in the second degree, 10 minutes on debatable motions, points of order, or appeals, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, there is no objection to this. I am really pleased to see the matter disposed of in such detail. I congratulate the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

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

ORDER FOR CONSIDERATION OF H.R. 4388, THE ENERGY WATER APPROPRIATION BILL, ON THE DISPOSITION OF THE NUCLEAR REGULATORY BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the nuclear regulatory bill, the Senate proceed to the consideration of H.R. 4388, the energy water appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, what time would that come up then, that is at the conclusion of the NRC bill?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Is it the majority leader's intention that bill be completed on Monday, the NRC bill?

Mr. ROBERT C. BYRD. I would hope so. But, in any event, the appropriation bill would follow it.

Mr. STEVENS. It follows it?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. So it could be on Monday or Tuesday?

Mr. ROBERT C. BYRD. It could be on Monday or Tuesday.

Mr. STEVENS. Very well. I have no objection.

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

ORDER FOR CONSIDERATION OF S. 737, THE EXPORT CONTROL ADMINISTRATION BILL, UPON THE DISPOSITION OF THE ENERGY WATER APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the energy water appropriation bill, the Senate take up the Export Control Administration bill, S. 737.

Mr. STEVENS. Reserving the right to object, I have had some discussion with the Senator from Washington (Mr. JACKSON). The two of us have been working on some amendments. Has he agreed to this?

Mr. ROBERT C. BYRD. Yes; as a matter of fact, Mr. JACKSON agreed to a time limit, which I am not asking for just now.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AUTHORIZATION TO VITIATE ORDER FOR THE SENATE TO BE IN SESSION ON SATURDAY, JULY 14, 1979

Mr. ROBERT C. BYRD. Mr. President, due to the fact that the military construction authorization bill was at least temporarily disposed of today, and with a time agreement when action resumes thereon; due to the fact that three housing bills will have been completed by no later than 7 o'clock tomorrow evening, by agreement entered into; by virtue of the fact that the Senate has now ordered a time agreement on the nuclear regulatory bill and that it is scheduled for Monday, and that it will be followed by the appropriation bill dealing with energy and water—the 3-day rule having been waived thereon; by order that that bill will be followed by the export control administration bill, and that things are looking up for a time agreement on that bill; as a result of all this progress, I ask unanimous consent that the order for a Saturday session be vitiated.

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

Mr. STEVENS. Mr. President, I understand that means we will have the liberty of Saturday off this week, is that it?

Mr. ROBERT C. BYRD. Yes; in view of the fine cooperation I have had from the Senator's side of the aisle in working out agreements on the three housing

measures and on the nuclear regulatory bill and on locking in the energy-water appropriation bill—with waiver of the 3-day rule—to be followed by the export control administration bill, I have undergone a change of heart in respect to this coming Saturday, and Senators will now be able to renew their energies over the weekend and be ready for the hard work next week. I do expect a Saturday session next week.

Mr. STEVENS. If the Senator were on our side, we could say he follows in the footsteps of a great American, Teddy Roosevelt, in walking softly and carrying that big stick.

Mr. ROBERT C. BYRD. I thank the able Senator.

ORDER FOR RECOGNITION OF SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, for tomorrow, I ask unanimous consent that the following Senators be recognized, each for not to exceed 5 minutes.

May we have order in the well of the Senate? I wish the Sergeant at Arms would exercise his tremendous powers and secure order, and not only secure it but maintain it as well.

I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each on tomorrow: Messrs. HUDDLESTON, RANDOLPH, PERCY, and ROBERT C. BYRD, following any orders that have been entered into previously.

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

ORDER FOR RECOGNITION OF MR. WEICKER TOMORROW TRANSFERRED TO MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. WEICKER on tomorrow be vitiated and that that order be transferred to Monday.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the convening hour for tomorrow?

The PRESIDING OFFICER. Ten o'clock.

Mr. ROBERT C. BYRD. That about wraps it up, then.

U.S. SPACE OBSERVANCE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 353.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 353, a joint resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House joint resolution be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

Mr. STEVENS. Mr. President, reserving the right to object, this is a rather unique situation. We have not had time to check on this with the people who normally would be involved on our side of the aisle, but the dates involved are such that I think the majority leader's request is well taken, and I offer no objection.

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

● Mr. STEVENSON. Mr. President, I urge passage of House Joint Resolution 353, which is identical to Senate Joint Resolution 77, which was introduced by myself and Senators CANNON, SCHMITT, CHILES, COCHRAN, DOMENICI, GARN, GLENN, GOLDWATER, HEFLIN, INOUYE, JOHNSTON, MAGNUSON, RANDOLPH, RIEGLE, SARBANES, WALLOP, WILLIAMS, YOUNG, ZORINSKY, STEVENS, HATFIELD, HAYAKAWA, CRANSTON, BURDICK, KASSEBAUM, WEICKER, and HATCH.

This resolution, upon the 10th anniversary of the Apollo 11 mission, would express the congratulations of Congress to the Americans who made possible the successful Apollo program. President Kennedy set the goal of landing men on the Moon and returning them safely to Earth before the end of the 1960's. The unprecedented teamwork of scientists and engineers from Government, industry, and the academic community—supported by Americans from all walks of life—carried out the President's commitment. As a consequence, a human left the confines of Earth and walked on another celestial body. This moment will remain a dividing line in recorded history. Now, one decade later, it is appropriate for Congress to take note of this historic event.

The resolution also would bring this anniversary to the attention of the American people by authorizing and requesting the President to issue a proclamation designating the period of July 16 through July 24, 1979, as "United States Space Observance." Passage of this resolution is needed today since the commemoration period occurs next week.●

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

ALLOCATION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that is running now not be charged against either side of the housing bill.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that the time following the last vote not be charged against either side.

The PRESIDING OFFICER. It has not been.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, for not to exceed 2 minutes, to consider nominations beginning with the Alaska Natural Gas Transportation System and going through the calendar on page 2.

Mr. STEVENS. There is no objection, Mr. President.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

The assistant legislative clerk read the nomination of John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System.

Mr. STEVENS. Mr. President, I am pleased to see that this nomination is on the calendar and am pleased to see that it has moved along as quickly as it has. I hope it will expedite the administration's review and actions pertaining to the construction of the Alaska natural gas pipeline.

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

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

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON FINE ARTS

Thomas Patrick Bergin, of Indiana, to be a member of the National Council on the Arts.

THE JUDICIARY

R. Lanier Anderson III, of Georgia, to be U.S. circuit judge for the fifth circuit.

Albert J. Henderson, of Georgia, to be U.S. circuit judge for the fifth circuit.

Reynaldo G. Garza, of Texas, to be U.S. circuit judge for the fifth circuit.

Carolyn D. Randall, of Texas, to be U.S. circuit judge for the fifth circuit.

Henry A. Politz, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Francis D. Murnaghan, Jr., of Maryland, to be U.S. circuit judge for the fourth circuit.

Joseph W. Hatchett, of Florida, to be U.S. circuit judge for the fifth circuit.

Thomas M. Reavley, of Texas, to be U.S. circuit judge for the fifth circuit.

DEPARTMENT OF JUSTICE

Maurice Rosenberg, of New York, to be an Assistant Attorney General.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the votes by which the nominations were confirmed en bloc.

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

The PRESIDING OFFICER. The motion to lay on the table was agreed to.

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

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

THE NOMINATION OF FRANCIS D. MURNAGHAN TO THE U.S. COURT OF APPEALS

Mr. SARBANES. Mr. President, I rise in strong support of the Judiciary Committee's recommendation of Francis D. Murnaghan for appointment to the U.S. Court of Appeals for the Fourth Circuit.

He was nominated by President Carter to serve on the U.S. Court of Appeals for the Fourth Circuit following an extensive selection process undertaken by a Presidentially appointed panel. I have known Frank Murnaghan for more than 20 years, and I regard this nomination as a superior choice for this important judicial position.

Frank Murnaghan is a native of Baltimore. He was graduated from the Baltimore City College, one of the Nation's most prestigious public high schools. In 1941, he was graduated from Johns Hopkins University, where he was elected to Phi Beta Kappa. He served 4 years in the U.S. Navy during the Second World War. He then entered the Harvard Law School, where he was an editor of the Harvard Law Review, graduating in 1948.

Immediately following law school, he practiced for 2 years in Philadelphia with the firm of Dechert, Price & Rhoads. Then from 1950 to 1952, he served in Germany in the Office of the General Counsel of the U.S. High Commissioner. Upon returning from that assignment, he went into the attorney general's office of Maryland where he served as an assistant attorney general.

In 1954 he joined the Baltimore law firm of Venable, Baetjer & Howard. He has practiced law continuously with that firm since that time, becoming a partner in 1956. His practice has been an unusually broad one, involving him in many areas of the law, with much of his time spent in the courtroom, both in trial and appellate work. He has measured up to the highest standards of the code of professional responsibility and has been especially sensitive to the lawyer's responsibility to assure that legal services will be available for those who cannot afford them.

His distinction as an attorney is universally recognized. At the time of his nomination one of the Baltimore newspapers editorialized as follows:

Frank Murnaghan is acknowledged by judges and fellow lawyers alike as the foremost of his generation at the Bar and is among the finest two or three lawyers Maryland has lately produced.

Another editorial described him as "brilliantly qualified and profoundly versed in the theory and philosophy of the law as an instrument for justice."

In addition to his distinction at the bar, I would be remiss if I did not bring to the attention of the Senate Frank Murnaghan's outstanding service as a responsible citizen in our community. He has been willing to undertake important civic duties and to perform them in a first-rate manner. In 1963–64, he served as chairman of the city's charter revision commission, which recommended a revised charter that was approved by the city council and by the voters of Baltimore City. From 1967 to 1970 he served as president of the Board of School Commissioners of Baltimore City. At that time the school system had over 200,000 students and was one of the largest public school systems in the Nation, well within the top 10 in the country in size. It will be recalled that was a difficult period of time in this country, especially in our large cities. Frank Murnaghan brought a steady and visionary leadership to that office, which has stood the city and its school system in good stead ever since.

He is presently a member of the board of trustees of the Johns Hopkins University and also serves as president of the board of trustees of the Walters Art Gallery, a position he has held for more than 15 years. The Walters Art Gallery is one of our Nation's finest art institutions, and it has grown tremendously under his leadership.

Frank Murnaghan is a person of absolute integrity and superior intellect, who combines a profound sense of the importance of the rule of law with a keen knowledge of the law. He will bring to public office an independent and seasoned judgment, depth and firmness of character, a balance and judicious temperament and, above all, an understanding and a perception of the meaning of American democracy and the importance of the law to the working of our constitutional system. Maryland and the Nation will benefit from the great strength and quality he will bring to the Federal bench.

LEGISLATIVE SESSION

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning.

After the two leaders have been recognized under the standing order. Mr. STEVENS will be recognized for not to exceed 15 minutes, after which the following Senators will be recognized, each for not to exceed 5 minutes, but not necessarily in the order named: Messrs. HUDDLESTON, RANDOLPH, PERCY, and ROBERT C. BYRD.

Following this, the Senate will resume consideration of S. 1149, Calendar No. 176, Housing Community Development Amendments of 1979. There is an agreement on the bill under which the final vote will occur no later than 7 p.m. tomorrow, with the understanding that paragraph 3, rule XII, has been waived.

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

Mr. ROBERT C. BYRD. There will be rollcall votes throughout the day on amendments and on motions in relation to that bill.

Mr. President, other matters cleared for action may be taken up in the meantime.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to and at 7:56 p.m. the Senate recessed until tomorrow, Friday, July 13, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate on July 12, 1979:

DEPARTMENT OF STATE

Harvey J. Feldman, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua, New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

THE JUDICIARY

J. Jerome Farris, of Washington, to be U.S. circuit judge for the ninth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

Betty Binns Fletcher, of Washington, to be U.S. circuit judge for the ninth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

James C. Paine, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 95–486 approved October 20, 1978.

Benjamin F. Gibson, of Michigan, to be U.S. district judge for the western district of Michigan, vice a new position created by Public Law 95–486, approved October 20, 1978.

Douglas W. Hillman, of Michigan, to be U.S. district judge for the western district of Michigan, vice a new position created by Public Law 95–486, approved October 20, 1978.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 12, 1979:

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System.

NATIONAL COUNCIL ON THE ARTS

The following-named person to be a Member of the National Council on the Arts for a term expiring September 3, 1984:

Thomas Patrick Bergin, of Indiana.

DEPARTMENT OF JUSTICE

Maurice Rosenberg, of New York, to be an Assistant Attorney General.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

R. Lanier Anderson III, of Georgia, to be U.S. circuit judge for the fifth circuit.

Albert J. Henderson, of Georgia, to be U.S. circuit judge for the fifth circuit.

Reynaldo G. Garza, of Texas, to be U.S. circuit judge for the fifth circuit.

Carolyn D. Randall, of Texas, to be U.S. circuit judge for the fifth circuit.

Henry A. Politz, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Francis D. Murnaghan, Jr., of Maryland, to be U.S. circuit judge for the fourth circuit.

Joseph W. Hatchett, of Florida, to be U.S. circuit judge for the fifth circuit.

Thomas M. Reavley, of Texas, to be U.S. circuit judge for the fifth circuit.

HOUSE OF REPRESENTATIVES—*Thursday, July 12, 1979*

The House met at 10 a.m.

Rev. Aimee Garcia Cortese, Protestant chaplain, Bedford Hills Correction Facility, New York State Department of Corrections, Bedford Hills, N.Y., offered the following prayer:

We reverence Your presence here this day, dear Lord.

Help us to seek You, for You have told us that when we do, surely we will find You. Only as we search for the eternal does the temporal find its proper place and true balance. How we long to be the balanced creatures that can face life and cope. Grant us this blessing.

Give us a vision of Your will that we might set goals that will bless our people for surely without vision the people perish. Keep us in touch with You so we might be able to reach out and touch others.

Lord through this House of Representatives let Your voice be heard loud and clear. May Your servants feel the hurt of our Nation, the fears and perplexities, the tremendous uncertainties that are ours in such a real way today. Lord I rebuke from them all spirit of fear and helplessness and may they know You have chosen them and will never fail them or leave them alone. Make this House, each Representative an instrument of love, peace, and justice. In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2807. An act to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1786) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses, thereon, and appoints Mr. CANNON, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1159. An act to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 86–41, appointed Mr. ZORINSKY, Chairman, and Mr. STEVENS, Vice Chairman, of the Canada-United States Interparliamentary Group, to be held August 9–17, 1979, in Canada/Alaska.

REV. AIMEE GARCIA CORTESE

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, I would just like the Members of the House to know that the young lady who offered the prayer this morning is my sister, and I think it is the first time, Mr. Speaker, that we have had a brother and sister act here on the floor. My sister's prayers have helped me and many others and you can be sure they will help us here.

My sister graduated from Central Bible College in Springfield, Mo., and she was the first woman to be appointed by the Governor of the State of New York as a chaplain in a New York State correctional facility. She works presently with the women who are incarcerated in Bedford Hills in the State of New York.

Mr. Speaker, in closing I would like to say that somehow we confused things in my family, because I was supposed to be the minister and my sister was supposed to be the politician. But here we are, with reversed roles.

THE TEN COMMANDMENTS ON ENERGY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, as the President confers with various groups at Camp David this week to discuss the politics of energy, the absence of news from that summit is being replaced with a good deal of mystique. The picturesque and historical setting of Maryland's Catoctin Mountains is being referred to in a Biblical sense from which the President will soon descend with two tablets of stone on which will be carved "the Ten Commandments on Energy."

In a recent letter to the President, I outlined what I believe would closely constitute such a group of commandments.

The list goes as follows:

Thou shalt maximize the use of coal.

Thou shalt fully utilize existing nuclear powerplants.

Thou shalt develop a synthetic fuels industry.

Thou shalt decontrol your oil, expand your domestic oil and gas production, and mix your gasoline with at least 10 percent of alcohol.

Thou shalt continue to encourage the use of solar energy.

Thou shalt improve hydroelectric power generation.

Thou shalt develop other sources of energy from the winds, the woods, the oceans, geothermal, and hydrogen.

Thou shalt expand fixed-rail mass transit and fund the intercity bus and terminal program so thou shalt have alternatives to your passenger cars.

Thou shalt provide Government tax and loan offerings for alcohol-powered farm equipment and home and business energy improvements.

Thou shalt establish an Emergency Energy Production Board to advise the President on actions that will enable the Nation to bring forth the blessings of a secure energy future.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation may be permitted to sit to-